



**LEBANON ZONING BOARD OF ADJUSTMENT
OCTOBER 3, 2022 - 7:00 PM
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

-
1. **Call to Order**
 2. **Approval of Minutes**
 - A. September 6, 2022
 3. **Public Hearing Items**
 - A. **Hayden Anderson (applicant), Kyle Stumetz (property owner), 34 S. Main Street (Tax Map 86, Lot 15), zoned R-2:** Applicant requests (i) a Variance from Section 309.2 of the Zoning Ordinance to allow a freestanding deck to be located +/- 3 ft. the side lot line shared with 36 South Main Street where 15 ft. is the minimum required and (ii) a Special Exception per Section 703.1 to expand a non-conforming structure to allow deck to be located +/-5 ft. from the side lot line shared with 36 South Main Street and 8 ft. from the side lot line shared with 32 South Main Street, where 15 ft. is the minimum required. **ZB2022-21-SEVAR**
 - B. **Execusuite, LLC, 75 Bank Street (Tax Map 92, Lot 78), zoned RO:** Applicant requests a Special Exception per Sections 311.2 and 601 of the Zoning Ordinance to convert a portion of the building to a theater and concert hall. **ZB2022-22-SE**
 - C. **Dartmouth College Trustees, 1-3 Field Road (Tax Map 5, Lot 1), 00 N. Main Street (Tax Map 8, Lot 27), 00 Indian Ridge Drive (Tax Map 8, Lot 28), zoned R-3:** The Applicant proposes to construct stormwater management facilities on the subject properties to serve a proposed expansion of the Campion ice rink located at 394 N. Main Street (Tax Map 5, Lot 2). To do so, the Applicant requests a Variance from Sections 215 and 310.2 of the Zoning Ordinance to allow an accessory use to serve an off-site principal use. **ZB2022-23-VAR**
 - D. **Eric and Susan Cole, 162 Mechanic Street (Tax Map 105, Lot 14), zoned R-2:** Applicants request a Variance from Section 309.3 of the Zoning Ordinance to allow an access ramp to be located +/-8 ft. from the front property line along Mechanic Street and +/-6 ft. from the front property line along the property's other frontage, where 20 ft. is the minimum required. **ZB2022-24-VAR**
 4. **Staff Comments**
 5. **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
October 3, 2022
Zoning Board of Adjustment**

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

September 6, 2022

DRAFT

**LEBANON ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE
TUESDAY, September 6, 2022
7:00 PM**

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

MEMBERS ABSENT:

STAFF PRESENT: Tim Corwin – Senior Planner and Zoning Administrator

1. CALL TO ORDER

Chair Koppenheffer called the meeting to order at 7:02 PM.

2. APPROVAL OF MINUTES

Mr. McDonough was given voting privileges for this motion.

A. August 1, 2022

Mr. Nash MOVED to approve the August 1, 2022, Minutes as presented in the September 6, 2022, packet.

Seconded by Mr. Katz.

**The Vote on the Motion was (3-0-2).*

Mr. Newlove and Mr. Katz abstained because they were absent.

3. ELECTION OF OFFICERS

Ms. Barkley was given voting privileges for this motion.

Mr. Newlove nominated Mr. Katz for Vice Chairman of the Board.

Seconded by Ms. Barkley.

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

Mr. Katz recused himself from voting.

4. PUBLIC HEARING ITEMS

- A. Chiplin Enterprises, Inc., 18 South Street (Tax Map 107, Lot 18), zoned R-2:** Applicant proposes to subdivide the property into two (2) lots. To allow the proposed subdivision, the applicant requests Variances from the following: (i) Section 202 of the Zoning Ordinance (prohibiting the reduction of lot area to less than the minimum required), (ii) Section 309.3 (requiring a minimum lot size of 10,000 sq. ft. for Class 1 lots in the R-2 District and an additional 3,000 sq. ft. for every additional dwelling unit after two); and (iii) Section 309.3 to allow an existing building to be located +/- 12 ft. from the proposed side lot line where a minimum of 15 ft is required. **ZB2022-16-VAR - Continued from August 1, 2022 per the applicant's request**

This application was withdrawn prior to the meeting.

- B. ABCG Homes, LLC, 18 Granite Street (Tax Map 91, Lot 82), zoned R-3:** Applicant requests a Special Exception per Section 310.2 of the Zoning Ordinance to convert a one-family dwelling to a two-family dwelling. **ZB2022-20-SE**

Brendan Callahan, managing member of ABCG Homes, appeared on behalf of the application. The prior owner of the property previously added an adjoining structure to the main building and used it as a hair salon. The adjoining structure has its own entrance. The applicants would like to remodel the existing dwelling on the property and change the attached extra structure to a dwelling. The footprint would not change. There is adequate parking.

Mr. McDonough was appointed a voting member for this hearing.

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

Mr. Nash MOVED on September 6, 2022, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Brendan Callahan on behalf of ABCG Homes, LLC, regarding 18 Granite Street (Tax Map 91, Lot 82), zoned R-3: Applicant requests a Special Exception pursuant to Article III, Section 310.2 of the Zoning Ordinance to convert an existing one-family dwelling to a two-family dwelling. ZB2022-20-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 subject property is a +/-0.27 acre lot located at the southwestern corner of Granite and Child Streets, and is improved with a 999 sq. ft. (finished) one-family dwelling constructed in 1840 (according to the City's assessing records). An existing driveway provides access to Child Street.
2. The applicant proposes to convert the existing one-family dwelling into a two-family dwelling. According to the application materials, the applicant proposes to renovate a currently vacant structure attached to the back of the home that was formerly occupied by a commercial use, and proposes to regrade the back yard in connection with the proposed renovation.
3. Section 607 of the Zoning Ordinance requires a minimum of two (2) parking spaces per dwelling unit. Consequently, the proposed conversion to a two-family dwelling requires a minimum of four (4) off-street parking spaces. The application materials indicate that 4-6 on-site parking spaces are available in the driveway.
4. "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.
5. 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. The applicant submitted testimony addressing the Section 801.3 criteria in an application received by the Planning and Development Department on August 11, 2022.
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 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 6th day of September, 2022, hereby **GRANTS** the requested Special Exception per Section 310.2 of the Zoning Ordinance to convert the existing one-family dwelling at 18 Granite Street (Tax Map 91, Lot 82) 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.
2. The applicant shall pay applicable impact and sewer fees prior to the issuance of a Certificate of Occupancy.

Seconded by Mr. Katz.

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

5. REHEARING REQUEST

- A. **Irving Oil Marketing, Inc. (applicant) and Cobalt Properties NH Corp (property owners), 206 South Main Street (Tax Map 115, Lot 1), zoned GC:** Motion by applicant to rehear a request for a Variance from Section 608.4.A.4 of the Zoning Ordinance to allow two

(2) freestanding signs on the property where only one (1) is permitted. The Variance application was denied on July 5, 2022. ZB2022-14A-VAR

A motion to rehear does not allow additional testimony. A rehearing can only be granted 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 decision.

Chair Koppenheffer said the applicant is not raising new relevant evidence or new relevant legal issues. He asked the Board Members who made the decision to determine if the Board made an error. He asked that the members who voted on the original hearing are the only members voting on the decision to approve a rehearing; that will be Ms. Barkley, Mr. McDonough, Mr. Newlove, Mr. Nash and Mr. Katz.

Chair Koppenheffer commented that in 2010 when the City took by eminent domain the property where a free-standing sign was positioned and built a median strip, it contributed to the closing of that station. The applicant acknowledges they failed to make an effort to request to be allowed a second sign at that time. At this point, it cannot be claimed to be a hardship.

The members discussed their original decision and did not see a reason to change the decision. Mr. McDonough originally voted favorably for a second sign and upon reconsideration he now concludes he would not be in favor of a rehearing. Regarding the criteria, it does not warrant a rehearing.

Mr. Katz Moved that the Lebanon Board of Adjustment, on this 6th day of September, 2022 hereby DENIES the motion made by Maria Dolder, Esq, on behalf of Irving Oil Marketing, Inc, to rehear the application for a Variance from Section 608.4.A.4 of the Zoning Ordinance which was denied by the Zoning Board of Adjustment on July 5, 2022 ZB2022-14A-VAR to allow two (2) freestanding signs at 206 South Main Street (Tax Map 115, Lot 1) where only one (1) freestanding sign per property is allowed. ZB2022-14A-VAR

Seconded by Mr. Newlove.

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

6. STAFF COMMENTS

There are a few legislative changes at the State level that apply to the Zoning Board. One requires the Board to make a decision within 90 days from the date of an application. This can be waived by an applicant. As a practical matter it should not make a big difference. If the applicant chose to not consent to waive the 90 day requirement, the Board can make a decision based on the information that it has or it can deny the motion if the Board feels it does not have enough information to make a decision.

Two other changes are substantive regarding how municipalities can regulate land use. One example is if a municipality makes the allowance to increased density for senior housing, then the allowance would be allowed for work force housing. The same is for any other exception.

The second change provides no zoning ordinance shall prohibit, regulate or restrict the use of land or structure used primarily for religious purposes. A religious property is only subject to building height limitations, yard sizes, lot area, setbacks, open space and building coverage. This puts municipalities in a difficult position to judge what is primarily a religious purpose.

1 These changes will be addressed in the near future by revisions to the Zoning ordinances.

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3 **7. ADJOURNMENT**

4
5 Ms. Barkley was given voting privileges for this motion.

6
7 ***Mr. McDonough MOVED to adjourn the meeting at 7:38 PM.***
8 ***Seconded by Mr. Newlove.***

9
10 ****The Vote on the Motion was approved (5-0).***

11
12 Respectfully submitted,
13 Linda Billings
14 Recording Secretary

**Agenda
October 3, 2022
Zoning Board of Adjustment**

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

**Hayden Anderson (applicant),
Kyle Stumetz (property owner),
34 S. Main Street
(Tax Map 86, Lot 15),
zoned R-2
ZB2022-21-SEVAR**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

October 3, 2022 Meeting

Staff Memorandum – ZB2022-21-SEVAR

APPLICATION INFORMATION

Agenda Item: 3.A

Application Type: Variance from Section 309.2 and Special Exception from Section 703.1

Location: 34 S. Main Street (Tax Map 86, Lot 15)

Applicants/Property Owners:
Hayden Anderson (applicant), Kyle Stumetz (property owner)

Zoning District: R-2

Property Size: +/-0.23 acres (+/-10,018 sq. ft.) (per the City Assessor's records; property is conforming to the min. 10,000 sq. ft. lot size required per §309.3 for Class 1 lots in the R-2 District)

Existing Improvements/Land Use:
+/-1,260 sq. ft. (finished) two-story one-family dwelling constructed in 1900 (per the City's assessing records)

Proposed Improvements: attached deck and freestanding platform

Overlay Districts:
Riverbank Protection District

Previous ZBA Action (since 1995):
none

Other Approvals Required:
Building Permit

Attachments: application and supporting materials (14 pages)

HEARING NOTICE

Hayden Anderson (applicant), Kyle Stumetz (property owner), 34 S. Main Street (Tax Map 86, Lot 15), zoned R-2: Applicant requests (i) a Variance from Section 309.2 of the Zoning Ordinance to allow a freestanding deck to be located +/- 3 ft. the side lot line shared with 36 South Main Street where 15 ft. is the minimum required and (ii) a Special Exception per Section 703.1 to expand a non-conforming structure to allow deck to be located +/-5 ft. from the side lot line shared with 36 South Main Street and 8 ft. from the side lot line shared with 32 South Main Street, where 15 ft. is the minimum required. ZB2022-21-SEVAR

BACKGROUND & PROPOSAL

Per the City's assessing records, the property is improved with a one-family dwelling constructed in 1900. The home sits at or nearly at the property line shared with the adjacent property to the north (32 South Main Street) and, therefore, is non-conforming to the minimum required 15 ft. side yard. A deck has been constructed to the rear of the home without a building permit. The deck spans the rear with of the home and, therefore, is also nonconforming to the side lot line. Before applying for an after-the-fact building permit for the deck, the applicant must apply for and obtain a Special Exception per Section 703.1 to allow an expansion of a non-conforming structure.

A 7 ½ by 23 ft. freestanding platform has also been constructed to the rear of the home and is located 3 ft. from the side lot line shared with 36 South Main Street. Before applying for an after-the-fact zoning permit for the freestanding platform, the applicant must first apply for and obtain a Variance from the 15 ft. minimum side yard requirement set forth in Section 309.2.

ORDINANCE REQUIREMENTS

A. Special Exception for Attached Deck

Class 1 lots (i.e. lots that are served by municipal sewer and water) in the R-2 District must maintain a minimum side yard (i.e. a space unobstructed by buildings and structures) of 15 ft. See Section 309.3 of the Zoning Ordinance. Section 703.1 of the Zoning Ordinance allows the expansion of "any increase in the footprint and/or volume of the non-conforming part of the building or structure," by Special Exception from the Zoning Board of Adjustment.

Figure 1. Aerial view of property (looking east).



1. The reasonable use of abutting properties shall not be adversely affected by the proposed expansion.
2. The proposed expansion shall not render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently nonconforming cannot be made more non-conforming in the absence of a variance.

***Note:** Section 703.1.A.2 allows an expansion that is equally non-conforming or less non-conforming, but prohibits an expansion that would be more non-conforming. Here, the deck will be located no closer to the side lot line than the existing home and, therefore, will not “render the lot size proportionately less adequate”.*

By contrast, if the deck were proposed to be located closer to the side lot line than the existing home, the applicant would be unable to demonstrate compliance with Section 703.1.A.2 and, instead, would require a Variance from Section 309.3 to permit the deck to encroach further into the minimum required side yard.

3. These special exception standards shall apply in addition to the standards in Section 801.3 of the Zoning Ordinance.

Per Section 703.1.A.3 of the Zoning Ordinance, in order to grant a Special Exception for an expansion of a non-conforming structure, the Board must also determine that the proposal meets the general Special Exception criteria of Section 801.3. The applicant has submitted testimony addressing the Section 801.3 criteria in an application received by the Planning and Development Department on September 1, 2022 (see attached).

B. Variance for Freestanding Platform

In the R-2 District, Class 1 lots (i.e. lots that are served by municipal sewer and water) must maintain a minimum side yard (i.e. a space unobstructed by buildings and structures) of 15 ft. See Section 309.3 of the Zoning Ordinance. Therefore, a Variance is required to permit the freestanding platform to encroach approximately twelve (12) ft. into the minimum required 15 ft. side yard.

