



**LEBANON ZONING BOARD OF ADJUSTMENT
NOVEMBER 16, 2020 - 7:00 PM
REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE**

1. Call to Order

- A. Review of meeting procedures and NH RSA 91-A "Right-to-Know" requirements.

2. Approval of Minutes

- A. November 2, 2020

3. Public Hearing Items

- A. William Reed, 5 Light Street (Tax Map 91, Lot 164), zoned R-3:
Applicant requests a Special Exception pursuant to Sections 310.2 and 600B of the Zoning Ordinance to allow a home-based agricultural business, consisting of the indoor cultivation of microgreens and the propagation of flower, vegetable, and herb starts. ZB2020-35-SE -
Continued from November 2, 2020

4. Other Business

- A. Zoning Ordinance Amendments: Review and comment to City Council on proposed amendments to the Zoning Ordinance

5. Staff Comments

6. Adjournment

The order of agenda items is subject to change.

Due to the current situation with the COVID-19 Pandemic, the City of Lebanon is offering its meetings via Microsoft Teams. Members of the public are encouraged to attend 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 Microsoft Teams software or by phone. Please visit [LebanonNH.gov/Live](https://lebanonnh.gov/Live) for full details.

Note: City Hall is temporarily closed to the public in order to help prevent of the spread of Novel Coronavirus COVID-19. City operations will continue during this time, but in-person transactions will be limited to those of a critical nature. 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. The application materials will also be posted to the City's website at [LebanonNH.gov/Agendas](https://lebanonnh.gov/Agendas).

**Agenda
Zoning Board of Adjustment
November 16, 2020**

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

November 2, 2020

DRAFT

**LEBANON ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
REMOTE VIA MICROSOFT TEAMS
LebanonNH.gov/Live
MONDAY, November 2, 2020
7:00 PM**

MEMBERS PRESENT: Chair William Koppenheffer, Vice Chair Jennifer Mercer, Dan Nash, Alan Patterson Sr., Jeremy Katz, Paul McDonough (Alt), Dave Newlove, (Alt)

MEMBERS ABSENT:

STAFF PRESENT: Tim Corwin – Senior Planner and Zoning Administrator

1. CALL TO ORDER

The meeting was called to order at 7:07 PM by Vice Chair Mercer.

A Roll Call of Board Members who participated remotely is listed above.

Chair Koppenheffer joined the meeting at 7:08 due to technical difficulties.

A. Review of meeting procedures and NH RSA 91-A “Right-to-Know” requirements

Mr. Corwin delivered the Right to Know procedures to the Members and the Public.

Vice Chair Mercer turned the meeting over to Chair Koppenheffer.

2. APPROVAL OF MINUTES

A. October 19, 2020 – Site Walk

*Vice Chair Mercer MOVED to approve the October 19, 2020 Site Walk Minutes as presented in the November 2, 2020 agenda packet, with amendments.
Seconded by Mr. Nash.*

Amendments: Page 1, Line 17: Add ‘the grounds,’. Page 1, Line24: Remove ‘does not currently grow crops and produce on site but that she intends to do so in the future.’ And Add ‘intends to expand the crop and produce production on site in the future, but it is taking longer than anticipated due to substantial cleanup efforts.’

Roll Call Vote

Mr. Katz, Mr. Patterson, Mr. Nash, Vice Chair Mercer all voting Yea.

None voted Nay.

Chair Koppenheffer abstained.

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

B. October 19, 2020

*Mr. Patterson MOVED to approve the October 19, 2020 Minutes as presented in the November 2, 2020 agenda packet, with amendments.
Seconded by Mr. Nash.*

Amendments: Page 5, Line 36: Remove ‘and Chair Koppenheffer’.

Roll Call Vote

Mr. Katz, Mr. Patterson, Mr. Nash, Vice Chair Mercer and Chair Koppenheffer all voting Yea.

None voted Nay.

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

3. PUBLIC HEARING

A. William M. & Lori Grizzaffi, 351 Meriden Road (Tax Map 167, Lot 16), zoned RL-1:
Request for a Variance from Article III, Section 312.2 of the Zoning Ordinance to allow a
towing business and vehicular impound yard. #ZB2020-22-VAR - Continued from October 5,
2020

Staff received two emails, one from Attorney Burke and one from Attorney Brennan. With the passing away of Mr. Grizzaffi, Lori Grizzaffi is asking for additional time to determine how to move forward. She will be finding substitute legal representation. She is asking to postpone the hearing and to ask for a continuance.

The Board discussed the possibility to dismiss this application without prejudice so the applicant can return when she is ready to address the variance, or if the hearing should be continued. If the application is dismissed, there would be additional costs to refile.

Chair Koppenheffer MOVED to continue to the first meeting in December. If Ms. Grizzaffi is not prepared to go forward at that time, they will dismiss the application without prejudice.
Seconded by Mr. Nash.

There is concern that this matter has gone on for a long time and continuing would only allow another 30 days before concluding. A decision should be moved forward at this time. It is a challenge to dismiss after all this work and this is an enforcement action. The Board would like some information from the applicant before the deadline for documents for the next meeting because there are other interested parties that require notification.

Chair Koppenheffer withdrew his motion. Mr. Nash withdrew his second.

Mr. Nash MOVED to continue this hearing until the first meeting in December and request that the applicant submit additional materials by the cutoff that they can consult with staff on.
Seconded by Mr. Patterson.

The distinctions of the two motions was discussed. A continuance was discussed, with deadlines for filing. The applicant was not present for this meeting and could not answer any questions. The dismissal without prejudice was discussed again. There is sympathy for the situation, but it is not fair to all parties involved to continue. It may be fairer to allow the remaining applicant to prepare her own application, as the application was previously presented by Mr. Grizzaffi. It is felt there may not be enough time to pursue this matter with a new attorney and that could lead to another continuance.

Mr. Nash restated his motion.

Mr. Nash MOVED to continue this hearing until the first meeting in December.
There was no second for this motion.

1 A vote was not taken on either of Mr. Nash's motions and they failed to be withdrawn.

2
3 ***In light of the extenuating circumstances, Vice Chair Mercer MOVED that the Board dismiss this***
4 ***application without prejudice so that it can be reheard in the future when the applicant is ready.***
5 ***Seconded by Mr. Katz.***

6
7 **Roll Call Vote**

8 ***Mr. Katz, Mr. Patterson, Mr. Nash, Vice Chair Mercer and Chair Koppenheffer all voting Yea.***

9 ***None voted Nay.***

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

11
12 **B. David Wong (property owner), Janet Wong (applicant), 23 Eldridge Street (Tax Map**
13 **77, Lot 190), zoned R-3:** Request for (a) a Variance from Article III, Section 309.2 of the
14 Zoning Ordinance to convert an existing two-family dwelling to a 4-unit multi-family
15 dwelling which is not a permitted use in the R-3 District, (b) a Variance from Section 310.3
16 to allow density to exceed the maximum permitted in the R-3 District, and (c) a Variance
17 from the Section 607 to allow only four (4) off-street parking spaces for the proposed multi-
18 family dwelling whereas a minimum of six (6) off-street parking spaces is required, or, in the
19 alternative, a Variance from Section 201.7 to allow parking spaces within the front yard and a
20 Variance from the Appendix A definition of "off-street parking space" which requires
21 parking spaces to be independently accessible. #ZB2020-29-VAR - Continued from October
22 19, 2020

23
24 **Mr. Katz recused himself. Mr. Newlove was appointed a voting member for this hearing.**

25
26 When the hearing was continued on 10/19/2020 it was due to the late filing of the letter from the
27 applicant's Attorney. This allowed the Board time to review the entire letter before making a
28 decision.

29
30 The Public Hearing proceeded. Neither Mr. Barrett or the applicant attended the online meeting.

31
32 Jeremy Katz appeared as a member of the Public. He submitted a packet in opposition to this
33 application. He briefly stated the three primary reasons for his objections. This property has
34 essentially been purchased for the purpose of making an improper conversion from a duplex to a 4-
35 plex. Four years ago, the property was a duplex when the applicant purchased the property. The
36 prior owner attempted to convert it to a 4-Plex and was given a cease and desist order from the City.
37 After acquisition, the new owner applied again to make a conversion and was told an application for
38 several variances was necessary to make a conversion to the property. No application was ever made
39 and yet the owner moved forward to make the changes to the property and add another two units to
40 the property. The Fire Department found the property was rife with safety issues and the required
41 safety upgrades, such as sprinklers and alarms, have not been done. Recently the City sent a letter
42 stating several violations that were noted by the Zoning and the Building departments. There appears
43 to be intentional disregard to the ordinances of the City. Further, this request is way outside of the
44 bounds to fit into this district. Someone could not make this application and have it approved.
45 Lastly, none of the requirements of a variance could be met. The proposed use is unreasonable
46 because it is definitionally unreasonable.

47
48 He added, after his submission of the packet, one of the comments from the applicants pertained to
49 senior housing. The anticipated density for senior housing is 1 unit per 10,000 square feet of land. It
50 would require a lot with a minimum of 40,000 square feet for these 4 units. The size of the property
51 is substantially smaller than that. This building is within 8 feet of another abutting building. This is

1 an issue when the applicant's property is filled with fire and safety issues. It puts the adjoining
2 property at a risk.

3
4 **Hearing no comments from the Public, the Public Hearing was closed.**

5
6 The Board discussed the rationale for scheduling two meetings a month during the use of remote
7 meetings. The scheduling gave people who had technical difficulties attending a meeting, an
8 opportunity to reach out to the City to comment.

9
10 ***Chair Koppenheffer MOVED to go into deliberation and decision on this application and on all***
11 ***future applications immediately after closing the Public Hearing.***
12 ***Seconded by Mr. Newlove.***

13
14 Because this vote would not include all the regular Board Members, it was decided that the decision
15 about all future hearings should be voted on by the regular Board Members. And in the matter of this
16 hearing, they are already in the second meeting for this hearing.

17
18 The members discussed that approving this application was thought to be contrary to the public
19 interest and the owners of the other houses in the neighborhood. It is a problem due to the building
20 size and there is not enough adequate parking. There are life safety issues and a lack of willingness
21 on the part of the owner to comply with City ordinances and regulations. There are numerous
22 violations that have not been addressed by the owner. A hardship has not been demonstrated. If the
23 applicants had come before the Board, the variance would not have been granted.

