



**LEBANON ZONING BOARD OF ADJUSTMENT
SEPTEMBER 7, 2021 - 7:00 PM
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

-
- 1. Call to Order**
 - 2. Approval of Minutes**
 - A. August 2, 2021
 - 3. Public Hearing Items**
 - A. **Cicotte Holdings, LLC, 51 Evans Dr. (Tax Map 78, Lot 40, Plot 200), zoned RO-1:** Applicant requests a Variance from Section 608.4.A.1.a of the Zoning Ordinance to install additional building signage. The total proposed sign area for the property exceeds the maximum sign area allowed under Section 608.4.A.1. **ZB2021-19-VAR**
 - B. **City of Lebanon (Applicant) and Dartmouth College Trustees (Property Owner), 00 Mount Support Rd. (Tax Map 10, Lot 24, Plot 200), zoned MC:** Applicant requests a Special Exception pursuant to Section 401.5 of the Zoning Ordinance to permit wetland impacts associated with the City's construction of a proposed 950 LF, 10'-wide multi-use path along the north side of Lahaye Drive. **ZB2021-20-SE**
 - C. **Immersion Montessori School, LLC (applicant) and 79 East Wilder Rd Realty Trust (property owner), 79 East Wilder Road (Tax Map 7, Lot 2), zoned R-3:** The applicant obtained a Special Exception on November 2, 2020, to operate a group day care facility with up to 45 students and 10 teachers. The applicant proposes to expand the group day care facility and requests a Special Exception per Section 310.2 and Section 604 of the Zoning Ordinance a) to allow up to 20 additional students for a total of 65, b) to expand the operating hours to 7:30 am – 5:30 pm, Monday through Friday, c) to keep up to 10 small animals on the property for educational purposes, and d) to install two (2) 36 sq. ft. sheds to shelter the animals. **ZB2021-21-SE**
 - 4. Request for Rehearing**
 - A. **Jacqueline Minard, Trustee, 78 Mascoma Street (Tax Map 106, Lot 67), zoned R-3:** Request to rehear a Variance from Section 202 and Section 309.3 of the Zoning Ordinance to allow the subdivision of the property into two parcels, one of which will have a lot area of less than the minimum required 10,000 sq. ft. The Variance application was denied on July 6, 2021. **ZB2021-09A-VAR**

5. Staff Comments

6. Adjournment

The order of agenda items is subject to change.

Meetings are open for in-person and remote attendance. Members of the public that wish to attend remotely may do so by going to [LebanonNH.gov/Live](https://lebanonnh.gov/Live) where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the City's virtual platform or by phone. Please note: Should technical difficulties occur during the meeting that disrupts virtual or phone connection(s), the meeting will continue without remote access capabilities.

If you have any questions or would like to view the files for the application identified above, please contact the Planning & Development Department by sending an e-mail to planning@lebanonnh.gov, or by calling 603-448-1457, or by visiting the Planning and Development Office located in City Hall during regular work hours, Monday through Thursday, 7AM to 5PM. The application materials will also be posted to the City's website at [LebanonNH.gov/Agendas](https://lebanonnh.gov/Agendas).

**Agenda
Zoning Board of Adjustment
September 7, 2021**

**Agenda Item #2A
Approval of Minutes**

August 2, 2021

DRAFT

**LEBANON ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
REMOTE VIA MICROSOFT TEAMS
LebanonNH.gov/Live
MONDAY, August 2, 2021
7:00 PM**

MEMBERS PRESENT: Chair William Koppenheffer, Jeremy Katz, Dan Nash, Paul McDonough (Alt), Dave Newlove, (Alt)

MEMBERS ABSENT: Vice Chair Jennifer Mercer

STAFF PRESENT: Tim Corwin – Senior Planner and Zoning Administrator

1. CALL TO ORDER

The meeting was called to order at 7:03 PM by Chair Koppenheffer.

Mr. McDonough and Mr. Newlove were given voting privileges for this meeting.

2. APPROVAL OF MINUTES

A. July 6, 2021

Mr. Katz MOVED to approve the July 6, 2021, Minutes as presented in the August 2, 2021, agenda packet.

Seconded by Mr. McDonough.

**The Vote on the Motion was approved (4-0-1).*

Mr. Nash abstained because he was absent.

3. PUBLIC HEARING ITEMS

- A. DIV South Main Street, LLC, 200 South Main Street (Tax Map 114, Lot 5), zoned GC:**
Applicant requests a Variance from Section 608.4.A.1 of the Zoning Ordinance to install additional building signage. The total proposed sign area for the property exceeds the maximum sign area allowed under Section 608.4.A.1. **ZB2021-18-VAR**

Mark Bush, Gary McCoy, and Tony Lafo appeared on behalf of the application. During the redevelopment of the old Kmart Plaza, the applicants determined adequate signage was not available for the three new stores that will be going into the old Kmart store area. The principal façade is 932 square feet. Currently there is 464 square feet being used by the current tenants' storefronts. The Target proposal is to install 257, Sierra would like to install 160 square feet, and the applicants are asking for 50 square feet for the new tenant. The total proposed sign area would be 932 square feet including the three new sign packages. The principal façade allows them 849 square feet therefore they are short by 83 square feet on the signage they are asking to install.

To get a variance, the five conditions must be satisfied. Based on the lay out of the building, the reuse of a retail space, and the distance from the street, if authorized, they do not believe a variance would be contrary to the public interest. The commercial character of the GC Zone would be preserved. It would be similar to other retail spaces and signage up and down 12A. Justice would be

1 done. When the Plaza was purchased, there was only one retailer, using 106,000 square feet. Large
2 box stores are not the way retailers are moving in the future. Now the Target space will become
3 86,000 feet for Target. By adding two additional retailers, Sierra and another tenant, additional
4 signage is needed. The justice would be done because all three retailers need their own distinct
5 signage and that requires more signage than one retailer. The renovation of the plaza will not
6 diminish the surrounding properties and will improve the redesign of the area. The denial of the
7 variance would result in unnecessary hardship, literal enforcement does not meet the needs of three
8 retailers.

9
10 It is not clear that the property cannot be used without giving the retailers the amount of signage they
11 are requesting. The retailers have already reduced the amount of signage they normally use. The
12 owners may not be able to accommodate Target and Sierra, because the retailers need the signage on
13 the building to be easily visible because the stores are far away from the main road. The calculations
14 are a total of 468 square feet for Target, Sierra, including the 50 feet for the future tenant. The
15 existing signage in the shopping center is 464 square feet. The ordinance allows 849 square feet, and
16 an additional 83 square feet of signage is needed. Sierra has reduced their request to 4-foot letters
17 instead of their usual 5-foot letter. A future tenant would be allowed 50 square feet.

18
19 It is not clear how an additional 10% would make a difference and how it constitutes a hardship. It is
20 not clear that the Target store would not be easy to find. The depth of the facade is approximately
21 750 feet from the road. Gary McCoy said the Target sign is traditionally larger. Throughout the
22 plaza, some of the smaller retails have used a substantial amount of signage. Relative to the plaza, the
23 new tenants are using a small amount of signage. Branding is important to retailers.

24
25 There is a free-standing sign in the front of the Plaza that is being redesigned and it will have all the
26 retailers listed on that sign. A new pilon will be added, and it is separate from building signage. The
27 applicants are also concerned that the signage needs to be visible for cars coming under the bridge
28 and off Interstate 89. Mr. McCoy believes the signage is appropriate for the new façade of the
29 building.

30 It is fair to say that someone would be able to see the freestanding Target bullseye sign, but it would
31 not be used by drivers for directions coming off the interstate. The freestanding sign will show all the
32 multiple tenants.

33
34 If this exact plaza was being built, according to the ordinance, there would be 849 square feet of
35 signage allowed and across the plaza all signage would be sized accordingly. Under the ordinance, to
36 grant a variance, there has to be something unique compared to other plazas within that area. What is
37 fundamentally different from other plazas and what constitutes a hardship is that they are inheriting
38 464 square feet of signage. They are trying to blend old with new. There are two national tenants
39 coming in. This seems to be partially the issue of the landlord and less that there is a hardship. The
40 owners say the orientation of the stores, the scale and the depth of this plaza, and splitting one box
41 into three and doing the best they can to mitigate the needs of three retailers are the hardship.

42
43 The ordinance addresses the signage facing the lot, and in this plaza, it is all inward facing, which
44 makes it a difficulty. It is different from a strip plaza. Yes, the new owners did inherit another
45 landlord's decisions. Theoretically the existing tenants with larger signs could be approached.
46 However, based on the current inventory, there is no one that is outsized. The applicants believe the
47 current tenants would not be agreeable to making a change in their signs. Sierra has a small amount

1 of square footage; however, the applicants believe Sierra would not negotiate a smaller sign and the
2 4-foot letters are reasonable.

3
4 Some Members have difficulty with the hardship issues and requirements. There is no evidence that
5 there is a hardship under the ordinance. Everyone says a bigger sign and more square footage is
6 needed. The Board cannot make a policy decision based on facade size and the amount of signage
7 that may be appropriate. But the Board cannot change the ordinance based on that information.

8
9 **Chair Koppenheffer opened the Public Hearing. Hearing no one, the Public Hearing was**
10 **closed.**

11
12 The Members discussed the limitations that the applicants were trying to address in their request for
13 additional signage. Some of the arguments are very sound, but the hardship is less apparent to some
14 members. The requested increase is less than 10% and could be considered reasonable. The area
15 along 12A is very different. It is a commercial area, and the signs exist to present what is there.
16 Signage is important. The façade is very recessed from the road and there is a very large parking
17 area. Consumers need to be informed.

18
19 The hardship is a bit of a stretch. Sympathy for the inheritance of the previous landlords' decisions
20 is a road to difficulty in the future. One consideration is that other stores in the area own the area in
21 front of the store, there are no other retailers obstructing the store sign, the frontage or contributing to
22 congestion.

23
24 ***Mr. McDonough Moved on August 2, 2021, at a duly noticed meeting of the Lebanon Zoning Board of***
25 ***Adjustment, there appeared Mark Bush Mr. McCoy and Tony Lafo on behalf of DIV South Main***
26 ***Street, LLC, regarding 200 South Main Street (Tax Map 114, Lot 5), zoned GC. Applicant requests a***
27 ***Variance from Section 608.4.A of the Zoning Ordinance to install additional building signage. The***
28 ***total proposed sign area for the property exceeds the maximum sign area allowed under Section***
29 ***608.4.A. ZB2021-18-VARZB2021-06-VAR***

30
31 **I. FINDINGS OF FACT**

32
33 Based on testimony given, application materials presented, and supporting documents submitted, the
34 Lebanon Zoning Board of Adjustment makes the following findings of fact:

- 35
36 1. The subject property is improved with a single-story commercial building occupied by a variety
37 of retail tenants (a detached restaurant also occupies the property). As described in the application
38 materials, a large portion of the building was previously occupied by K-Mart. That portion of the
39 building is currently undergoing renovations and is proposed to be occupied by two new retail
40 tenants (Target and Sierra) and a future third tenant. A CVS pharmacy and Starbucks coffee shop
41 will be contained within the Target store.
- 42
43 2. As described in the application materials, the applicant's proposed sign area for the proposed
44 tenants and future third tenant exceeds the total sign area for the prior K-Mart use, and exceeds
45 the total maximum sign area permitted for the building per Section 608 of the Zoning Ordinance.
- 46
47 3. Pursuant to Section 608.4.A of the Zoning Ordinance, the total permitted sign area for the subject
48 building is the greater of:

- a. The product of the following formula: [linear width, or frontage, of the principal facade in feet] multiplied by 0.8 = [x] square feet (Sec. 608.4.A.1.a.i); or
 - b. The product of the following formula: [total area of the principal façade] multiplied by .05 = [x] square feet (Sec. 608.4.A.1.a.i); or
 - c. The total sign area of all existing legal signs on the building as of January 20, 2021, including the sign area utilized by the immediate prior tenant for any vacant tenant spaces as of January 20, 2021 (Sec. 608.4.A.1.e.ii).
4. Option 'b' affords the subject building the greatest amount of permitted sign area, which the applicant and staff agree is 849 sq. ft. Since the total proposed sign area for the building is 932 sq. ft., a Variance is required from Section 608.4.A to allow total sign area to exceed the maximum permitted by 83 sq. ft.
 5. To obtain a Variance from Section 608.4.A, the applicant must demonstrate compliance with each of the five variance criteria as set forth in Section 801.2 of the Zoning Ordinance and NH RSA 674:33, I(b). The applicant submitted testimony addressing the Section 801.2 Variance criteria in an application received by the Planning and Development Department.
 6. No one from the public spoke for or against the application.

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Variance criteria set forth in Section 801.2 of the Zoning Ordinance:

1. The variance **will not** be contrary to the public interest. (Section 801.2.A.1)
2. The spirit of the ordinance **is** observed. (Section 801.2.A.2)
3. Substantial justice **is** done. (Section 801.2.A.3)
4. The values of surrounding properties **are not** diminished. (Section 801.2.A.4)
5. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area (Section 801.2.A.5.a):
 - i. There **is not** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. (Section 801.2.A.5.a.i)
 - ii. The proposed use **is** a reasonable one. (Section 801.2.A.5.a.ii)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **2nd day of August, 2021**, hereby **GRANTS** the requested Variance from Section 608.4.A of the Zoning Ordinance, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit for the proposed signs.

1
2 ***Seconded by Mr. Newlove.***

3
4 The Members discussed minor corrections to the Motion regarding the findings of fact, conclusions of
5 law and the hardships, that were originally read in the Motion. All changes were approved and seconded,
6 as written above.

7
8 The Members compared the other buildings in other plazas to determine if there is a factual difference
9 between the new plaza and existing plazas. No facts were testified to in the application that
10 differentiate the Target façade.

11
12 **Chair Koppenheffer reopened the Public Hearing.**

13
14 By comparison, the previous Kmart façade was about 690 feet to the main road, the Kohl's sign is
15 approximately 720 feet, Shaw's to Benning is about 400 feet, and Walmart to North Plainfield Road
16 is 570 feet. LaValley is about 600 feet to the road.

17
18 The applicants had no additional comments.

19
20 **The Public Hearing was reclosed.**

21
22 There is value to informing where the businesses are and that may be more important than remaining
23 strict to the ordinance. There are a couple other properties in the same situation. Although it is not
24 absolutely unique, this plaza is different from most other businesses. Mr. McDonough said the two
25 components of the motion that were removed pertained to the references about the preexisting
26 buildings and that there are new tenants. The members restated that they amended the Motion and
27 that the amendments were seconded by Mr. Katz.

28
29 ***Mr. McDonough, Mr. Newlove and Mr. Katz voted yea.***

30 ***Mr. Nash and Mr. Koppenheffer voted nay.***

31 ****The Vote on the Motion was unanimously approved (3-2).***

32
33 **4. STAFF COMMENTS-None**

34
35 **6. ADJOURNMENT**

36
37 ***Mr. Nash MOVED to adjourn the meeting at 8:12 PM.***

38 ***Seconded by Mr. Katz.***

39 ****The Vote on the Motion was unanimously approved (5-0).***

40
41 Respectfully submitted,
42 Linda Billings
43 Recording Secretary

**Agenda
Zoning Board of Adjustment
September 7, 2021**

**Agenda Item #3A
Public Hearing Items**

**Cicotte Holdings, LLC,
51 Evans Dr.
(Tax Map 78, Lot 40, Plot 200),
zoned RO-1
ZB2021-19-VAR**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Zoning Board of Adjustment

FROM: Planning and Development Department Staff

RE: Cicotte Holdings, LLC, 51 Evans Drive (Tax Map 78, Lot 40, Plot 200)
Variance Request to Allow Additional Sign Area - ZB2021-19-VAR
September 7, 2021 Planning Board Meeting – *Agenda Item 3.A*

DATE: September 2, 2021

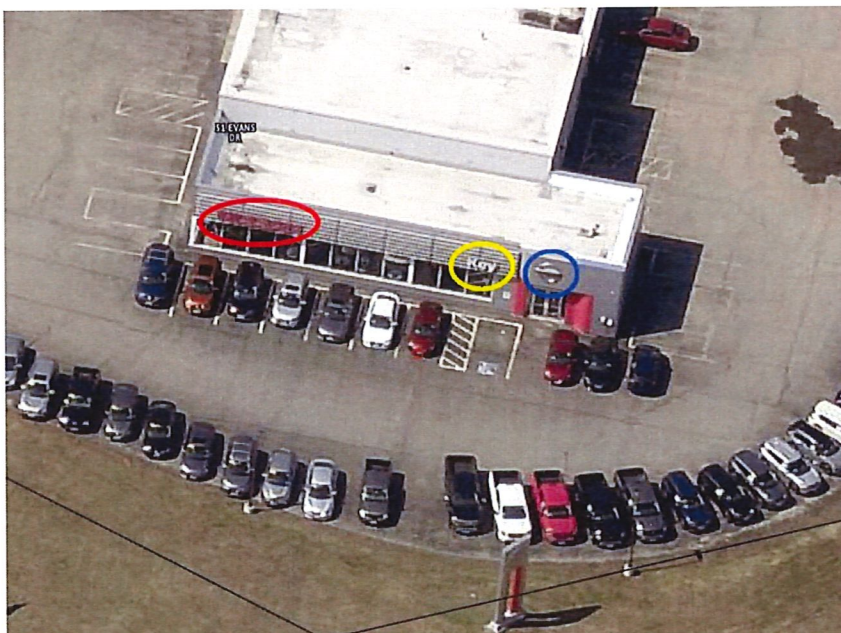
HEARING NOTICE

Cicotte Holdings, LLC, 51 Evans Drive (Tax Map 78, Lot 40, Plot 200), zoned RO-1: Applicant requests a Variance from Section 608.4.A.1.a of the Zoning Ordinance to install additional building signage. The total proposed sign area for the property exceeds the maximum sign area allowed under Section 608.4.A.1. **ZB2021-19-VAR**

BACKGROUND

The subject property is a +/- 3.32 acre parcel located in the Residential-Office-One (R-O-1) District, and is currently occupied by a Nissan car dealership. As a “vehicular sales” use, the Nissan dealership is a legal non-conforming use. Three (3) signs are currently affixed to the building:

- A “Nissan” sign circled in red in the image below;
- A “Key” sign circled in yellow; and
- A “Nissan” emblem sign circled in blue.