To obtain the requested Variance from Section 309.3, 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 September 1, 2022 (see attached).

Attachments

cc: Hayden Anderson
Kyle Stumetz
File

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:		TEL.#:	
MAILING ADDRESS:			
E-MAIL ADDRESS:			
CO-APPLICANT, AGENT, OR LESSEE:			
NAME: <i>Hayden Anderson</i>		TEL.#: <i>(608) 575-0649</i>	
MAILING ADDRESS: <i>6604 Meadowlark Ln. N., Maple Grove, MN 55369</i>			
E-MAIL ADDRESS: <i>haydanderson@gmail.com</i>			
PROJECT LOCATION:			
TAX MAP #: <i>86</i>	LOT#: <i>15</i>	PLOT #: <i>N/A</i>	ZONE: <i>R2</i>
STREET ADDRESS OF PROJECT: <i>34 S Main St, West Lebanon, NH 03784</i>			
IS THIS PROPERTY LOCATED IN THE: WETLANDS ☐ YES ☒ NO HISTORIC DISTRICT ☐ YES ☒ NO			
FLOOD PLAIN ☐ YES ☒ NO			
SCOPE OF PROJECT: <i>Already existing detached deck in rear of Property 3 feet from Southern Property line in need of Variance. Existing attached Wooden Platform 5 feet from Southern Property line and 8 feet from Northern Property line in need of special exception.</i>			
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: _____			
SIGNATURE BLOCK:			
		DATE: _____	
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: _____	
PROPERTY OWNER			

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #			
<i>9-1-2022</i>	<i>86-15</i>	<i>2B2022-</i>			

21-SE

(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 1/2 in. x 11in.) must accompany this support statement.

I (we) hereby request a variance from the terms of Article(s) III
Section(s) 309.3 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;

This structure has stood on the property for at least 22 years. No complaints have been made. It is hidden from view by well-maintained shrubbery. The public is clearly not harmed or inconvenienced in any way.

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

The spirit of the ordinance seems to be to ensure older neighborhoods remain a viable residential area. The deck makes the property more livable and does not harm the abutters. Abutters cannot see the deck as it is set behind well-maintained shrubbery. It also does not inhibit their access to the road. No complaints after 22 years.

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

If the deck were to be moved or destroyed, a value would be lost on the property. Not only that, but a financial burden would be placed on the property owners to "correct" a mistake made by previous owners. An important part of the home would be lost, and at no benefit to any citizen. The city has also received thousands of dollars from taxing it for the past 22 years.

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

No value would be lost. In fact, the removal would likely result in the loss of well-maintained shrubbery that the neighbors can enjoy.

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

The purpose of the ordinance is to make old neighborhoods viable, modern residential areas. The deck has provided a positive value to the land for the past 22 years, and removing it would make the property less livable.; and

(ii) The proposed use is a reasonable one.

the deck has stood for 22 years (at least), a permit may have been filed, but lost, and the fact that no permit exists was never passed on to future buyers. The deck has been an asset to the property and has not harmed any abutters.

(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)."

**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) III,
Section(s) 309.3, 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.)

A 7 1/2 x 23 ft. wooden platform that rests on the ground and is attached to the house was built at some point prior to the current owners. The date is likely around 2000. It was never permitted but does not expand the house any closer to existing property lines. It is 6 1/2 inches tall.

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:
The goal of the ordinance is to make a property in an old neighborhood livable. This platform has enhanced the property for the past 20 years.
- B. That all special conditions required of the special exception have been met:
It does not extend the footprint of the house any closer to the property lines to the north or south.
- C. That there are no existing violations of this ordinance on the property that the granting of this special exception would not remedy:
In conjunction with the current request, no violations would exist.

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:
As the structure is completely fenced in behind 6' tall Privacy Fencing
the area is not impacted by it. Also it has existed for about 20 years,
and there have been no complaints
- E. That no hazard or nuisance will be created:
It is entirely fenced in on the property and it is 6 inches
tall.
- F. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted:
No plans exist that would impact the immediate area of the
home.
- G. That granting the special exception will not result in undue municipal expense:
No expense is necessary, and the structure has been taxed, meaning
the city has made thousands of dollars off of it's
existence.
- H. That the proposed special exception will be developed in a manner compatible with the spirit and intent of the ordinance:
It makes the property in an old neighborhood more valuable by
giving a place to sit in the sun in privacy
- I. That the general welfare of the City will be protected:
It is a positive addition to the city as it increases the
value of the home.

Please Note:

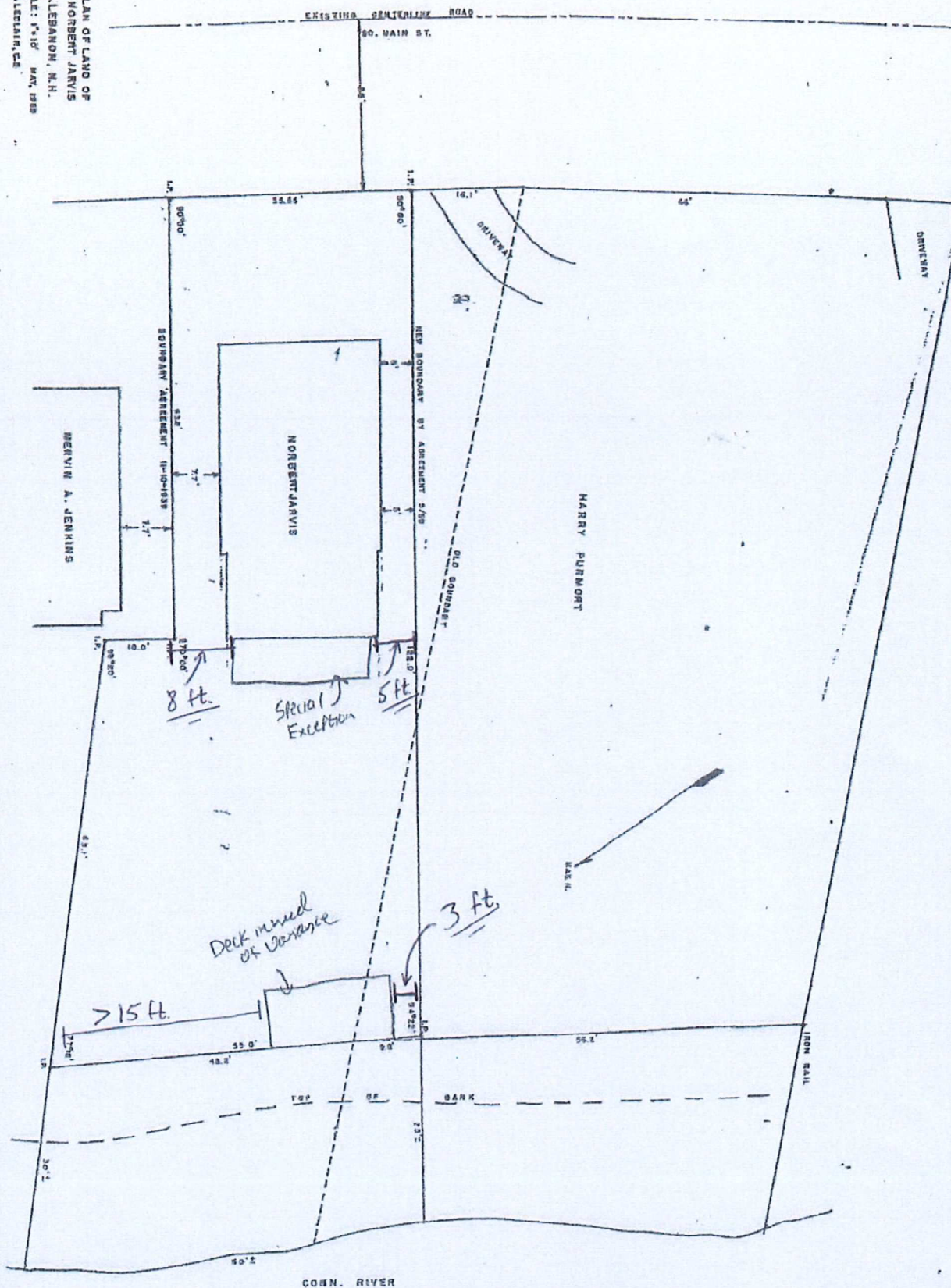
Pursuant to Section 802.4B, "Special Conditions", the Board may attach whatever conditions it deems necessary in order to assure compliance with the purposes of this ordinance.

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.

Pages 5-6:

1. The structure has stood on the property for at least 22 years. No complaints have been made. It is hidden from view by well-maintained shrubbery. The public is clearly not harmed or inconvenienced in any way.
2. The spirit of the ordinance seems to be to ensure older neighborhoods remain a viable residential area. The deck makes the property more livable and does not harm the abutters. Abutters cannot see the deck as it is set behind well-maintained shrubbery. It also does not inhibit their access to the river. No complaints after 22 years.
3. If the deck were to be moved or destroyed, a value would be lost on the property. Not only that, but a financial burden would be placed on the property owners to "correct" a mistake made by previous owners. An important feature of the home would be lost, and at no benefit to any citizen. The city has also received thousands of dollars from taxing it for the past 22 years.
4. No value would be lost. In fact, the removal would likely result in the loss of well-maintained shrubbery that the neighbors can enjoy.
5.
 - i. The purpose of the ordinance is to make old neighborhoods viable modern residential areas. The deck has provided a positive value to the land for the past 22 years, and removing it would make the property less livable.
 - ii. The deck has stood for 22 years (at least), a permit may have been filed but lost, and the fact that no permit exists was never passed on to future buyers. The deck has been as asset to the property and has not harmed any abutters.

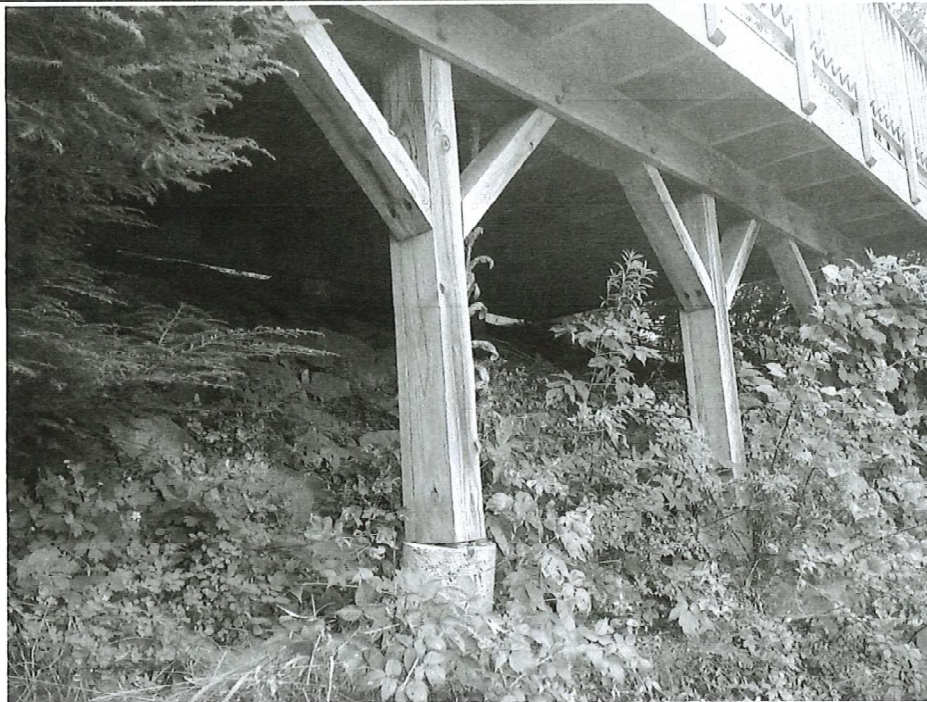
PLAN OF LAND OF
NORBERT JARVIS
W. LEBANON, N.H.
SCALE: 1" = 10' MAY 1958
K.A. LEBLANC, C.E.

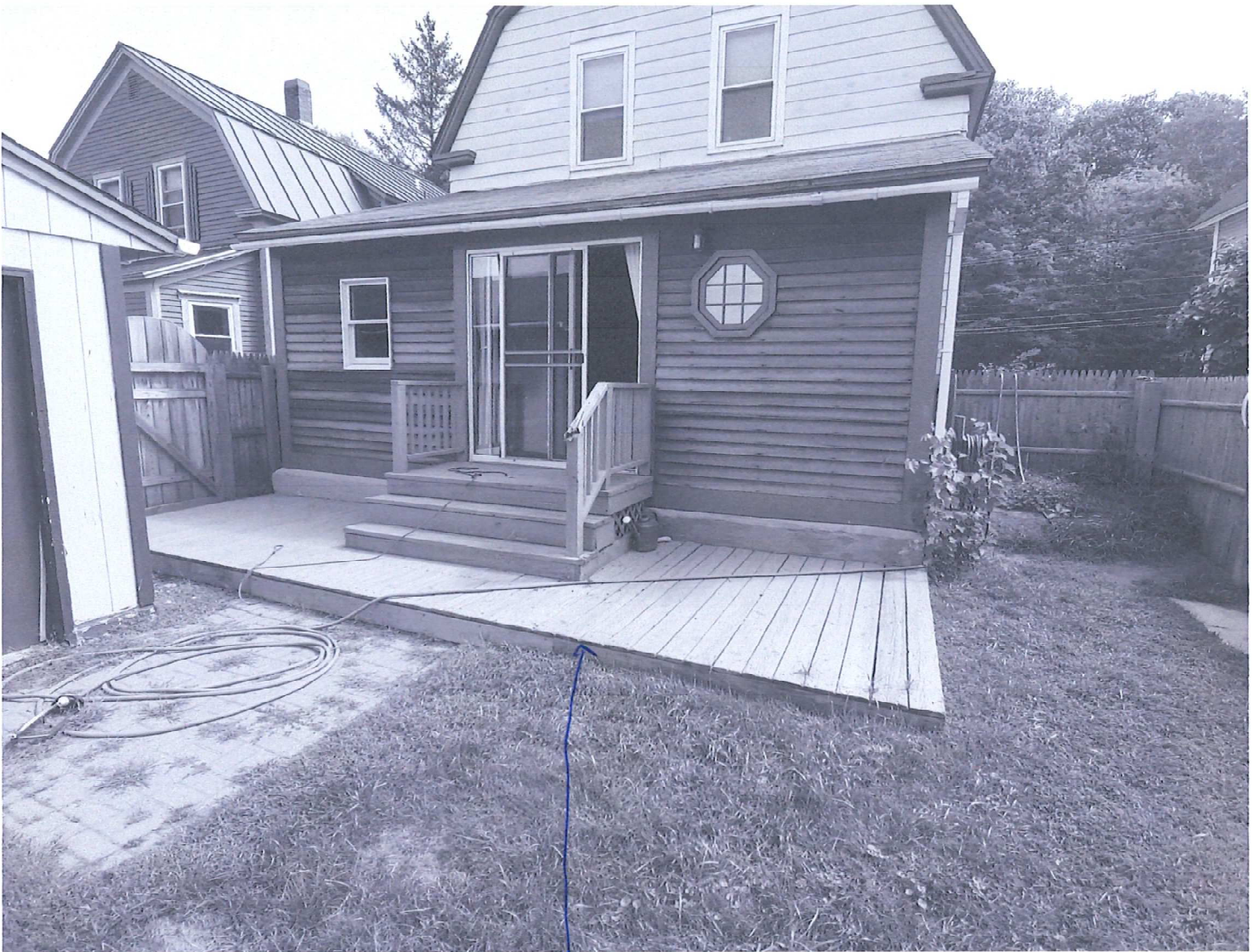












Special
Exception

Exterior Information

Type	22 - CONVENT NL
Story Height	11 - 1.75
(Liv) Units	1
Found	4 - LOOSE MSRY
Frame	1 - WOOD
P. Wall	3 - ALUMINUM
Sec Wall	
Roof Str	3 - GAMBREL
Roof Cvr	13 - STD SEAM
Color	YELLOW
View	AV - AVERAGE
Shape	
Bld Name	