24
25 ***Mr. Nash MOVED on September 8, 2020, October 19, 2020, and November 2, 2020, at duly-noticed***
26 ***meetings of the Lebanon Zoning Board of Adjustment, there appeared Mike Balog and Jay Barrett,***
27 ***AIA, on behalf of David Wong (property owner) and Janet Wong (applicant) regarding 23 Eldridge***
28 ***Street (Tax Map 77, Lot 190), zoned R-3. Request for (a) a Variance from Article III, Section 310.2 of***
29 ***the Zoning Ordinance to convert an existing two-family dwelling to a 4-unit multi-family dwelling***
30 ***which is not a permitted use in the R-3 District, (b) a Variance from Section 310.3 to allow density to***
31 ***exceed the maximum permitted in the R-3 District, and (c) a Variance from the Section 607 to allow***
32 ***only four (4) off-street parking spaces for the proposed multi-family dwelling whereas a minimum of***
33 ***six (6) off-street parking spaces is required, or, in the alternative, a Variance from Section 201.7 to***
34 ***allow parking spaces within the front yard and a Variance from the Appendix A definition of "off-***
35 ***street parking space" which requires parking spaces to be independently accessible. #ZB2020-29-VAR***

36
37 **I. FINDINGS OF FACT**

38
39 Based on testimony given, application materials presented, and supporting documents submitted, the
40 Lebanon Zoning Board of Adjustment makes the following findings of fact:

- 41
42 1. The subject property is improved with a dwelling constructed in 1910 according to the City
43 Assessor's records. The dwelling – which is non-conforming to all required minimum yards –
44 was a permitted two-family dwelling until 2017 when it was converted to a four (4) unit multi-
45 family dwelling without approval. The unpermitted conversion came to the attention of the City
46 in or about early 2018, at which time the applicant was informed that a multi-family dwelling is
47 not a permitted use in the R-3 District and that the conversion would therefore require a Variance
48 from the Zoning Board, in addition to Site Plan Review from the Planning Board.

2. In order to retroactively approve the unpermitted conversion to a multi-family dwelling, the applicant requests a Variance from Section 310.2 of the Zoning Ordinance to permit a multi-family dwelling which is not a permitted use in the R-3 District.
3. Prior to the October 19, 2020 hearing, the Zoning Administrator determined that a Variance is not required from Section 310.3.
4. Subsequent to the September 8, 2020 hearing, the Zoning Administrator determined that relief is also required to accommodate the require parking, and an amended hearing notice was prepared, published, and sent to abutters.
5. To obtain the requested Variances, the applicant must demonstrate compliance with each of the five variance criteria as set forth in §801.2 of the Zoning Ordinance and NH RSA 674:33, I(b). The applicant submitted testimony addressing the Section 801.2 Variance criteria in an application received by the Planning & Development Department on August 24, 2020 and in supplemental materials submitted on September 15, 2020 and October 19, 2020.
6. Mr. Katz opposed the application.

II. CONCLUSIONS OF LAW

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

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

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **2nd day of November 2020**, hereby **DENIES** the requested relief as set forth above and per testimony, plans, and materials submitted

Seconded by Mr. Patterson.

1 There was discussion about the original statement made by Mr. Nash regarding the Conclusions of
2 Law, Number 4, that property values were not diminished. The applicants did not provide any
3 evidence that properties would not be diminished. Mr. Nash revised his motion, making the change
4 and it was agreed to by Mr. Patterson. The Motion was revised to state that property values are
5 diminished, as written in the above motion.
6

7 **Roll Call Vote**

8 *Mr. Newlove, Mr. Patterson, Mr. Nash, Vice Chair Mercer and Chair Koppenheffer all voting Yea.*
9 *None voted Nay.*

10 **The Vote on the Motion was unanimously approved (5-0).*
11

12 **C. Jesse Kuhn (Applicant & Property Owner) and David Kuhn (Co-applicant), regarding**
13 **15 Hillcrest Dr (Tax Map 122, Lot 35), zoned R-3:** Applicants request a Variance from
14 Section 610.B of the Zoning Ordinance to allow a detached accessory dwelling unit (ADU)
15 on the subject property which is non-conforming to the minimum required lot area for Class 3
16 lots in the R-3 District. #ZB2020-33-VAR - Continued from October 19, 2020
17

18 **Vice Chair Mercer recused herself. Mr. McDonough was given voting privileges to replace her**
19 **during this hearing.**
20

21 Jesse, David and Linda Kuhn appeared on behalf of the application. They provided a description of
22 their submission and the hardship related to the application. David Kuhn said he submitted a new
23 document on October 22 and spoke to the hardship. He believes some of the zoning requirements are
24 creating the hardship for the property owners. It is zoned R-3 because it does not have public sewer.
25 If the property was zoned R-2 the ADU structure would be allowed. In today's world, the original
26 property would not have been allowed to be divided into such small parcels. The property is not level
27 and has a depression where the ADU would be attached. The underground garage would make it
28 difficult to add an addition and that would require stairs to get into the house. As this is for an aging
29 couple the stairs are a problem.
30

31 The Board noted there are significant elevation changes between the road, the drive and the house.
32 The septic system has to be increased to add an ADU and that has to be added in the back of the
33 house. The topography of the land, the size of the lot and the area where the septic system has to be
34 added are the hardships of this property. These limitations are observable when looking at the
35 property.
36

37 Jennifer Mercer, an abutter, spoke as a member of the Public. She restated that zoning in the area is a
38 problem. It is clear there is not a reasonable place to add an ADU attached to the building due to the
39 structure and the lot lines. No other place on the property makes sense due to the roof lines and the
40 location of the structure on the property.
41

42 Jesse Kuhn noted the letters and emails that were sent from neighbors supporting this application.
43

44 **Hearing no other comments from the Public, Chair Koppenheffer closed the Public Hearing**
45

46 It is believed that the hardship component has been met and the application should be approved. The
47 structural difficulties are not relevant, but the topography is a reasonable concern. The proposed use
48 fits with the reason for having an ADU. Adding a breeze way was mentioned but is not necessary.
49

1 **Mr. Nash MOVED Motion on October 19, 2020 and November 2, 2020, at duly-noticed meetings of the**
2 **Lebanon Zoning Board of Adjustment, there appeared Jesse Kuhn and David Kuhn and Linda Kuhn**
3 **regarding 15 Hillcrest Dr (Tax Map 122, Lot 35), zoned R-3. Applicants request a Variance from**
4 **Section 610.B of the Zoning Ordinance to allow a detached accessory dwelling unit (ADU) on the**
5 **subject property which is non-conforming to the minimum required lot area for Class 3 lots in the R-3**
6 **District. #ZB2020-33-VAR**

7
8 **I. FINDINGS OF FACT**
9

10 Based on testimony given, application materials presented, and supporting documents submitted, the
11 Lebanon Zoning Board of Adjustment makes the following findings of fact:
12

- 13 1. The property is a legal non-conforming lot located in the R-3 District with frontage on Hillcrest
14 Drive. The property is improved with a one-family dwelling and a detached garage/shed located
15 at the end of the driveway.
16
- 17 2. The applicants propose to remove the detached garage/shed and to construct in its place a 728 sq.
18 ft. one-story accessory dwelling unit (ADU) measuring 26 ft. wide by 28 ft. deep.
19
- 20 3. An accessory dwelling unit (ADU) is a permitted use in the R-3 District per Section 310.3 of the
21 Zoning Ordinance, provided that the ADU meets the criteria set forth in Section 610 (“Accessory
22 Dwelling Unit (ADU)”).
23
- 24 4. Section 610.B provides: “The ADU must be located in the same building as the primary residence
25 unless the lot meets or exceeds the minimum required lot size for the respective zoning district. If
26 the lot meets or exceeds the required minimum lot size, the ADU may be located in a separate
27 detached structure such as a garage or barn, provided the existing structure conforms with
28 required yard setbacks for the respective zoning district. An ADU may also be in a new
29 structure.”
30
- 31 5. The subject property is served by an individual sewage disposal system and not by municipal
32 sewer and, therefore, is considered a Class 3 lot (per Appendix A, definition of “Classification
33 (Classes) of Lots”). At 33,106 sq. ft., the subject property is non-conforming to the minimum
34 required lot size of 40,000 sq. ft. required for Class 3 lots in the R-3 District. Consequently, a
35 Variance from Section 610.B is required to permit the proposed detached ADU on the subject
36 property, which is non-conforming to the minimum required lot size.
37
- 38 6. To obtain a Variance from Section 610.B, the applicants must demonstrate compliance with each
39 of the five variance criteria as set forth in Section 801.2 of the Zoning Ordinance and NH RSA
40 674:33, I(b). The applicants submitted testimony addressing the Section 801.2 Variance criteria in
41 an application received by the Planning & Development Department on October 5, 2020, with
42 additional information submitted on October 27, 2020.
43
- 44 7. Jen Mercer, an abutter to the property, spoke in favor of granting the Variance. The Board also
45 received letters from abutters Gerald Katz and Valerie Nevel expressing support of the
46 applicant’s request.
47

48 **II. CONCLUSIONS OF LAW**
49

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

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

The lot topography and new septic system siting prohibit an attached ADU.

- iii. There **is not** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. (Section 801.2.A.5.a.i)
- iv. The proposed use **is** a reasonable one. (Section 801.2.A.5.a.ii)

III. **DECISION**

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 2nd day of November, 2020, hereby **GRANTS** the requested Variance from Section 310.3 of the Zoning Ordinance, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicants shall obtain a building permit.

Seconded by Mr. Patterson.

Roll Call Vote

Mr. McDonough, Mr. Katz, Mr. Patterson, Mr. Nash, and Chair Koppenheffer all voting Yea. None voted Nay.

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

Vice Chair Mercer rejoined the meeting.

- D. **Immersion Montessori School, LLC (applicant) and 79 East Wilder Rd Realty Trust (property owner), 79 East Wilder Road (Tax Map 7, Lot 2), zoned R-3:** The subject property is improved with a non-conforming commercial building. The applicant proposes to use a portion of the building and grounds to operate a “language school” with up to 45 students and 10 teachers. To allow the proposed use, the applicant requests a Special Exception per Section 310.2 and Section 604 of the Zoning Ordinance to allow a group day care facility. In the alternative, the applicant requests a Special Exception pursuant to Section 702.1 to permit a change from one non-conforming use to another non-conforming use.