The applicant has submitted a building permit application (BP2021-326) proposing to replace the "Key" sign, which is 14.51 sq. ft. in size, with a "Lebanon" sign, which is 22.47 sq. ft. in size. A second Lebanon wall sign of 0.20 sq. ft. is also proposed.

As noted in the June 28, 2021 e-mail from the Zoning Administrator to the applicant (a copy of which was included by the applicant with the Special Exception application materials):

Based on the worksheet included with the [building permit] application, the total proposed sign area for the building will be 95.71 sq. ft. which exceeds the permitted total sign area of 81 sq. ft. If these numbers are correct, you would either need to reduce the size of the proposed sign to no larger than the size of the "Key" sign to be replaced, or you would need to apply to the Lebanon Zoning Board of Adjustment for a Variance from Section 608.4.A.1.a of the Zoning Ordinance to allow the total building area to exceed the maximum permitted by 14.17 sq. ft.

ORDINANCE REQUIREMENTS

Per Section 608.4.A.1.a of the Zoning Ordinance, the total permitted sign area for the building, according to the applicant, is +/-81 sq. ft. To allow building sign area of +/-95.19 sq. ft. (which includes both the 22.47 and 0.20 sq. ft. Lebanon wall signs), a Variance from Section 608.4.A.1.a is required.

To obtain the requested Variance, the applicant must demonstrate compliance with each of the five variance criteria as set forth in Section 801.2 of the Zoning Ordinance and NH RSA 674:33, I(b). The five criteria are set forth in the bold text below, followed by general staff commentary on the meaning and intent of each.

1. **Will the variance be contrary to the public interest?** According to the Board of Adjustment in NH, 2012 Edition, for a variance to be contrary to the public interest, it must unduly and to a marked degree violate the basic zoning objectives of the zoning ordinance. To determine this, does the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?
2. **Will the spirit of the ordinance be observed?** According to the Board of Adjustment in NH, 2012 Edition, in deciding whether or not a variance will violate the spirit and intent of the ordinance, the Board must determine the legal purpose the ordinance serves and the reason it was enacted. The effect of the variance should be evaluated in light of the goals of the Ordinance, which might begin or end with a review of the master plan upon which the ordinance is based.
3. **Is substantial justice done?** According to the Board of Adjustment in NH, 2012 Edition, Board members must determine each case individually. They suggest that perhaps the only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.
4. **Are values of surrounding properties diminished?** According to the Board of Adjustment in NH, 2012 Edition, if there is conflicting evidence (dueling experts) then it is the Board's job to sift through such testimony and other evidence to make a finding as to whether there will be a decrease in property values. Board members may also draw upon their own knowledge of the area in reaching a decision on this standard. It is the applicant's

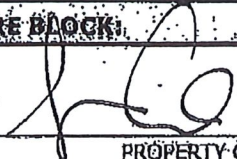
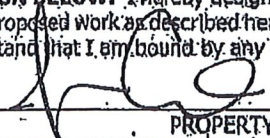
burden to convince the Board that it is more likely than not that the project will not decrease values.

5. Would literal enforcement of the provisions of the ordinance result in an unnecessary hardship?

- a. Special Conditions:** According to the Board of Adjustment in NH, 2012 Edition, Zoning imposes some hardship on all property owners by setting lot dimensions, allowable uses and other restrictions. Typically the restrictions on one parcel are balanced by similar restrictions on other parcels in the same zone. When the hardship so imposed is shared equally by all property owners, no grounds for a variance exist. Only when some characteristic of the particular land in question makes it different from others can unnecessary hardship be claimed. Even within the same community, different results may be reached with just slightly different fact patterns.
- b. Fair and Substantial Relationship:** Part of this standard includes whether or not a fair and substantial relationship exists between the general public purpose of the ordinance provisions and the specific application of that provision to the property. Is the restriction on the property necessary in order to give full effect to the purpose of the ordinance, or can relief be granted to this property without frustrating the purpose of the ordinance? Once the purpose of the provision has been established, the property owner needs to establish that, because of the special conditions of the property, application of the ordinance provision to their property would not advance the purposes of the ordinance provision in any "fair and substantial" way.
- c. Reasonable Use: Is the proposed use a reasonable one?** All applicants believe their proposed use is a reasonable one. The applicant must establish that, in light of the special conditions of the property, as identified above, the proposed use is a reasonable one.

**CITY OF LEBANON
APPLICATION FOR**

SPECIAL EXCEPTION	☐	SITE PLAN REVIEW	☐
VARIANCE	☒	SUBDIVISION	☐
MOTION FOR REHEARING	☐	LOT LINE ADJUSTMENT	☐
APPEAL OF AN ADMIN. DECISION	☐	OTHER ()	☐

PROPERTY OWNER (APPLICANT):	
NAME: Johanna Cicotte	TEL #: 603.306.9644
MAILING ADDRESS: PO Box 600 Lebanon, NH 03766	
E-MAIL ADDRESS: jcicotte1@aol.com	
CO-APPLICANT, AGENT, OR LESSEE:	
NAME: Ronald J. Levesque, Sign Studio, Inc.	TEL #: 518.266.0877
MAILING ADDRESS: 98 Niver Street, Suite 8, Cohoes, New York 12047	
E-MAIL ADDRESS: ron@signstudiony.com	
PROJECT LOCATION: Lebanon Nissan	
TAX MAP #: 78	LOT #: 40 PLOT #: 200 ZONE: RO1
STREET ADDRESS OF PROJECT: 51 Evans Drive, Lebanon, NH 03766	
IS THIS PROPERTY LOCATED IN THE: WETLANDS ☐ YES ☒ NO HISTORIC DISTRICT ☐ YES ☒ NO FLOOD PLAIN ☐ YES ☒ NO	
SCOPE OF PROJECT:	
Signs - Installation of Automotive Manufacturer and Dealership Name	
Branding - Square Feet in Excess of Square Foot Allowed by Code.	
TYPE OF OCCUPANCY:	
EXISTING ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☒ COMMERCIAL ☐ INDUSTRIAL	PROPOSED ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☒ COMMERCIAL ☐ INDUSTRIAL
IF USE IS COMMERCIAL OR INDUSTRIAL, PLEASE NOTE SPECIFIC USE: Automotive Sales & Service	
SIGNATURE BLOCK:	
	DATE: 7/6/2021
PROPERTY OWNER	
NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.	
	DATE: 7/6/2021
PROPERTY OWNER	

DATE RECEIVED	FILE# (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #
7-21-2021	78/40/200	2021-19-VAR	\$282.88	7-22-21	18363

(12/07/07)

SUPPORT STATEMENT FOR A VARIANCE

Amended as to comply with amended State statute and intent statement*

CITY OF LEBANON, NEW HAMPSHIRE

Variance Standards: RSA 674:33 Effective Jan. 1, 2010

One cover application with an abutters list, required filing fee and ten copies of the site plan (if larger than 8 ½ in. x 11in.) must accompany this support statement.

I (we) hereby request a variance from the terms of Article(s) _____
Section(s) 608.4.A.1.a _____ of the Lebanon Zoning Ordinance.

In order to grant a Variance, the Zoning Board of Adjustment must make affirmative findings of certain conditions. Those conditions are listed below:

801.2 Variances.

A. To authorize, upon appeal in specific case, variances from the terms of this ordinance, no variance shall be granted unless each of the following conditions are met:

1. That the variance, if authorized, will not be contrary to the public interest;

Sign Name Change from 3 Letters to 7 letters of the Same Height, Material, Illumination and Location on the Building, does not change or alter the essential character of the neighborhood, threaten public health, safety or welfare or otherwise injure public rights

2. That the variance will observe the spirit of the Ordinance.

It would not be a detriment to the public's interest. Allowance of the variance for Longer Business Name, will allow the existing and conforming signs to remain and unaltered. The Public will have or see no concernable difference.

3. That by the granting of the variance, substantial justice will be done;

By granting of the variance, the additional sign sq. ft. being utilized in the location of existing dealer name, does not cause any harm to the general public. Auto Dealer Identification is a Public Benefit, it serves as destination and safe wayfinding system. The Dealer will benefit from not having to alter existing signs or install a dealer name sign that is not consistent with current signs/branding

4. That the variance, if authorized, will not diminish the values of surrounding properties

The Variance is not extensive or forbidden and is in harmony with what is currently displayed and;

5. That denial of the variance would result in unnecessary hardship.

(a) In this section "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property

Due to the site location & setback of the building in which the signs are displayed, the larger signs are necessary to being clearly visible ; and

(ii) The proposed use is a reasonable one.

Due to change of ownership, name change became a legal requirement. Request is to only expand upon Dealer Name, which currently, has already been deemed appropriate in color, shape and fabrication..

(b) If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformity with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

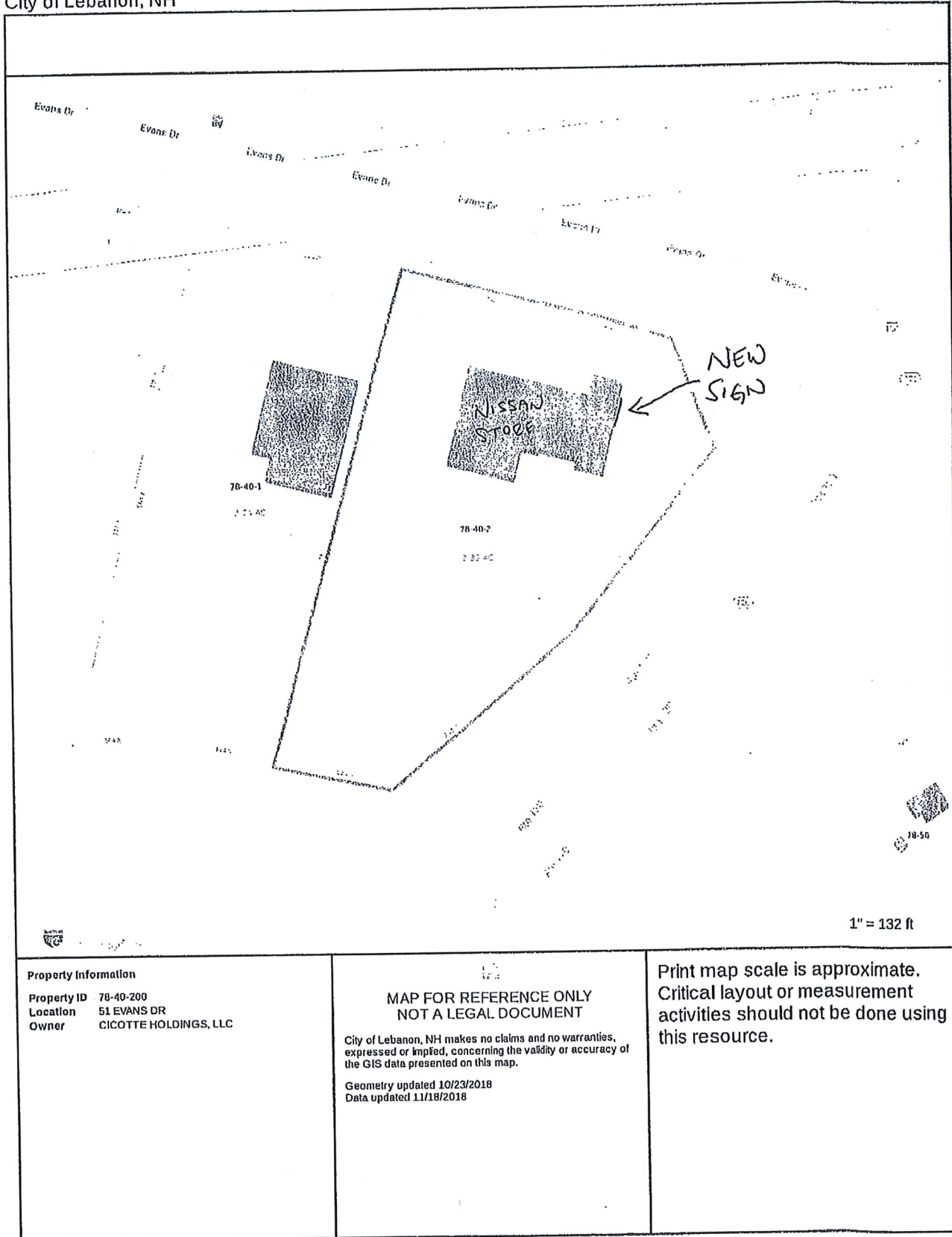
A variance shall expire if: (1) the use is not in place within two years of the date of issuance of a zoning permit or approval by the Zoning Board of Adjustment for a variance; or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a variance must be completed.

****This form was amended as to comply with an amended statute and intent statement (below) contained in Senate Bill #147.***

Statement of Intent:

"The intent of [this statutory change] is to eliminate the separate 'unnecessary hardship' standard for 'area' variances, as established by the New Hampshire supreme court in the case of *Boccia v. City of Portsmouth*, 155 N.H. 84 (2004), and to provide that the unnecessary hardship standard shall be deemed satisfied, in both use and area variance cases, if the applicant meets the standards established in *Simplex Technologies v. Town of Newington*, 145 N.H. 727 (2001), as those standards have been interpreted by subsequent decisions of the supreme court. If the applicant fails to meet those standards, an unnecessary hardship shall be deemed to exist only if the applicant meets the standards prevailing prior to the *Simplex* decision, as exemplified by cases such as *Governor's Island Club, v. Town of Gilford*, 124 N.H. 126 (1983)."





Subject: 51 Evans Dr_Sign Permit Application
From: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Date: 6/18/2021, 3:10 PM
To: "ron@signstudiony.com" <ron@signstudiony.com>

Hi Ron,

I'm reviewing the sign permit application that you submitted for 51 Evans Drive. Based on the worksheet included with the application, the total proposed sign area for the building will be 95.71 sq. ft. which exceeds the permitted total sign area of 81 sq. ft. If these numbers are correct, you would either need to reduce the size of the proposed sign to no larger than the size of the "Key" sign to be replaced, or you would need to apply to the Lebanon Zoning Board of Adjustment for a Variance from Section 608.4.A.1.a of the Zoning Ordinance to allow the total building area to exceed the maximum permitted by 14.17 sq. ft.

Please let me know how you'd like to proceed.

If you have any questions or would like to discuss, please don't hesitate to let me know.

Thank you, Tim

TIM CORWIN, AICP

SENIOR PLANNER

CITY OF LEBANON

51 NO. PARK STREET

LEBANON, NH 03766

(PH.) 603.448.1457, EXT.6127

(FAX) 603.442.6141

TIM.CORWIN@LEBANONNH.GOV

WWW.LEBANONNH.GOV

NEW CITY HALL HOURS:

MON-THU: 7:00AM - 5:00PM

FRI: CLOSED

City of Lebanon,
New Hampshire



Building/Zoning Permit
Application Form

Property Owner (Owner of Record): JONANNA Cicotte Tel.#: 603 306 9644
Mailing Address of Owner: P.O. Box 600 Lebanon NH. 03766 Fax #: _____
Email: jcicotte1@aol.com
CONTACT PERSON FOR PROJECT: Ronald Levesque, Sign Studio, Inc. Tel.#: 518.266.0877
Mailing Address: 98 Niver Street, Suite 8, Cohoes, NY 12047 Fax #: _____
Email: ron@signstudiony.com

1. Project Location: Lebanon Nissan

City Tax Map: <u>78-40-200</u>	Lot: <u>200</u>	Plot: _____	Zoning District: <u>RO1</u>
Location (Physical Address of Project): <u>51 Evans Drive, Lebanon, New Hampshire 03766</u>			

2. Project Description:

Describe the nature of work proposed, in detail:

Change of Auto Dealership Name. Removal of (2) Wall

Signs "Key" and Replace with New Dealership Name "Lebanon".