General Information

Grade	C - AVERAGE	
	1900	Eff Yr
Year Bilt		
Alt LUC		
Juris		
Con Mod		

Interior Information

Avg Ht./Fl	
P. Int Wall	2- PLASTER
Sec Int Wall	8- PLYWD PAN 50%
Partition	T - Typical
P. Floor	3- HARDWOOD
Sec Floor	4- CARPET 50%
Bmt Floors	12- CONCRETE

Comparable Sales

Rtng	Parcel ID	Type	Sale Date	Price
Avg Rtng			Ind Val	

Special Features / Yard Items

[illegible]

Disclaimer: This Information is believed to be correct but is subject to change and is not guaranteed

Condo Information

Location	
Tot Units	
Floor	
% Own	
Name	

Bath Features

Full Bath	0	Rtng	
Add Full	0	Rtng	
3/4 Bath	1	Rtng	A - AVERAGE
Add. 3/4	0	Rtng	
1/2 Bath	0	Rtng	
Add. 1/2	0	Rtng	
Other Fix	0	Rtng	

Other Features

	1	Rtnng	A - AVERAGE
Kitchens			
Add Kit.	0	Rtnng	
Fireplaces	0	Rtnng	
WS Flues	0	Rtnng	

Depreciation

Phys Con	AV	40
Functional	F	3
Economic		
Special		
Override		
Total		41.8%

Sub Areas

Code	Desc	Net Area	G
FFL	1ST FLOOR	720	
TQS	3/4 STORY	540	
WDK	WOOD DECK	154	
OPF	OPEN PORCH	40	
BMT	BASEMENT	720	
EFP	ENCL PORCH	264	
	Building Totals	2,438	
	Parcel Totals	2,438	

Code	Desc	A: Y/S	Qty
------	------	--------	-----

[illegible]

Disclaimer: This information is believed to be correct but is subject to change and is not guaranteed

Comments

WINDOW DRMR LEFT SIDE
ABUTTS RIVER REAR
TOPO STEEP SEWER
EASMENT IN REAR
2 RMS UP NO HEAT
DIRT FLR UBM=FUNC

Res Breakdown

Floor	No. Unit	Rooms	Bdrms
M	1	6	3
Eld Total	1	6	3
Prc'l Total	1	6	3

Calc Ladder

Base Rate	103.00	Depr	94,126
Size Adj	1.30000	Depr'd Total	131,056
Con Adj	0.95022	Juris Ft	1.0000
Adj Prc	\$ 127.23	Spec. Features	\$ 0
Grade Ft.	1.00000	Lump Sum	0
Other Feat	\$ 25,000	Final Total	\$ 131,100
NBH Mod	1.0000	Override Val	
NEC Inf	1.0000	Assmnt Ft.	1.0000
LUC Ft.	1.0000	Assessed Val	\$ 131,100
Adj Tot (RON)	225,182	Total \$/SF	\$ 104.05
Depr %	41.8%	Undepr \$/SF	127.23000

--	--

Process A.	F. Area	Sz Adj A.	Rate A/V	Undepr Val
720	720	720	127.23	91,606
720	540	540	127.23	68,704
154	0	0	20.30	3,126
40	0	0	36.00	1,440
720	0	0	31.81	22,903
264	0	0	46.98	12,403
2,618	1,260	1,260		200,182
2,618	1,260	1,260		200,182

Image



Property: 1151 | Bld: 1275 | Seq: 1 | Year: 2022 | Data As Of Date: 05/16/2022 | User: MJJ | DB: Assess50

**Agenda
October 3, 2022
Zoning Board of Adjustment**

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

**Execusuite, LLC,
75 Bank Street
(Tax Map 92, Lot 78),
zoned RO
ZB2022-22-SE**



CITY OF LEBANON ~ PLANNING & ZONING

ZONING BOARD OF ADJUSTMENT

October 3, 2022 Meeting

Staff Memorandum – ZB2022-22-SE

APPLICATION INFORMATION

Agenda Item: 3.B

Application Type: Special Exception per Sections 311.2 and 601 of the Zoning Ordinance to convert a portion of the building to a theater and concert hall

Location:
75 Bank Street (Tax Map 92, Lot 78)

Applicants/Property Owners:
Execusuite, LLC

Zoning District: Residential Office (R-O)

Property Size: +/-7.4 acres

Overlay Districts: none

Further Approvals Required:
building & zoning permit for the change of use and any interior renovations

Attachments: application and supporting materials (8 pages total)

HEARING NOTICE

Execusuite, LLC, 75 Bank Street (Tax Map 92, Lot 78), zoned RO: Applicant requests a Special Exception per Sections 311.2 and 601 of the Zoning Ordinance to convert a portion of the building to a theater and concert hall. ZB2022-22-SE

BACKGROUND & PROPOSAL

The 7.42-acre property, formerly the Lebanon Junior High School, has been the subject of numerous applications in recent months as part of its overall renovation and reuse.

On August 5, 2013, the applicant obtained a Special Exception to convert the building into 40 units of multi-family housing. On March 3, 2014, a Special Exception was granted for the conversion of 3,213 sq ft in the former wood shop to office use. On April 21, 2014, the applicant obtained a Special Exception for 2 additional dwelling units and a Variance to allow personal service uses (gym and exercise studio(s)) in the former gymnasium. On May 5, 2014, the applicant obtained a Special Exception for conversion of a portion of the former wood shop to a Private Education Facility for the Spark! Community Center. On July 21, 2014, the applicant obtained a Special Exception for 1 additional dwelling unit, bringing the final total to 43 units.

The applicant now proposes to change the gymnasium and private education facility use within the lower basement level of the building to a “theater and/or concert hall”, as described in the attached application materials.

ORDINANCE

“Theater, concert hall, movie theater conversion per Section 601” is a use permitted by Special Exception in the R-O District per §311.2. To obtain approval, the applicant must demonstrate compliance with the special design standards set forth in §601 and the general Special Exception criteria set forth in §801.3.

SECTION 601 SPECIAL DESIGN STANDARDS.

The remodeling of a residential structure and other **buildings** existent as of the 2013 amendment to this section for certain uses identified in the R-2, R-O, and R-O-1 District Tables of Uses, and the construction of new **buildings** for certain uses identified in the R-O-1 District Table of Uses, shall comply with the following provisions:

601.1 Architecture.

Remodeling for conversions shall not alter the appearance of the exterior of the structure in a manner that is not compatible with the architectural character of the existing **building**; of abutting properties; or of the neighborhood. New construction shall be compatible with the architectural character or the abutting properties and neighborhoods.

For the purpose of this subsection only, the term "compatible" shall mean having architectural style or design; scale; exterior finish and treatment; site work; and landscaping consistent with that which exists in the neighborhood, on abutting properties and on the structure being remodeled, as applicable.

601.2 Parking & Access.

Adequate off-street parking shall be provided on the lot, unless off-premise parking is approved pursuant to Section 607.4. Such parking shall not occupy the **front yard** except within **parking areas** existent as of the 2013 amendment to this section.

601.3 Coverage.

Impermeable coverage plus unpaved parking and **driveway** areas shall not exceed 65 percent of the **lot area**.

601.4 Density.

The conversion or new construction of multi-family shall comply with the zoning district requirement for "Additional Area Per Dwelling Unit After Two."

The applicant has submitted testimony addressing the §801.3 and §601 Special Exception criteria in an application received by the Planning Department on September 15, 2022 (see attached).

Attachments

cc: Execusuite, LLC
Studio Nexus Architects
File

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: Execusuite, LLC (Tim Sidore, Contact) TEL.#: 603-322-3260
MAILING ADDRESS: 77 Bank Street, Lebanon, NH 03766
E-MAIL ADDRESS: tim@ledgeworks.com

CO-APPLICANT, AGENT, OR LESSEE:

NAME: Studio Nexus Architects (Jim Wasser, contact) TEL.#: 802-275-5110
MAILING ADDRESS: P.O. Box 275, White River Junction, VT 05001
E-MAIL ADDRESS: jimw@studionexusarch.com

PROJECT LOCATION:

TAX MAP #: 92 LOT#: 78 PLOT #: ZONE: RO - Class I
STREET ADDRESS OF PROJECT: 75 Bank Street, Lebanon
IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

Change of use from a gymnasium and private education facility to a theater and/or concert hall. This affects the lower basement level, only. The apartments will remain as is.

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: Gymnasium & private educational facility Proposed: Theater and concert hall

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 OCTOBER 3, 2022, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY

OWNER: Tim Sidore, Execusuite LLC DATE: 13 SEP 2022

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: Tim Sidore, Execusuite LLC DATE: 13 SEP 2022

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #			
9-15-2022	92-78	ZB2022-			

22-SE

**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) VI, Section(s) 601, 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.)* We propose converting the existing private educational facility and gymnasium to a performing arts production and performance venue. _____

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: *Theater is allowed as a Special Exception in the RO Zoning District.*
- B. That all special conditions required of the special exception have been met: *Proposal to convert a previously approved gymnasium and private educational facility to a theater. There is adequate parking onsite to accommodate the theater. Impermeable coverage, parking and driveways does not cover more than 65% of the lot.* _____

_____.
- 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 of the ordinance on the property.* _____

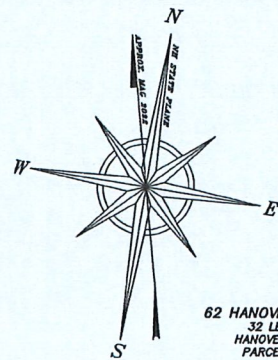
_____.

- D. That the character of the area shall not be adversely affected: *There will be no adverse impact on the character of the neighborhood. There are no changes to the building exterior and performing arts fits the character of the neighborhood.*_____
- E. That no hazard or nuisance will be created: *No hazard or nuisance will be created.*
- F. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted: *There will be no adverse impact on the existing or planned community facilities and services, including highways and streets.*
- G. That granting the special exception will not result in undue municipal expense: *The granting of the special exception will not result in any undue municipal expense.*
- H. That the proposed special exception will be developed in a manner compatible with the spirit and intent of the ordinance: *Theater use is allowed as a special exception in the RO zone. This special exception will allow for an innovative and productive use of the unique former junior high school.*
- I. That the general welfare of the City will be protected: *The conversion to a theater will have no adverse negative impact on the general welfare of the City. A performing arts venue will enhance and benefit the entire community.*

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.~~



62 HANOVER STREET LLC
32 LEBANON ST
HANOVER, NH 03755
PARCEL ID 92-43

JAMES R. WASSER
PO BOX 373
LEBANON, NH 03766
PARCEL ID 92-44

DUSTIN CP & CW TRUSTEES
5 ALLEN ST
LEBANON, NH 03766
PARCEL ID 92-45

ROBIN & TERESA CARPENTER
41 BANK ST
LEBANON, NH 03766
PARCEL ID 92-76

MATTHEW & LINDSAY KNITTLE
43 BANK ST
LEBANON, NH 03766
PARCEL ID 92-77

ROBERT & LUCY MCLELLAN
50 BANK ST
LEBANON, NH 03766
PARCEL ID 92-113

KAREN & RAUL CERVANTES
PO BOX 293
LEBANON, NH 03766
PARCEL ID 92-112

MAKOTI ENTERPRISES LLC
507 OAK ST
NEWPORT, NH 03773
PARCEL ID 92-111

PTC RENTAL LLC
PO BOX 632
LEBANON, NH 03766
PARCEL ID 92-110

PATRICIA MORSE TRUSTEE
64 BANK ST
LEBANON, NH 03766
PARCEL ID 92-109

PATRICIA MORSE TRUSTEE
68 BANK ST
LEBANON, NH 03766
PARCEL ID 92-108

PCF BANK LLC
32 MAIN ST
WEST LEBANON, NH 03784
PARCEL ID 92-107

SARAH CHAMBERLIN
IRENE HEATH
79 BANK ST
LEBANON, NH 03766
PARCEL ID 92-80

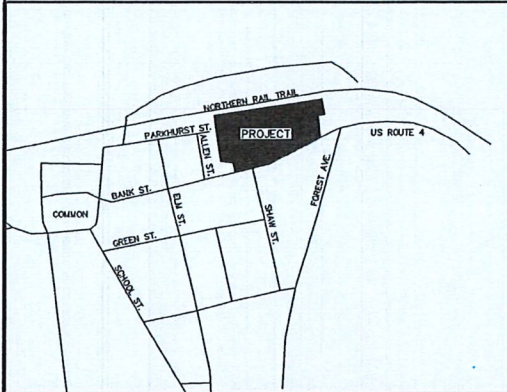
STATE OF NEW HAMPSHIRE
NORTHERN RAIL TRAIL
SEE VAL SHEET #S V32.1/65, V32.1/66 & V32.1/SL67

BASEBALL FIELD

92-78
7.11 ACRES ±
309,909 S.F. ±

92-79
0.45 ACRES
19,771 S.F.