#ZB2020-34-SE - Continued from October 19, 2020

Laura Golnabi and Robert MacNeil appeared and discussed the additional material they have provided, based on the questions that came up during the last meeting. They provided more clarification of their definition of a language school. The waste-water system design has been submitted and it appears to be adequate. The parking lot measures 240 feet long and 60 feet deep. This allows 24 cars to park, three of which are used by other renters on the property. They anticipated they would need no more than 14 spaces at a time. They could not find information about traffic flow on Wilder Street. They calculated the traffic would add 41 cars in a day. The fencing they have thought about would be at least 50 feet from the shore of the river or would be moved further away. The small group use would not be disruptive or cause a nuisance.

Mr. Corwin provided clarification about the R-3 zone. A group day care is allowed in the zone. It was not clear at the time of the original application if this was for a school or a group day care facility, so it was not clear how to grant the relief.

The language school, as it is described, is not accredited. Therefore, it is a day care with an educational component. If it fits the definition of a group day care, this is a reasonable use and falls in the area of a special exception. The State definition of a day care has been met and the proposal meets all the criteria of a day care.

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

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

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

3
 4 **CHILD DAY CARE FACILITY:** A day care center, a day nursery, a private nursery
 5 school or kindergarten, a child development center, a play group, a head start center,
 6 progressive school or any other facility which cares for seven (7) or more children under
 7 the age of 16 for a part but not all of a 24 hour day.

8
 9 Such facilities may be privately operated or sponsored by a church, social agency,
 10 cooperative group or a community or by a public agency other than public schools.”

- 11
 12 4. In order to grant a Special Exception for a group day care facility, the applicant must demonstrate
 13 compliance with the criteria set forth in Section 604 (“Group Day Care Facilities”) of the Zoning
 14 Ordinance, and the general Special Exception criteria, set forth in Section 801.3.
 15
 16 5. Sarah Riley and Joan Monroe spoke with respect to the various state and local regulations that the
 17 property is subject to based on its proximity to the Connecticut River and suggested that the
 18 applicant be aware of those regulations. In response, the applicant confirmed that the proposed
 19 play area at the north end of the property will involve the cutting of any trees.
 20
 21 6. No other witnesses spoke in favor or against the proposal.

22 23 **II. CONCLUSIONS OF LAW**

24
 25 As a result of the above findings of fact and based on testimony given, application materials presented,
 26 and supporting documents submitted, the Board concludes the following with respect to the Special
 27 Exception criteria set forth in §801.3 of the Zoning Ordinance:

28 29 **A. Group Day Care Facility Special Exception**

- 30
 31 1. The Special Exception is specifically authorized by §310.2 of the Zoning Ordinance. (§801.3.A)
 32
 33 2. The following conditions/requirements of §604 **is** met: (§801.3.B)
 34
 35 a. There shall be a fenced outside play area which shall be free from hazards such as
 36 hidden corners; unprotected pools, wells, and steps; poisonous plants such as poison
 37 ivy, foxglove, and rhubarb; farm or lawn machinery or implements. (§604.1.A)
 38
 39 b. (The play area) shall contain at least 50 square feet of usable play space per child
 40 using it, and the average width shall not be less than eight feet. Play areas shall not be
 41 permitted in front yards. (§604.1.B)
 42
 43 c. By special exception, the Board of Adjustment may waive the requirement for a
 44 fence or the requirement that the play area not be in the front yard. (§604.1.C) *This*
 45 *provision is not applicable.*
 46
 47 d. A suitable loading and unloading area shall be provided for those children for whom
 48 the facility provides transportation. This area shall be in addition to required parking
 49 areas. (§604.2.A)
 50

e. Group day care facilities shall comply with all applicable state and federal regulations. (§604.2.B)

f. One (1) parking space for each employee and one (1) parking space for every eight (8) clients shall be provided on site. (§604.2.C)

3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy. (§801.3.C) *Staff is not aware of any Zoning Ordinance violations on the property.*

4. The character of the area **will not** be adversely affected. (§801.3.D)

5. **No** hazard or nuisance will be created. (§801.3.E)

6. The capacity of existing or planned community facilities and services (including streets and highways) **will not** be adversely impacted. (§801.3.F)

7. The granting of the Special Exception **will not** result in undue municipal expense. (§801.3.G)

8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and intent of the ordinance. (§801.3.H)

9. The general welfare of the City **will** be protected. (§801.3.I)

III. **DECISION**

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

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

Seconded by Vice Chair Mercer.

Section 5-7, as read into the Motion, can be eliminated based on the relief that is being requested. Mr. Nash and Vice Chair Mercer, first and second on the motion, agreed those sections should be removed and the Motion reads as written above.

Roll Call Vote

Mr. Katz, Mr. Patterson, Mr. Nash, Vice Chair Mercer and Chair Koppenheffer all voting Yea. None voted Nay.

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

The Board discussed the rationale for having a second hearing each month. It was implemented to allow anyone who has concerns regarding an application and has technical difficulties during the first remote meeting, to have their concerns heard. In the last 6 months, no one remembers this being a problem for any hearings for any witnesses. Therefore, they considered eliminating the necessity of the second hearing.

Chair Koppenheffer MOVED that from this point forward, the Board will immediately follow the closing of the Public Hearing with Deliberation and Decision on the application.

Seconded by Mr. Katz

In the absence of some reason or circumstance, they will return to their original procedure and eliminate the requirement to hold a second hearing for each application.

Seconded by Mr. Katz.

Roll Call Vote

Mr. Katz, Mr. Patterson, Mr. Nash, Vice Chair Mercer and Chair Koppenheffer all voting Yea.

None voted Nay.

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

The calendar will be adjusted as of January 2021. There are two meetings scheduled for November and December. There is no draft Motion prepared this evening for the next hearing.

- E. William Reed, 5 Light Street (Tax Map 91, Lot 164), zoned R-3:** Applicant requests a Special Exception pursuant to Sections 310.2 and 600B of the Zoning Ordinance to allow a home-based agricultural business, consisting of the indoor cultivation of microgreens and the propagation of flower, vegetable, and herb starts. ZB2020-35-SE

Hunter Reed, the son of the owner and applicant William Reed, appeared. The business uses vertical cultivation techniques. They grow microgreens with a shorter turnover rate, meaning they are harvested more quickly than normal gardens. They would also like to use the gardens on the property for cultivation. They have made a substantial improvement to the property with environmentally sound operations and practices. He described their operations and the limited impact he believes that would be put on the land and environment. He noted the site plan and the locations of the gardens.

No one from Public spoke for or against the application. Chair Koppenheffer closed the Public Hearing.

It was noted that the application was expertly written.

Vice Chair Mercer Moved to continue the hearing until the November 16, 2020 meeting.

Seconded by Mr. Katz.

Roll Call Vote

Mr. Katz, Mr. Patterson, Mr. Nash, Vice Chair Mercer and Chair Koppenheffer all voting Yea.

None voted Nay.

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

4. OTHER BUSINESS

A. Zoning Ordinance Amendments: Review and comment to City Council on proposed amendments to the Zoning Ordinance

The Board postponed this discussion until the November 16 meeting, to allow Staff time to clarify the document edits and strike through edits.

B. 2021 - 2022 Calendar

There are two calendars, both premised on remote hearings. Based on the decision that two separate meetings will not be held on each matter, they anticipate meeting once a month unless extraordinary situations require adding a meeting. In those situations, they could add an extra meeting in a month. If the workload is lengthy it is not a good idea to run into the late hours of the night. They agreed to end the meetings by 10 PM.

All Board Members, regular and alternates, were asked to vote on this decision pertaining to the Board.

Chair Koppenheffer MOVED to adopt the calendar with one meeting a month for the 2020/2021 Board schedule.

There was no second.

Roll Call Vote

Mr. Newlove, Mr. McDonough, Mr. Katz, Mr. Patterson, Mr. Nash, Vice Chair Mercer and Chair Koppenheffer all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved (7-0).***

5. STAFF COMMENTS-NONE**6. ADJOURNMENT**

Mr. Patterson MOVED to adjourn the meeting at 9:19 PM.

Seconded by Vice Chair Mercer.

Roll Call Vote

Mr. Katz, Mr. Patterson, Mr. Nash, Vice Chair Mercer and Chair Koppenheffer all voting Yea.

None voted Nay.

****The Motion passed unanimously (5-0).***

Respectfully Submitted,

Linda Billings

Recording Secretary

**Agenda
Zoning Board of Adjustment
November 2, 2020**

**Agenda Item #3E
Approval of Minutes**

**William Reed,
5 Light Street
(Tax Map 91, Lot 164),
zoned R3
ZB2020-35-SE**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

November 2, 2020 Meeting

Staff Memorandum – ZB2020-35-SE

APPLICATION INFORMATION

Agenda Item: 3.E

Application Type: Special Exception per §310.2 & §600B for a home-based agricultural business

Location:
5 Light Street (Tax Map 91, Lot 164)

Applicant/Property Owner:
William Reed & Hunter Reed

Zoning District:
Residential Three (R-3) District

Property Size (per City Assessor):
+/-0.13 acres (+/-5,663 sq. ft.)
(nonconforming to the minimum required 10,000 sq. ft. lot size in the R-3 District)

Existing Improvements and Use:
+/-3,240 sq. ft. (gross) two-story one-family dwelling constructed in 1920 and detached garage, per the City Assessor's records (a conforming use in the R-3 District per §310.2)

Proposed Use:
Accessory home-based agricultural business per §600B

Overlay Districts: none

Previous ZBA Action (since 1995):
none

Other Approvals Required:
• Zoning Permit

Attachments:
• Application w/ attachments (5 pages total)