Cost of Project Construction: \$ _____

3. Type of Occupancy: (check as appropriate)

Existing	☐ Vacant Lot	☐ One Family	☐ Two Family	☐ Multi Family	☒ Commercial	☐ Industrial
Proposed	☐	☐ One Family	☐ Two Family	☐ Multi Family	☒ Commercial	☐ Industrial

For Commercial or Industrial:

Specific Type of Use (for example: retail, office, industrial, etc.): Retail / Service

Name of Commercial/Industrial Tenant (if known): Lebanon Nissan

THE UNDERSIGNED OWNER HEREBY REQUESTS A BUILDING/ZONING PERMIT FOR THE ABOVE USE, TO BE ISSUED ON THE BASIS OF THE REPRESENTATIONS CONTAINED HEREIN, INCLUDING ALL NECESSARY SUPPORT STATEMENTS. PERMIT IS VOID IN THE EVENT OF MISREPRESENTATION AND/OR NOT BEING IN COMPLIANCE WITH THE BUILDING CODE, ZONING ORDINANCE, SITE PLAN REVIEW/SUBDIVISION REGULATIONS (IF APPLICABLE) AND OTHER APPLICABLE STATE AND CITY LAWS AND REGULATIONS. CONSTRUCTION IS NOT AUTHORIZED UNTIL PERMIT IS ISSUED.

Property Owner Signature: _____

Date: 5/25/21

IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING STATEMENT AND SIGN BELOW. I hereby designate the individual listed as *contact person for project* as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

Property Owner Signature: _____

Date: 5/25/21

FOR OFFICE USE ONLY

APPROVED - ZONING ADMINISTRATOR: _____

DATE: _____

APPROVED - BUILDING OFFICIAL: _____

DATE: _____

Received	File#	Permit#	Issued
Const. Cost \$	Permit Fee \$	Voucher#	Date Paid

(Copy provided to Assessing Dept. on _____)



City of Lebanon, New Hampshire
WORKSHEET & CHECKLIST
FOR THE INSTALLATION OF SIGN(S)

Office Use Only

Date Received: _____ File No.: _____

PLEASE NOTE:

- This Worksheet & Checklist must be submitted with (1) a Building/Zoning Application, (2) all required attachments (see Section F below), and (3) payment (see the Fee Schedule).
- The sign regulations are located in Section 608 of the Lebanon Zoning Ordinance.
- Terms in ***bolded italics*** are defined. See pages 11-13 of the Sign Worksheet Attachment.

A. PROJECT INFORMATION

Address where sign(s) will be installed: 5 Evans Drive, City of Lebanon, NH
Name of property owner: Johanna Cicotte
Name of applicant: Ronald Levesque, Sign Studio, Inc
Name of business (if different than applicant): Lebanon Nissan

B. MAXIMUM ALLOWED SIGN AREA

1. The linear width of the *principal façade* of the *principal building* on the lot is 90' feet. (18' h)
 - a. The linear width multiplied by 0.8 = 72 square feet.
2. The size (area) of the *principal façade* of the *principal building* on the lot is 1,620 square feet.
 - a. The area/size of the *principal façade* multiplied by 0.05 = 81 square feet.
3. The maximum allowed sign area for the *principal building* is the larger number in 1.a and 2.a.

C. EXISTING SIGN(S)

1. What is the total number of existing signs affixed to all of the *buildings* on the lot? 4
2. What is the total sign area of all existing signs on the *building(s)* on the lot? 87.01 sq. ft.
3. What is the total sign area of all existing signs on the *building(s)* to be REMOVED? 14.51 sq. ft.
4. What is the total sign area of all existing signs on the *building(s)* to REMAIN? 72.5 sq. ft.
5. What is the total sign area of the existing freestanding sign: 135 sq. ft.
6. Will the freestanding sign remain? YES ☒ NO ☐ OTHER ☐ If "other", please explain: _____

D. NEW SIGN(S)

1. How many new wall signs are proposed? 2
2. What is the sign area (in sq. ft.) of each new wall sign? List here: 22.47 / 0.20
3. How many new projecting signs are proposed? 0
4. What is the sign area (in sq. ft.) of each new projecting sign? List here: 0
5. Is a new freestanding sign proposed? YES ☐ NO ☒
6. What is the sign area (in sq. ft.) of the new freestanding sign? N/A square feet

SIGN PERMIT APPLICATION WORKSHEET & CHECKLIST
 Last Revised 1/22/20
 Page 2 of 2

E. ILLUMINATION

Will the proposed sign(s) be illuminated? Yes X No

Name of Electrician Harp Electrical Contracting License # 12721M (New Hampshire)

F. APPLICATION CHECKLIST

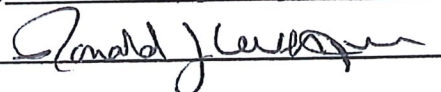
REQUIRED ATTACHMENTS (per Section 608.2.B of the Zoning Ordinance)	Info Provided	Info Not Provided	N/A
EXISTING SIGNS TO BE REMOVED:			
• Have you included photographs of the existing signs that will be removed?	☒	☐	☐
PROPOSED SIGNS:			
• Have you included a drawing to scale of each proposed sign?	☒	☐	☐
• Does the drawing identify the sign area (in sq. ft.) of the proposed sign?	☒	☐	☐
• Does the drawing show the dimensions of each sign?	☒	☐	☐
• Does the drawing depict the location of the sign on the building?	☒	☐	☐
• Does the drawing identify the construction materials?	☒	☐	☒
• If freestanding:			
o Does the drawing identify the height of the sign?	☒	☐	☐
o Have you provided a plot plan depicting the location of the sign?	☐	☐	☒
o Does the drawing or plot plan demonstrate compliance with the landscaping specifications of Sec. 608.4.A.4.b.i of the Zoning Ordinance*?	☐	☐	☒
CONSTRUCTION/ILLUMINATION:			
• Have you included specifications for the construction or display of the sign?	☒	☐	☐
• Have you included specifications illumination and mechanical movement of the sign(s)?	☒	☐	☐
• Have you included documentation/information demonstrating compliance with the requirements of Section 608.4.A.6 ("Illumination")**?	☒	☐	☐

*See page 5 of the Sign Worksheet Attachment

**See page 7 of the Sign Worksheet Attachment

G. ACKNOWLEDGMENT – This Worksheet & Checklist was prepared by:

Print name: Ronald Levesque, Sign Studio, Inc. Title: Project Manager

Signature:  Date: May, 2021

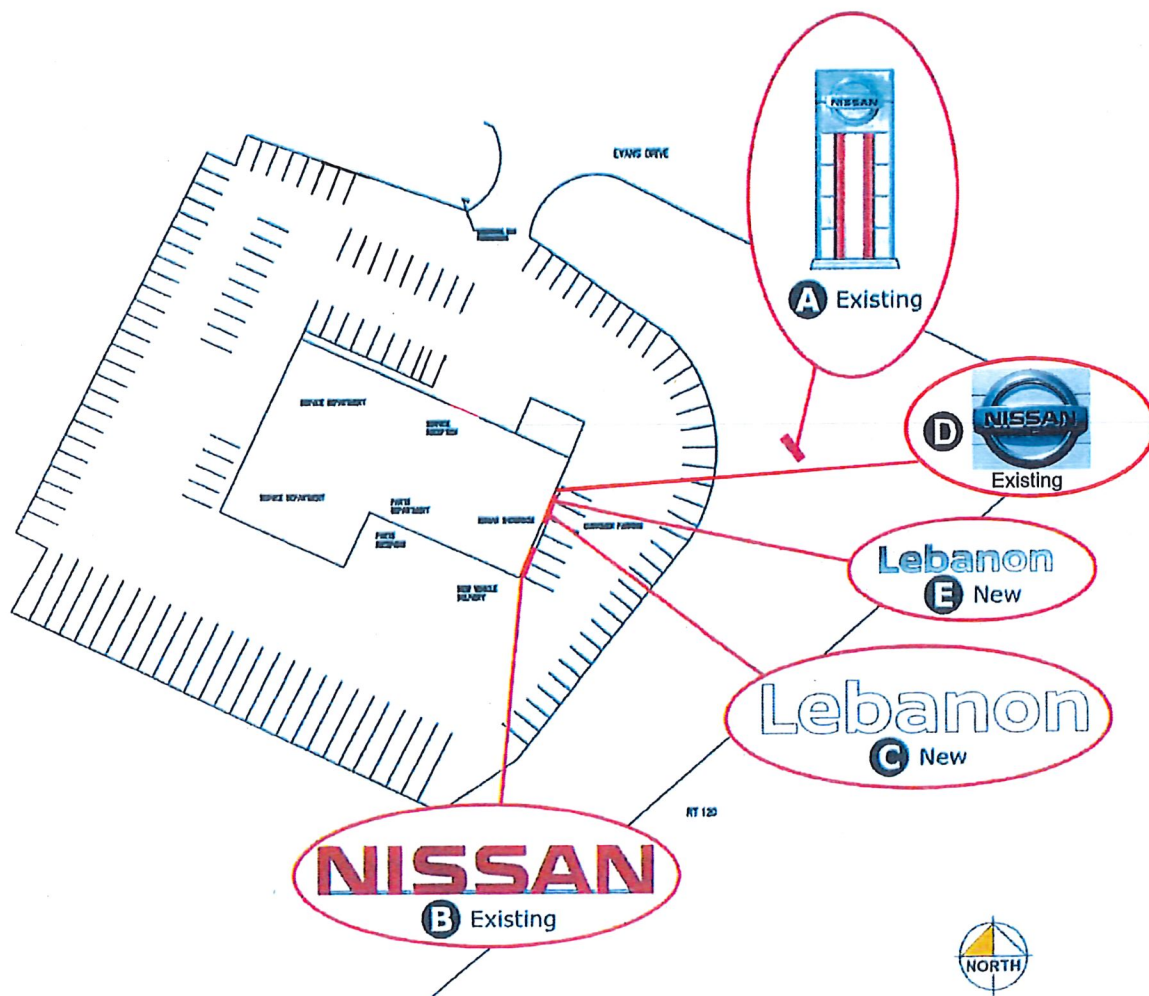


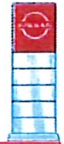
NISSAN NORTH AMERICA

Dealer Presentation Package

1. SITE PLAN AND COLOR RENDERINGS

The following provide a visual representation of the prepared solution:



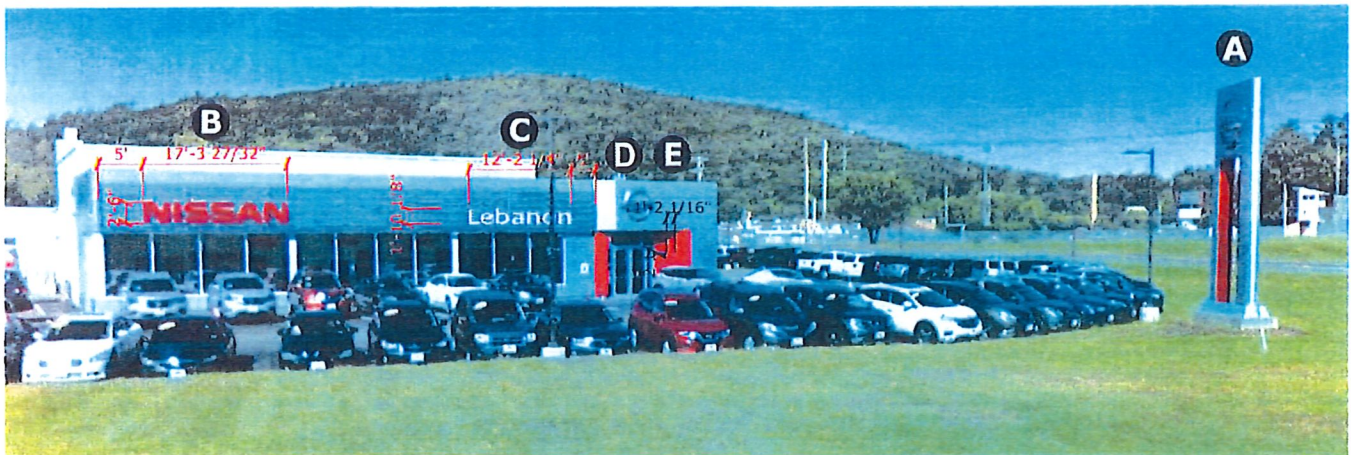


NISSAN NORTH AMERICA Dealer Presentation Package

2. SCHEDULE OF SIGNS Site Before



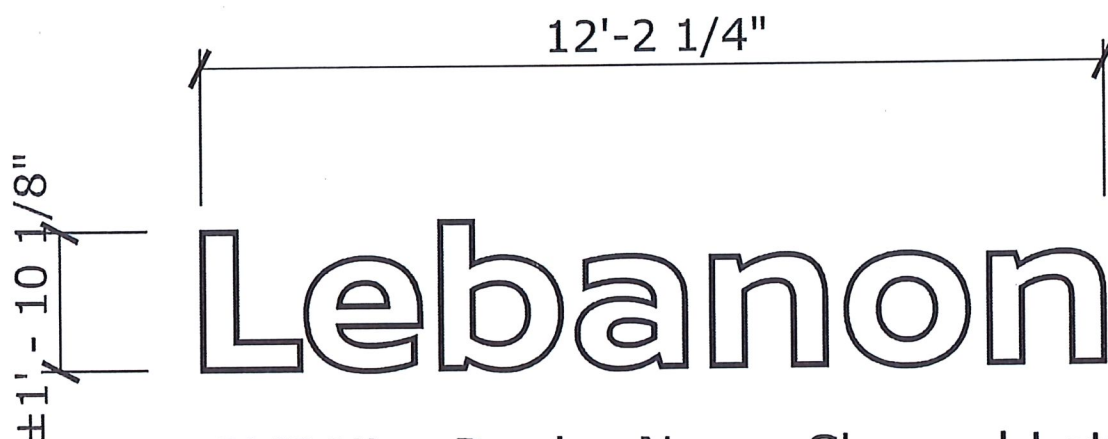
Proposed Signage



NISSAN NORTH AMERICA
Dealer Presentation Package



2. SCHEDULE OF SIGNS (CONTINUED)



SMDNL - Dealer Name Channel Letters

Area: 22.47 Sq. Ft.