~ LOCATION MAP ~



~ NOTES ~

- METHOD OF SURVEY: LEICA VIVA TS16 TOTAL STATION & STONEX S900 GPS
- BEARINGS ARE REFERENCED TO NEW HAMPSHIRE STATE PLAN COORDINATE SYSTEM. (NAD83) GRID NORTH. ELEVATION ARE TIED TO NORTH AMERICAN VERTICAL DATUM (NAVD88).
- DIBERNARDO ASSOCIATES IS NOT RESPONSIBLE FOR PROPERTY DESCRIPTIONS PREPARED BY OTHER PERSONS FOR CONVEYANCE OF THE PROPERTY SHOWN HEREON.
- THIS PLAN WAS PREPARED FOR THE SOLE USE OF EXECUSUITE LLC AND CHORRO LLC AND IS NOT INTENDED TO BE USED BY ANY OTHER INDIVIDUAL OR BUSINESS WITHOUT THE CONSENT OF SAID PARTIES AND DIBERNARDO ASSOCIATES, LLC.
- ALL NEW HAMPSHIRE TURNPIKES ARE 4 RODS WIDE OR 66'.
- ALL UNDERGROUND UTILITIES ARE SHOWN AS APPROXIMATE. NO UNDERGROUND EXPLORATION WAS CONDUCTED BY THIS FIRM. LINES ARE ASSUMED TO RUN IN A STRAIGHT LINE FROM SURFACE STRUCTURE TO SURFACE STRUCTURE.

~ REFERENCE PLANS ~

- PLAN ENTITLED "BOUNDARY LINE ADJUSTMENT FOR LEBANON SCHOOL DISTRICT & FRANK & JANET THIBODEAU", DATED JUNE 9, 2003, PROJECT NO. 10689, RECORDED AS PLAN NO. 11613, PREPARED BY PATHWAYS CONSULTING, LLC.
- PLAN ENTITLED "ROGER MURRAY & ALFRED E. STEWART BANK STREET LEBANON, N.H.", DATED JUNE 9, 1971, RECORDED IN BOOK 1139 PAGE 31, PREPARED BY KENNETH A. LECLAIR.

~ CHAPTER 676:18 SECTION III CERTIFICATION ~

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

JOSEPH A. DIBERNARDO, N.H. L.L.S. #963

2/24/22
DATE

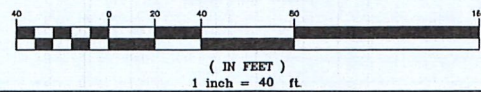
~ REFERENCE DEEDS ~

- DEED FROM LEBANON SCHOOL DISTRICT TO EXECUSUITE, LLC RECORDED IN BOOK 4018 PAGE 186 ON OCTOBER 11, 2013.
- DEED FROM ARTHUR HOUGH AND ANCIL HUNT TO THE LEBANON SCHOOL DISTRICT RECORDED IN BOOK 586 PAGE 85 ON MARCH 27, 1925.
- DEED FROM ALLEN CARPENTER TO LEBANON SCHOOL DISTRICT RECORDED IN BOOK 587 PAGE 54 ON MAY 6, 1925.
- DEED FROM FRANK AND JANET THIBODEAU TO LEBANON SCHOOL DISTRICT RECORDED IN BOOK 2894 PAGE 902 ON SEPTEMBER 23, 2003.
- DEED FROM LEBANON SCHOOL DISTRICT TO GEORGE MOORE RECORDED IN BOOK 599 PAGE 594 ON NOVEMBER 3, 1926.

~ LEGEND ~

- PROPERTY LINE
- RIGHT OF WAY LINE
- APPROX. PROPERTY LINE
- IRON PIN FOUND
- 5/8" Ø IRON ROD SET
- STONE WALL
- STOCK FENCE
- CHAIN LINK FENCE
- UTILITY POLE
- BROOK
- SEWER MANHOLE
- DRAIN MANHOLE
- GATE VALVE
- CATCH BASIN
- FIRE HYDRANT
- SANITARY SEWER LINE
- WATER LINE
- STORMWATER LINE

GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.

PLAN SHOWING THE PROPERTY OF
EXECUSUITE LLC
75 BANK STREET
LEBANON, NH 03766
PARCEL ID 92-78
AND PROPERTY OF
CHORRO, LLC
77 BANK STREET
LEBANON, NH 03766
PARCEL ID 92-79
~ BANK STREET ~ LEBANON NH ~ GRAFTON COUNTY ~

DIBERNARDO ASSOCIATES, LLC

VT NH
LICENSED LAND SURVEYORS

P.O. BOX 62
BELLFLOWERS FALLS, VT 05101
802-469-3031 ~ 803-550-5509

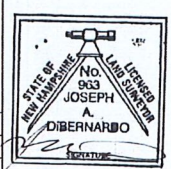
DATE FEBRUARY 24, 2022 SCALE 1" = 40'

DRAWN BY BG:JD CK'D BY JAD

SURVEYED BY BG

DWG. NO. 3433

© COPYRIGHT 2022 DIBERNARDO ASSOCIATES, LLC.





75 BANK STREET
APARTMENTS

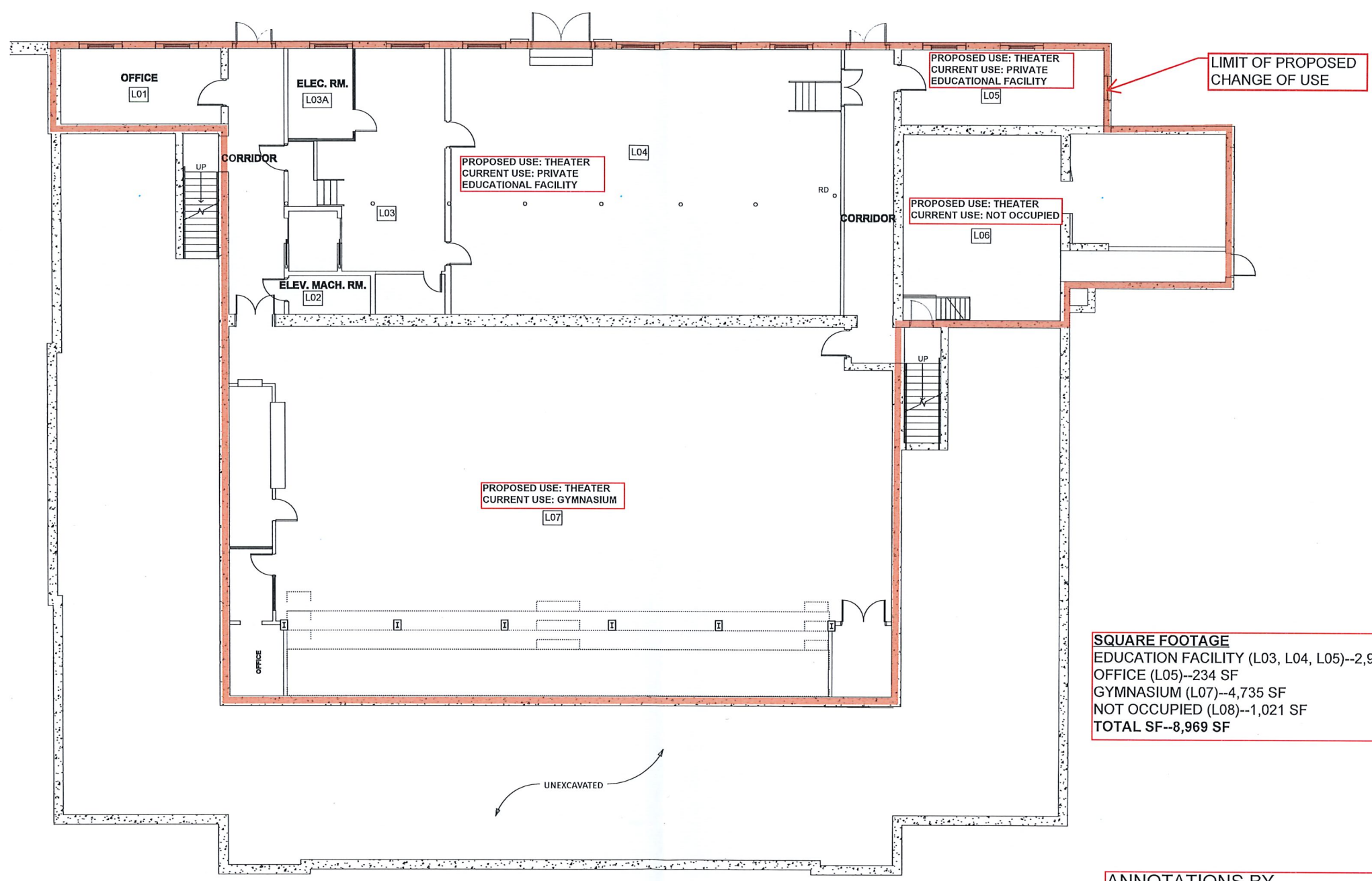
Issued For: CONSTRUCTION
Issued Date: MAY 15, 2014

Revisions		
No.	Description	Date

LOWER BASEMENT
FLOOR PLAN

Project No.:
Drawn By: Checked By:

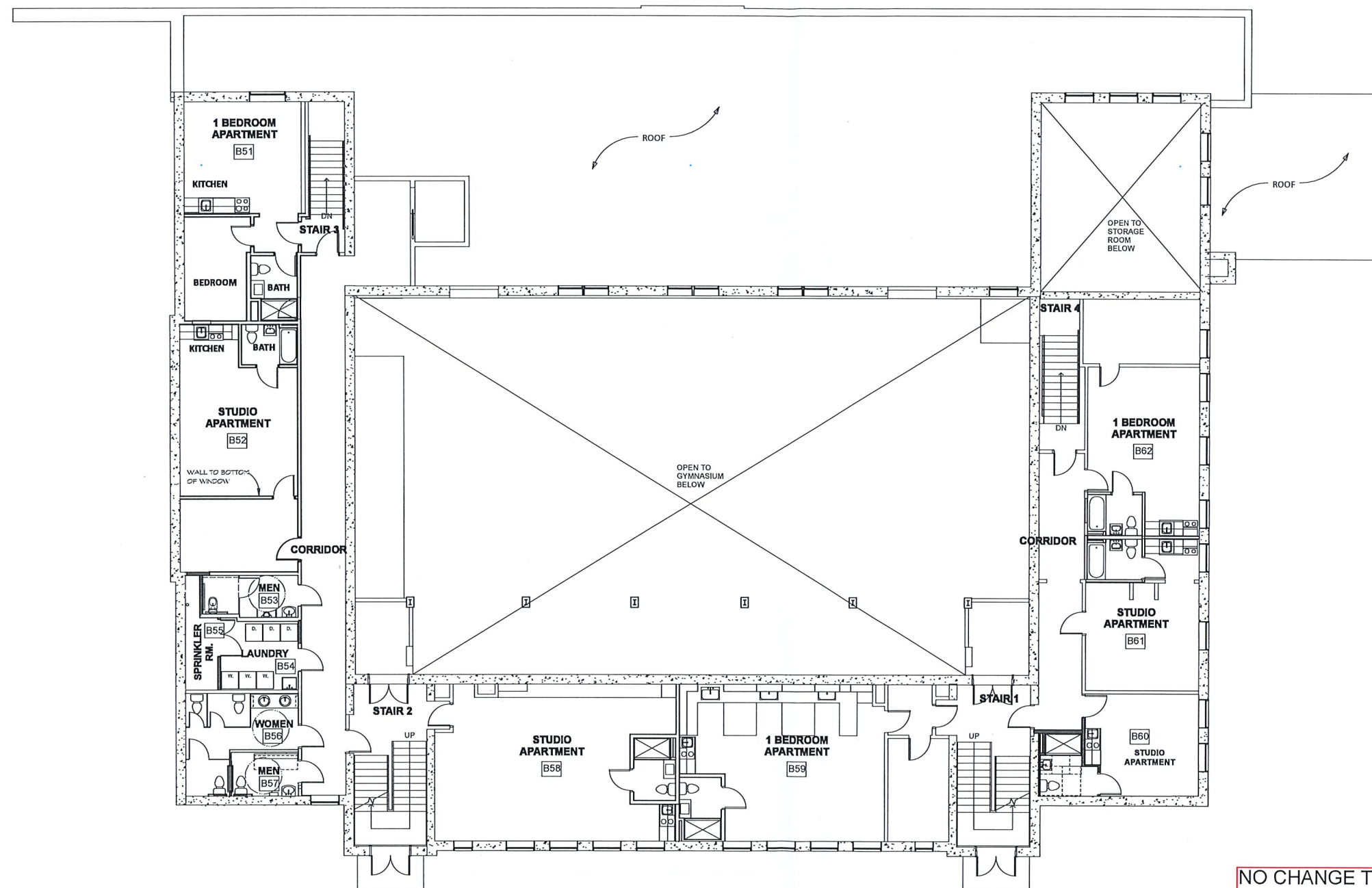
A1-1



SQUARE FOOTAGE
EDUCATION FACILITY (L03, L04, L05)--2,979 SF
OFFICE (L01)--234 SF
GYMNASIUM (L07)--4,735 SF
NOT OCCUPIED (L06)--1,021 SF
TOTAL SF--8,969 SF