HEARING NOTICE

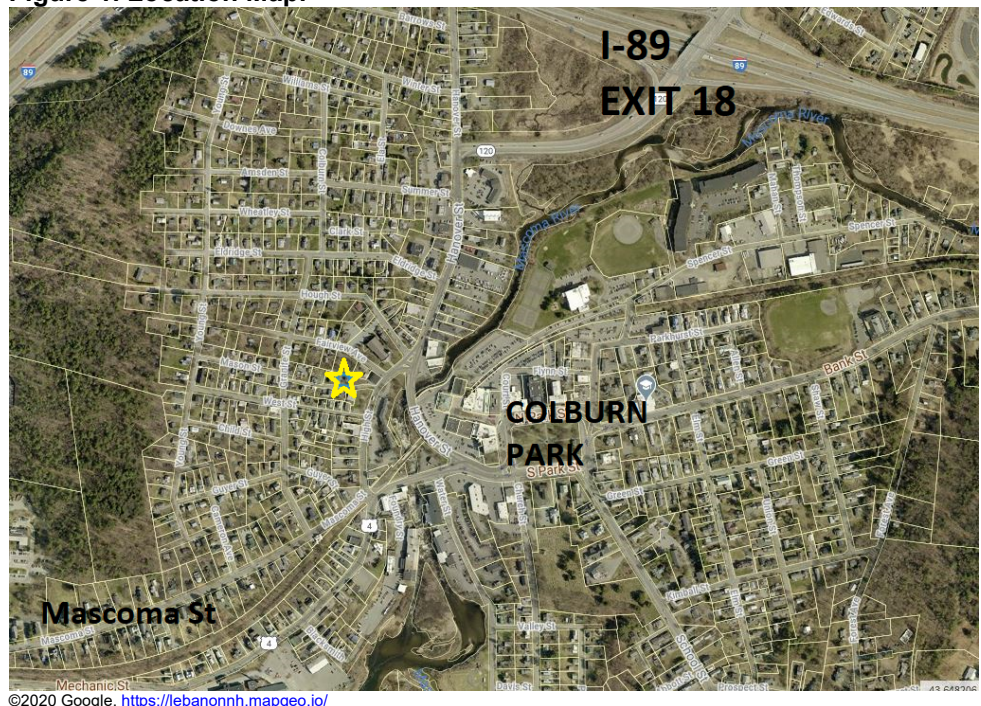
William Reed, 5 Light Street (Tax Map 91, Lot 164), zoned R-3: Applicant requests a Special Exception pursuant to Sections 310.2 and 600B of the Zoning Ordinance to allow a home-based agricultural business, consisting of the indoor cultivation of microgreens and the propagation of flower, vegetable, and herb starts. ZB2020-35-SE

BACKGROUND & PROPOSAL

The subject property is located in the R-3 District and is improved with a one-family dwelling constructed in 1920 and a detached garage. The property is +/-0.13 acres (+/-5,663 sq. ft.) and, therefore, is nonconforming to the minimum required 10,000 sq. ft. lot size for Class 1 lots in the R-3 District.

The applicants propose to operate a home-based agricultural business as detailed in their application materials. The business will be conducted primarily inside the home with some seasonal use of existing outdoor gardens that are located on the property (see attached plot plan).

Figure 1. Location Map.



STAFF MEMORANDUM

#ZB2020-35-SE

5 Light Street (91-64)

November 2, 2020 ZBA Mtg

Agenda Item 3.E

Page 2 of 5

Figure 2. Street View of Subject Property.



©2020 Google, <https://lebanonnh.mapgeo.io/> Image date: July 2013

Figure 3. Bird's Eye View of subject property (looking north).



©2018 Eagleview (image taken 5/1/2018)

ORDINANCE REQUIREMENTS

Per Section 310.2 of the Zoning Ordinance, a “home-based agricultural business per Section 600B.2 (lots less than 5 acres)” is a use allowed by Special Exception in the R-3 District. Section 600B.2 provides as follows:

[In] the R-1, R-2, and R-3 Districts, activities allowed include the sale of products associated with raising chickens (per Section 611), bees (per Section 611A), and the harvesting of products resulting from activities identified in Section 200. Products must be grown on-site and may be sold in either raw or value-added forms. Educational programs directly related to the on-site agricultural activities are permitted. [...]

For reference, Section 200 of the Zoning Ordinance provides as follows:

The non-commercial raising of crops, keeping of gardens, orchards, indoor hydroponics/aquaponics, forestry (including tree farms), and maple sugaring are not regulated by this Ordinance [...]. Greenhouses, sugar shacks, and other such accessory buildings to these activities are subject to all applicable regulations of this Ordinance.

In order to grant the requested Special Exception, the Board must find the applicant’s proposed use satisfies the requirements of Section 600B.2 (noted above) as well as the operational standards for a home-based agricultural business set forth in Section 600B.4 of the Zoning Ordinance as follows:

- A. The operator of the homebased agricultural business shall be a resident of the property on which the business is located.
- B. All agricultural activities associated with a homebased agricultural business must be conducted in accordance with the Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire (available on-line at <https://www.agriculture.nh.gov/divisions/regulatory-services/nutrient-management.htm>), and shall comply with all applicable New Hampshire statutes and regulations including but not limited to NH RSA 644:8 (Cruelty to Animals).
- C. Table 600B.4 establishes the minimum required area requirements for various species. The minimum secure enclosure area shall not include any areas within 20 feet of a dwelling unit on the same lot. *Note: This requirement is non-applicable to the applicant’s proposed horticultural business.*
- D. Livestock shall be kept such that no nuisance results. *Note: This requirement is non-applicable to the applicant’s proposed horticultural business.*
- E. Animal waste shall not be stored within one hundred (100) feet of any property line. *Note: This requirement is non-applicable to the applicant’s proposed horticultural business.*
- F. All livestock and poultry must be kept within a secure enclosure which meets or exceeds the recommendations of the UNH Cooperative Extension. *Note: This requirement is non-applicable to the applicant’s proposed horticultural business.*

- G. All livestock and poultry shall have available shelter which meets or exceeds the recommendations of the UNH Cooperative Extension. No shelter or enclosure, including pastures, shall be located closer than 100 feet to a property line. *Note: This requirement is non-applicable to the applicant's proposed horticultural business.*
- H. The home-based agricultural business shall not:
1. Employ more than two persons working on the premises other than family members living in the dwelling.
 2. Have window displays, window advertising or any other advertising, except an identification sign complying with Section 608.4.B.
 3. Detract from the residential character of the neighborhood by creating levels of noise beyond those normal to the agricultural activities being conducted, vibration, glare, smoke, dust, fumes, odors, or heat.
 4. Generate more than an average of two (2) vehicular trips per hour to the premises for each hour the business is open or peak of six (6) vehicles per hour.
 5. Require the use of on-street parking.
 6. Require more than two (2) off-street parking spaces beyond those required by the dwelling and the employees of the business (see Section 607, Table of Minimum Off-Street Parking).
 7. Generate non-residential truck deliveries or pick-ups more than twice per week.

The Board must also determine that the proposal meets the general Special Exception criteria, set forth in Section 801.3 as follows:

- A. The Special Exception is specifically authorized by a provision of this Ordinance. *Note: The Special Exception is authorized by §310.2 of the Zoning Ordinance.*
- B. All special conditions required of the special exception have been met. *Note: The special conditions for an expansion of a non-conforming buildings are those set forth above in §600B.2 and §600B.4 of the Zoning Ordinance.*
- C. There are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy. *Note: Staff is unaware of any Zoning Ordinance violations on the property.*
- D. The character of the area shall not be adversely affected.
- E. No hazard or nuisance will be created.
- F. The capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.

- G. Granting the special exception will not result in undue municipal expense.
- H. The proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance.
- I. The general welfare of the City will be protected.

The applicant has submitted testimony addressing the Section 801.3 and Section 600B.4 criteria in an application received by the Planning & Development Department on October 19, 2020 (see attached).

Attachments

cc: William Reed
Hunter Reed
File

\\Chfs1\1s\PLN\Development_Review\Zoning Board Applications\2020 ZBA_Applications\ZB2020-35-SE_5 Light St_091-164\Staff Memo.docx

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: William Reed TEL.#: 603-667-5455
 MAILING ADDRESS: 5 Light St. Lebanon, NH 03766
 E-MAIL ADDRESS: william.bullfrog.reed@gmail.com

CO-APPLICANT, AGENT, OR LESSEE:

NAME: Hunter Reed TEL.#: 603-443-3120
 MAILING ADDRESS: 5 Light St. Lebanon, NH 03766
 E-MAIL ADDRESS: _____

PROJECT LOCATION:

TAX MAP #: 91 LOT#: 164 PLOT #: N/A ZONE: R3
 STREET ADDRESS OF PROJECT: 5 Light St. Lebanon, NH 03766
 IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

Indoor cultivation of microgreens as a culinary crop. Propagation of flower, vegetable, and herb starts.

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: Horticultural Business

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 Nov. 2, 2020, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY OWNER: Hunter Reed DATE: 10/16/2020

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: William Reed DATE: 10/16/2020

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #
<u>10-19-20</u>	<u>91/164</u>		<u>\$217.40</u>	<u>10-19-20</u>	<u>17926</u>

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) 600B.2, 310.2, Section(s) 600B, 310, 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.)*

I intend to operate a horticultural enterprise in my home. Operations will be conducted primarily indoors using vertical cultivation techniques under artificial lighting. Seeding, growth, harvest, and drying will take place in the basement. Accounting and other office related activities will take place in a side room on the first floor. Refrigeration and packaging will take place in the office. Eight lights are currently outfitted for reduced energy use. One water collection tank is located behind the house next to the compost pile.
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 table in Section 310.2 (Residential Three District) it states that agricultural businesses are permitted use under section 600B. The exemption applies to homes located on lots less than five acres in size.
- B. That all special conditions required of the special exception have been met:
There were no special conditions specific to operating a home based agricultural business on a lot less than five acres in size.
- 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 the business is undergoing formation and has not conducted sales.

- D. That the character of the area shall not be adversely affected:
Compost is kept at the rear of the building, out of site of neighbors. It is kept anaerobic with a colony of healthy night-crawlers. This eliminates unwanted odors and provides fertile compost that is added to gardens on the property.
- E. That no hazard or nuisance will be created:
No light or noise pollution will result from business activities. Operations are safely conducted and void of hazards. Appropriate precautions have been taken.
- F. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted:
Deliveries are infrequent and will not affect traffic flow. Potential staff will work part time and share parking on site. On street and downtown parking will not be impacted. No excess deliveries will occur. No overnight business parking will occur.
- G. That granting the special exception will not result in undue municipal expense:
Almost all waste is composted. Conversion from fluorescent to LED lighting has reduced energy use by 60%. Rainwater collection is implemented seasonally.
- H. That the proposed special exception will be developed in a manner compatible with the spirit and intent of the ordinance:
The proposed project does not deviate from this zoning ordinance. It aims to contribute to the community while not detracting from the residential environment.
- I. That the general welfare of the City will be protected:
This business will provide locally grown, nutrient rich, and environmentally responsible crops while supporting local restaurants, produce markets, and citizens of the Upper Valley.

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.