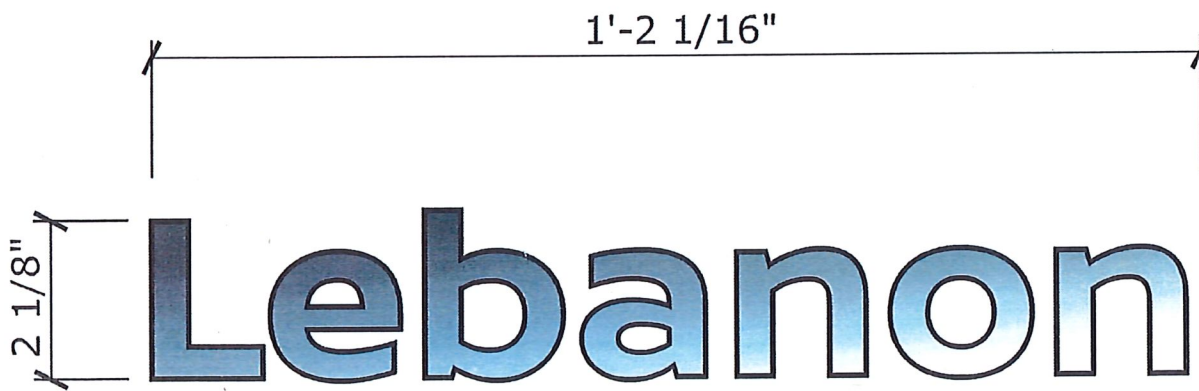
Qty. 1

New

NISSAN NORTH AMERICA
Dealer Presentation Package



2. SCHEDULE OF SIGNS (CONTINUED)



2 1/8" Plate Letters

Area: 0.20 sq ft

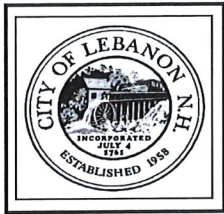
Qty.1

New

**Agenda
Zoning Board of Adjustment
September 7, 2021**

**Agenda Item #3B
Public Hearing Items**

**City of Lebanon (Applicant)
and Dartmouth College
Trustees (Property Owner),
00 Mount Support Rd.
(Tax Map 10, Lot 24, Plot 200),
zoned MC
ZB2021-20-SE**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Zoning Board of Adjustment

FROM: Planning and Development Department Staff

RE: City of Lebanon/Dartmouth College Trustees, Mount Support Rd (10-24-200)
Request for Wetlands Special Exception - ZB2021-20-SE
September 7, 2021 Planning Board Meeting – *Agenda Item 3.B*

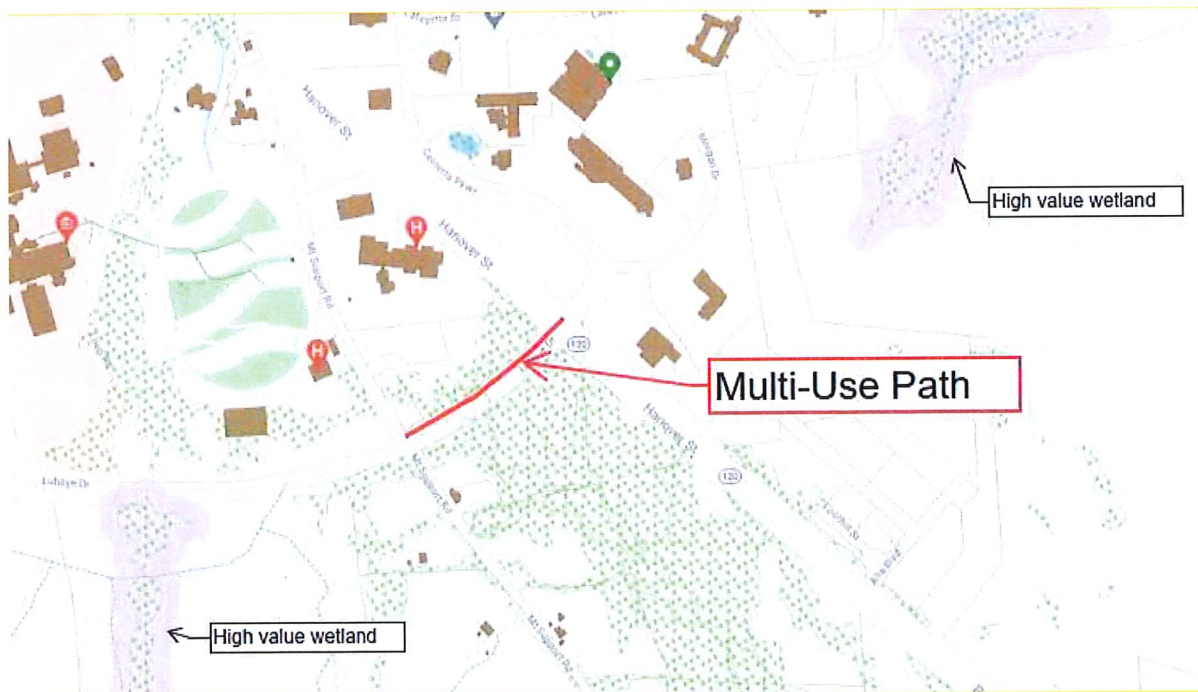
DATE: September 2, 2021

HEARING NOTICE

City of Lebanon (Applicant) and Dartmouth College Trustees (Property Owner), 00 Mount Support Rd. (Tax Map 10, Lot 24, Plot 200), zoned MC: Applicant requests a Special Exception pursuant to Section 401.5 of the Zoning Ordinance to permit wetland impacts associated with the City's construction of a proposed 950 LF, 10'-wide multi-use path along the north side of Lahaye Drive. ZB2021-20-SE

BACKGROUND

The City of Lebanon proposes to construct a multi-use path along the north side of Lahaye Drive, between Mount Support Road and NH Route 120:



The construction of the path – which also includes reconstruction of curb ramps, drainage improvements, and minor improvements to the Lahaye Drive and NH Route 120 intersection – will permanently impact a total of 18,337 sq. ft. of wetlands located on the adjacent +/-5.93 acre parcel owned by Dartmouth College. The City seeks a Special Exception pursuant to Section 401.5 of the Zoning Ordinance to allow the proposed impacts.

The City has applied for a wetlands permit from the NH Department of Environmental Services. The wetlands permit was reviewed and approved by the Conservation Commission at its August 12, 2021 meeting. A copy of the relevant portion of the draft August 12th meeting minutes is included with the applicant's materials.

ORDINANCE REQUIREMENTS

In order to grant the requested Special Exception, the Board must make each of the following findings per Section 401.5 of the Zoning Ordinance, as applicable:

- A. The use for which the exception is sought cannot feasibly, after consideration of all alternatives, be carried out on a portion or portions of the lot which are outside the Wetlands Conservation District; and
- B. Due to the provisions of the Wetlands Conservation District, as applied to the particular characteristics, setting and environment of the property, the lot cannot reasonably be used for any of the uses permitted or allowed by special exception, without some form of special exception under this section; and
- C. The design and construction of the proposed use is consistent with the purpose and intent of Section 401.1 (A), (B) and (C) of this Ordinance, and adequate conservation measures shall be taken to mitigate the detrimental effects of the proposed use on the natural function of the wetlands. Such measures may include but are not limited to wetland restoration or enhancement, wetland preservation, or the construction and maintenance of new wetland areas adjacent to the proposed use to replace those portions of the natural wetland affected by the proposed use; and
- D. The proposed construction design of pipelines, powerlines and other transmission lines shall include provisions for restoration of the site as closely as possible to its original grade and conditions; and
- E. The proposed use shall not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of ground water, or any other reason; and
- F. All required Federal and State wetlands permits have been applied for. Note: A zoning permit shall not be issued until all such permits have been granted; and
- G. The project is capable of conforming to all existing best management practices, as referenced in Appendix A, and will be implemented in a way which conforms to those practices, and which complies with any other conditions imposed by the Zoning Board of Adjustment.

WETLANDS	☒ SPECIAL EXCEPTION	☐ SITE PLAN REVIEW
	☐ VARIANCE	☐ SUBDIVISION
	☐ MOTION FOR REHEARING	☐ LOT LINE ADJUSTMENT
	☐ APPEAL OF AN ADMIN. DECISION	☐ OTHER ()

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #
8-19-21	10/24/200	2020-20-5E	0	NA	NA

city project

**CITY OF LEBANON, NEW HAMPSHIRE
APPLICATION FOR WETLANDS SPECIAL EXCEPTION
CHECKLIST AND SUPPORT STATEMENT**

I. APPLICATION CHECKLIST

- Cover application
- Abutters list
- Filing fee
- This form, including written responses to the Section 401.5 requirements, outlined below (You can respond in the space provided, or on a separate sheet of paper. Please be prepared to address the requirements with the Zoning Board during your public hearing. You must show that your proposal meets all of the requirements.)
- A wetland delineation plan certified by a Wetland Scientist
- Copy of the State of NH Wetland Permit Application (not required if the project impacts the wetland buffer only).

II. SUPPORT STATEMENT

I hereby request a Wetlands Special Exception pursuant to Article IV, §401.5 of the Zoning Ordinance for the property located at 00 Mount Support Road, along Lahaye Drive.

The project is not located within the High and Very High Value Wetlands according to *Natural Lebanon: Results of the Phase II Natural Resource Inventory of the City of Lebanon, NH (June 2010)* and further depicted in the Lebanon Wetland Overlay District Map.

Upon application to the Zoning Board of Adjustment [...] a special exception may be requested to permit the erection of a structure; the construction of streets, roads, and other access ways; for pipelines, powerlines, and other transmission lines; and the construction of fences, footbridges, catwalks and docks within the Wetlands Conservation District, provided that all of the following conditions are found to exist:

Please see the attached "Responses to Zoning Criteria Section 401.5 A-G."

- A. The use for which the exception is sought cannot feasibly, after consideration of all alternatives, be carried out on a portion or portions of the lot which are outside the Wetlands Conservation District:

- B. Due to the provisions of the Wetlands Conservation District, as applied to the particular characteristics, setting and environment of the property, the lot cannot reasonably be used for any of the uses permitted or allowed by special exception, without some form of special exception under this section:

- C. The design and construction of the proposed use is consistent with the purpose and intent of Section 401.1 (A), (B) and (C) of this Ordinance (****see below****), and adequate conservation measures shall be taken to mitigate the detrimental effects of

the proposed use on the natural function of the wetlands. Such measures may include but are not limited to wetland restoration or enhancement, wetland preservation, or the construction and maintenance of new wetland areas adjacent to the proposed use to replace those portions of the natural wetland affected by the proposed use:

- D. The proposed construction design of pipelines, powerlines and other transmission lines shall include provisions for restoration of the site as closely as possible to its original grade and conditions:

- E. The proposed use shall not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of ground water, or any other reason:

- F. The project is capable of complying with all State and Federal wetlands and wetlands permitting requirements:

Note: Applications for required Federal and State wetland permits need not have been applied for, but a zoning permit shall not be issued until all such permits have been granted.

- G. The project is capable of conforming to all existing best management practices, as referenced in Appendix A, and will be implemented in a way which conforms to those practices, and which complies with any other conditions imposed by the Zoning Board of Adjustment:

Section 401.1 Purposes.

The purposes of the Wetlands Conservation District are to:

- A. *Preserve wetlands, which provide flood protection, recharge groundwater supply, augment stream flow during dry periods, provide wildlife habitat, and enhance water quality; and which are important for such other reasons as those cited in RSA 482-A:1.*
- B. *Prevent the development of structures and land uses on wetlands, which would contribute to the pollution of surface or ground water, disrupt wetland ecosystems, and damage property due to flooding.*
- C. *Prevent unnecessary or excessive expenses to the City of Lebanon for essential services and utilities because of the incompatible use of wetlands.*



August 12, 2021
624260

Lebanon Zoning Board of Adjustment, Codes Office
51 North Park Street
Lebanon, NH 03766

Subject: Wetlands Special Exception Application, Lahaye Drive Multi-Use Path

Dear Lebanon Zoning Board of Adjustment Codes Office,

Attached please find a Wetlands Special Exception application with attachments for the Lahaye Drive Multi-Use Path. We understand that a filing fee will not be required, as the project applicant is the City Planning and Zoning Department.

The State of New Hampshire Wetlands Permit application is posted on the City Website Under Planning & Zoning\Documents, Studies and Resources\ TAP Projects\Lahaye Drive Path\Preliminary Design : July 8, 2019\Supporting Documents, "Wetland Mitigation Permit," or at the following link:
<https://civicclerk.blob.core.windows.net/stream/LEBANONNH/32f08866-bce4-4a71-bcee-97b04b19b382.pdf?sv=2015-12-11&sr=b&sig=hJ2XqlqQ%2FZFfRDg8Zv7EkvqUBnUZWB1PPZA%2FdYgbpXc%3D&st=2021-08-09T19%3A11%3A01Z&se=2022-08-09T19%3A16%3A01Z&sp=r&rscc=no-cache&rsct=application%2Fpdf>.

I am acting as Agent to the Property Owner and Co-Applicant. Please let me know if you have any questions or concerns.

Very truly yours,

A handwritten signature in blue ink that reads 'Charlotte Brodie'.

Charlotte Brodie
Certified Wetlands Scientist
DuBois & King, Inc.



Attachment to ZBA Wetlands Special Exception Application

Agent for the application is:

DuBois & King, Inc., Attn: Charlotte Brodie
6 Green Tree Drive
South Burlington, VT 05403-6025
802-777-5272
cbrodie@dubois-king.com



August 11, 2021
624260

Responses to Zoning Criteria Section 401.5 A-G.

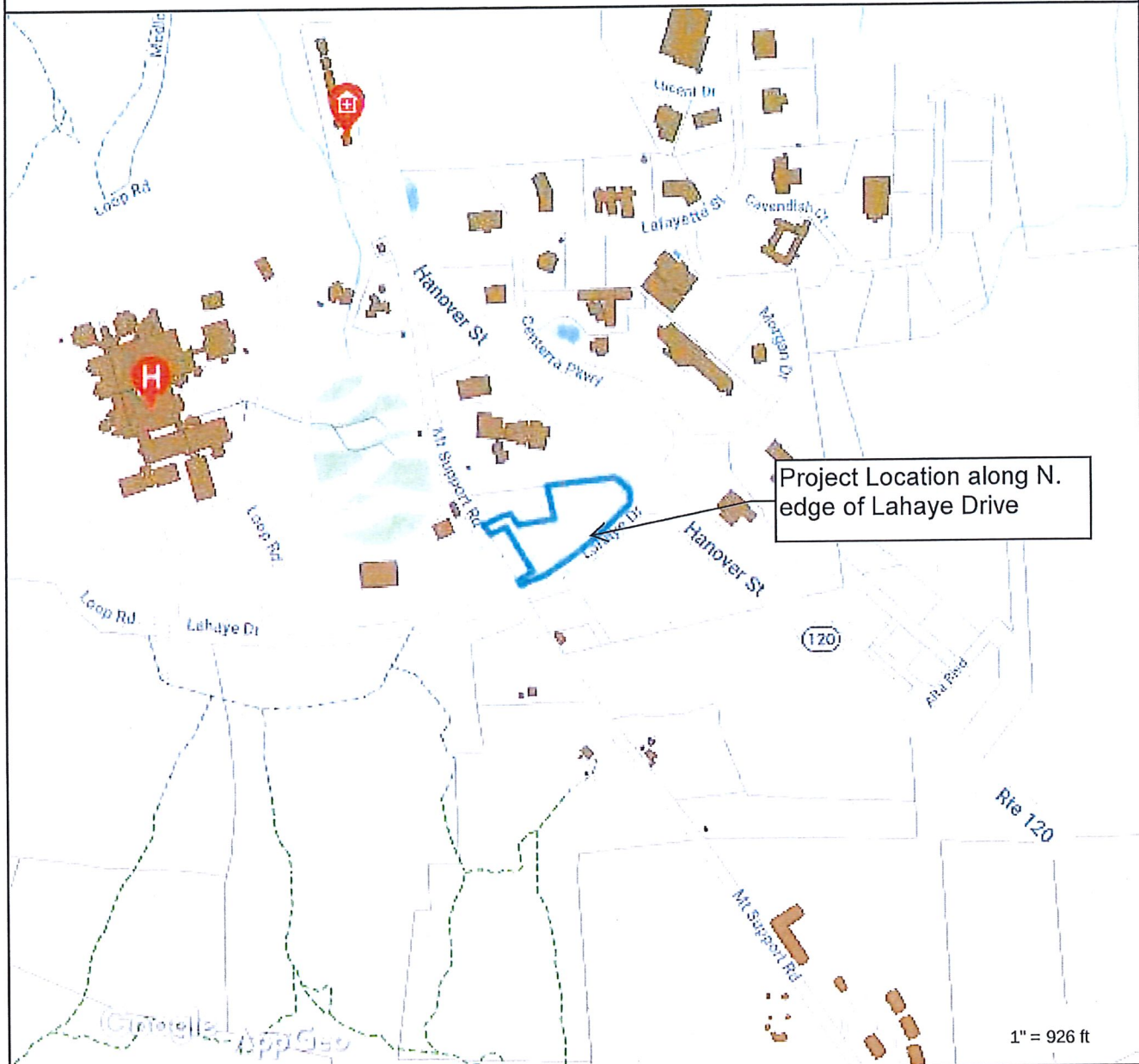
- A. The project cannot be carried out on a portion or portions of the lot which are outside of the Wetlands Conservation District. The project is intended to provide non-motorized access along Lahaye Drive, and therefore cannot be located on another portion of the property. Lahaye Drive has extensive wetland on either side in the vicinity of the project, so relocating it to the south side of the road would not avoid wetland impacts.
- B. The multi-use path does not conform to any of the uses allowed as permitted uses under Section 401.4 of the Zoning Criteria. The project requires a Standard Dredge and Fill permit from the NH Wetlands Bureau. The path therefore requires a Special Exception under this section.
- C. Regarding Section 401.1 (A), the project cannot be located so as to preserve the entire wetland at the site while still achieving the project purpose of providing non-motorized access along Lahaye Drive.

Regarding 401.1 (B), the project includes the treatment of stormwater runoff from Lahaye Drive by routing it along grassy swales, thus limiting pollution of surface or ground water. While the wetland is not classified by the City as high or very high value, it does provide habitat for the State rare species, *Geum fragarioides*, barren strawberry. The NHB has approved of, and the City has agreed to, planned protections to the species, a plant that was identified in the area of temporary project impacts, including time-of-year restriction on cutting of trees and the requirement for use of tracked vehicles in the vicinity of the plants to avoid soil disturbance. The existing culverts which currently maintain the hydrology, and therefore the wetland vegetative communities, will be extended to accommodate the path, but will be of the same size and invert elevations such that the hydrologic regime of the wetlands is not expected to change. Wetland compensatory mitigation opportunities were sought by the City through the adjacent landowner and the City of Lebanon Conservation Commission, but no appropriate sites were identified. Therefore, wetland compensatory mitigation will be in the form of an In-Lieu Fee to the Aquatic Resource Mitigation Fund in the amount of \$67,958.99.