ANNOTATIONS BY
STUDIO NEXUS ARCHITECTS
SEPTEMBER 15, 2022

1 FLOOR PLAN WITH ADDITIONAL LOWER BASEMENT LEVEL CHANGES



UPPER BASEMENT LEVEL



75 BANK STREET
APARTMENTS

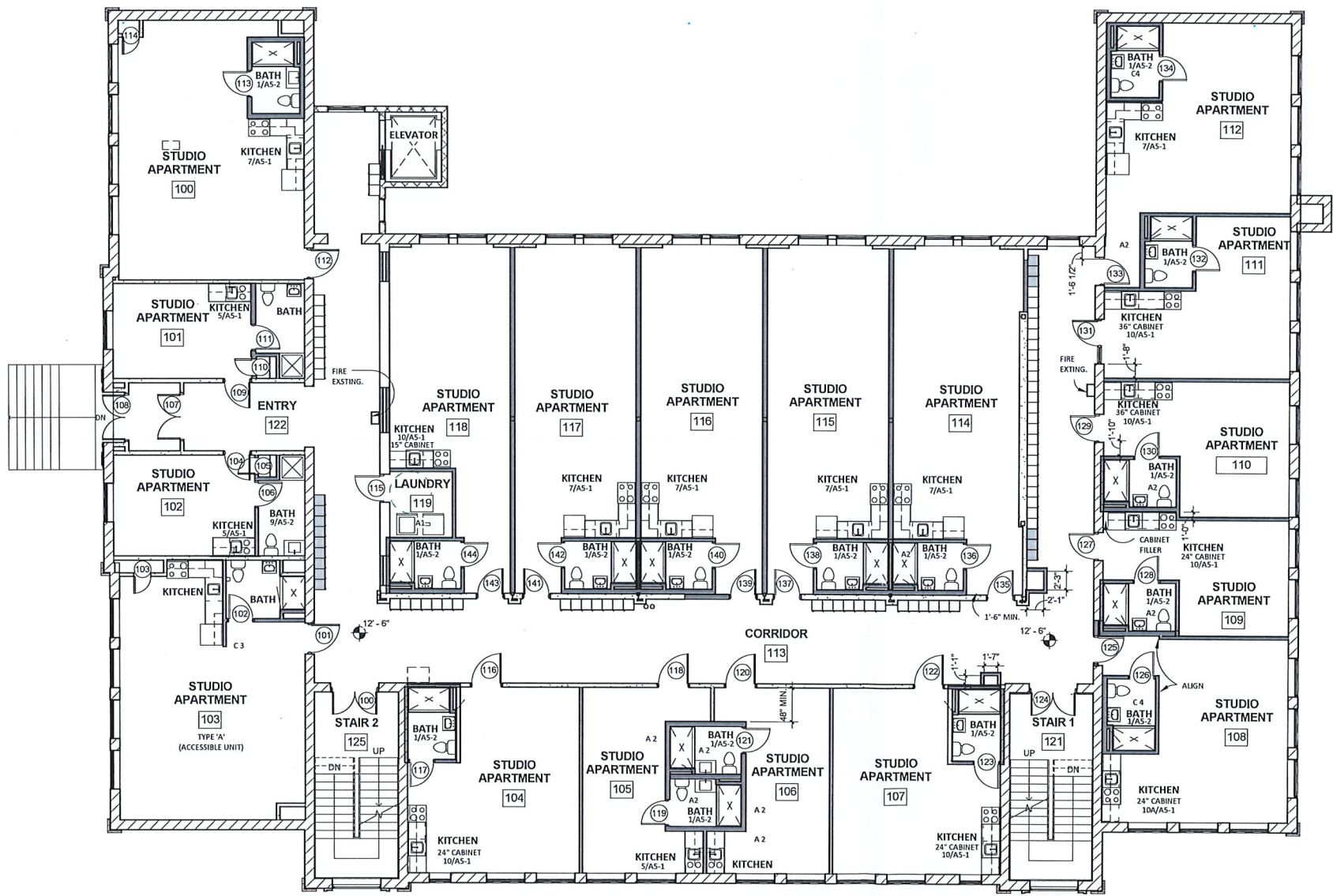
Issued For: CONSTRUCTION
Issued Date: MAY 29, 2014

Revisions		
No.	Description	Date

UPPER BASEMENT
FLOOR PLAN

Project No.:
Drawn By: Checked By:

A1-2



FIRST FLOOR PLAN

NO CHANGE THIS SHEET;
FOR REFERENCE ONLY



STUDIO

ARCHITECTS • PLANNERS, LLC

46 South Main St., Suite 200
P.O. Box 275
White River Junction, VT
05001-0275

Tel. 802-275-5110
www.studionexusarch.com

NEKUS

JAMES
WASSER
No. 3336
STATE OF NEW HAMPSHIRE

ARCHITECTS STAMP

75 BANK STREET
APARTMENTS

Issued For: CONSTRUCTION
Issue Date: JUNE 16, 2014

Revisions

No.	Description	Date

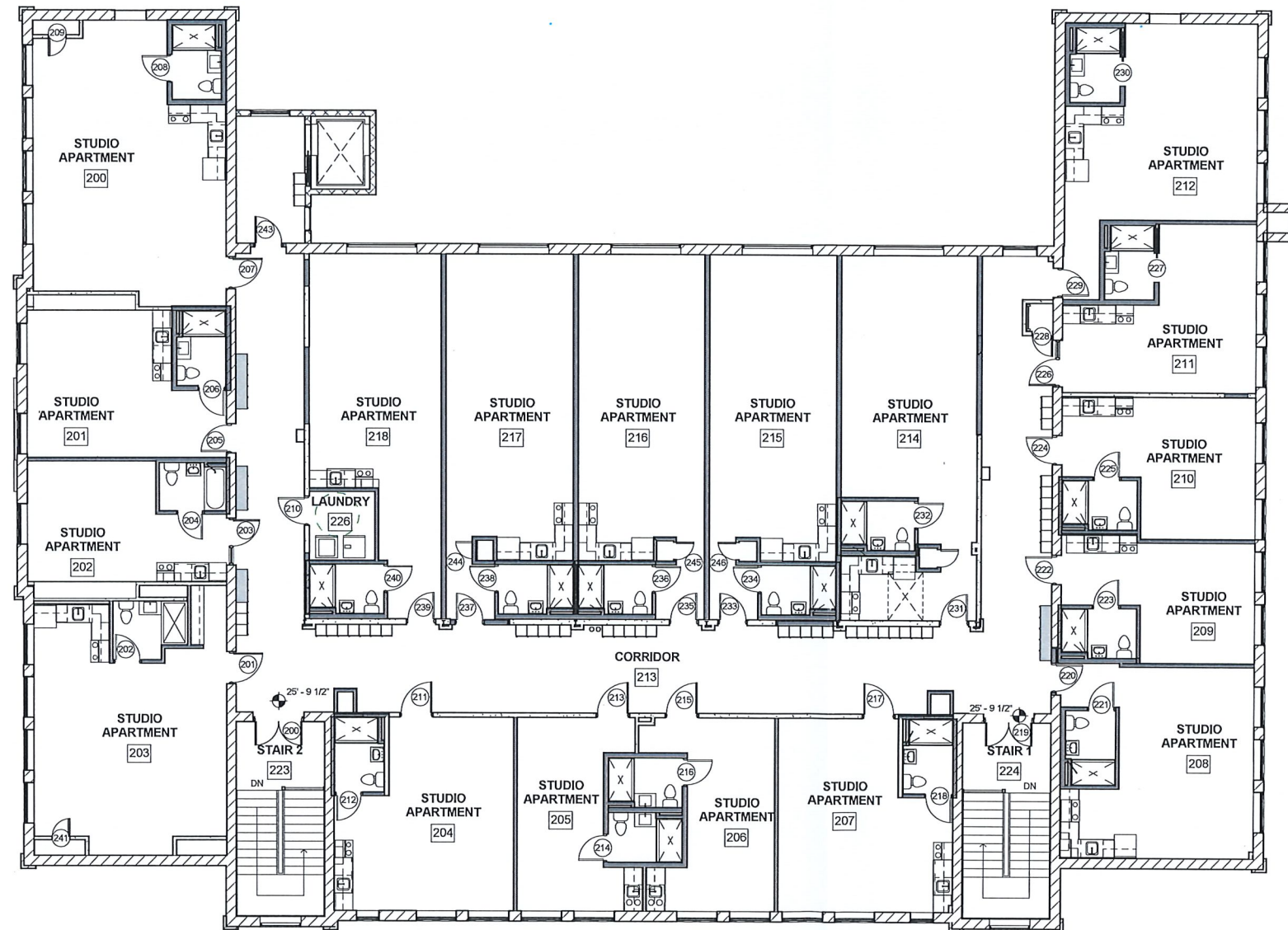
Project No.: 1310

Drawn By: WDN | Checked By: JRW

A1-3

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8/13/2015 1:43:24 PM



SECOND FLOOR PLAN

NO CHANGE THIS SHEET;
FOR REFERENCE ONLY

STUDIO

ARCHITECTS • PLANNERS, LLC

46 South Main St., Suite 200
P.O. Box 275
White River Junction, VT
05001-0275

Tel. 802-275-5110
www.studionexusarch.com

NEKUS

JAMES
P. WASSER
No. 3336
STATE OF NEW HAMPSHIRE

ARCHITECTS' STAMP

75 BANK STREET
APARTMENTS

Issued For: CONSTRUCTION

Issue Date: JUNE 16, 2014

Revisions

No.	Description	Date

SECOND FLOOR
PLAN

Project No.: 1310

Drawn By: WDN Checked By: JRW

A1-4

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8/13/2015 1:53:41 PM

**Agenda
October 3, 2022
Zoning Board of Adjustment**

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

**Dartmouth College Trustees,
1-3 Field Road
(Tax Map 5, Lot 1),
00 N. Main Street
(Tax Map 8, Lot 27),
00 Indian Ridge Drive
(Tax Map 8, Lot 28),
zoned R-3
ZB2022-23-VAR**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

October 3, 2022 Meeting

Staff Memorandum – ZB2022-23-VAR

APPLICATION INFORMATION

Agenda Item: 3.C

Application Type:

Variance from Sections 215 and 310.2 to allow an accessory use to serve an off-site principal use

Location: 1-3 Field Road (Tax Map 5, Lot 1), 00 N. Main Street (Tax Map 8, Lot 27), 00 Indian Ridge Drive (Tax Map 8, Lot 28)

Applicant/Property Owner:
Dartmouth College Trustees

Zoning District: R-3

Attachments:

- Application (14 pages total)

HEARING NOTICE

Dartmouth College Trustees, 1-3 Field Road (Tax Map 5, Lot 1), 00 N. Main Street (Tax Map 8, Lot 27), 00 Indian Ridge Drive (Tax Map 8, Lot 28), zoned R-3: The Applicant proposes to construct stormwater management facilities on the subject properties to serve a proposed expansion of the Campion ice rink located at 394 N. Main Street (Tax Map 5, Lot 2). To do so, the Applicant requests a Variance from Sections 215 and 310.2 of the Zoning Ordinance to allow an accessory use to serve an off-site principal use. ZB2022-23-VAR

BACKGROUND & PROPOSAL

The subject properties abut 394 North Main Street which is a +/-13.95-acre parcel improved with a number of outdoor recreational fields and the James W. Campion III Rink, a +/- 22,500 sq. ft. recreational ice rink. The Town of Hanover owns 394. North Main Street, whereas the ice rink itself is owned and operated by the Hanover Improvement Society.

The ice rink was originally approved in 1987 and was reapproved in by the Zoning Board in 2016, in connection with a proposed 56,570 sq. ft. expansion of the ice rink that never materialized. The Hanover Improvement Society's current plans are to construct a 6,345 sq. ft. expansion of the rink. In connection with the proposed expansion, the Zoning Board approved multiple Variances and Special Exceptions on April 1, 2022 (ZB2022-08-SEVAR).

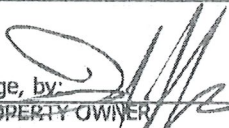
Since then, the applicant has engineered the site design and has determined that the stormwater management system will need to extend onto the subject properties owned by Dartmouth College. Accessory uses are not permitted on any property unless the accessory use serves a principal use located on the same property. Therefore, to permit construction of the ice rink's stormwater management system on the subject properties, a Variance is required from Section 310.2, the R-3 District table of uses, and from Section 215, which provides that, "An accessory use shall be permitted only upon the same lot where its respective primary use lawfully exists[.]"

To obtain the requested Variance from Section 309.3, 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).

cc: Dartmouth College Trustees
Town of Hanover

**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: Dartmouth College Trustees		TEL. #:	
MAILING ADDRESS: PO Box 5188, Hanover, NH 03755			
E-MAIL ADDRESS: Daniel.J.Justynski@dartmouth.edu			
CO-APPLICANT, AGENT, OR LESSEE:			
NAME: Town of Hanover		TEL. #: 603 643 0701	
MAILING ADDRESS: PO Box 483, Hanover, NH 03755			
E-MAIL ADDRESS: alex.torpey@hanovernh.org			
PROJECT LOCATION: <i>1-3 Field Rd, 00 N. Main St, 00 Indian</i>			
TAX MAP #: 5-1; 8-27; 8-28	LOT #:	PLOT #:	ZONE: R3 <i>Ridge Dr.</i>
STREET ADDRESS OF PROJECT: Land off Indian Ridge/1 Field Road			
IS THIS PROPERTY LOCATED IN THE: WETLANDS ☐ YES ☒ NO HISTORIC DISTRICT ☐ YES ☒ NO			
FLOOD PLAIN ☐ YES ☒ NO			
SCOPE OF PROJECT:			
Locate stormwater management facilities in an easement area			
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: <i>Indoor recreation facility</i>			
SIGNATURE BLOCK:			
Trustees of Dartmouth College, by: 		DATE: <i>9/12/22</i>	
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.			
Trustees of Dartmouth College, by:		DATE:	
PROPERTY OWNER			

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #			
<i>9/15/2022</i>	<i>5-1, 8-27, 8-28</i>	<i>2B2022 - 23 - VAR</i>			

(12/07/07)

Supplemental page

Additional co-applicant: Hanover Improvement Society
57 Main Street
Hanover, NH 03755
603 643 2408
don.derrick@comcast.net

TOWN OF HANOVER

A handwritten signature in cursive script that reads "Alex Torpey".

Alex Torpey, Town Manager

HANOVER IMPROVEMENT SOCIETY

Don Derrick, President

Supplemental page

Additional co-applicant: Hanover Improvement Society
57 Main Street
Hanover, NH 03755
603 643 2408
don.derrick@comcast.net

TOWN OF HANOVER

Alex Torpey, Town Manager

HANOVER IMPROVEMENT SOCIETY



Don Derrick, President

CAMPION RINK
HANOVER IMPROVEMENT SOCIETY
Support Statement for
Application for Variance for Stormwater Infrastructure

I. Background

On May 2, 2022, the Zoning Board of Adjustment (“ZBA”) granted Hanover Improvement Society (“HIS”) variances and a special exception to authorize the renovation and expansion of the Campion Rink facility. The renovations include, among other things, expansion of the building by approximately 6,345 square feet and limited site modifications.

