

**LEBANON TOWNSHIP BOARD OF ADJUSTMENT
MEETING MINUTES - MARCH 27, 2024 – 7:00 PM
VOORHEES HIGH SCHOOL**

The Lebanon Township Board of Adjustment meeting was called to order at 7:00 PM by Karen Zatika followed by the salute to the flag.

The following statement of compliance with the Open Public Meetings Act as listed on the meeting agenda was read into the record by Ms. Zatika: Notice of this meeting was published in the “Annual Meeting Notice Schedule” adopted by this Board on January 10, 2024. The Lebanon Township Board of Adjustment will hold its Regular Meeting on Wednesday, March 27, 2024, at a different location. The meeting will be held at Voorhees High School, 256 Route 513, Glen Gardner, NJ. The meeting will be held in the new cafeteria on the first floor. Notices of this meeting and location were published in the Hunterdon County Democrat on December 14, 2023. Copies of the agenda were posted on the bulletin board at the Municipal Building and as a courtesy, posted on the Township website on March 22, 2024.

Attendance – Roll Call

Present: Derek Porcino
Joshua Rich
Tom Sachs
Matt Walls
Karen Zatika
Jonathan Drill, Esq.
Bryce Good, Engineer

PRESENTATION OF MINUTES

It was noted for the record that there were no minutes listed on the agenda for approval.

PRESENTATION OF BILLS

A motion was made by Porcino and seconded by Sachs approving the 3/27/24 vouchers for payment. The motion was unanimously approved by voice vote.

PUBLIC HEARINGS

NAR Group – Block 57 Lot 23 – 62 Anthony Road: Applications for Interpretation, Use Variance and Preliminary & Final Site Plan Approval with a “C” Variance to Operate a Medicinal Cannabis Cultivation Facility

Present for the public hearing were applicant’s representative Nitin Manglani and the applicant’s attorney Donna Jennings.

Also present for the public hearing was Richard Webb, the attorney for the objector Save Lebanon Township Coalition.

Board Attorney Jonathan Drill noted this was the fourteenth and final hearing session and would be devoted exclusively for the Board to deliberate and vote on the applications. He clarified that the Board Members will need to make a determination on essentially 4 applications:

1. Interpretation: Interpretation of Ordinance Section 400-4 definitions – Specifically the terms “farm” and “agriculture and horticulture” to determine whether the proposed medical cannabis cultivation facility was considered a “farm” prior to the adoption of Ordinance 2022-10.
2. D1 Use Variances: If the applicant’s requested interpretation is not granted then a Use Variance is being sought to allow the prohibited medical cannabis cultivation facility.

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3. C Variance: Where the code requires paved driveways with curbing, the proposed application is seeking approval for a gravel driveway with no curbing.
4. Preliminary & Final Site Plan Approval: To allow construction of the proposed improvements to the site.

Board attorney Drill explained that Josh Rich, the Planning Board member who was “borrowed” to act as a Board of Adjustment member on the “d(1)” variance applications would only deliberate and vote on the “d(1)” variance application and not on the other applications because only the “d(1)” variance applications require five (5) affirmative votes. The other applications require only a majority of a quorum which, in this case, would be a vote of three (3) of four (4) members.

The Board Members then read their deliberations on the application into the record (with Board Attorney Drill reading Mr. Rich’s deliberation on the “d(1)” use variance applications). The deliberations included but were not limited to the following points:

1. The proposed medical cannabis cultivation facility did not meet the definition of a farm under the Township’s ordinance prior to the adoption of Ordinance 2022-10.
2. Medicinal cannabis may be beneficial, but the facility which cultivates/produces the medical cannabis is not an inherently beneficial use.
3. The applicant did not prove that the property was particularly suited for the medical cannabis cultivation facility.
4. The applicant did not prove that the use variance could be granted without substantial detriment to the public good.
5. The applicant did not prove that the use variance could be granted without substantially impairing the intent and purpose of the Master Plan and zoning ordinance.
6. The applicant did not prove the positive and negative criteria to warrant the requested “c” variance.
7. Because no Board Member would vote to grant the requested use variance, the Board Members would vote to deny preliminary and final site plan approval.

Attorney Drill next conducted straw polls of the Board Members on each of the elements of the four applications, after which the following formal votes were taken on the following motions:

(1) Vote to deny the interpretation that the medicinal cannabis cultivation facility is permitted as a farm was unanimously approved after a motion was made by Zatika and seconded by Porcino.

Roll call vote:

Walls: Yes, Sachs: Yes, Zatika: Yes, Rich: Yes, Porcino: Yes

(2) Vote to deny the D1 Use Variance was unanimously approved after a motion was made by Zatika and seconded by Sachs.

Roll call vote:

Walls: Yes, Sachs: Yes, Zatika: Yes, Rich: Yes, Porcino: Yes

(3) Vote to deny the C Variance was unanimously approved after a motion was by Zatika and seconded by Walls.

Roll call vote:

Walls: Yes, Sachs: Yes, Zatika: Yes, Rich: Yes, Porcino: Yes

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(4) Vote to deny the Preliminary and Final Site Plan application was unanimously approved after a motion was made by Zatika and seconded by Porcino.

Roll call vote:

Walls: Yes, Sachs: Yes, Zatika: Yes, Rich: Yes, Porcino: Yes

CORRESPONDENCE

It was noted for the record that no correspondence was listed on the agenda.

ADJOURNMENT

A motion by Porcino, seconded by Sachs to adjourn the meeting was unanimously approved by voice vote.

The meeting adjourned at 8:05 PM.

Maria Andrews, Planning Board Secretary