Description of Operational Standards

Based on the Manual for Best Management Practices for Agriculture in NH and supplemental requirements set forth by Section 600B.4 of the City of Lebanon Zoning Ordinance

OmniPotent Horticulture is an agricultural business that will be conducted primarily indoors. Therefore, the cultivation of our microgreen crops is void of many of the situational necessities for prevention of environmental contamination. These crops will need no source of nutrients other than bagged soil. Between one and two inches of soil per tray produces a phenomenal return on a small input of resources per cubic foot when compared to seasonal cultivation conducted outdoors. Composting root material is the only exception and will be described later in conjunction with proposed outdoor cultivation and preservation techniques.

Starting plants indoors in the late winter will excel growth and allow for crops to be transplanted swiftly to outdoor gardens as soon as conditions permit. This will expedite root development and soil retention early in the springtime. Root systems will be colonized with mycorrhizae to catalyze water absorption from root systems. The symbiotic relationship this fungus has with root systems will significantly reduce runoff while promoting optimal growth and nutrient uptake. Erosion will also be minimized as root systems strengthen.

Most outdoor crops will remain planted throughout the course of the warm season to encourage soil retention. Rows of leafy greens are the primary exception and will be planted near the house on level land that lies behind cement and granite barriers. These greens will be densely planted and harvested in a way that allows for multiple periods of regrowth and additional harvests from the initial plants. This will reduce soil disruption substantially. Subsequent planting of leafy greens will be timed according to our harvest schedule so that soil retention can be maintained.

This year a variety of bean plants were grown along the garden that borders the driveway. They are members of the legume family that add nitrogen to the soil organically. We intend to plant more nitrogen fixing crops as necessary to sustain nutrient quality while reducing the need for external nutrient inputs. We have found that nutrient application is rarely necessary when crop rotation is utilized effectively. Bottled nutrients are stored safely indoors and rarely needed.

A fundamental part of our organic gardening approach is the utilization of natural organisms as opposed to artificial or external inputs. We started a worm farm over six months ago using four pounds of night crawlers. They were distributed amongst all of the gardens as well as the compost pile. They reproduce every three months and will contribute exponentially to the vitality and quality of the soil. These detritivores are exceptional at breaking down compostable material quickly and add nitrogen organically. They are able to keep compost aerobic and smell free and are another substitute for external nutrient input.

Our compost aids in the stabilization of nutrients and the prevention of their loss. We have chosen to keep our compost free of meats, fish, dairy, prepared foods, and adulterants. This will practically eliminate health risks associated with the breakdown of organic material. Our ability to produce nutrient rich compost on site will eliminate our need for manure compost in the future, further reducing health risks and external inputs. No liquid manure has ever been applied to this site and we have no intention of incorporating this kind of application. Instead, specific nutrients will be applied to prevent other nutrients from becoming saturated. Plans for a compost retention barrier are currently being developed.

We have made great strides in reducing soil erosion through the installation of barriers and use of surface mulch. Granite borders have recently been installed along the edges of the driveway. A plastic retention edge was added to line to sloped side and reduce runoff. The perennials planted at the low end of this area contribute to the same effect. A drip edge has been installed along the two sides of the house that border areas of cultivation. This has eliminated soil displacement in the areas in which we plan to plant most of our rotational crops. Mulch has been applied to areas of concern to reduce runoff, conserve moisture, and lessen the need for water during dry spells. Additional edging will be introduced next spring to strengthen our water retention capabilities.

Records of crop turnover, nutrient applications, and soil quality parameter will be kept and analyzed. This will give us empirical evidence on which to base our future nutrient needs on crop potential. Maintaining a balanced PH will also reduce nutrient loss and increase efficient uptake by crops. Conservational strategies will continue to undergo development as more data is collected. We will also be adhering to all requests made by the Commissioner of the Department of Agriculture, Markets, and Food pertaining to adherence to operational standards that promote health, safety, and sustainability.

I recently completed an Environmental Science course and am currently enrolled in a Freshwater Ecology course at the Community College of Vermont. I have learned a lot about the significance of having scientifically viable environmental data. I understand the significance of mitigating eutrophication and pollution of aquatic ecosystems. Our cultivation techniques will respect the quality of our local watershed and the communities it provides for. I will be applying all that I have learned to ensure that the impact of this agricultural business is as small as possible.

In addition to our adherence to the standards set forth by the Manual for Best Management Practice, I have designed the business to adhere to all other requirements in Section 600B.4. I, myself, am a resident of the home in which I intend to conduct business. There will be no more than two additional employees at any one time who are not residents of 5 Light St. No on street parking will be necessary and off street parking will only be needed rarely, if ever. Average vehicular trips to and from the residence will be minimal and well within the maximum average of two per hour. Deliveries will likely be conducted two to three times weekly and supplemental customer pickups will be scheduled in a way that reduces traffic flow. Truck

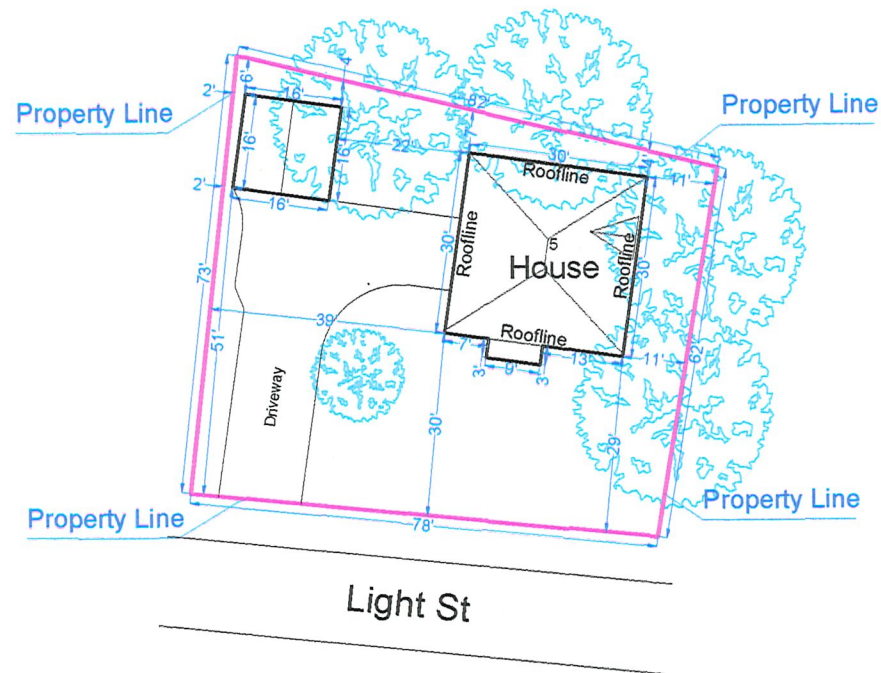
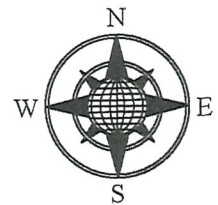
deliveries will also be infrequent and will not exceed two per week. Truck pickups will not be necessary.

There will be no animals or animal waste present on site other than solid manure compost that was used to enrich soil conditions during the initial year of home-based food crop cultivation. There will be no on-site advertising except an identification sign complying with 608.4.B. There will be minimal noise associated with activities. This pertains primarily to seasonal outdoor cultivation. No excess vibrations, smoke, glare, or heat will be created in the process of either indoor or outdoor business operations. The residential character has been greatly improved and will continue to improve as a result of business operations.

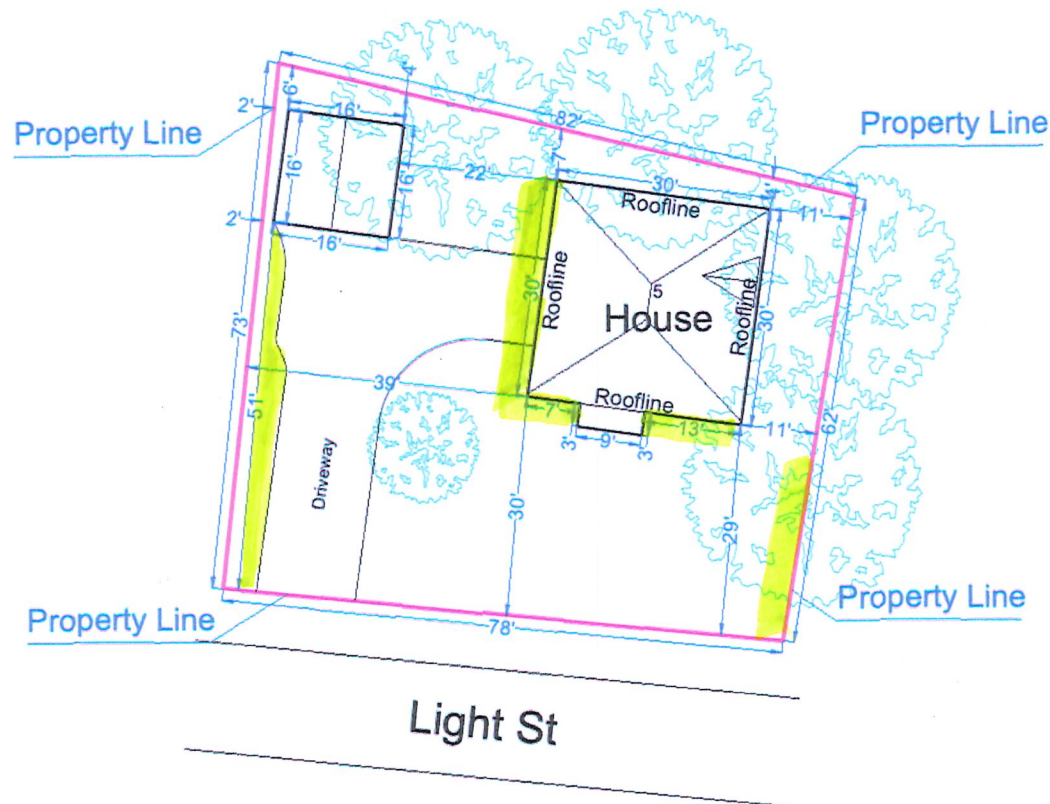
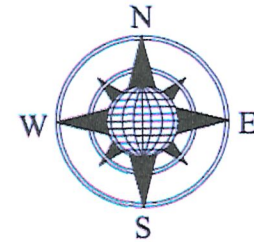
We at OmniPotent Horticulture wish to improve our neighborhood and community in every way possible as we embark on this entrepreneurial pursuit. We have made it a priority to not compromise the integrity of the community or the environment through our considerate and conservational practices. We would like this opportunity to make positive impact on the community through the sustainable cultivation of local, nutrient-dense produce. Thank you for your consideration.