Regarding 401.1 (C), the project will not cause unnecessary or excessive expenses to the City of Lebanon for essential services and utilities. Rather, the project will provide the service/utility of a non-motorized access route which will protect the safety of pedestrians and bicyclists travelling along Lahaye Drive.

- D. The project does not involve the construction of pipelines, powerlines or other transmission lines.
- E. The project will not create a hazard to individual or public health, safety and welfare. It will improve the safety of pedestrians and bicyclists using the Lahaye Drive corridor between Mount Support Road and NH Rt. 120.
- F. An application for a NH Standard Dredge and Fill permit was submitted on July 22, 2021. A pre-application meeting occurred on May 19, 2021. The attached meeting minutes, annotated on July 27, 2021, (Exhibit 7) indicate that the concerns of the NH Wetlands staff have been addressed.
- G. The Best Management Practices in Appendix A of the City of Lebanon Zoning Ordinance #2 pertaining to forestry, agriculture, ground water, trails and regulated substances do not apply to this project. Surface water will be protected by collection from the road and path and routing through a grass-lined swale which will function as a water quality treatment measure.

Northern parcel

**Property Information**

Property ID 10-24-200
 Location 00 MOUNT SUPPORT RD
 Owner DARTMOUTH COLLEGE TRUSTEES



**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

City of Lebanon, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 10/23/2018
 Data updated 11/18/2018

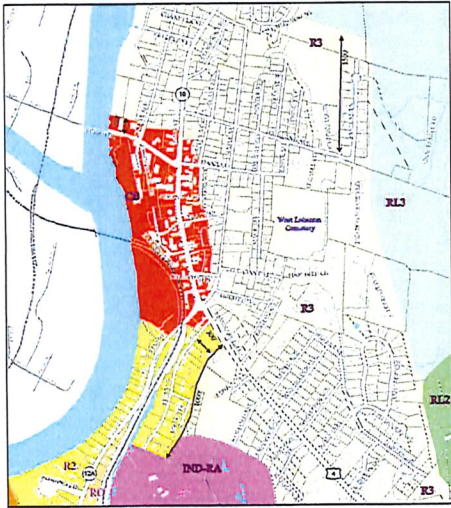
Print map scale is approximate.
 Critical layout or measurement
 activities should not be done using
 this resource.

OFFICIAL ZONING MAP OF THE CITY OF LEBANON, NH

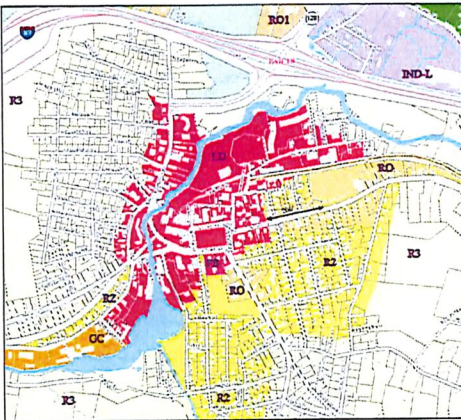


Data Sources:
Zoning - LeGIS
Roads/Streams - LeGIS
Hydrology - L2015
Municipal Boundary - Grant

LEGIS
Map Product: 6/2020

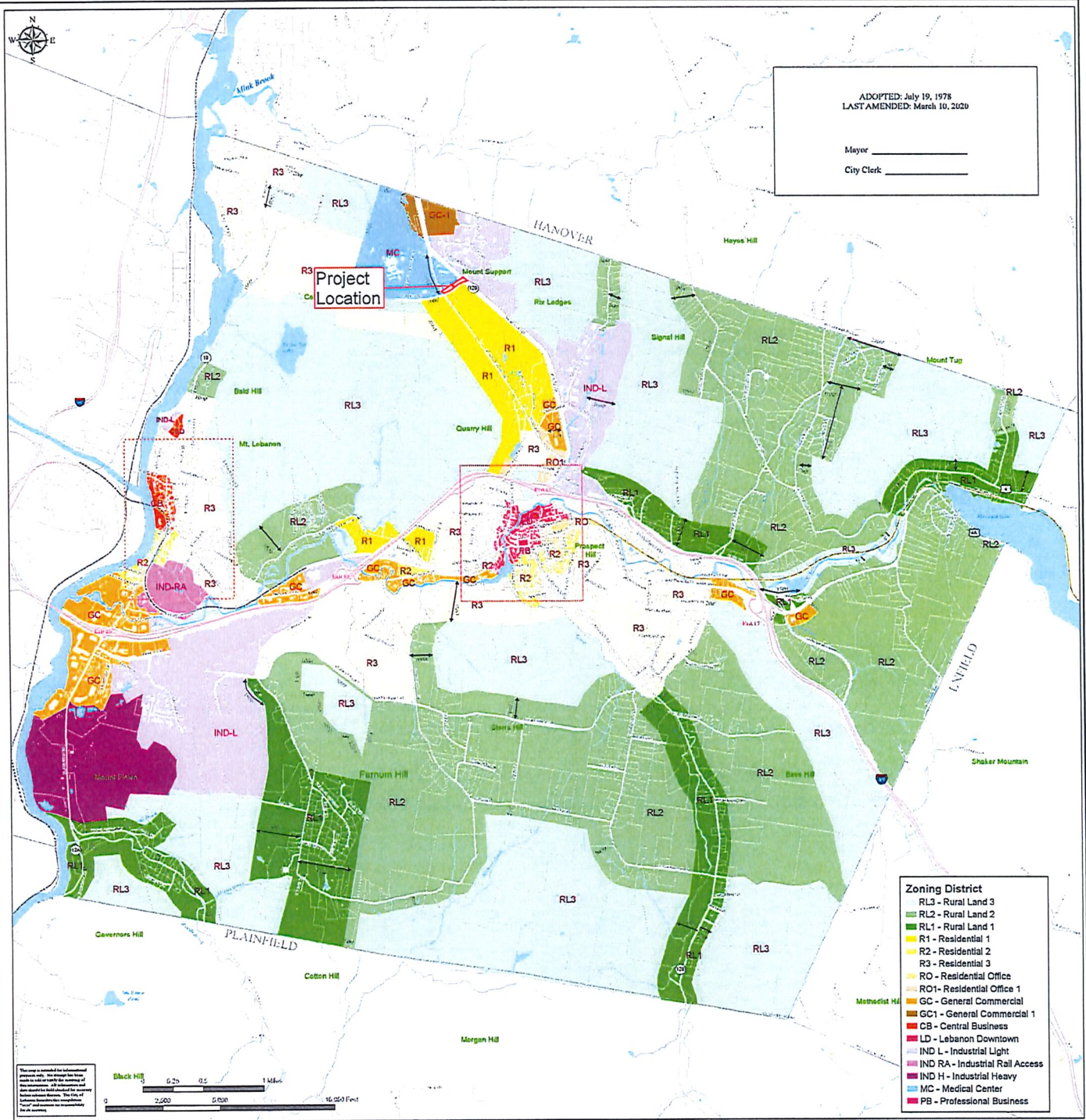


WEST LEBANON



DOWNTOWN LEBANON

For Additional Information, Lebanon Zoning Regulations available at the
Planning, Codes & Ins. City Hall 10 Flume and online at www.lebanon-nh.org



1 Page 4, Line 2 Capitalize "Cooperative Extension"

2 Page 4, Line 8 Change "Rainey" to "Ranie"

3 Page 4, Lines 31 & 32 Change "In the past, the process has been" to "The formal process is to"

4
5 * *The Vote on the MOTION was unanimously approved (7-0).*

6
7 **3. PERMIT REVIEW:**

8
9 A. City of Lebanon-Final review and comment on an NHDES Wetland Standard Dredge and Fill
10 Application (Major Impact) associated with construction of a new multi-use path on LaHaye Drive, with a
11 total of 18,337 square feet of total permanent plus temporary wetland impacts on a 5.93-acre parcel
12 owned by Dartmouth College, under preliminary agreement for easement, located at 0 Mount Support
13 Road, Lebanon, Tax Map 10, Lot 24, Plot 200.

14
15 Ms. Rebecca Owens with the City of Lebanon started the presentation. She introduced Charlotte Brodie
16 and Brian Bresland with Dubois and King. Ms. Brodie explained that she was a Certified Wetland
17 Scientist in the State of New Hampshire and a Field Naturalist. She gave details on the LaHaye Drive
18 project. She explained that there would be construction of a 10-foot-wide multi-use path along the north
19 edge of LaHaye Drive between Route 120 and Mt. Support Road. The City of Lebanon was the
20 applicant. The purpose of the path was to safely convey bicycle and pedestrian traffic within the LaHaye
21 Drive corridor. The path would connect to the existing sidewalk at Mt. Support Road, south of the project
22 area, to the existing sidewalk along Centerra Parkway to the east.

23
24 Ms. Brodie showed a map of the wetland impact plans and explained the lines on the map to the
25 Commission and the work to be done to build the multi-use path. Ms. Brodie spoke about the Northern
26 Long-Eared Bat habitat trees that were reviewed by the US Fish and Wildlife Service. She explained that
27 since the number of trees that would be impacted were low there were a few, simple mitigation measures
28 suggested by the US Fish and Wildlife Service.

29
30 The chain linked fence that had originally been proposed to run along part of the multi-use trail was
31 changed to a split rail fence to allow wildlife to pass through. A summary of the environmental resources
32 and impacts were presented to the Commission which included the Northern-Long Eared Bat's summer
33 habitat and a NH rare species plant, the Barren Strawberry. It was explained what kind of mitigation
34 would take place for each. There would also be an in-lieu fee paid to the NH Aquatic Resource
35 Mitigation Fund for the wetland impacts.

36
37 Conservation Commission members asked questions which were answered by Ms. Brodie and Ms.
38 Owens. Ms. Brodie presented a slide showing the responses to the NHDES wetland pre-application
39 meeting comments and went over it. Discussion was had on the time frame of which the Conservation
40 Commission had to come up with a piece of property to be used for mitigation of the wetlands being
41 impacted.

42
43 Mr. Donald Lacey joined the meeting at approximately 7:30 PM.
44 Conversation was had about mitigation projects versus in-lieu of fees for wetland impacts. Discussion
45 also took place on the Barren Strawberry and the mitigation that will take place to lessen the impact to the
46 plant.

1 **Ms. Almy MOVED** that Lebanon Conservation Commission recommend approval by DES of the
2 **Wetland Standard Dredge and Fill application (Major Impact)** associated with construction of a
3 **new multi-use path on LaHaye Drive**, with a total of 18,337 square feet of total permanent plus
4 **temporary wetland impacts on a 5.93-acre parcel owned by Dartmouth College**, under preliminary
5 **agreement for easement, located at 0 Mount Support Road, Lebanon, Tax Map 10, Lot 24, Plot 200**
6 **with the following conditions: 1) That the trees not be removed until the ground is frozen. 2) That**
7 **the slope of the path be seeded with a native conservation mix or appropriate wildflowers. 3) That**
8 **the three areas that will contain rip rap will be, as expected, covered over with a vegetative matting.**
9 **Seconded by Mr. Heistad.**

10
11 **Roll Call Vote:**

12 **Susan Almy, Erling Heistad, Donald Lacey, Ernst Oidtman, Chris Johnson, and Darla Bruno all**
13 **voting Yea.**

14 **Sarah Riley voted Nay.**

15
16 *** The Vote on the MOTION passed (6-1).**

17
18 **4. STUDY ITEMS:**

19
20 **A. Chapter 134 Scenic Road & the Role of the Con Com-Vice Chair Riley** said there was a meeting of
21 the Planning Board that she attended where there was an issue pertaining to scenic roads. She asked the
22 Planning Board if the scenic road issue should have come before the Conservation Commission? She
23 believed that the Planning Board did not think the issue needed to come before the Conservation
24 Commission. It was discussed that the Conservation Commission should have been notified of the scenic
25 road issue. Vice Chair Riley read Chapter 134 to the Commission members. The Planning Board will
26 notify the Conservation Commission from now on.

27
28 **B. Chambers Memorial Preserve Property Overview Discussion-Vice Chair Riley** gave an overview
29 of Chambers Memorial Preserve. She gave the property's location and explained the history of the
30 property and how the property had been donated. The property was protected in 1973 in collaboration
31 with the Hanover Conservation Council which is now the Hanover Conservancy. In 1997 the ownership
32 of the property was passed from the CRWC to the City of Lebanon and the conservation easement was
33 passed from the CRWC to the Society for the Protection of New Hampshire Forests.

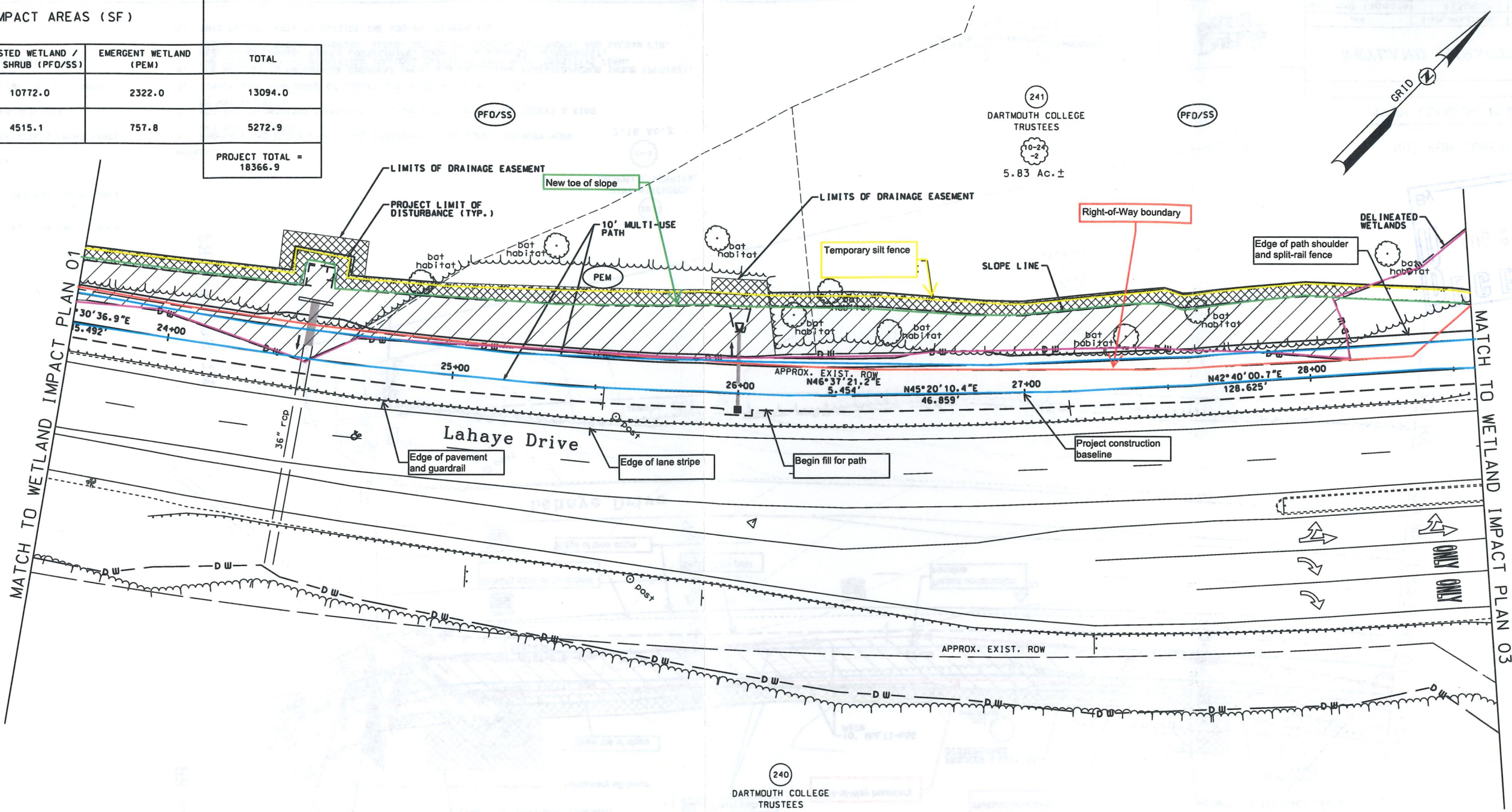
34
35 Discussion was had about the old horse road on the property. Vice Chair Riley went on to tell the
36 Commission about rare plants on the property, botanical richness, and tress that could be found on the
37 property.

