

**LEBANON TOWNSHIP BOARD OF ADJUSTMENT  
MEETING MINUTES – August 28, 2024 – 7:00 PM  
LEBANON TOWNSHIP MUNICIPAL BUILDING**

The Lebanon Township Board of Adjustment meeting was called to order at 7:00 PM by Chairman Wayne Eberle 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 Chairman Eberle: Notice of this meeting was published in the “Annual Meeting Notice Schedule,” adopted by this Board on January 10, 2024. Notices of this meeting and location were published in the Hunterdon Review and 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.

**Attendance – Roll Call**

**Present:** Michael Iannace  
Derek Porcino  
Tom Sachs – *(via cellphone at 7:15 PM)*  
Matt Walls – *(arrived at 7:10 PM)*  
Karen Zatika  
Wayne Eberle  
Brandon Staten – *Alt. #1*  
Jonathan Drill, Esq.  
Jessica Caldwell, Planner

**Excused:** Derrick Van Doren – *Alt. #2*

**PRESENTATION OF MINUTES**

A motion was made by Michael Iannace and seconded by Derek Porcino approving the 6/12/24 minutes as revised. The motion was approved by voice vote with Mr. Staten abstaining.

**PRESENTATION OF BILLS**

It was noted for the record that an additional bill from Christina Restuccia in the amount of \$250 for reporter services for tonight’s meeting was added to the bill list for approval. Ms. Restuccia noted that her services for the month of May, which were listed on the agenda, had already been paid.

A motion was made by Karen Zatika and seconded by Derek Porcino approving the 8/28/24 vouchers for payment, with the inclusion of the reporter services for only the month of August. The motion was unanimously approved by voice vote.

**RESOLUTION**

**Approval of Resolution #2024-03: Authorizing Defense of Litigation Titled The NAR Group, Inc. v. Township of Lebanon Planning Board, Township Committee of the Township of Lebanon, and Lebanon Township Board of Adjustment, Docket No. HNT-L-454-22 as Co-Counsel to Insurance Carrier Appointed Defense Counsel**

It was noted for the record that Mr. Sachs was present via cellphone for this administrative matter at 7:15 PM.

It was also noted for the record that Karen Zatika took over as Board Chair for this matter.

Attorney Drill read the resolution into the record.

**LEBANON TOWNSHIP BOARD OF ADJUSTMENT**

**RESOLUTION AUTHORIZING DEFENSE OF LITIGATION TITLED  
THE NAR GROUP, INC. V. TOWNSHIP OF LEBANON PLANNING BOARD, TOWNSHIP  
COMMITTEE OF THE TOWNSHIP OF LEBANON, AND LEBANON TOWNSHIP  
BOARD OF ADJUSTMENT, DOCKET NO. HNT-L-454-22 AS CO-COUNSEL TO  
INSURANCE CARRIER APPOINTED DEFENSE COUNSEL**

**RESOLUTION ZBA #2024-03**

**WHEREAS**, litigation has been filed against the Lebanon Township Planning Board, the Mayor and Township Committee of the Township of Lebanon, and the Lebanon Township Board of Adjustment (the “**Defendants**”) titled The NAR Group, Inc., a New Jersey Corporation v. Lebanon Township Planning Board, Mayor and Township Committee of the Township of Lebanon, and Lebanon Township Board of Adjustment, Docket No. HNT-L-454-22 (the “**NAR litigation**”);

**WHEREAS**, the Lebanon Township Board of Adjustment (the “**Board**”) wishes to authorize its Attorney Jonathan E. Drill, Esq. and his law firm, Stickel, Koenig, Sullivan & Drill, LLC (“**SKSD**”) to file an appearance in the NAR litigation on behalf of the Board as co-counsel to the Township’s insurance carrier’s appointed defense counsel;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD, BY MOTION DULY MADE AND SECONDED ON AUGUST 28, 2024 AS FOLLOWS:**

1. The Board authorizes Jonathan E. Drill, Esq. and SKSD to enter an appearance in the NAR litigation on behalf of the Board as co-counsel to the Township’s insurance carrier’s appointed defense counsel.

.....  
**THOSE IN FAVOR:**

**THOSE OPPOSED:**  
.....

The within memorializing resolution was adopted on August 28, 2024 by the following vote of eligible Board members:

<u>Member</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Porcino				
Sachs				
Walls				
Zatika				

ATTEST: \_\_\_\_\_  
Maria Andrews, Board Secretary

A motion by Karen Zatika, seconded by Derek Porcino to approve Resolution ZBA #2024-03 was approved by roll call vote.

*Porcino: Yes, Sachs: Yes, Walls: Yes, Zatika: Yes*

It was noted for the record that Mr. Sachs ended the cellphone call and left the meeting at this time, 7:19 PM.

It was also noted for the record that Chairman Eberle took the meeting over, again, at this time.

### **PUBLIC HEARING**

#### **Judith Jaheriss – Block 35 Lot 31.18 – 4 Whiteoak Ridge Road: Use Variance Approval to Allow an Existing Two-Family Dwelling or in the Alternative, Conditional Use Approval to Allow Existing Supplementary Apartment**

Chairman Eberle explained the property currently contains a residential dwelling which was converted into an apartment for a family member. The applicant desires to retain the dwelling as is, with the supplementary apartment which is a conditional use in the zone but requires a “d(3)” conditional use variance in accordance with N.J.S.A. 40:55D-70d(3) because the apartment does not comply with all of the conditional use requirements.

Present for the application was property owner Kristy Jaheriss, Attorney Brent LaMaire and Planner Christopher Melick. Also present was Attorney Paul Mitchell on behalf of Michael Lavery, representing the objecting neighbors.