Hunter Reed - Founder and Sole Operator of OmniPotent Horticulture LLC

*OmnipotentHorticulture@gmail.com
5 Light St Lebanon, NH 03766
(603-443-3120)*



5 Light St
Lebanon, NH 03766
1"=20'



Locations of existing gardens used for seasonal production are highlighted

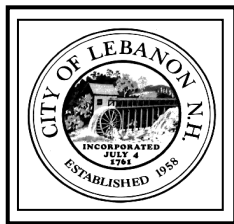


5 Light St
Lebanon, NH 03766
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**Agenda
Zoning Board of Adjustment
November 2, 2020**

**Agenda Item #4A
Other Business**

**Zoning Ordinance
Amendments:
Review and comment to
City Council
on proposed amendments to
the Zoning Ordinance**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Zoning Board of Adjustment

FROM: Planning & Development Department Staff

RE: 2020-2021 Proposed Zoning Amendments

DATE: October 27, 2020

On October 7th, Planning & Development Department staff presented to the City Council a set of proposed Zoning Ordinance text amendments for initial consideration. Following the presentation, the City Council agreed to move the proposed amendments forward for further review. Pursuant to the zoning amendment process outlined in Section 1000 of the Zoning Ordinance, the City's Land Use Boards will be reviewing the proposed amendments at the following meetings:

- Zoning Board of Adjustment – November 2, 2020
- Conservation Commission – November 12, 2020
- Planning Board - November 23, 2020

Pursuant to Section 1000.3.B.1 of the Zoning Ordinance, the Zoning Board is required to “comment on the proposed amendment as to whether it would be inconsistent with other applicable sections of the Ordinance, does not conflict with other sections of the Ordinance, and the meaning and effect is understood. The ZBA shall not comment as to whether or not the amendment is desirable from a planning viewpoint.”

Attached are the following the Board's reference and review:

- A legal opinion from Christine Fillmore, Esq., dated October 27, 2020.
- A staff memo dated September 29, 2020 explaining the proposed amendments.
- A redline the current Zoning Ordinance (redline last revised October 14, 2020).

Please note:

- The attached redline reflects comments made by the Council at their October 7th meeting. Consequently, the page references in the attached staff memo are to the redline presented to the Council on October 7th and may no longer match the updated redline that is attached to this memo.
- Once review has been completed by the Land Use Boards, the City Council will hold a public hearing followed by a vote on whether to adopt the amendments and/or to place them on the March 2020 ballot for referendum vote.

October 27, 2020

David Brooks, Director of Planning and Zoning
City of Lebanon
51 N. Park Street
Lebanon, NH 03766

RE: Zoning Ordinance Amendments Draft of Oct. 15, 2020

Mr. Brooks:

This is a legal opinion as required by Section 1000.3(B)(2) of the Lebanon Zoning Ordinance concerning a set of proposed text amendments and one proposed map amendment. I reviewed a staff memorandum regarding these proposed amendments dated September 29, 2020 and a draft of these amendments dated October 15, 2020, and now provide this opinion based on those documents.

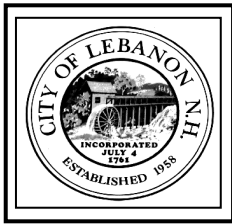
The Ordinance requires this legal review to cover: (a) whether such amendments are within the authority delegated to the City under State law; (b) whether the form is appropriate; and (c) whether, from an administrative point of view, the amendments can be administered and enforced.

In this case, the answer to these three questions is "yes" and I discern no legal or administrative issues of concern.

Sincerely,



C. Christine Fillmore



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council

CC: Shaun Mulholland, City Manager
Paula Maville, Deputy City Manager

FROM: Planning Staff

RE: 2020-2021 Proposed Zoning Amendments

DATE: September 29, 2020

Honorable Mayor and City Councilors,

The Planning & Development Department has prepared draft amendments to the Zoning Ordinance for consideration by the City Council, and request that the proposed amendments be placed on the October 7, 2020 Council meeting agenda for discussion. The proposed amendments are summarized below and highlighted in the attached redlined excerpt of the Zoning Ordinance. The new or revised text is blue and underlined. The text to be deleted is shown as ~~red with a strike-out~~.

If the Council chooses to move forward with the proposal, the draft amendments will be sent to the City's legal counsel and land use boards for further review. Once the review process is complete, the amendments will be scheduled for a public hearing before the City Council.

BACKGROUND

It is staff's practice to present a set of proposed zoning amendments to the Council each fall for review and consideration. Presenting the amendments in the fall allows them to move through the required review process in time for placement on the ballot the following March, when necessary.

The current set of proposed changes are primarily process-oriented and/or are intended to address ambiguities and inconsistencies in the existing text. A few substantive amendments are also proposed (such as adjusting the building height requirement in the R-1 District).

OVERVIEW OF AMENDMENTS

The proposed amendments are grouped into four general categories: those impacting permitted uses in the non-residential zoning districts, those involving the Lebanon Downtown District, those requiring ballot approval, and all other miscellaneous amendments (other than minor edits – such as those correcting punctuation, correcting references in the Zoning Ordinance necessitated by other amendments, and other editorial changes – which are not specifically reviewed in this memo).

1. Non-Residential Uses:

- a. **Amend Section 303.2, the IND-L District Table of Uses**, as follows (*see p. 7 of the redline*):
 - i. Add “rehabilitation hospital” (which is not currently a use category in the Zoning Ordinance) as a use allowed by Conditional Use Permit from the Planning Board. Chip Brown of Brown Commercial Realty, LLC, at whose request this suggested amendment has been forwarded to the City Council, will be in attendance at the October 7th meeting to explain and discuss the proposal.
 - ii. Change “retail product pickup” from a use allowed by Conditional Use Permit to a permitted use.
 - iii. Replace “office for 50 or more employees” with “office” within Uses by Conditional Use Permit.
- b. **Amend Section 303A.2, the IND-RA District Table of Uses** to (i) adjust the “excavation of natural earth material” use for consistency with similar uses in the IND-H and RL-2 Districts, and with Section 606 (“Excavation of Natural Earth Material”), and (ii) replace “office building” with “office”. (*see p. 8 of the redline*)
- c. **Amend Section 304.2, the IND-H District Table of Uses** to adjust the “excavation of natural earth material” use for consistency with similar uses in the IND-RA and RL-2 Districts, and with Section 606 (“Excavation of Natural Earth Material”). (*see p. 10 of the redline*)
- d. **Amend Section 305.2, the GC District Table of Uses**, as follows (*see p. 11 of the redline*):
 - i. Change “retail product pickup” from a use allowed by Conditional Use Permit to a permitted use.
 - ii. Change “indoor recreational facility” from a use allowed by Conditional Use Permit to a permitted use.
 - iii. Change “funeral establishment” to “funeral home” for consistency of terminology.
 - iv. Remove “alternative treatment center (cultivation location only)”, in connection with the proposal to combine the definitions of “alternative treatment center” and “alternative treatment center (cultivation location only)” (*see Appendix A, p. 27 of the redline*)
- e. **Amend Section 305A.2, the GC-1 District Table of Uses** to remove “alternative treatment center (cultivation location only)”, in connection with the proposal to combine the definitions of “alternative treatment center” and “alternative treatment center (cultivation location only).” (*see p. 12 of the redline; see also Appendix A, p. 27 of the redline*)
- f. **Amend Section 306.2, the CB District Table of Uses** to (i) remove “vehicular sales,” and (ii) change “funeral establishment” to “funeral home.” (*see p. 13 of the redline*)
- g. **Amend Section 315.2, the MC District Table of Uses** to adjust uses for consistency with the medical center complex requirements set forth in Section 506. (*see p. 19 of the redline*)

2. Lebanon Downtown District:

- a. **Amend Sections 307.6.A & B** to clarify verbiage. (*see p. 15 of the redline*)

- b. **Amend Section 307.6.C** to designate Mechanic Street a secondary street and to designate Mascoma Street a primary street. These designations relate to Sections 307.6.A & B which require a certain portion of the first floor of a building to be reserved for non-residential uses. The requirements for a secondary street (Section 307.6.B) are more flexible, only apply to buildings of a certain size, and may by “waived” by Conditional Use Permit from the Planning Board. (*see p. 15 of the redline*)
- c. **Amend Section 307.8.B** to allow the “waiver” of the minimum story height requirements by Conditional Use Permit. (*see p. 15 of the redline*)
- d. **Amend Section 307.9.B** to allow parking in the front yard by Conditional Use Permit for properties with pre-existing improved surfaces in the front yard, provided that parking cannot be accommodated elsewhere on the lot. (*see p. 16 of the redline*)

3. **Ballot Amendments:**

- a. **Amend Section 308.3 and add new Section 308.4** to allow additional building height of up to ten (10) ft. by Conditional Use Permit provided that the additional height is for the purpose of accommodating parking underneath the building. At the suggestion of the Planning Board, proposed Section 308.4 requires an enhanced building setback of two (2) feet for every one (1) foot of additional building height so authorized by Conditional Use Permit. For example, if the Planning Board were to approve a building height of 50 ft. (which is 5 ft. more than the existing 45 ft. maximum), the minimum required setbacks would be increased by 10 ft. for the structure. (*see p. 16 of the redline*)
- b. **Amend Section 310.2, the R-3 District Table of Uses** to change “house of worship” from a use allowed by Special Exception to a permitted use. This change is consistent with all other districts that allow house of worship where, in those districts, “house of worship” is designated a permitted use and does not require a Special Exception or Conditional Use Permit. (*see p. 17 of the redline*)
- c. **Add new Section 310.4 (“Dwelling Unit Density”)** to clarify that the permitted density in the R-3 District for senior housing complexes and PURDs is based on one dwelling unit per 10,000 sq. ft. of lot area. (*see p. 17 of the redline*)
- d. **Amend Section 313.2, the RL-2 District Table of Uses** to adjust the “excavation of natural earth material” use for consistency with similar uses in the IND-RA and IND-H Districts, and with Section 606 (“Excavation of Natural Earth Material”). (*see p. 18 of the redline*)