Following receipt of the ZBA approvals, HIS commenced development of a site plan including drainage requirements related to the increased impervious square footage for building and site modifications. In those discussions HIS determined that due to site constraints there is not enough room on site to locate the required stormwater management facilities to serve the expanded impervious surface. Drainage to the west of the rink is restricted by a condition in the prior approval, which provides “To the extent modifications are required to the parking lot, such modifications shall not increase stormwater runoff (including snowmelt) onto properties to the west.” Land for locating stormwater facilities is limited to the north of the rink by the existing parking lot; is limited to the east of the rink by a close (45 feet) property boundary, an embankment and a wetland; and is limited to the south of the rink by a close (50 feet) property boundary. There is, however, a point of land that extends from the rink due south that could easily accommodate the required stormwater facilities. (See Exhibit 1 Attached hereto—the proposed easement area is the area that is above elevation 470 and outside of the wetlands.) This point of land is on property owned by Dartmouth College, but its utility to Dartmouth College is limited because it is surrounded by wetlands on all sides other than the rink side. Dartmouth College is willing to provide an easement to locate the stormwater facilities here. A boundary line adjustment—if Dartmouth College were willing to sell the land—would be a complex process requiring the Town of Hanover to hold a town meeting vote to accept the land and would also involve significant expense relative to the scope of the overall renovation project.

HIS’s project engineer, Pathways Consulting, LLC, discussed with City staff the possibility of locating stormwater facilities on the Dartmouth College property. After review, however, the Zoning Administrator determined that locating a stormwater facility on a neighboring property, even if it is on an easement, is prohibited by Section 215 of Lebanon Zoning Ordinance as an accessory use serving an off-site principal use.

Section 215 prohibits the location of accessory uses off-site, even if that accessory use is utility infrastructure such as stormwater facilities. Section 215 provides as follows:

An accessory use shall be permitted only upon the same lot where its respective primary use lawfully exists, except that (i) a driveway may cross over an adjacent lot provided that the use the driveway serves is a permitted use on the lot over which the driveway crosses, and (ii) a common driveway serving not more than two adjacent lots is also permissible provided that the use(s) the common driveway serves is (are) permitted use(s) on the lot(s) over which the common driveway crosses. In the case of lots in two or more zoning districts, an accessory use shall be permitted only on that portion of the lot where its respective primary

use is permitted.

HIS and Pathways believe that as a practical matter utilities and infrastructure (stormwater ponds, shared septic and sewer lines, shared wells, retaining walls, landscaping, etc.—none of which are referenced in the table of uses and all of which are allowed as a matter of course in any zoning district) are often located on abutting properties both with and without easements. Based on experience, this is the case in area municipalities outside of Lebanon. A Lebanon precedent of allowing stormwater facilities to be located off-site on adjacent property is seen in the Westboro Woods project, which received subdivision and site plan review approval in 2005. In that case, the Westboro Woods residential development was approved in a residential district with stormwater facilities located on abutting property in an industrial district. The project received full review and approval and was fully reviewed by City staff. At no point were any issues raised as to the location of the stormwater facilities on an abutting lot. HIS also notes that the stormwater pond serving Centerra Business Park is located off of the lots that it serves, and is described as an “off-site detention pond” in the Centerra plans. (See Exhibit 2 attached hereto). Ultimately, however, the Zoning Administrator determined that Section 215 applied to stormwater facilities notwithstanding Westboro Woods.

Given the site constraints here, it would be a hardship for HIS if they cannot locate the stormwater facilities on the proposed easement. Although underground stormwater treatment and detention facilities could possibly be engineered under the rink parking lot, the cost of such a facility would be multiples of a facility on the easement area and would make the rink renovation unreasonably expensive. In addition, such a stormwater facility may require an outlet to be constructed in the wetlands resulting in additional environmental impacts, which may run afoul of the City’s Master Plan and current stormwater regulations requiring the use of least impactful alternatives.¹ The increased costs, additional environmental impacts, and questionable ability to comply with current regulations create an unnecessary hardship. Accordingly, HIS applies for a variance from Zoning Ordinance Section 215 and Section 310.2 to allow the location of a stormwater facility to serve a non-public, indoor recreation facility on an off-lot easement in an R3 district.

HIS submits the following support statement in connection with its application for a variance to address the variance criteria in Zoning Ordinance Section 801.2.A.

- 1. The variance, if authorized, will not be contrary to the public interest; and**
- 2. The spirit of the Ordinance is observed.**

As the N.H. Supreme Court has stated, “[t]he requirement that the variance not be contrary to the public interest is related to the requirement that it be consistent with the spirit of the ordinance.” *Harborside Assocs., L.P. v. Parade Residence Hotel, LLC*, 162 N.H. 508, 514, 34 A.3d 584, 588-589 (N.H. 2011). Thus, it is appropriate to review these two criteria together.

The N.H. Supreme Court has provided the following guidance to determine whether a proposal will be contrary to the public interest and consistent with the spirit of the ordinance:

¹ The City stormwater regulations incorporate the least impactful alternatives requirement by reference to the federal regulations.

We first address the public interest and spirit of the ordinance factors. “The requirement that the variance not be contrary to the public interest is related to the requirement that [it] ... be consistent with the spirit of the ordinance.” *Farrar v. City of Keene*, 158 N.H. 684, 691, 973 A.2d 326 (2009) (quotation omitted). The first step in analyzing whether granting the variance would not be contrary to the public interest and would be consistent with the spirit of the ordinance is to examine the applicable ordinance. *See Chester Rod & Gun Club v. Town of Chester*, 152 N.H. 577, 581, 883 A.2d 1034 (2005). “As the provisions of the ordinance represent a declaration of public interest, *any* variance would in some measure be contrary thereto.” *Id.* (quotation omitted). Accordingly, to adjudge whether granting a variance is not contrary to the public interest and is consistent with the spirit of an ordinance, we must determine whether to grant the variance would “unduly, and in a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives.” *Id.* (quotations omitted). Thus, for a variance to be contrary to the public interest and inconsistent with the spirit of the ordinance, its grant must violate the ordinance's “basic zoning objectives.” *Id.* (quotation omitted). Mere conflict with the terms of the ordinance is insufficient. *See id.*

We have recognized two methods for ascertaining whether granting a variance would violate an ordinance's “basic zoning objectives.” One way is to examine whether granting the variance would “alter the essential character of the neighborhood.” *Id.* (quotation omitted). Another approach “is to examine whether granting the variance would threaten the public health, safety or welfare.” *Id.*

Harborside Assocs., 162 N.H. at 514, 34 A.3d at 589.

An examination of the language of the Ordinance demonstrates that the project does not violate the Ordinance's basic zoning objectives.

First, the project is consistent with stated purposes of the Ordinance. Allowing HIS to locate the stormwater facilities on an easement is consistent with the following specifically stated goals in Section 102:

- Promote health and the general welfare. The project will support the renovation of the Champion Rink recreational facility to provide better recreational facilities for the health and general welfare of the community, and will ensure that stormwater is properly managed and does not adversely impact the surrounding properties and wetlands.
- Prevent the overcrowding of land by people and structures by avoiding undue concentration of population and preserving open space. Locating the stormwater facilities on the proposed easement would put the facilities in an out of the way

area without interfering with the use of the rink property or taking up and crowding part of the parking lot for a structure.

- Promote adequate facilities and infrastructure for transportation, solid waste, water, sewerage, energy, schools, recreation, parks, and child day care. The primary purpose of the stormwater facilities is to ensure proper management of water flow from stormwater runoff.
- Protect and assure proper stewardship of natural resources. The project will be designed to protect the surrounding wetlands.

Second, the stormwater management facilities will not alter the essential character of the neighborhood and will not adversely affect the public health, safety or welfare. The function and form of stormwater facilities is driven by the goal of managing stormwater runoff from impervious surfaces without regard to the associated land use. There is no difference between stormwater facilities that serve a recreational use and stormwater facilities that serve any other use—including residential. Thus, stormwater facilities are allowed as a matter of course in every zoning district in the City and allowing stormwater facilities in the R3 district will not alter the essential character of the neighborhood or adversely affect the public health, safety or welfare. Furthermore, the requested variance impacts a limited area that will not be readily visible from off-site and its operation will not create any noise beyond initial construction and occasional maintenance activities. Thus, the stormwater facilities on the proposed easement will not be seen or heard.

For the foregoing reasons, the requested variance will not be contrary to the public interest.

3. Substantial justice is done.

The N.H. Supreme Court has discussed the substantial variance factor as follows:

“Perhaps the only guiding rule [on this fact] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.” 15 P. Loughlin, *New Hampshire Practice, Land Use Planning and Zoning* § 24.11, at 308 (2000) (quoting New Hampshire Office of State Planning, *The Board of Adjustment in New Hampshire, A Handbook for Local Officials* (1997)). [W]e also looked at whether the proposed development was consistent with the area’s present use. [citation and internal quotations omitted].

Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 109 (N.H. 2007)

Applying the above standard to the project, the loss to the Applicant of not being able to locate the stormwater facilities on an easement is the increased cost, likely environmental impacts, and uncertainty of compliance with current stormwater regulations that would effectively prevent the associated renovation project from proceeding. On the other hand, there is no gain to the public by denying the ability to locate the stormwater facilities on an easement.

4. The values of surrounding properties are not diminished.

As noted above, stormwater facilities are allowed as a matter of course in the surrounding area and are not unique or detrimental in this location. The stormwater facilities here will also have limited visibility from off-site and their operation will make no noise beyond occasional maintenance activities. In addition, the stormwater facilities will both enable the previously approved improvements to be made to Campion Rink and ensure that stormwater runoff from the expanded rink area is properly managed in accordance with current regulations to avoid impacts on surrounding properties. The project will not result in any significant or adverse new impacts. Accordingly, the project will not diminish the values of surrounding properties.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

- (a) For purposes of this subparagraph, "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; and
 - (ii) The proposed use is a reasonable one.
- (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 conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. The definition of "unnecessary hardship" set forth in subparagraph 5 shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

New Hampshire Supreme Court cases applying the post-*Simplex* unnecessary hardship standard demonstrate that a broad range of features can constitute "special conditions" for purposes of this criterion. Special conditions may, but need not be, found in the property location, its size, and/or its shape. In *Rancourt v. City of Manchester*, the Court found that special conditions existed because the property a) was in a country setting, b) was larger than most of the surrounding lots, and c) was larger in the rear than in the front. 149 N.H. 51, 53, 816 A.2d 1011, 1013 (N.H. 2003). The Court noted that owing to these special conditions, and other factors, the proposed use of stabling horses was reasonable. *Id.* In *Harborside Assocs, L.P. v. Parade Residence Hotel, LLC*, the Court found that the building on the property (a hotel and conference center), rather than a feature of the property itself, had unique characteristics that made the proposed use (signs) a reasonable use of the property. 162 N.H. 508, 518, 34 A.3d 584, 592 (N.H. 2011). Similarly, in *Farrar v. City of Keene*, the Court found that an existing large residence on the property, as opposed to a feature of the land itself, made the property unique in an area of non-residential buildings. 158 N.H. 684, 689-690, 973 A.2d 326, 330-331 (N.H. 2009). The court found that the special condition of the structure and the neighborhood made the proposed mixed office and residential use reasonable. *Id.*

Here, no fair and substantial relationship exists between the purposes of the Zoning Ordinance and the specific application of the ordinance to this property. There is nothing unique or out of the ordinary about locating stormwater management facilities in an R3 district. In addition, the associated rink renovation project has already been approved and thus is a reasonable use of the land. The project is only prevented due to the legal form of ownership of the involved land. Overall, there are no fundamental purposes of the Zoning Ordinance that are furthered by denying the use of an easement where (a) there is no room on the Campion Rink property to locate the stormwater facilities, and (b) the involved landowners, Dartmouth College and the Town of Hanover, are both willing locate the stormwater management facilities on an easement. Accordingly, the proposed project meets the unnecessary hardship test under Section 801.2.A.5(a).

The proposed project also meets the unnecessary hardship test in Section 801.2.A.5(b) due to special conditions of the property. Here, due to the existing, historic site layout the property does not have enough available land to locate the stormwater facilities on-site without considerable expense and unnecessary environmental impacts. *See Farrar v. City of Keene*, 158 N.H. 684, 689-690, 973 A.2d 326, 330-331 (N.H. 2009) (finding existing large residence on the property, as opposed to a feature of the land itself, made property unique.) The requested variance is therefore necessary to allow the renovations of the rink, which have already been permitted, and is a reasonable use of the property.

For the foregoing reasons, HIS respectfully requests that the Zoning Board of Adjustment grant the requested variance to locate stormwater facilities on an easement.

7

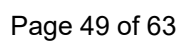


Figure 1. Schematic representation of the experimental design. The subjects were divided into two groups: the control group (CG) and the experimental group (EG). The CG was exposed to a control environment (CE) and the EG was exposed to an experimental environment (EE). The EG was further divided into two subgroups: the EG1 and the EG2. The EG1 was exposed to a control environment (CE) and the EG2 was exposed to an experimental environment (EE). The EG1 and the EG2 were further divided into two subgroups: the EG1.1 and the EG1.2, and the EG2.1 and the EG2.2, respectively. The EG1.1 and the EG1.2 were exposed to a control environment (CE) and the EG2.1 and the EG2.2 were exposed to an experimental environment (EE).

