

FINAL

**LEBANON ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE
MONDAY, April 4, 2022
7:00 PM**

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

MEMBERS ABSENT: Vice Chair Mercer

STAFF PRESENT: Tim Corwin – Senior Planner and Zoning Administrator

1. CALL TO ORDER

Chair Koppenheffer called the meeting to order at 7:01 PM.

2. APPROVAL OF MINUTES

A. March 21, 2022

Mr. Nash MOVED to approve the March 21, 2022, Minutes as presented in the April 4, 2022, packet with amendments.

Seconded by Mr. Katz.

Mr. McDonough was given voting privileges for the Minutes.

Amendments: Page 1, Line 37; Remove ‘assigned and recorded’ and Add ‘approved.’ Page 2, Lines 3: Remove ‘that became necessary due to a zoning change’. Page 2, Line 4; Remove ‘sited’ and Add ‘cited.’ Page 2, Line ; Add ‘non’ before the word conforming. Page 5, Line 6; Remove ‘(4-1)’ and Add ‘(3-1)’.

Mr. McDonough, Mr. Nash, Mr. Newlove and Mr. Katz all voting yea.

Chair Koppenheffer abstained because he was absent.

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

3. PUBLIC HEARING ITEMS

- A. Aram Donigian, 9 Farman Avenue (Tax Map 87, Lot 28), zoned R-3:** Applicant requests a Special Exception per Section 310.2 of the Zoning Ordinance to convert the existing one-family dwelling to a two-family dwelling. **ZB2022-07-SE**

Ms. Barkley was appointed voting privileges.

Mr. Donigian appeared on behalf of the application. The house is already setup with a second unit and there is little to be done to make it work for 2 housing units. He would like to rent it as a two-family dwelling. There is a shared doorway that they would lock. He provided the Board with a drawing showing all of the necessary parking spaces. They own two properties on Farnum, but they do not live in either dwelling in Lebanon. The Board discussed the number of parking spaces.

Chair Koppenheffer opened the Public Hearing and hearing no one, closed the Public Hearing.

Mr. Nash MOVED on April 4, 2022, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Aram Donigian regarding 9 Farman Avenue (Tax Map 87, Lot 28), zoned R-3: Applicant requests a Special Exception per Section 310.2 of the Zoning Ordinance to convert the existing one-family dwelling to a two-family dwelling. ZB2022-07-SE

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 a +/-0.34 acre lot located on Farman Avenue in West Lebanon, and is improved with a 2,160 sq. ft. (finished) one-family dwelling constructed in 1910 (according to the City's assessing records).
2. The applicant proposes to convert the existing one-family dwelling into a two-family dwelling. According to the application materials, the building already has two (2) dwelling units and two separate entrances. Therefore, no interior renovations are proposed. There are also no site changes proposed.
3. "Two-family dwelling by conversion of existing one-family dwelling" is a use permitted by Special Exception in the R-3 District per Section 310.2 of the Zoning Ordinance.
4. In order to grant a Special Exception for the proposed conversion, the Board must determine that the proposal meets the general Special Exception criteria, set forth in Section 801.3 of the Zoning Ordinance.
5. No one 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 Special Exception criteria set forth in §801.3 of the Zoning Ordinance:

1. The Special Exception is specifically authorized by §310.2 of the Zoning Ordinance. (§801.3.A)
2. There are no special conditions/requirements applicable to the proposed use. (§801.3.B)
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 4th day of April, 2021, hereby GRANTS the requested Special Exception per Section 310.2 of the Zoning Ordinance to allow the conversion of one-family dwelling at 9 Farman Avenue (Tax Map 87, Lot 28) to a two-family dwelling, 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.

Seconded by Mr. Katz.

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

- B. **Hanover Improvement Society (applicant) and Town of Hanover (property owner), 394 N. Main Street (Tax Map 5, Lot 2), zoned RL-3 and R-3:** Applicants propose a 6,345 sq. ft. expansion of the James W. Campion III Rink. Applicants request Variances from the following Sections of the Zoning Ordinance: (a) Section 314.3 to allow +/-2.7% building coverage on the RL-3 portion of the lot where 1% is the maximum allowed; (b) Section 314.3 to allow the proposed addition to be located +/-45 ft. from the side lot line where 50 ft. is the minimum required in the RL-3 District; (c) Section 310.3 to allow +/-38.9% building coverage on the R-3 portion of the lot where 25% is the maximum allowed for a Class 1 lot; and (d) Sections 310.2 and 702.5 to expand an existing non-conforming non-public indoor recreational facility located on the R-3 portion of the lot. Applicants also request a Special Exception pursuant to Section 314.2 to expand an existing indoor recreational facility on the RL-3 portion of the lot. **ZB2022-08-SEVAR**

Mr. McDonough was appointed voting privileges for this hearing.