3. **Miscellaneous:**

- a. **Remove Section 303.6 (“Flex Buildings”).** The “flex building” concept is redundant to Sections 302.2 and 302.3 which already allow accessory uses and mixed-use buildings, respectively, “by right”. (*see p. 7 of the redline*)
- b. **Amend the IND-RA District regulations, Sections 303A.3, 4, and 5** to clarify that “waivers” of the minimum yard requirements where necessary to allow rail access may be authorized by Conditional Use Permit (Section 303A.3) and to clarify the verbiage of Sections 303A.4 and 5. (*see p. 9 of the redline*)

- c. **Amend Section 306.3, the CB District Table of Area, Dimensions and Coverage** to (i) allow a reduction of the minimum rear yard requirement by Conditional Use Permit from the Planning Board instead of by Special Exception from the Zoning Board of Adjustment, and (ii) as a clean-up item related to the recent adoption of the LD District regulations, remove the language allowing increased building height in downtown Lebanon (as the areas described are now located in the LD District). (*see p. 14 of the redline*)
- d. **Amend Section 311B.4 (“Parking Requirements”)** to clarify that the minimum number of parking spaces that must be provided for each dwelling unit shall be as set forth in Section 607.2 (“Table of Minimum Off-Street Parking Requirements”). (*see p. 17 of the redline*)
- e. **Amend Section 314.1 (“Purpose”)** to update the RL-3 District purpose statement by removing verbiage that is inconsistent with the remainder of the purpose statement and with the Master Plan. (*see p. 18 of the redline*)
- f. **Amend Section 501.4.D (“Uses Allowed in a Commercial or Industrial PUD”)**. Currently, hotels, restaurants, personal services, and retail are permitted uses in an Industrial PUD, but may occupy no more than 25% of the total “building coverage”. The proposed amendment changes “building coverage” to “gross floor area” which is a more logical metric and will avoid encouraging large, sprawling, one-story buildings which is the inadvertent result of using “building coverage” as the metric. (*see p. 21 of the redline*)
- g. **Add new Section 608.4.1.e (“Multi-Tenant Buildings”)** to allow the existing sign area for existing multi-tenant buildings to be used as the permitted sign area for the building, as an alternative to the building sign area formulas set forth in Section 608.4.1.a. (*see p. 24 of the redline*)
- h. **Miscellaneous amendments** to Sections 201 (“Yard Requirements”), 201.1 (“Reduction for an Average Front Yard”), 201.4 (“Fences, Hedges and Walls”), 201.7 (“Driveways and Parking Areas”), 203.1 (“Exceptions to Height Requirements”), 203.3 (“Accessory Wind Energy Facilities”), 203.4 (“Telecommunication Facilities”), 203.5 (“Bonding and Security for Towers and Similar Structures”), 204 (“Lots in Two Zoning Districts”), 206 (“Sight Distance at Street Intersections”), 208 (“Off-Street Loading”), 213 (“Impact Fees”), 301 (“Zoning Map”), 302 (“Uses”), 402 (“Flood Plan District”), 409 (“Landfill Reclamation District”), 501.2 (“Planned Unit Residential Development (PURD)”), 501.3 (“Planned Unit Recreational Developments”), 506 (“Medical Center Complexes”), 601 (“Special Design Standards”), 602 (“Non-Commercial Swimming Pools and Hot Tubs”), 607 (“Parking”), 608.8 (“Non-Conforming Signs”), 610 (“Accessory Dwelling Unit (ADU)”), 611 (“The Keeping of Chickens”), Appendix A (“Definitions”), and all other miscellaneous editorial edits and typographical corrections depicted in the attached redline.

SCHEDULE

The procedure to adopt zoning amendments is set forth in Section 1000 of the Zoning Ordinance and is summarized below:

1. Staff presents amendments to City Council for initial consideration - *scheduled for the October 7, 2020 Council meeting*. Section 1000.2.A.

2. If Council decides to move forward with the amendments, they will set a tentative schedule including review by legal counsel, review before the City's land use boards, and a public hearing before the Council. Section 1000.3.A.
3. The amendments will be forwarded to the City's attorney for review. *Legal opinion expected to be received by the end of October.* Section 1000.3.B.2.
4. The amendments are forwarded to the City's land use boards for review. Sections 1000.3.B.1 and C.
 - a. Zoning Board – *expected to be scheduled for the November 2, 2020 meeting.*
 - b. Conservation Commission – *expected to be scheduled for the November 12, 2020 meeting.*
 - c. Planning Board - *expected to be scheduled for the November 23, 2020 meeting.*
5. Council will then hold a work session to review the amendments as modified based on legal input and land use board feedback – *expected to be scheduled for the January 6, 2021 Council meeting.*
6. Finally, the Council will hold a public hearing followed by a vote on whether to adopt the amendments - *expected to be scheduled for January 20, 2021 Council meeting.* Section 1000.3.D.

Please note that amendments to the Article III Tables of Use for the R-1, R-2, R-3, RL-1, RL-2, and/or RL-3 Districts require approval by referendum vote per Section 1000.4 of the Zoning Ordinance. The remainder require adoption by City Council per Section 1000.4.B of the Zoning Ordinance (keeping in mind that the Council has the ability to place any proposed amendment on the March ballot for voter approval).

ATTACHMENT

- Redline excerpt of current Zoning Ordinance (redline last revised 9/29/20)

ZONING ORDINANCE



Ordinance #2

CITY OF LEBANON, NEW HAMPSHIRE

ADOPTED:

January 16, 2013

LAST AMENDED:

~~*March 10,*~~

~~*2020*~~ *, 2021*

ARTICLE II

GENERAL PROVISIONS

[...]

SECTION 201 YARD REQUIREMENTS.

Except as otherwise provided herein, no building or structure other than accessory structures and buildings of 130 sq. ft. or less per Section 201.8 below shall occupy any part of any yard required by Article III, except that ~~the ordinary projections of sills, cornices, pilasters, chimneys, and eaves, bay windows, awnings, and similar architectural and structural features~~ **architectural details** may extend not more than two (2) feet into any required yard.

201.1 Reduction for an Average Front Yard.

The required front yard may be reduced to the average front yard of the existing buildings on the same side of the street in the same block, provided that there are at least two (2) such buildings and provided that all such buildings are within 300 feet of the premises (as measured along the street line). This reduction shall not be allowed for lots fronting on a state highway ~~or major thoroughfare~~.

[...]

201.4 Fences, Hedges and Walls.

~~Fences, hedges and walls may be located within minimum required yards, but Fences, hedges or walls if located within~~ required front yards ~~they~~ shall not exceed 3 ½ feet in height unless ~~the set back at least is~~ 15 feet from the right-of-way. The Board of Adjustment, as a special exception, may allow fences, hedges and walls of a greater height. This section shall not apply to fences and walls erected for agricultural (e.g., the confinement of animals), safety or security purposes in the industrial, commercial or rural lands districts.

[...]

201.7 Driveways and Parking Areas.

Driveways may occupy required **yard** areas. ~~Parking areas may occupy required yard areas provided they maintain a least a 5 ft. setback from all lot lines, except that (i) parking areas in the front yard are prohibited in the LD District per Section 307.9.B, and (ii) Parking areas parking areas in the front yard in the residential districts and the R-O District and the R-O-1 District, shall be set back no less than the lesser of the minimum front yard requirement or the building line, but in no case less than five (5) feet.~~

[...]

SECTION 203 HEIGHT REQUIREMENTS.203.1 Exceptions to Height Requirements.

Except as provided in Section 407 for structures near the airport or in the airport approach zone, the following structures may exceed the maximum height limitations of Article III by not more than 20 percent:–

- A. Flagpoles.
- B. Rooftop features including cChimneys, spires, ~~silos~~, towers, lightning rods, heating, ventilation and air-conditioning equipment, elevator shafts, accessory solar energy facilities or similar structures/equipment. ~~The Board of Adjustment may allow a greater height for silos in the RL Districts by special exception granted pursuant to Section 801.3.~~
- C. Radio or TV antennae or satellite dish for private, non-commercial reception.
- D. Accessory wind energy facilities, except as provided in Section 203.3.
- E. Silos, except that the Board of Adjustment may allow a greater height for silos in the RL Districts by *special exception* granted pursuant to Section 801.3.

[...]

203.3 Accessory Wind Energy Facilities.

Accessory wind energy facilities may exceed the above Section 203.1 exception to the maximum height limits in RL Districts (Sections 312, 313 and 314) by special exception, except as provided in Section 407 (the more restrictive Section applies).

[...]

203.4 Telecommunication Facilities.

- A. Location of Telecommunication Facilities:

[...]

- 3. Facilities Other Than Collocation or Modification. **Telecommunication facilities** requiring a new dedicated tower or other structure, or which otherwise do not fit within paragraphs A.1 or A.2 above, shall be:
 - a. Permitted in the Industrial, General Commercial, and Medical Center zoning districts by Conditional Use Permit;
 - b. Allowed by Special Exception ~~and Conditional Use Permit~~ in the RL zoning districts and,

[...]

- D. ~~Conditional Use Permits and~~ Procedure:

- 1. Unless specifically exempted under Subsection A.1 of this Section, **telecommunications facilities** are permitted only after obtaining a **conditional use permit** ~~from the Planning Board and/or, where required, a special exception as required under Subsection A.3 from the Zoning Board.~~ All such uses must comply with other applicable ordinances and regulations of the City of Lebanon, State of New Hampshire, and Federal Government.
- 2. **Telecommunications facilities** requiring a new dedicated tower or other structure, or which otherwise do not fit within Subsections A.1 or A.2, shall

~~obtain site plan approval from the~~ The Planning Board ~~which~~ shall act upon the ~~site plan~~ application in accordance with the procedural requirements of ~~its the~~ Site Plan Review Regulations, provided that regional notification requirements contained in RSA 12-K:7 must also be followed.

[...]

203.5 Bonding and Security for Towers and Similar Structures.

Whenever ~~either the Zoning Board of Adjustment or~~ Planning Board ~~or the Zoning Board (in the event that site plan review is not required)~~ approves an application to construct a tower or similar structure which, if abandoned and unmaintained, could present a hazard to health or safety from a potential fall or collapse, including but not limited to broadcast antennas or towers under Section 203.2, telecommunications towers under Section 203.4, or wind energy facilities under Section 203.3, the respective Board shall require the applicant to provide a bond or other security to the City in an amount sufficient to cover the costs of removal and disposal of such structure. The Board shall set the form and amount of the security. Any engineer, attorney, or other consultant engaged by the Board to determine the adequacy of the form and amount of security shall be at the applicant's expense. The Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed structure prior to construction.

SECTION 204 LOTS IN TWO ZONING DISTRICTS.