38
39 There was evidence of deer roaming the property. The property is a great habitat for amphibians and
40 salamanders. Many froglets and toadlets have also been observed and there is a kettle pond on the
41 property. Vice Chair Riley has also seen turtles on the property.

42
43 There is a plaque, rope swing, and a bench on the property, as well as a possible horse road. The property
44 could use signage and work with erosion happening on the property, and invasive plants. The
45 Commission discussed how to get better signage up on the property. Discussion also took place about the
46 different places' erosion was happening on the property, protecting younger trees from being browsed by
47 deer, and what kind of invasive species were found on the property. The Commission also discussed
48 whether the field at Chambers should be mowed or not.

NO. PROCESSED	REVISIONS AFTER PROPOSAL				DATE
	DESCRIPTION	STATION	DATE	NUMBER	
NEW DESIGN					
SHEET CHECKED					
AS BUILT DETAILS					

WETLAND IMPACT AREAS (SF)			
	FORESTED WETLAND / SCRUB SHRUB (PFO/SS)	EMERGENT WETLAND (PEM)	TOTAL
PERMANENT IMPACT	10772.0	2322.0	13094.0
TEMPORARY IMPACT	4515.1	757.8	5272.9
PROJECT TOTAL =			18366.9



LEGEND

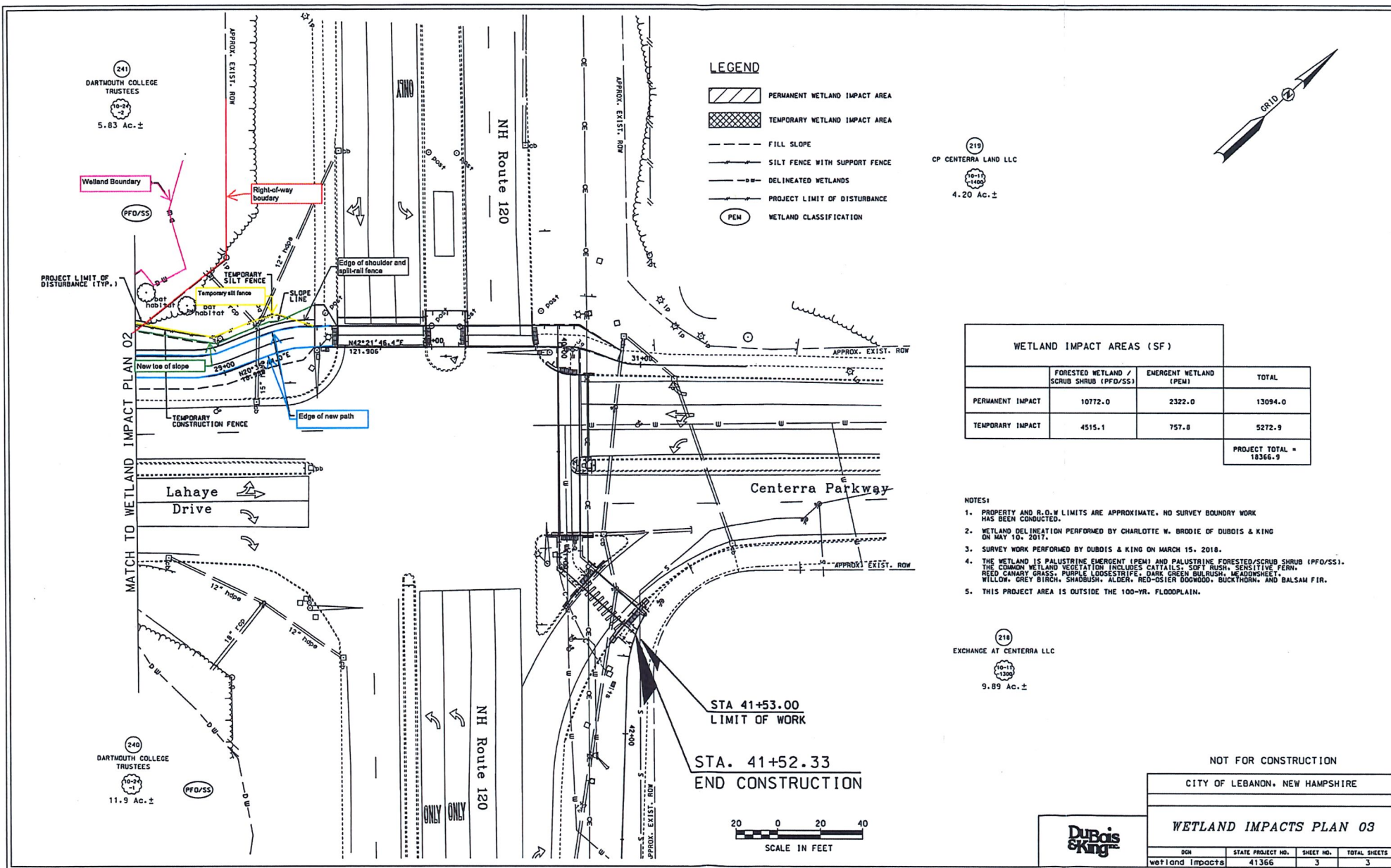
- PERMANENT WETLAND IMPACT AREA
- TEMPORARY WETLAND IMPACT AREA
- FILL SLOPE
- SILT FENCE WITH SUPPORT FENCE
- DELINEATED WETLANDS
- PROJECT LIMIT OF DISTURBANCE
- WETLAND CLASSIFICATION LIMITS
- WETLAND CLASSIFICATION

- NOTES:
- PROPERTY AND R.O.W LIMITS ARE APPROXIMATE. NO SURVEY BOUNDARY WORK HAS BEEN CONDUCTED.
 - WETLAND DELINEATION PERFORMED BY CHARLOTTE W. BRODIE OF DUBOIS & KING ON MAY 10, 2017.
 - SURVEY WORK PERFORMED BY DUBOIS & KING ON MARCH 15, 2018.
 - THE WETLAND IS PALUSTRINE EMERGENT (PEM) AND PALUSTRINE FORESTED/SCRUB SHRUB (PFO/SS). THE COMMON WETLAND VEGETATION INCLUDES CATTAILS, SOFT RUSH, SENSITIVE FERN, REED CANARY GRASS, PURPLE LOOSESTRIFE, DARK GREEN BULRUSH, MEADOWSHEET, WILLOW, GREY BIRCH, SHADBUSH, ALDER, RED-OSIER DOGWOOD, BUCKTHORN, AND BALSAM FIR.
 - THIS PROJECT AREA IS OUTSIDE THE 100-YR. FLOODPLAIN.



Dubois & King

NOT FOR CONSTRUCTION			
CITY OF LEBANON, NEW HAMPSHIRE			
WETLAND IMPACTS PLAN 02			
DGN	STATE PROJECT NO.	SHEET NO.	TOTAL SHEETS
wetland impacts	41366	2	3



WETLAND IMPACT AREAS (SF)			
	FORESTED WETLAND / SCRUB SHRUB (PFD/SS)	EMERGENT WETLAND (PEM)	TOTAL
PERMANENT IMPACT	10772.0	2322.0	13094.0
TEMPORARY IMPACT	4515.1	757.8	5272.9
PROJECT TOTAL =			18366.9

- NOTES:
1. PROPERTY AND R.O.W LIMITS ARE APPROXIMATE. NO SURVEY BOUNDARY WORK HAS BEEN CONDUCTED.
 2. WETLAND DELINEATION PERFORMED BY CHARLOTTE W. BRODIE OF DUBOIS & KING ON MAY 10, 2017.
 3. SURVEY WORK PERFORMED BY DUBOIS & KING ON MARCH 15, 2018.
 4. THE WETLAND IS PALUSTRINE EMERGENT (PEM) AND PALUSTRINE FORESTED/SCRUB SHRUB (PFD/SS). THE COMMON WETLAND VEGETATION INCLUDES CATTAILS, SOFT RUSH, SENSITIVE FERN, RED CANARY GRASS, PURPLE LOOSESTRIFE, DARK GREEN BULRUSH, MEADOWSWEET, WILLOW, GREY BIRCH, SHADBUSH, ALDER, RED-OSIER DOGWOOD, BUCKTHORN, AND BALSAM FIR.
 5. THIS PROJECT AREA IS OUTSIDE THE 100-YR. FLOODPLAIN.

210
EXCHANGE AT CENTERRA LLC
10-15
1-1000
9.89 AC. ±

Dubois & King

NOT FOR CONSTRUCTION			
CITY OF LEBANON, NEW HAMPSHIRE			
WETLAND IMPACTS PLAN 03			
DGN	STATE PROJECT NO.	SHEET NO.	TOTAL SHEETS
Wetland Impacts	41366	3	3

**Agenda
Zoning Board of Adjustment
September 7, 2021**

**Agenda Item #3C
Public Hearing Items**

**Immersion Montessori School,
LLC (applicant) and
79 East Wilder Rd Realty Trust
(property owner),
79 East Wilder Road
(Tax Map 7, Lot 2),
zoned R-3
ZB2021-21-SE**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

September 7, 2021 Meeting

Staff Memorandum – ZB2021-21-SE

APPLICATION INFORMATION

Agenda Item: 3.C

Application Type:

Special Exception to expand an existing group day care facility and to add accessory uses

Location: 79 East Wilder Rd (7-2)

Applicant:

Immersion Montessori School, LLC

Property Owner:

79 East Wilder Rd Realty Trust

Zoning District: R-3

Property Size: +/-2.82 acres (per the City Assessor's records)

Existing Improvements:

+/-5,925 sq. ft. (finished) commercial building constructed in 1993 and a +/-651 sq. ft. (finished) commercial building constructed in 1940 (per the City Assessor's records)

Overlay Districts:

Riverbank Protection District

Previous ZBA Action (since 1995):

Special Exception granted on 11/2/20 to allow a group day care facility (ZB2020-34-SE)

Other Approvals Required (including but may not be limited to):

- Building Permit

Attachments:

- 11/2/20 Notice of Decision (ZB2020-34-SE)
- Application (10 pages total)

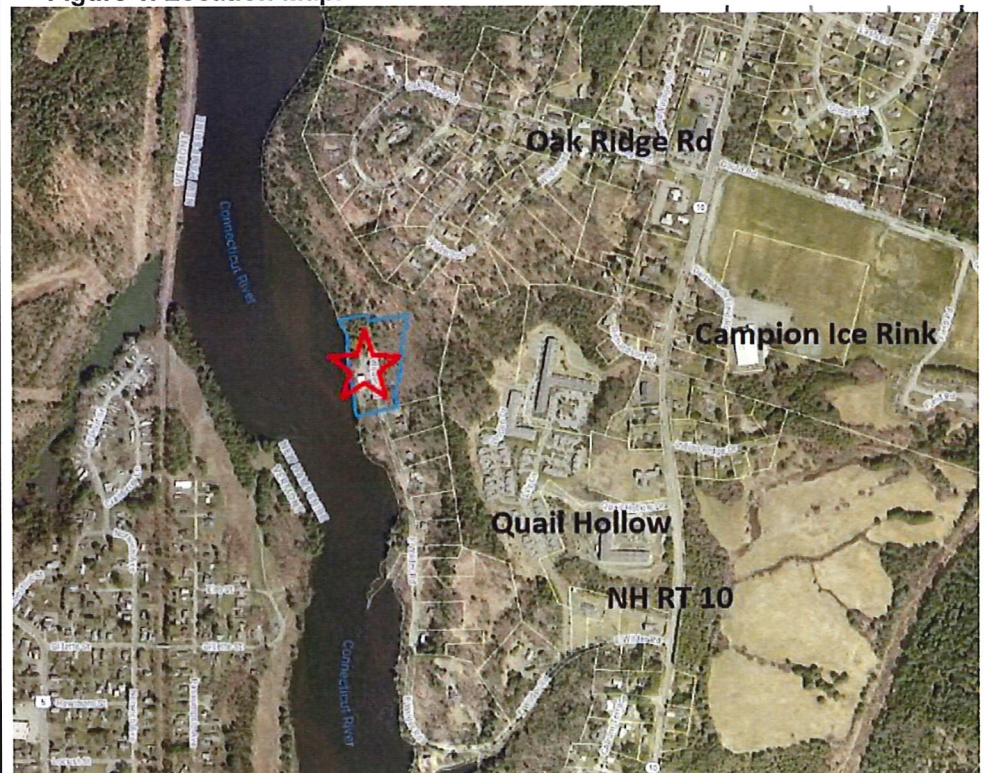
HEARING NOTICE

Immersion Montessori School, LLC (applicant) and 79 East Wilder Rd Realty Trust (property owner), 79 East Wilder Road (Tax Map 7, Lot 2), zoned R-3: The applicant obtained a Special Exception on November 2, 2020, to operate a group day care facility with up to 45 students and 10 teachers. The applicant proposes to expand the group day care facility and requests a Special Exception per Section 310.2 and Section 604 of the Zoning Ordinance a) to allow up to 20 additional students for a total of 65, b) to expand the operating hours to 7:30 am – 5:30 pm, Monday through Friday, c) to keep up to 10 small animals on the property for educational purposes, and d) to install two (2) 36 sq. ft. sheds to shelter the animals. ZB2021-21-SE

BACKGROUND & PROPOSAL

The subject property is a +/-2.82 acre property in the R-3 District improved with a parking lot and two (2) commercial buildings, according to the City Assessor's records.

Figure 1. Location Map.



©2020 Google, <https://lebanonnh.mapgeo.io/>

STAFF MEMORANDUM

ZB20201-21-SE
79 East Wilder Rd (Tax Map 7, Lot 2)
September 7, 2021 ZBA Meeting
Agenda Item 3.C
Page 2 of 4

On November 2, 2020, the Zoning Board approved the applicant's request for a Special Exception pursuant to Section 310.2 of the Zoning Ordinance to operate a group day care facility on the subject property, with up to 45 students and 10 teachers. The applicant now proposes to expand the group day care facility use as follows:

- Allow up to 20 additional students for a total of 65 and to expand the operating hours to 7:30 am – 5:30 pm, Monday through Friday; and
- Keep up to 10 small animals on the property for educational purposes and to install two (2) 36 sq. ft. sheds to shelter the animals.

Figure 1. Aerial View of Subject Property (looking east).



©2018 Eagleview (image taken 4/27/2018)

ORDINANCE REQUIREMENTS

A “group day care facility” is allowed by Special Exception within the R-3 District, and is defined in Appendix A of the Zoning Ordinance as:

GROUP DAY CARE FACILITY: A group day care facility is either a child day care facility or an adult day care facility.

- A. **CHILD DAY CARE FACILITY:** A day care center, a day nursery, a private nursery school or kindergarten, a child development center, a play group, a head start center, progressive school or any other facility which cares for seven (7) or more children under the age of 16 for a part but not all of a 24 hour day.

The expansion of the applicant's group day care facility requires a new Special Exception; and, pursuant to Section 302.2 of the Zoning Ordinance, uses that are accessory to uses allowed by Special Exception also require a Special Exception.

In order to grant the requested Special Exception, the applicant must demonstrate compliance with the following criteria set forth in Section 604 of the Zoning Ordinance:

SECTION 604 **GROUP DAY CARE FACILITIES.**

604.1 **Play Area.**

- A. There shall be a fenced outside play area which shall be free from hazards such as hidden corners; unprotected pools, wells, and steps; poisonous plants such as poison ivy, foxglove, and rhubarb; farm or lawn machinery or implements.
- B. It shall contain at least 50 square feet of usable play space per child using it, and the average width shall not be less than eight feet. Play areas shall not be permitted in front yards.
- C. By special exception, the Board of Adjustment may waive the requirement for a fence or the requirement that the play area not be in the front yard.

604.2 **Other Requirements.**

- A. A suitable loading and unloading area shall be provided for those children for whom the facility provides transportation. This area shall be in addition to required parking areas.
- B. Group day care facilities shall comply with all applicable state and federal regulations.
- C. Parking: One (1) parking space for each employee and one (1) parking space for every eight (8) clients shall be provided on site.

The applicant must also demonstrate compliance with the general Special Exception criteria, set forth in Section 801.3 as follows:

- C. The Special Exception is specifically authorized by a provision of this Ordinance.
Note: The Special Exception is authorized by Sections 310.2 and 302.2 of the Zoning Ordinance.
- D. All special conditions required of the special exception have been met.
Note: The special conditions for group day care facilities are set forth in Section 604, as noted above.
- E. There are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy.
Note: Staff is not aware of any Zoning Ordinance violations on the property.
- F. The character of the area shall not be adversely affected.

STAFF MEMORANDUM

ZB20201-21-SE
79 East Wilder Rd (Tax Map 7, Lot 2)
September 7, 2021 ZBA Meeting
Agenda Item 3.C
Page 4 of 4

- G. No hazard or nuisance will be created.
- H. The capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.
- I. Granting the special exception will not result in undue municipal expense.
- J. The proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance.
- K. The general welfare of the City will be protected.