Attorney LaMaire explained the public hearing is a continuation from the Board’s 5/8/24 meeting. He indicated the remaining items that need to be addressed are the size of the apartment being larger than 40% of the principal dwelling, the property being less than the required 7 acres and the fact that both the principal dwelling and supplemental apartment are serviced by 1 septic system.

With regard to the size of the apartment, Attorney LaMaire argued the apartment can be 40% of the size of the principal dwelling because the ordinance contains, “either/or” language. Planner Caldwell explained the purpose of the ordinance is to keep the apartment supplemental in size to the principal dwelling because if an apartment is permitted to be the same size as the principal dwelling than a property would essentially have 2 dwellings on it.

It was noted for the record that the dwelling is 2532 sq. ft. and the apartment is 1564 sq. ft. Planner Caldwell stated, in this case, the apartment should only be a maximum of 1200 sq. ft. and needs d(3) variance approval. It was noted that both Planner Caldwell and Planner Melick agreed that the apartment has less impact on the community than a 2-family dwelling.

With regard to the septic system, Attorney LaMaire noted the property is 1.6 acres and submitted the “as-built” plans for the system. He explained there are two, 1000 gallon tanks that service the home and the apartment. Attorney Drill asked Planner Caldwell if a “system,” under the ordinance is 2 tanks and 1 disposal field. Planner Caldwell indicated that is typically not considered a septic system and believed there should be 2 separate systems on site, one for the principal dwelling and one for the apartment.

Planner Melick came forward and explained that aesthetically the subject home appears like all others in the surrounding area. He remarked the property is suitable for the home due to the unique configuration of the lot and noted aside from not meeting the 7 acre requirement, the home conforms to all other regulations including setbacks, parking requirements and height.

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Planner Melick referred to the as-built septic plans dated 8/3/24 which depicts a 4 inch pipe to one of the 1000 gallon tanks for service to the principal structure and another 4 inch pipe from the addition to a separate 1000 gallon tank which services the apartment. He noted both tanks share one disposal field. He explained the owner of the property in 2006 failed to have the as-built plans completed by the Engineer prior to the house selling. Mr. Iannance expressed concern over the 18 year period between 2006 and 2024. Chairman Eberle noted the as-built plans have been certified.

Planner Melick stated Code 7:9A allows for the sharing of a disposal field and he noted the County Board of Health approved the system.

It was clarified that the 1979 septic field was abandoned in 2006 when a larger disposal field was created to accommodate the 6 bedrooms in the home, including the apartment.

The following exhibits were presented:

**Exhibit A-2:** The certificate of occupancy for the addition to the principal dwelling dated 12/22/06

**Exhibit A-3:** Cert. of Completion from the Cty. Board of Health that the septic was installed per the plans

**Exhibit A-4:** Septic as-built plans dated 8/3/24 by Jess Symonds, P.E.

**Exhibit B-1:** Email dated 8/28/24 between the Attorneys with agreed upon deed restriction language

The language in the deed restriction was noted as follows: *The dwelling on the property was constructed and approved as a single-family dwelling and, as such, shall only be utilized as a single-family dwelling. The supplemental apartment in the dwelling which was approved by the Lebanon Township Board of Adjustment at its 8/28/24 meeting shall only be occupied by immediate family member(s) of the occupant(s) of the dwelling and shall not be rented to any individual(s) who are not immediate family member(s) of the occupant(s) of the dwelling. This restriction shall not prohibit the owner(s) of the dwelling from leasing the entire dwelling to a single family. For purposes of this restriction, immediate family means parents, siblings, spouses and children, including stepparents, stepchildren, stepsiblings, half-siblings and in-laws, as well as aunts, uncles, nieces, nephews, cousins, grandparents, grandchildren, and their married spouses, including step- and half-relations of each, whether by blood, adoption or operation of law.*

Planner Melick continued to note that the property remains appropriate for the use despite the deviations from the maximum permitted square footage of the apartment, the undersized lot and the shared septic system. He indicated there were no negative impacts to the surrounding community or the Township Master Plan.

A motion was made by Karen Zatika and seconded by Matt Walls granting the 3 requested d(3) variances for the supplemental apartment. The motion was approved by roll call vote with Mr. Porcino abstaining. *Iannance: Yes, Walls: Yes, Zatika: Yes, Eberle: Yes, Staten: Yes*

## **NEW BUSINESS**

### **Confirmation of Meeting Dates for the Remainder of 2024**

The Zoning Board acknowledged the following meeting schedule for the balance of 2024:

9/11/24 – Meeting Cancelled

9/25/24 – Meeting at 7:00 PM

10/9/24 – Meeting Cancelled

10/23/24 – Meeting at 7:00 PM

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11/13/24 – Meeting at 7:00 PM  
11/27/24 – Meeting Cancelled  
12/11/24 – Meeting at 7:00 PM  
12/25/24 – Meeting Cancelled

**CORRESPONDENCE**

Attorney Drill referenced the 7/16/24 letter from Attorney Marion regarding the NAR Group billing appeal and stated that protocol is for the applicant to write a letter to the Governing Body and notify the Boards that they are appealing their escrow charges. Attorney Drill explained the Governing Body can remediate, or not, and then the applicant can appeal to the County Construction Board of Appeals.

**OPEN TO THE PUBLIC**

Chairman Eberle opened the floor to public comment. Seeing no members of the public who wished to comment, he closed the floor to public comment.

**ADJOURNMENT**

A motion by Brandon Staten, seconded by Michael Iannance to adjourn the meeting was unanimously approved by voice vote.

The meeting adjourned at 8:02 PM.

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Maria Andrews, Zoning Board Secretary

Note: These minutes have not been formally approved and are subject to change at the Board's 9/25/24 meeting.