Nate Stearns (Attorney), Will Mudge, and Jeff Goodrich appeared on behalf of the application. The original rink was approved and built in 1987. In 2016 a request to add a whole second rink was approved, but that never happened due to a lack of funding. They are not making the same request. This project would occur on land owned by the Town of Hanover. Will Mudge said the existing rink needs expansion to create more locker rooms and shower areas because now there are teams for both women and men. These would be the primary addition that would occur in the setback. The area towards the front of the building and the parking area would be the new entry, a lobby, restrooms and meeting areas. The rink and fields lie within two zoning districts. The Bold dash line on the graphic indicates the zoning district lines. Attorney Stearns referenced the approval of the special exceptions and variances that were approved in 2016, but never acted upon. The project is a much smaller project.

The applicants discussed the lot coverage area that is currently occurring and how it would increase with the expansion. There is also a variance request related to the use. They discussed the expansion of the existing use and in which zoning districts the non-conforming uses are permitted. The rink functions largely as a public facility, even though it is owned by the Hanover Improvement Society. They are going to improve the building foundations, add a new HVAC system and generally improve the facility. They also intend to ask for expanded operating hours. There are 6 different blocks of time throughout the year with varying hours of use. They would like to expand the hours of operation to what was approved in

2016. Mr. Stearns reviewed the variance criteria on the application. He believes he is only asking to improve the facilities for the same uses. He believes the uniqueness of this property is that the property has a split zoning district, and it is strictly used for public recreation, even though it is owned by the Hanover Improvement Society.

The applicants have also applied for a special exception and Attorney Stearns reviewed the criteria for granting a special exception.

The Hanover Society met with the neighbors prior to tonight's meeting. Attorney Stearns does not believe even in peak hours there would be increased traffic. The expansion would affect more time across the year but would not make each day run longer. They hope to have the project completed in one to two years. They intend to improve the efficiency of the building and improve the ice making capabilities. They are working with engineers and consultants but have not determined how that would be accomplished. They believe they would not be increasing any noise pollution because new compressors are quieter and would not be closer to the neighbors.

The primary idea for the multipurpose room is for a birthday party while skating, or training, and team meetings with coaches. They are in the early planning stages, but the intent is to be sports oriented.

The Board asked for clarification about the lot coverage. The 1987 approval did not challenge the amount of coverage issues. The approval was granted, and the rink and building were constructed as it was approved. Originally it may not have been realized that the property was in two zones. In 2016, they realized what the situation is today and sought to reconcile it and where the zoning district boundary was.

The Chair discussed the conditions and findings of fact that were approved in 2016. Tonight's decision supersedes the 1987 decision. The 2016 decision was not codified, but it is believed the same conditions would still apply. It is an indoor recreational facility. The applicants are amenable to all the applicable conditions that were applied to the 2016 approval, except for the outside color of the rink and the need for the expansion of hours at this time. Also, the findings of fact are still acceptable.

John Hochreiter, a member Hanover Improvement Society spoke on behalf of the Society. He said they changed the lighting to led lights that are down facing. They did not change the outside color of the building.

Chair Koppenheffer opened the Public Hearing.

Stephen Girdwood, attorney representative for neighbor David Donley appeared. He referenced a memorandum of understanding between Mr. Donley and the association that requested the new rink in 2016. Many of the points of the memorandum are part of the 2016 conditions of approval. He referenced all of the conditions of the memorandum and requested that they be part of any new approval. The position is that his client would like the same conditions to be part of any new approval. The attorney asked for clarification if the request was to accept the conditions on the existing property and the proposed new project.

Attorney Girdwood was asked for clarification about how the new proposed changes would impact his client and what would be the impact of the new project compared to the larger project that was not completed. The attorney cited hours of expansion, increased use, varying expansion of types of uses and lighting. The memorandum is binding between the two parties that signed it, but it is not between Mr. Donley and the Hanover Society. He would like the Board to consider the same points of the memorandum and apply them to any new approval.

David Donley, a neighbor of the rink spoke. Kids are playing some type of ball against the side of the building. The ball rolls down into the gully and he believes some type of barrier or fence is appropriate. There is a safety issue because the gully is full of debris. Also, a fence would keep headlights from vehicles coming and going and in the parking lot from impacting his property. He said the LED lighting still reflects into his windows because the lights are so high. He noted that the trees that are between his property and the rink and fields are dying. They will not be a buffer in the near future.

There are a number of conditions of the 2016 approval that no longer apply because a second arena is not being constructed.

There are two more letters of support from residents of Lebanon, Dan McGee and Bruce Burgeron, that were received after the packet was prepared.

Staff said given the complexity of the application, it would be appropriate to ask the applicants and anyone from the public to submit lists of the conditions of approval, before the Public Hearing is closed.

The Board was polled about their general opinion about this project and the best process to generate a list of proposed conditions.

The attorneys representing the applicants and the neighbor intend to work together to put forth conditions for a Motion for approval for next month's meeting. The application deadlines are ideally needed within the next two weeks.

***Mr. Nash MOVED to continue this hearing to Monday May 2, 2022 at 7:00 PM.
Seconded by Mr. Newlove.***

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

4. STAFF COMMENTS

None.

5. ADJOURNMENT

***Mr. Nash MOVED to adjourn the meeting at 8:31 PM.
Seconded by Mr. Katz.***

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

Respectfully submitted,
Linda Billings
Recording Secretary