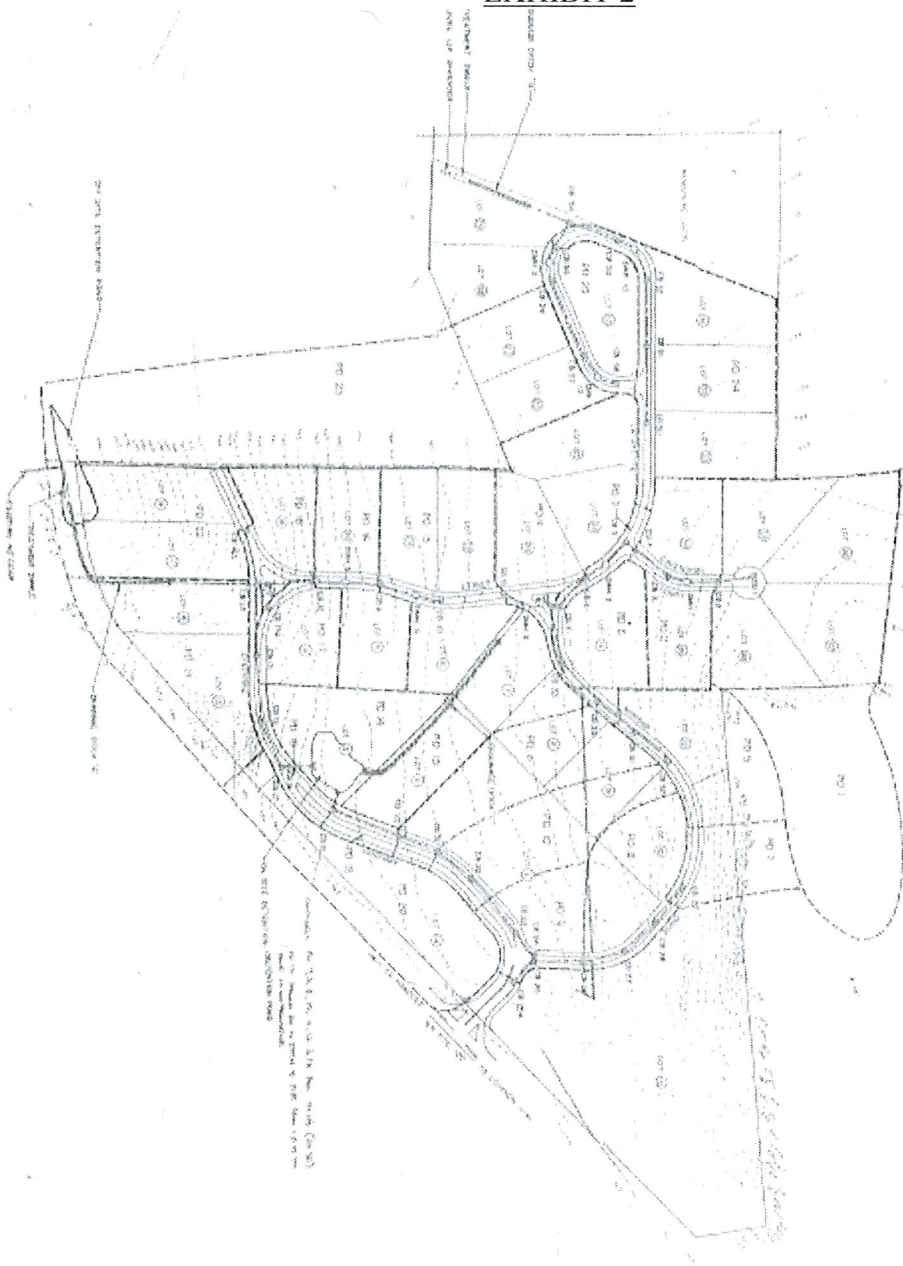
[illegible]

FIGURE
Drainage Plan for Cent

[illegible]

Contact Nate Stearns
for fee

Nathan H. Stearns
nstearns@sheeheyvt.com

September 15, 2022

Tim Corwin, Senior Planner
Lebanon Planning & Development
51 N. Park St.
Lebanon, NH 03766

Re: Hanover Improvement Society, Campion Rink Stormwater
~~Appeal of Administrative Decision, or, in the alternative, Application for Variance~~

Dear Tim:

On behalf of Hanover Improvement Society, please find enclosed application materials for a variance from Zoning Ordinance Section 215 and Section 310.2 to allow the location of a stormwater facility to serve a non-public, indoor recreation facility on an off-lot easement in an R3 district. Note that the 8.5x11 exhibits to the support statement are slightly fuzzy, so I have included 11x17 copies of those exhibits as well. Also enclosed herewith in a check in the amount of \$373.39 for the application fees.

Please contact me if you have any questions further about this application or need further information.

Thank you

Sincerely,

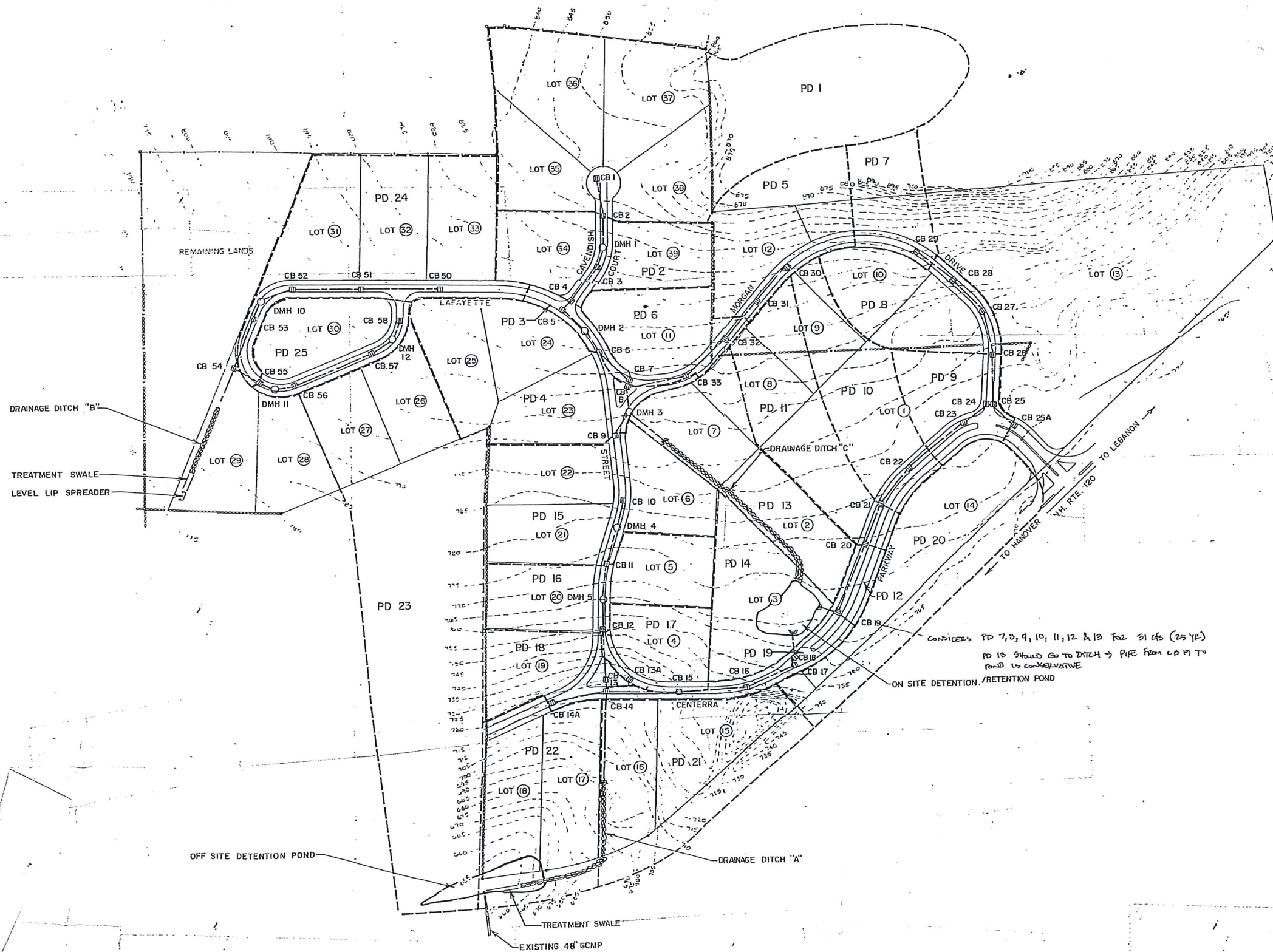
SHEEHEY FURLONG & BEHM P.C.

/s/ Nathan H. Stearns

Nathan H. Stearns

Enclosure
cc (by email):
Don Derrick
Daniel Justynsky
Alex Torpey
Jeff Goodrich
Will Mudge
Randy Mudge

TRUE AS PER REFERENCE PLAN



DRAINAGE PIPE DATA

LOCATION	PIPE SIZE (IN.)	SLOPE	CAPACITY (CFS)	
			REQUIRED	PROVIDED
CB1 TO CB2	18	0.0400	20	21.5
CB2 TO DMH1	18	0.0623	23	26.5
DMH1 TO CB3	18	0.0797	25	29.0
CB3 TO CB4	18	0.0771	25	28.5
CB4 TO CB5	21	0.0311	25	27.5
CB5 TO DMH2	21	0.0222	25	25.0
DMH2 TO CB6	21	0.0236	25	25.0
CB6 TO CB7	21	0.0283	25	27.0
CB7 TO CB8	24	0.0454	35	47.5
CB30 TO CB31	15	0.0783	10	19.0
CB31 TO CB32	15	0.0650	10	17.5
CB32 TO CB33	18	0.0323	10	19.0
CB33 TO CB8	21	0.0171	18	21.0
CB8 TO DMH3	24	0.0575	35	54.5
CB9 TO DMH3	24	0.0077	20	20.0
DMH3 TO HEADWALL	30	0.0167	55	55.0
CB29 TO CB28	15	0.0942	3	19.5
CB28 TO CB27	15	0.0980	9	20.0
CB27 TO CB26	15	0.0948	9	19.5
CB26 TO CB25	15	0.0894	9	19.0
CB25A TO CB25	15	0.0072	3	5.5
CB25 TO CB24	24	0.0045	15	15.5
CB24 TO CB23	24	0.0038	15	15.0
CB23 TO CB22	24	0.0038	15	15.0
CB22 TO CB21	24	0.0049	18	17.0
CB21 TO CB20	24	0.0097	23	23.0
CB20 TO CB19	21	0.0246	24	25.5
CB19 TO HEADWALL	21	0.0620	31	39.0
HEADWALL TO CB18	36	0.0636	69	170
CB18 TO CB17	36	0.0133	69	77.0
CB17 TO CB16	27	0.0500	69	70.0
CB16 TO CB15	27	0.0500	69	70.0
CB15 TO CB14	27	0.0500	69	70.0
CB10 TO DMH4	18	0.0641	25	27.0
DMH4 TO CB11	18	0.0850	25	30.0
CB11 TO DMH5	18	0.0967	27	31.5
DMH5 TO CB12	21	0.1036	40	50.0
CB12 TO CB13	21	0.0817	40	44.5
CB13A TO CB13	18	0.0102	9	10.5
CB13 TO CB14	24	0.0500	50	50.0
CB14A TO CB14	15	0.0139	6	7.7
CB14 TO HEADWALL	27	0.0797	82	88.0
CB50 TO CB51	15	0.0221	6	9.0
CB51 TO CB52	15	0.0228	9	9.0
CB52 TO DMH10	18	0.0230	13	16.0
DMH10 TO CB53	18	0.0241	13	17.0
CB53 TO CB54	18	0.0632	13	27.0
CB58 TO DMH12	12	0.0244	3	5.5
DMH12 TO CB57	12	0.0258	3	5.5
CB57 TO CB56	12	0.0347	3	6.0
CB56 TO DMH11	12	0.0322	3	6.0
DMH11 TO CB55	12	0.0067	3	3.0
CB55 TO CB54	12	0.0299	5	6.0
CB54 TO HEADWALL	18	0.0109	16	16.0

FIGURE 2-
Drainage Plan for Centerra

Rev.	No.	Date	Description	Made By	Checked By
DRAINAGE PLAN FOR					
CENTERRA					
ROUTE 120 - CITY OF LEBANON - GRAFTON COUNTY, NH					
T & M ASSOCIATES, INC.					
ENGINEERING & SURVEYING					
Wheelock Office Park, Box 9					
23 Old Eino Road					
Lebanon, New Hampshire 03766					
(603) 448-1295					
Sheet					
Scale:					
Design:					
Drawn:					
Checked:					
Date:					
Job No:					

**Agenda
October 3, 2022
Zoning Board of Adjustment**

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

**Eric and Susan Cole,
162 Mechanic Street
(Tax Map 105, Lot 14),
zoned R-2
ZB2022-24-VAR**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

October 3, 2022 Meeting

Staff Memorandum – ZB2022-24-VAR

APPLICATION INFORMATION

Agenda Item: 3.D

Application Type: Variance from §309.3 to allow access ramp within the minimum required front yards

Location: 162 Mechanic Street
(Tax Map 105, Lot 14)

Applicants/Property Owners:
Eric & Susan Cole

Zoning District: R-2

Property Size: +/-0.36 acres
(+/-15,682 sq. ft.) (per the City Assessor's records; property is conforming to the min. 10,000 sq. ft. lot size required per §309.3 for Class 1 lots in the R-2 District)

Existing Improvements/Land Use:
+/-2,160 sq. ft. (finished) two-story mixed use building constructed in 1900, containing two (2) dwelling units and office space

Proposed Land Use: construction of handicap accessible access ramp

Overlay Districts: None

Previous ZBA Action (since 1995):
SE granted in 2017 to allow conversion of 3-family dwelling to a 2-family dwelling and an office (ZB2017-03-SE)

Other Approvals Required:
Building Permit

Attachments: application (7 pgs)

HEARING NOTICE

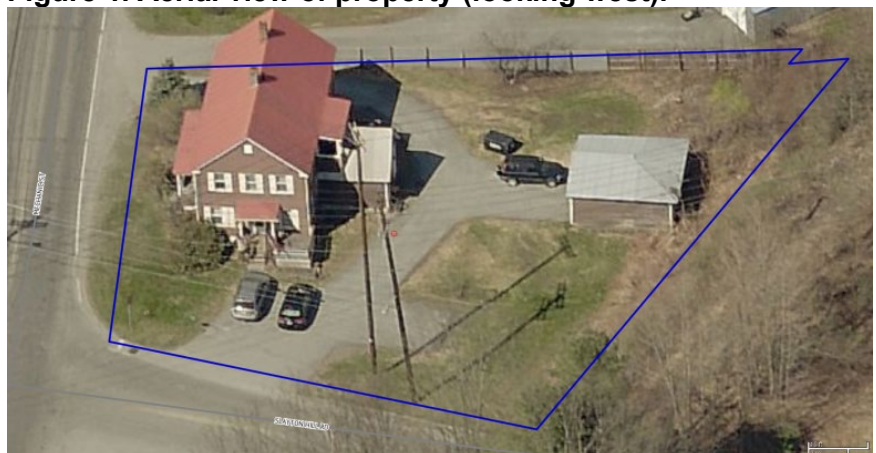
Eric and Susan Cole, 162 Mechanic Street (Tax Map 105, Lot 14), zoned R-2: Applicants request a Variance from Section 309.3 of the Zoning Ordinance to allow an access ramp to be located +/-8 ft. from the front property line along Mechanic Street and +/-6 ft. from the front property line along the property's other frontage, where 20 ft. is the minimum required. ZB2022-24-VAR

BACKGROUND & PROPOSAL

The subject property is located in the Residential Two (R-2) District and is currently improved with a mixed used building containing a two-family dwelling and an office. See Figure 1 for an aerial view. Fronting on a major thoroughfare at the corner of a busy intersection (See Figure 2), the property is surrounded by a mix of uses and is located directly across the street from the General Commercial (GC) District.