STAFF COMMENTS

Staff recommends that the Board require a scaled plot plan showing each individual on-site parking space available.

In order to obtain a building permit, the applicant will need to provide data and calculations demonstrating that the total number of on-site parking spaces is sufficient to meet the needs of the other existing or anticipated uses of the property. Staff recommends that this information is provided as part of the applicant's Special Exception application.

Attachments

cc: Immersion Montessori School, LLC (via e-mail)
79 E Wilder Rd Realty Trust (via e-mail)
File



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

NOTICE OF DECISION LEBANON ZONING BOARD OF ADJUSTMENT

*The Lebanon Zoning Board of Adjustment, at a scheduled meeting held on **November 2, 2020**, approved the following motion made by Dan Nash, seconded by Jen Mercer, by a vote of 5-0:*

"On **October 19, 2020** and **November 2, 2020**, at duly-noticed meetings of the Lebanon Zoning Board of Adjustment, there appeared **Laura Golnabi** on behalf of **IMMERSION MONTESSORI SCHOOL, LLC** (applicant) and **Robert MacNeil** on behalf of **79 EAST WILDER RD REALTY TRUST** (property owner) regarding **79 EAST WILDER ROAD** (Tax Map 7, Lot 2), zoned R-3. The subject property is improved with a non-conforming commercial building. The applicant proposes to use a portion of the building and grounds to operate a "language school" with up to 45 students and 10 teachers. To allow the proposed use, the applicant requests a Special Exception per Section 310.2 and Section 604 of the Zoning Ordinance to allow a group day care facility. In the alternative, the applicant requests a Special Exception pursuant to Section 702.1 to permit a change from one non-conforming use to another non-conforming use. **ZB2020-34-SE**

FINDINGS OF FACT

Based on testimony given, application materials presented, and supporting documents submitted, the Lebanon Zoning Board of Adjustment makes the following findings of fact:

1. The subject property is a +/-2.82 acre property in the R-3 District improved with a parking lot and two (2) "office" buildings, according to the City Assessor's records. "Office" is not a permitted use in the R-3 District.
2. The applicant proposes to use a portion of the building and grounds to operate a "language school" with up to 45 students and 10 teachers. To allow the proposed use, the applicant requests a Special Exception per Section 310.2 and Section 604 of the Zoning Ordinance to allow a group day care facility. In the alternative, the applicant requests a Special Exception pursuant to Section 702.1 to permit a change from one non-conforming use to another non-conforming use.
3. A "group day care facility" is allowed by Special Exception within the R-3 District, and is defined in Appendix A of the Zoning Ordinance as, in relevant part:

"GROUP DAY CARE FACILITY: A group day care facility is either a child day care facility or an adult day care facility.

CHILD DAY CARE FACILITY: A day care center, a day nursery, a private nursery school or kindergarten, a child development center, a play group, a head start center, progressive school or any other facility which cares for seven (7) or more children under the age of 16 for a part but not all of a 24 hour day.

Such facilities may be privately operated or sponsored by a church, social agency, cooperative group or a community or by a public agency other than public schools."

NOTICE OF DECISION

79 East Wilder Rd (Tax Map 7, Lot 2)

ZB2020-34-SE

November 2, 2020

Page 2 of 3

4. In order to grant a Special Exception for a group day care facility, the applicant must demonstrate compliance with the criteria set forth in Section 604 ("Group Day Care Facilities") of the Zoning Ordinance, and the general Special Exception criteria, set forth in Section 801.3.
5. Sarah Riley and Joan Monroe spoke with respect to the various state and local regulations that the property is subject to based on its proximity to the Connecticut River and suggested that the applicant be aware of those regulations. In response, the applicant confirmed that the proposed play area at the north end of the property will involve the cutting of any trees.
6. No other witnesses spoke in favor or against the proposal.

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Special Exception criteria set forth in §801.3 of the Zoning Ordinance:

A. **Group Day Care Facility Special Exception**

1. The Special Exception is specifically authorized by §310.2 of the Zoning Ordinance. (§801.3.A)
2. The following conditions/requirements of §604 is met: (§801.3.B)
 - a. There shall be a fenced outside play area which shall be free from hazards such as hidden corners; unprotected pools, wells, and steps; poisonous plants such as poison ivy, foxglove, and rhubarb; farm or lawn machinery or implements. (§604.1.A)
 - b. (The play area) shall contain at least 50 square feet of usable play space per child using it, and the average width shall not be less than eight feet. Play areas shall not be permitted in front yards. (§604.1.B)
 - c. By special exception, the Board of Adjustment may waive the requirement for a fence or the requirement that the play area not be in the front yard. (§604.1.C)
This provision is not applicable.
 - d. A suitable loading and unloading area shall be provided for those children for whom the facility provides transportation. This area shall be in addition to required parking areas. (§604.2.A)
 - e. Group day care facilities shall comply with all applicable state and federal regulations. (§604.2.B)
 - f. One (1) parking space for each employee and one (1) parking space for every eight (8) clients shall be provided on site. (§604.2.C)

NOTICE OF DECISION

79 East Wilder Rd (Tax Map 7, Lot 2)
ZB2020-34-SE
November 2, 2020
Page 3 of 3

3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy. (§801.3.C) *Staff is not aware of any Zoning Ordinance violations on the property.*
4. The character of the area **will not** be adversely affected. (§801.3.D)
5. **No** hazard or nuisance will be created. (§801.3.E)
6. The capacity of existing or planned community facilities and services (including streets and highways) **will not** be adversely impacted. (§801.3.F)
7. The granting of the Special Exception **will not** result in undue municipal expense. (§801.3.G)
8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and intent of the ordinance. (§801.3.H)
9. The general welfare of the City **will** be protected. (§801.3.I)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **2nd day of November, 2020**, hereby **GRANTS** a Special Exception pursuant to Section 310.2 to allow a group daycare, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit and a certificate of occupancy, and shall comply with all applicable local, state, and federal regulations in the use of the property."

Notice of Decision prepared by: Crystal Adams, Administrative Assistant, January 12, 2021

NOTE: (NH RSA 677:2) Within 30 days after any order or decision of the zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefor; and the board of adjustment, a board of appeals, or the local legislative body, may grant such rehearing if in its opinion good reason therefor is stated in the motion. This 30-day time period shall be counted in calendar days beginning with the date following the date upon which the board voted to approve or disapprove the application in accordance with RSA 21:35; provided however, that if the moving party shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 5 business days after the vote pursuant to RSA 676:3, II, the person applying for the rehearing shall have the right to amend the motion for rehearing, including the grounds therefor, within 30 days after the date on which the written decision was actually filed.

s:\pln\development_review\zoning board applications\2020 zba_applications\zb2020-34-se_79 e wilder rd_007-002\notice of decision template.docx

**CITY OF LEDBETON
APPLICATION FOR**

SPECIAL EXCEPTION	☒	☐ SITE PLAN REVIEW
VARIANCE	☐	☐ SUBDIVISION
MOTION FOR REHEARING	☐	☐ LOT LINE ADJUSTMENT
APPEAL OF AN ADMIN. DECISION	☐	☐ CONDITIONAL USE PERMIT

☐ OTHER _____

PROPERTY OWNER (APPLICANT):

NAME: 79 E Wilder Rd Realty Trust TEL.#: 603-748-0497

MAILING ADDRESS: 79 E Wilder Rd W. Lebanon, NH 03784

E-MAIL ADDRESS: MacNeilBobm@aol.com

CO-APPLICANT, AGENT, OR LESSEE:

NAME: Immersion Montessori School LLC TEL.#: 201-321-8764

MAILING ADDRESS: PO BOX 114 Norwich, VT 05055

E-MAIL ADDRESS: admin@uvims.com

PROJECT LOCATION:

TAX MAP #: 7 LOT#: 2 PLOT #: ZONE: R-3

STREET ADDRESS OF PROJECT: 79 E Wilder Rd. West Lebanon, NH 03784

IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

Group Day Care for up to 65 children and 10 staff members with hours of operation of
M-F 7:30 am - 5:30 pm

TYPE OF OCCUPANCY:

EXISTING ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☒ COMMERCIAL ☐ INDUSTRIAL
PROPOSED ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☒ COMMERCIAL ☐ INDUSTRIAL
IF USE IS **COMMERCIAL** OR **INDUSTRIAL**, PLEASE NOTE **SPECIFIC**
USE: Existing: Group Day Care for 45 children, Proposed is Group Day Care for 60 children

SIGNATURE BLOCK:



FOR PLANNING BOARD APPLICATIONS ONLY: I, the undersigned, hereby submit this application on the date noted below with the knowledge and understanding that the Planning Board shall determine if the submitted application is complete according to its regulations at its next regularly scheduled meeting on _____, 20____, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY OWNER: _____ DATE: _____

NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

PROPERTY OWNER: _____ DATE: _____

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #
8-19-21	7/2	2021-22-5E	\$197.15	8-19-21	18406

**CITY OF LEBANON, NEW HAMPSHIRE
SUPPORT STATEMENT FOR A SPECIAL EXCEPTION**

One cover application, one abutters list, a filing fee and ten copies of the site plan must accompany this support statement.

I (we) hereby request a Special Exception as provided for in Article(s) VII,
Section(s) 702.1, of the Lebanon Zoning Ordinance.

PROJECT DESCRIPTION *(Please provide your plans for the property with as much detail as possible with respect to your proposed. You can respond in the space provided, or attach a separate statement.)*

The existing group day care with 45 students is proposed to be expanded to a capacity of 65 students.

We propose using a second building on the property to accomodate this additional capacity. The hours of operation for the Group Day Care would be adjusted to M - F 7:30 am - 5:30 pm to accomodate for more staggered arrivals to the property in order to further limit the number of cars traveling on E. Wilder Rd. We also propose the installation of two 36 sq ft sheds within the enclosed spaces where less than 10 small live animals would be housed for educational purposes. These animals would not be loud animals that may cause a nuisance to neighbors. They would consist of hens, mini pigs, and rabbits.

In order to grant a Special Exception, the Zoning Board of Adjustment must make affirmative findings of certain conditions. Those conditions are listed below:

(You can respond in the space provided, or attach a separate statement. Please be prepared to address the conditions with the Board during your public hearing. You must show that you have met all the conditions.)

SECTION 801.3 Special Exceptions - To hear and decide special exceptions to the terms of this ordinance upon matters which the Board is required to pass under this ordinance. In passing upon any application for a special exception, the Board shall make each of the following findings:

- A. That the special exception is specifically authorized by a provision of this ordinance:

A Group Day Care is listed as a Special Exception use for this zone (R-3).

- B. That all special conditions required of the special exception have been met:

We will operate a Group Day Care as outlined in Section 604 of the Zoning Ordinance.

- C. That there are no existing violations of this ordinance on the property that the granting of this special exception would not remedy:

There are no existing violations.

CITY OF LEBANON, NEW HAMPSHIRE
SUPPORT STATEMENT FOR A SPECIAL EXCEPTION
Page 2

- D. That the character of the area shall not be adversely affected:
The group day care will not have any adverse impact on the character of the area as all outdoor
operations will occur within an enclosed area.
_____.
- E. That no hazard or nuisance will be created:
Outdoor noise will be limited to business hours only.

_____.
- F. That the capacity of existing or planned community facilities and services
(including streets and highways) will not be adversely impacted:
Staggered arrivals will limit traffic to a maximum of 10 cars per 20 minutes.

_____.
- G. That granting the special exception will not result in undue municipal
expense:
No municipal expense is anticipated.

_____.
- H. That the proposed special exception will be developed in a manner
compatible with the spirit and intent of the ordinance:
The Group Day Care will operate within the guidelines of a Group Day Care as outlined in Section 604.

_____.
- I. That the general welfare of the City will be protected:
The general welfare of the City will not be impacted.

_____.

Please Note:

Pursuant to Section 802.4B, "Special Conditions", the Board may attach whatever conditions it deems necessary in order to assure compliance with the purposes of this ordinance.

A special exception shall expire if: (1) the use is not in place within two years of the date of issuance of a zoning permit or approval by the Zoning Board of Adjustment for a special exception or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a special exception must be completed.

Site Plan Information
Immersion Montessori School LLC Special Exception Application

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Current Use vs. Proposed Use:

Capacity

The capacity increase is proposed from 45 children to 65 children. This increase is proposed due to the following two updates since the last hearing:

1. The NH State Child Care Licensor approved a capacity of 58 children in the current building that had previously been approved by the Zoning Board for 45 children.
2. A second building on the property is becoming available and is estimated to be approved by the NH State Child Care Licensor for an additional 10 children.

Use of Indoor Space

The proposed site plan now includes the use of a second building that will become available in the near future. The current indoor space is shown in yellow, and the proposed additional indoor space is shown in red below:



Use of Outdoor Space

The proposed site plan now includes the use of an outdoor space to the west of a second building that will become available in the near future. The current outdoor space is shown in yellow, and the proposed additional outdoor space is shown in red below:



Compliance with criteria set forth in Section 604 of the Zoning Ordinance for Group Day Care Facility.

The following criteria for a Group Day Care Facility is outlined in SECTION 604 GROUP DAY CARE FACILITIES of the Zoning Ordinance:

604.1 Play Area.

Criteria: There shall be a fenced outside play area which shall be free from hazards such as hidden corners; unprotected pools, wells, and steps; poisonous plants such as poison ivy, foxglove, and rhubarb; farm or lawn machinery or implements.

Compliance: A fenced-in play area will be located on the north side of the building in a wooded area that will have been cleared from any hazards as noted above. This area is shown in red below. Note: Since the prior hearing, the NH state licensor for Child Care has already approved the play area for any safety hazards.

Criteria: It shall contain at least 50 square feet of usable play space per child using it, and the average width shall not be less than eight feet. Play areas shall not be permitted in front yards.

Compliance: The fenced-in play area is not in the front yard, and is approximately 27,000 square feet in area. For 65 children, this is approximately 415 square feet per child.



604.2 Other Requirements.

Criteria: A suitable loading and unloading area shall be provided for those children for whom the facility provides transportation. This area shall be in addition to required parking areas.

Compliance: N/A

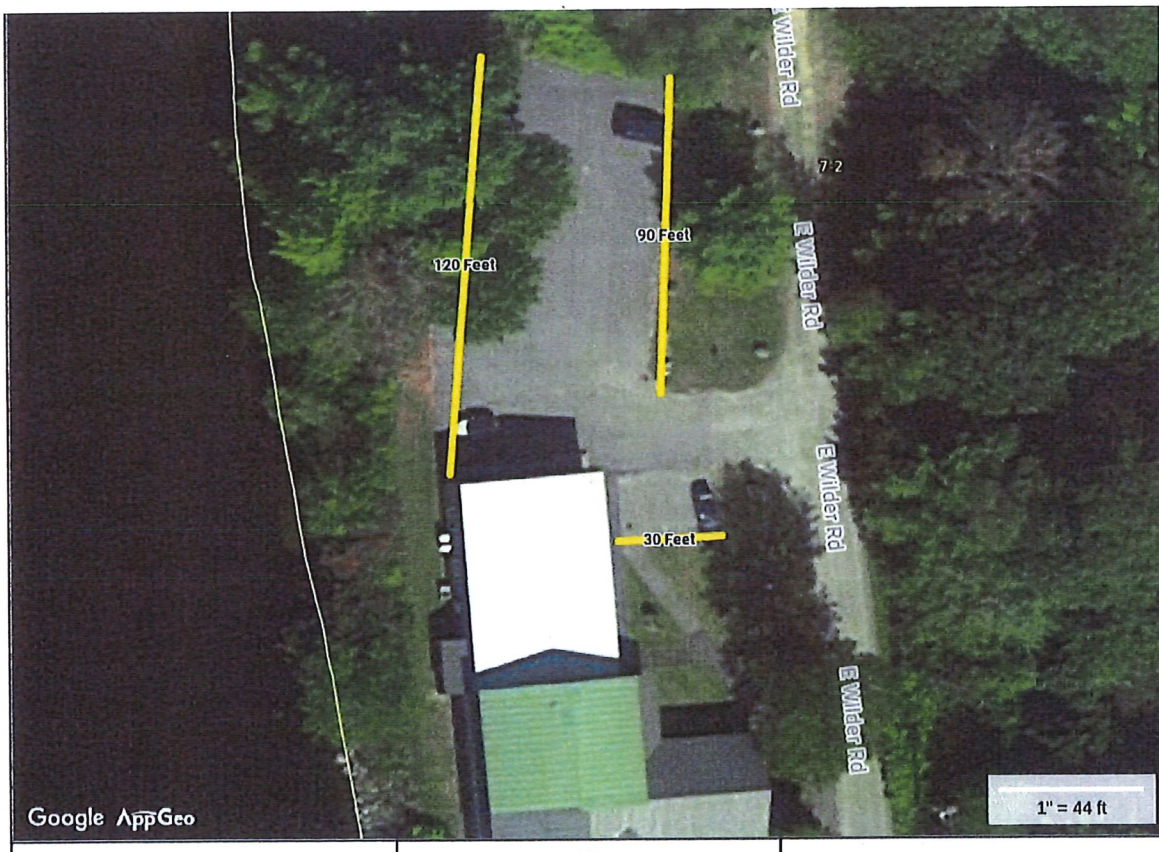
Criteria: Group day care facilities shall comply with all applicable state and federal regulations.