To provide handicap accessibility to the office use (currently a realtor's office), the applicants have constructed a handicap accessible ramp. However, the ramp is located within the minimum required 20 ft. front yard along the property's Mechanic Street frontage and its other frontage along what is technically Slayton Hill Road. To allow the ramp as constructed and to make additional adjustments to comply with applicable Building Code requirements, the applicants request a Variance from Section 309.3 to allow the ramp to be located +/-8 ft. from the front property line along Mechanic Street and +/-6 ft. from the front property line along the property's other frontage.

Figure 1. Aerial view of property (looking west).



STAFF MEMORANDUM

ZB2022-24-VAR
162 Mechanic St (105-14)
October 3, 2022 ZBA Meeting
Agenda Item 3.D
Page 2 of 2

Figure 2. Aerial view of property (looking south).



Attachments

cc: Eric & Susan Cole (via e-mail)
File

**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:	ERIC and Susan Cole		TEL.#:	603-252-2567 (c)		
MAILING ADDRESS:	450 Poverty Lane, Lebanon NH 03766					
E-MAIL ADDRESS:	escc.cole@gmail.com					
CO-APPLICANT, AGENT, OR LESSEE:						
NAME:			TEL.#:			
MAILING ADDRESS:						
E-MAIL ADDRESS:						
PROJECT LOCATION:						
TAX MAP #:	105	LOT#:	14	PLOT #:	ZONE:	R2
STREET ADDRESS OF PROJECT: 162 Mechanic Street						
IS THIS PROPERTY LOCATED IN THE:						
WETLANDS		☐ YES	☒ NO	HISTORIC DISTRICT		☐ YES ☒ NO
FLOOD PLAIN		☐ YES	☒ NO			
SCOPE OF PROJECT:						
Requesting a Variance from the zoning Board to allow for the encroachment of a Handicapped Ramp into the 20' Front Setback						
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: to be +/- 6' from the prop. line where 20' is req.						
SIGNATURE BLOCK:						
Eric Cole			Susan Cole		DATE: 9/14/22	
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: _____						
PROPERTY OWNER						

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #			
9-19-22	105-14	ZB-2022-			
		24-VAR			

(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) 3(III)
Section(s) 309 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;

The ramp is not contrary to public interest as it improves access for all people with a variety of needs.

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

Although the ramp will encroach within the setbacks it is necessary for the ramp to be in this location due to safety, slope and access to building. Therefore, it is honoring the spirit of the ordinance by improving access for all.

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

We believe that by granting this variance the needs of more people will be met and justice will be done.

4. That the variance, if authorized, will not diminish the values of surrounding properties The ramp will not diminish the properties around this building as many properties near it have ramps. 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

_____; and

(ii) The proposed use is a reasonable one.

(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.

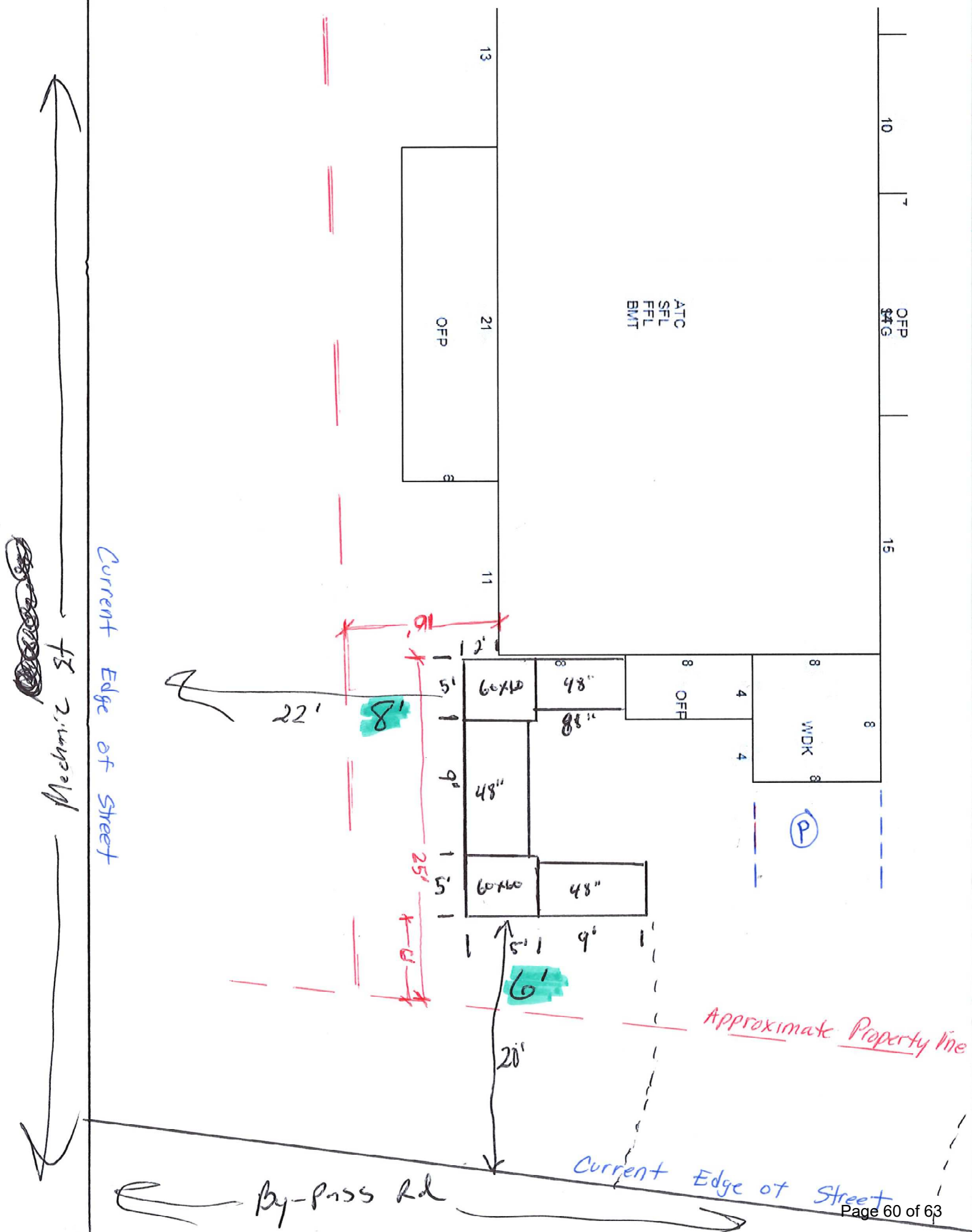
The commercial office use requires handicapped accessibility - due to the proximity of property lines on 2 Front yards any construction of handicapped ramps will fall within setbacks regardless of design.

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:

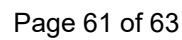
"The intent of [this statutory change] is to eliminate the separate 'unnecessary hardship' standard for 'area' variances, as established by the New Hampshire supreme court in the case of *Boccia v. City of Portsmouth*, 155 N.H. 84 (2004), and to provide that the unnecessary hardship standard shall be 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)."

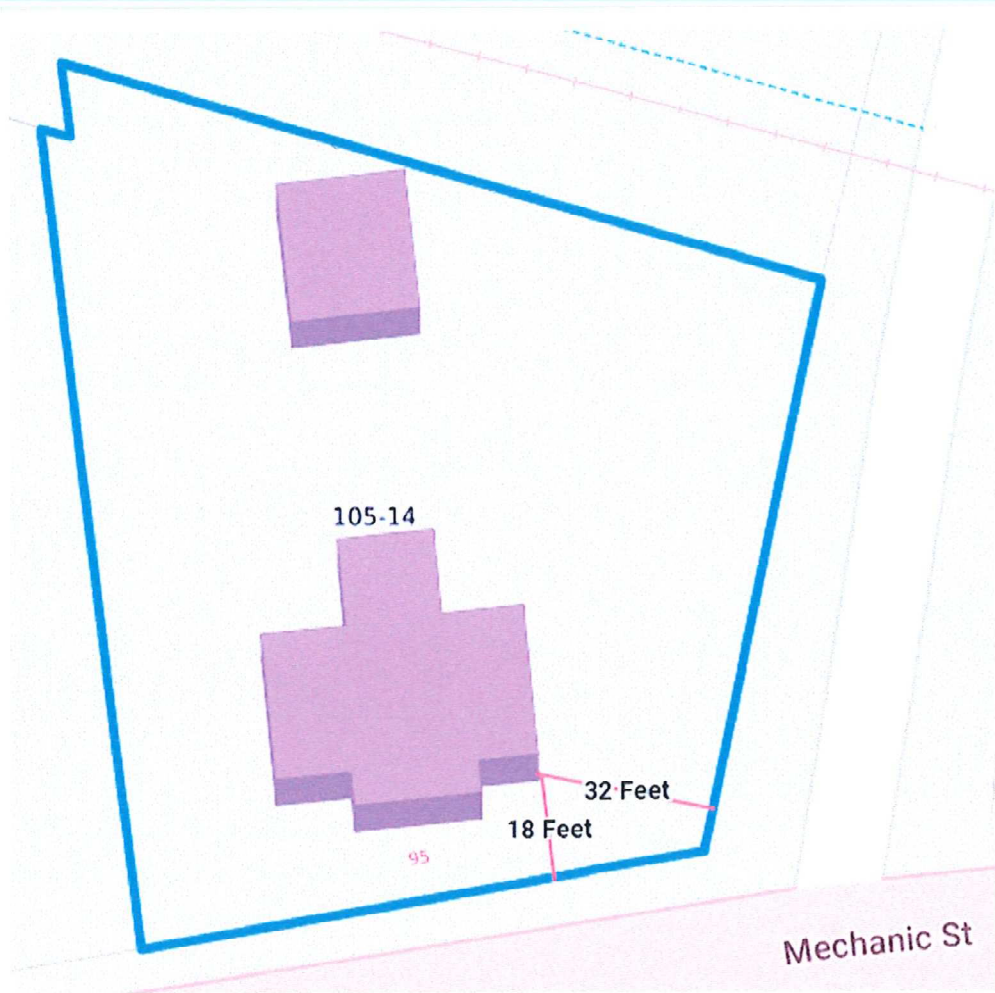


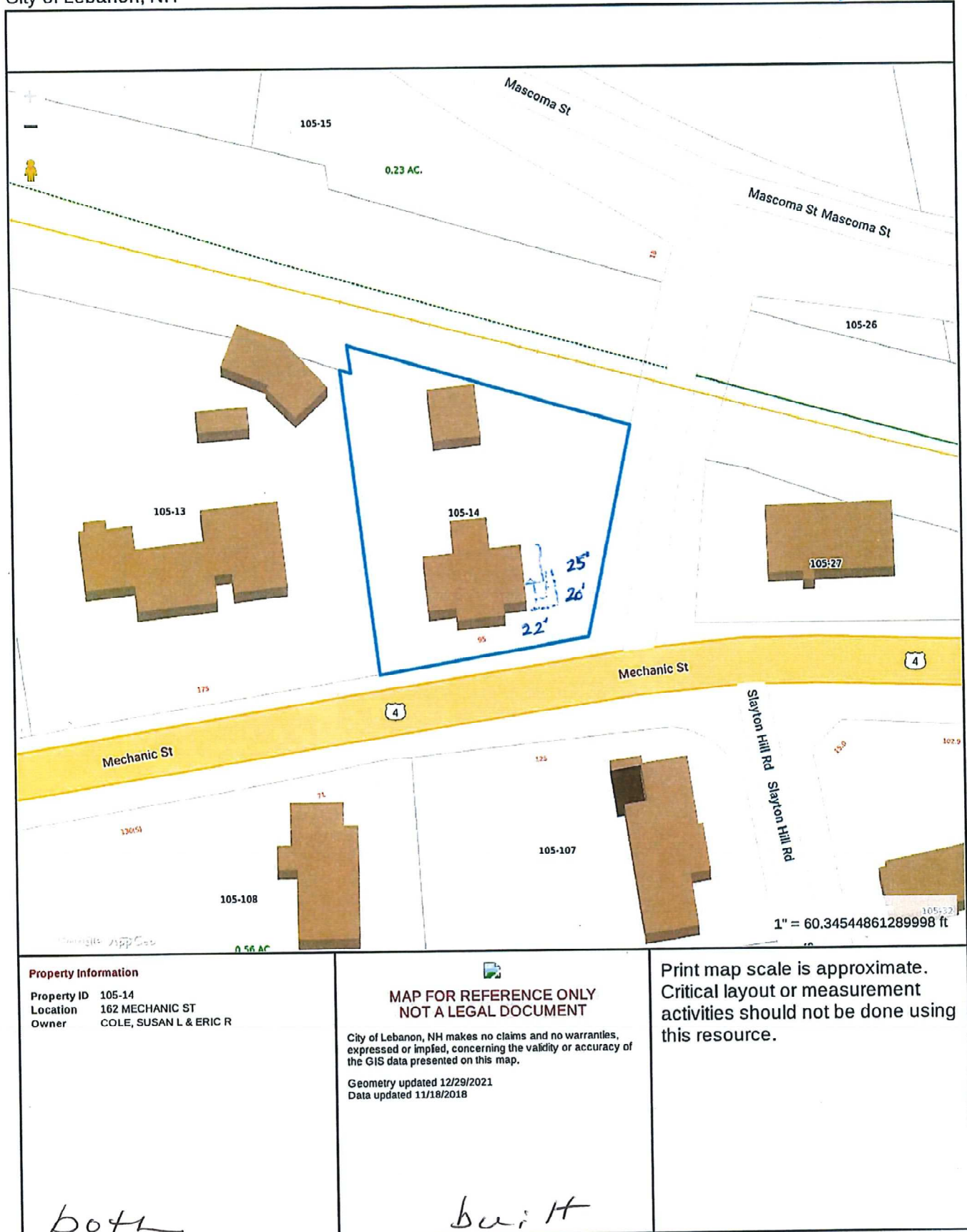
MASSCOMA
ST

27
25

710







Property Information

Property ID 105-14
 Location 162 MECHANIC ST
 Owner COLE, SUSAN L & ERIC R

**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 12/29/2021
 Data updated 11/18/2018

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

both
 5' sq.

built
 4' sq