Compliance: We are now a licensed facility with the NH Child Care Licensing Unit.

Criteria: Parking: One (1) parking space for each employee and one (1) parking space for every eight (8) clients shall be provided on site.

Compliance: According to this regulation, we would need 10 (one per employee) + 8.1 (one per 8 clients) = 18 parking spaces. The capacity is 22 parking spaces as outlined below:

- The width of the parking lot is 68 ft.
 - Currently, there are 240 linear feet of parking space, which allows for 24 cars to park at any given time.
- Immersion Montessori School would be allowed the use of 22 of these spaces See map below:



Additional Items to Consider

The following items being addressed are based on questions and concerns brought forth at prior hearings.

Traffic Impact

Please see the table below for an estimate on how much traffic we expect to have Monday through Friday:

Time Frame	Maximum Cars Expected
7:20 am - 7:50 am	10 (8 parents + 2 staff)
7:40 am - 8:00 am	10 (10 parents)
8:00 am - 8:20 am	15 (12 parents + 3 staff)
8:20 am - 8:40 am	15 (12 parents + 3 staff)
8:40 am - 9:00 am	15 (14 parents + 1 staff)
9:00 am - 9:20 am	10 (9 parents + 1 staff)
9:20 am - 2:40 pm	Only occasional visitors may arrive during this time.
2:40 pm - 3:00 pm	15 (15 parents)
3:00 pm - 3:20 pm	20 (20 parents)
3:20 pm - 3:40 pm	10 (8 parents + 2 staff)
3:40 pm - 4:40 pm	15 (10 parents + 5 staff)
4:40 pm - 5:00 pm	10 (8 parents + 2 staff)
5:00 pm - 5:20 pm	5 (4 parents + 1 staff)

Total traffic volume = **150** cars per day Monday through Friday

According to the DOT (Source: http://www.ms2soft.com/tcds/?loc=Nhdot&mod=tcds&local_id=02253053), the 2019 annual average daily traffic for S Main St in the area of the property was **6,570** with higher volume Monday through Friday. The additional 150 cars for our proposed use would not add a significant amount of volume to S Main St.

No records on traffic volume were available on the DOT database for E Wilder Rd. The traffic impact on this street would be managed by accommodating the schedules and concerns of the residents of the street as needed by adjusting arrival/departure times as needed.

Conservation Area Use

The Alana Cole Conservation Area would only be used by small groups of children with adequate adult supervision to ensure no disruption of any natural resources.

Wastewater system capacity

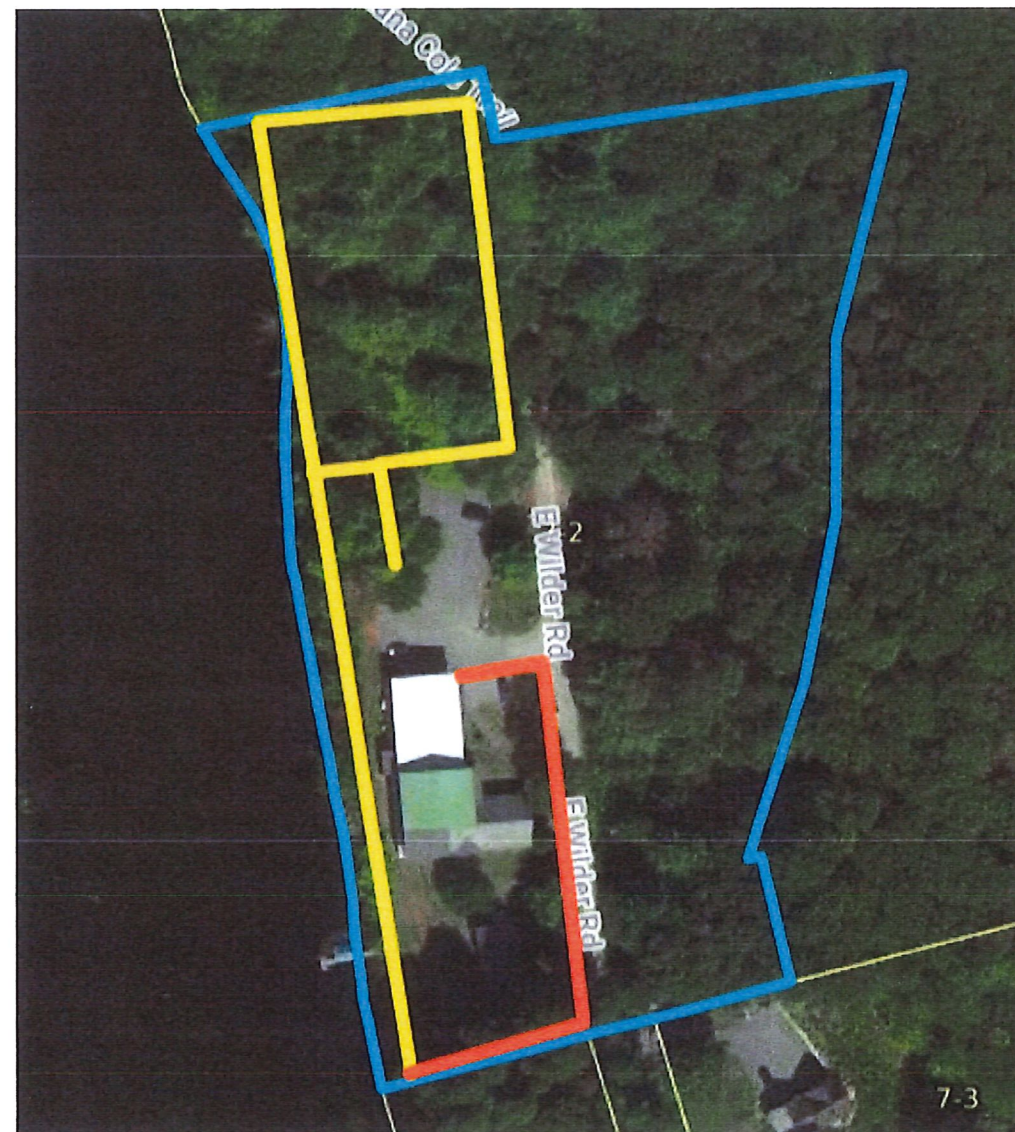
Full septic system documentation was previously provided showing that the system has a capacity of **1,100 gallons per day (GPD)**. NH Department of Environmental Services code shows the following needs for the Day Care Center use (Source:

<https://www.des.nh.gov/organization/commissioner/legal/rules/documents/env-wq1000.pdf>) :

- Day Care Centers : 10 GPD/person = **750 GPD** required

Existing and Proposed Fencing

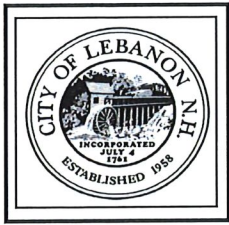
The following map shows the existing (yellow) and proposed (red) fencing on the property. The proposed fencing would be 4-ft tall and made of a wood material. The fence would be installed by hand tools only.



**Agenda
Zoning Board of Adjustment
September 7, 2021**

**Agenda Item #4A
Request for Rehearing**

**Jacqueline Minard, Trustee,
78 Mascoma Street
(Tax Map 106, Lot 67),
zoned R-3
ZB2021-09A-VAR**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

September 7, 2021 Meeting

Staff Memorandum – ZB2021-09A-AAD

APPLICATION INFORMATION

Agenda Item: 4.A

Application Type:

Request to rehear denial of Variance from §310.3 to allow a subdivision of the property resulting in an undersized lot

Location:

78 Mascoma Street (Tax Map 106, Lot 67) / 82 Mascoma Street (Tax Map 106, Lot 67, Plot 701)

Applicant/Property Owner:

Jacqueline Minard, Trustee

Zoning District: R-3

Property Size:

+/-0.49 acres (+/-21,389 sq. ft.) (per figures provided on surveyor's plat submitted with Variance application) (property is conforming to the min. 10,000 sq. ft. lot size required per §310.3 for Class 1 lots in the R-3 District)

Jacqueline Minard, Trustee, 78 Mascoma Street (Tax Map 106, Lot 67), zoned R-3: Request to rehear a Variance from Section 202 and Section 309.3 of the Zoning Ordinance to allow the subdivision of the property into two parcels, one of which will have a lot area of less than the minimum required 10,000 sq. ft. The Variance application was denied on July 6, 2021. ZB2021-09A-AAD

STAFF NOTES

On July 6, 2021, the Zoning Board of Adjustment approved a motion to deny the above-referenced application (ZB2021-09-VAR). On August 3, 2021, the Planning and Development Department received the attached letter, which staff considers a rehearing request. The request was filed on the 30th day following the Board's decision and, therefore, is considered timely. Attached for reference is the Board's Notice of Decision.

The Board's consideration of the motion for rehearing occurs at a public meeting, not a public hearing, and no testimony is taken at this time. If the motion is granted, the rehearing itself would be held at a subsequent meeting after providing required public notice. The Board's decision to either grant or deny the request is based solely on the contents of the applicant's submitted letter.

Staff recommends that the Board review each point raised in the request and determine if a rehearing is warranted based on the criteria set forth in Section 802.5 of the Zoning Ordinance: "A rehearing shall be granted only if: (1) the petitioner has new, relevant evidence to submit; (2) the petitioner raises new, relevant legal issues that were not considered at the original hearing; or (3) the Board feels it may have made a prejudicial technical or legal error in its original decision."

Attachments

cc: Jacqueline Dulac Minard (via e-mail)
Christopher E. Rollins (via e-mail)
File

Jacqueline Dulac Minard
78 Mascoma St.
Lebanon, NH 03766
603-448-2195

August 1, 2021

Lebanon Zoning Board of Adjustment,

I am looking for some answers to my questions regarding your decision on my request for a line adjustment on my two properties.

The same types of requests were made in the year 2020, City of Lebanon, Gibbs and Teplitz,- Wilder Ridge Estates,- Admab, Hitchcock Clinic,- Goodwin, Schrock,- Paterson, Green. Were these requests denied as well?

My deed specifically indicates Parcel One and Parcel Two since 1903. These parcels were merged without my families consent. Refer (NH RSA 674:39-aa). I am the third generation to own these properties and you can rest assured if my father Francis Dulac had ever known that this was the case he would have taken care of this immediately. Furthermore, this property should have been grandfathered when zoning was developed in Lebanon.

I was advised by your office to apply for a sub division which was discussed at the July 6, 2021 meeting. In 2020, the Bettis Family requested minor subdivision, were they denied?

I would like to address your response to me on my request for a subdivision:

1. Why is the variance not contrary to public interest? Who does it impact?
2. Justice is done. Whose justice?
5. How can zoning board members decide upon a person's hardship? My hardship may not be a hardship to any one else. A zoning board should not have the authority to make a decision about someone else's hardship.

I'm an 80 year old widowed resident of Lebanon and have lived here all my life. My grandparents and parents were lifelong Lebanon residents as well.

My intentions were to eventually sell the apartment house (82 Mascoma St.) and change the line adjustment so I would not have to share my backyard. I wanted to avoid any discussions or confrontations with tenants using that area in the future.

My request for a few more feet to the 78 Mascoma St. property has no impact on anyone. None of my neighbors objected and three properties near me do not have the required 10,000 sq ft. nor do properties in the area of Avon Ave. This shows me that making a site review by someone is not allowed. It's disheartening to learn that property that I own and make tax payments on annually can't be given a simple line adjustment especially when this decision to merge these parcels was done without my families consent to begin with and not evaluated when zoning was developed in the City of Lebanon.





CITY OF LEBANON ~ PLANNING & DEVELOPMENT

NOTICE OF DECISION LEBANON ZONING BOARD OF ADJUSTMENT

The Lebanon Zoning Board of Adjustment, at a regular meeting held on July 6, 2021, DENIED the following motion made by Jeremy Katz, seconded by Dave Newlove, by a vote of 4-1:

“On July 6, 2021, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Chris Rollins, LLS, on behalf of Jacqueline Minard, Trustee, regarding 78 Mascoma Street (Tax Map 106, Lot 67), zoned R-3. The applicant proposes to subdivide the property into two parcels, one of which will be +/-8,414 sq. ft. in size. To allow the proposed subdivision, the applicant requests a Variance from Article II, Section 202 (prohibiting the reduction of lot area to less than the minimum required) and from Article III, Section 310.3 of the Zoning Ordinance (requiring a minimum lot size of 10,000 sq. ft. for Class 1 lots in the R-3 District). ZB2021-09-VAR

I. FINDINGS OF FACT

Based on testimony given, application materials presented, and supporting documents submitted, the Lebanon Zoning Board of Adjustment makes the following findings of fact:

1. The property is an “L”-shaped, 0.49-acre property with frontage on Mascoma Street and on Myers Way, and is improved with two principal buildings:
 - a. a +/-2,272 sq. ft. (finished) two-family dwelling constructed in 1900, per the City assessing records (a conforming use in the R-3 District), having an address of 78 Mascoma Street; and
 - b. a +/-2,108 sq. ft. (finished) multi-family dwelling constructed in 1860, per the City assessing records (a non-conforming use in the R-3 District), having an address of 82 Mascoma Street.

As such, the property is non-conforming to Section 205 of the Zoning Ordinance which provides that there shall be only one principal structure on a lot in the residential zoning districts.

2. As shown on the plat prepared by Rollins Land Survey, dated February 11, 2021, and submitted with the application materials, the applicant proposes to create two lots:
 - a. Lot 1 (to contain 78 Mascoma Street) with a size of +/-12,975 sq. ft.; and
 - b. Lot 2 (to contain 82 Mascoma Street) with a size of +/-8,414 sq. ft.
3. In the R-3 District, Class 1 lots (i.e. lots that are served by municipal sewer) require a minimum lot size of 10,000 sq. ft. per Section 310.3 of the Zoning Ordinance. Moreover, Section 202 of the Zoning Ordinance provides that, “[t]he configuration of a lot shall not be altered so that the area, yards, lot width, frontage, coverage or other requirements of this Ordinance are less than the minimums required herein.” Therefore, a Variance is required from Sections 202 and 310.3 to allow proposed Lot 2 (which will contain 82

NOTICE OF DECISION

78 Mascoma Street (Tax Map 106, Lot 67)

ZB2021-09-VAR

July 6, 2021

Page 2 of 2

Mascoma Street) to have a size of 8,414 sq. ft. where 10,000 sq. ft. is the minimum required.

4. To obtain the requested Variance from Sections 202 and 310.3, the applicant must demonstrate compliance with each of the five variance criteria as set forth in Section 801.2 and NH RSA 674:33, I(b). The applicant has submitted testimony addressing the Section 801.2 Variance criteria in an application received by the Planning and Development Department on March 29, 2021.
5. No one from the Public spoke either for or against the application.

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Variance criteria set forth in Section 801.2 of the Zoning Ordinance:

1. The variance **will not** be contrary to the public interest. (Section 801.2.A.1)
2. The spirit of the ordinance **is not** observed. (Section 801.2.A.2)
3. Substantial justice **is** done. (Section 801.2.A.3)
4. The values of surrounding properties **are not** diminished. (Section 801.2.A.4)
5. Literal enforcement of the provisions of the ordinance **would not** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area (Section 801.2.A.5.a):

The landowner can achieve the desired subdivision result while conforming to the ordinance. The deviation in lot size desired was desired solely for convenience and not caused by any unnecessary hardship.

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **6th day of July, 2021**, hereby **DENIES** the requested Variance from Sections 202 and 310.3 of the Zoning Ordinance, as set forth above and per testimony, plans, and materials submitted."

Notice of Decision prepared by: Crystal Taplin, Administrative Assistant, July 14, 2021

NOTE: (NH RSA 677:2) Within 30 days after any order or decision of the zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefor; and the board of adjustment, a board of appeals, or the local legislative body, may grant such rehearing if in its opinion good reason therefor is stated in the motion. This 30-day time period shall be counted in calendar days beginning with the date following the date upon which the board voted to approve or disapprove the application in accordance with RSA 21:35; provided however, that if the moving party shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 5 business days after the vote pursuant to RSA 676:3, II, the person applying for the rehearing shall have the right to amend the motion for rehearing, including the grounds therefor, within 30 days after the date on which the written decision was actually filed.