Where a district boundary line divides a lot of record at the time such district boundary line is established, the regulations for either district of such lot may extend up to thirty feet (one hundred feet in rural lands districts) into the other district, provided the lot has frontage on a street in the district which is being extended, and provided that the lot has not been altered by subdivision, merger, or lot line adjustment subsequent to the establishment of the district boundary. ~~Determinations under this section shall be made by the Zoning Administrator, subject to appeal under Section 801.1.~~

[...]

SECTION 206 SIGHT DISTANCE AT STREET ~~AND DRIVEWAY~~ INTERSECTIONS.

There shall be no obstruction to vision between the heights of three (3) feet and ten (10) feet above the **street** surface within ~~the any~~ triangular area formed by the intersection of two **street lines** and a third line joining them at points 25 feet away from their intersection, ~~or by the intersection of a driveway and a street line and a third line joining them at points 25 feet away from their intersection.~~ The Board of Adjustment may grant a **special exception** to this requirement, pursuant to Section 801.3, in the commercial and industrial districts only.

[...]

SECTION 208 ~~OFF-STREET LOADING(Reserved).~~

~~Off street loading facilities shall be provided for all institutional, commercial and industrial uses. These facilities shall be located so that delivery vehicles are parked completely outside of the street right-of-way, and shall comply with the requirements of the Site Plan Review Regulations as applicable.~~

[...]

SECTION 213 IMPACT FEES.

[...]

213.3 Definitions.

The following definitions shall be considered to pertain to this Section (213) only:

[...]

E. New development means an activity that results in:

- (1) The creation of a new dwelling unit or units or new manufactured housing or in the habitable portion of a residential building; or
- (2) The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units; or
- (3) Construction resulting in a new non-residential building or a net increase in the gross floor area of any non-residential building; or

[...]

213.5 Standards and Basis of Assessment.

[...]

D. In the case of new development created by conversion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee assessed for the new use for each category of impact fee assessment as compared to the highest impact fee that was or would have been assessed for each category of impact fee assessment for the previous use in existence on or after the effective date of this Ordinance.

[...]

213.9 Appeals under This Section.

A. A party aggrieved by a decision made by the Code Enforcement Officer Zoning Administrator -relating to administrative decisions in the assessment or collection of impact fees authorized by this Section may appeal such decision to the Planning Board within 30 days of the administrative decision, and not afterward.

[...]

ARTICLE III

USE DISTRICTS

[...]

SECTION 301 ZONING MAP.

301.1 Establishment.

The districts and the boundaries of such districts shall be as shown on a map entitled "OFFICIAL ZONING MAP OF THE CITY OF LEBANON, NEW HAMPSHIRE." ~~together with all notations, references and other matter and things set forth and/or attached thereto.~~ This map, which was adopted on July 19, 1978, and amended several times thereafter, is hereby re-adopted. ~~It shall be known as the Official Zoning Map of the City of Lebanon and shall be certified by the Mayor and City Clerk.~~ Said map is to be prepared and ~~updated~~ maintained by the City of Lebanon Planning ~~Office~~ & Development Department, and ~~amendments thereto shall be certified by the City Clerk.~~

[...]

301.3 Final Authority.

Regardless of the existence of purported copies of the Official Zoning Map~~y~~ which may from time to time be published, the Official Zoning Map which is on file with the City Clerk shall be the final authority on current zoning.

[...]

SECTION 302 USES.

302.1 Permitted Uses. In the districts described herein, only those uses listed as "permitted uses" shall be permitted. Uses listed as "special exception" may be allowed, but only at the discretion of the Board of Adjustment pursuant to Section 801.3. Uses listed as "conditional use permit" may be allowed, but only at the discretion of the Planning Board pursuant to Section 302.4. It is the intent of this Ordinance that no other uses be allowed. All uses shall comply with the dimensional requirements of the "Table of Area, Dimension~~s~~ and Coverage" of the zoning district in which the use is located. Uses not listed are neither permitted nor allowed by special exception nor allowed by **conditional use** permit.

[...]

SECTION 303 LIGHT INDUSTRIAL DISTRICT (IND-L).

[...]

303.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Commercial/Non-Residential</u> 1. Airport 2. Bus terminal 3. Essential service 4. Health club 5. Light industry 6. Local government use 7. Outdoor storage per Section 303.4 (less than 20%) 8. Plumbing, electrical or carpentry shop 9. Publishing/printing 10. Research laboratory 11. Renewable energy system per Section 612 12. Retail product pickup 12-13. Retail showroom per Section 303.5 (less than 10%) 13-14. Trucking terminal 14-15. Warehouse <u>Planned Developments</u> 15-16. Industrial PUD per Section 501 16-17. Planned business park per Section 508	<u>Commercial/Non-Residential</u> 1. Care and treatment of animals 2. Contractor's yard 3. Educational facility, college/university 4. Educational facility, vocational school 5. Group day care facility per Section 604 <u>Uses by Conditional Use Permit</u> (see Section 302.4) <u>Commercial/Non-Residential</u> 1. Car wash 2. Office building for 50 or more employees 3. Outdoor storage per Section 303.4 (more than 20%) 4. Retail showroom per Section 303.5 (between 10-20%) 5. Rehabilitation hospital Retail product pickup

[...]

303.6 Flex Buildings.

~~Flex buildings (i.e. multi-use buildings) having no more than 30% of the floor area occupied by independent office uses are permitted, provided the principal use of the building is for a permitted use.~~

[...]

SECTION 303A INDUSTRIAL - RAIL ACCESS DISTRICT (IND-RA).

[...]

303A.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Commercial/Non-Residential</u> 1. Bituminous paving plant 2. Concrete mixing plant 3. Contractor's yard 4. Essential service 5. Health club 6. Light industry 7. Local government use 8. Outdoor storage and sales 9. Recycling facility 10. Research laboratory 11. Renewable energy system per Section 612 12. Retail showroom per Section 303A.5 13. Warehouse	<u>Commercial/Non-Residential</u> 1. Bulk petroleum and liquid propane gas storage 2. Excavation of natural earth material per Section 606 and/or processing of natural earth material. Natural resource extraction and/or processing facility (timber, stone, or soil) 3. Intermodal transportation facility 4. Educational facility, vocational school 5. Group day care facility per Section 604
	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Planned Developments</u> 14. Industrial PUD per Section 501 15. Planned business park per Section 508	<u>Commercial/Non-Residential</u> 1. Office building

303A.3 Table of Areas, Dimensions, and Coverage.**IND - RA DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Building Coverage	Height
2 acres	200'	30' (*)	20' (*)	20' (*)	50%	65'

*~~Setback will be waived for~~ This restriction may be relaxed by **conditional use permit**, if the Planning Board finds, in addition to the standards set forth in Section 302.4, that such relaxation is required to allow access to or use of rail service. ~~these portions of the lot where rail access is along the property line.~~

303A.4 Special Setback Restrictions.

Principal structures on lots in the IND-RA district which abut a residential zoning district ~~lines will shall~~ be set back a minimum of 75 feet from the property line or lines which abut the residential zone.

303A.5 Retail Showrooms.

Showrooms and on-premises sales may be allowed as part of a **manufacturing/light industry or, warehouse** ~~or distribution facility~~ provided that: (1) such showrooms are limited in floor area to no more than 10% of the total acreage of the lot on which they area located or a maximum of 20,000 square feet, whichever is smaller, and, (2) the goods being displayed are the same as those being manufactured/stored/distributed on the premises.

[...]

SECTION 304 HEAVY INDUSTRIAL DISTRICT (IND-H).

[...]

304.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Commercial/Non-Residential</u> 1. Contractor's yard 2. Essential service 3. Recycling facility 4. Renewable energy system per Section 612 5. Sanitary landfill 6. Sawmill per Section 304.5	<u>Commercial/Non-Residential</u> 1. Bulk storage of petroleum products 2. Junkyard per Section 605 3. Removal of natural materials <u>Excavation of natural earth material</u> per Section 606 and/or <u>processing of natural earth material</u>
<u>Planned Developments</u> 7. Industrial PUD per Section 501 8. Planned business park per Section 508	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
	<u>Commercial/Non-Residential</u> 1. Bituminous paving plant 2. Concrete mixing plant 3. Stone crushing plant

[...]

SECTION 305 GENERAL COMMERCIAL DISTRICT (GC).[...]305.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> 1. Dwelling unit(s) above first floor 2. Multi-family dwelling (see Section 305.5)	<u>Commercial/Non-Residential</u> 1. Alternative treatment center per Section 613 2. Alternative treatment center (cultivation location only) per Section 613 3.2 Bus terminal 4.3 Educational facility, college/university 5.4 Essential service 6.5 Truck terminal
<u>Commercial/Non-Residential</u> 3. Amusements (indoor) 4. Car wash 5. Community center 6. Drive-in restaurant, refreshment stand 7. Drive-through facility 8. Drycleaning pick-up station 9. Financial institution 10. Funeral establishment <u>home</u> 11. Group day care facility per Section 604 12. Health club 13. Hotel 14. House of worship 15. Laundromat 16. Local government use 17. Membership club 18. Motel 19. Movie theater 20. Office 21. Personal service 22. Publishing/printing 23. Radio or TV studio 24. Recreational facility, indoor 24-25. Renewable energy system per Section 612 25-26. Restaurant, sandwich shop 27. Retail product pickup 26-28. Retail store 27-29. Service station 28-30. Vehicular repair 29-31. Vehicular sales	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Planned Developments</u> 30-32. Commercial PUD per Section 501	<u>Commercial/Non-Residential</u> 1. Care and treatment of animals 2. Contractor's yard 3. Craftsman's shop 4. Plumbing, electrical or carpentry shop 5. Produce stand 6. Recreational facility, indoor 7.6 Recreational facility, outdoor 8. Retail product pickup 9.7 Warehouse 10.8. Wholesale sales

[...]

SECTION 305A GENERAL COMMERCIAL ONE DISTRICT (GC-1).

[...]

305A.2 Table of Uses.

<u>Permitted Uses</u>	<u>Uses by Conditional Use Permit (see Section 302.4)</u>
<u>Residential</u> 1. Multi-family dwelling (see Section 305A.4) <u>Commercial/Non-Residential</u> 2. Dwelling unit(s) above first floor 3. Essential service 4. Financial institution 5. Group day care facility per Section 604 6. Office 7. Personal service 8. Renewable energy system per Section 612 <u>Planned Developments</u> 9. Commercial PUD per Section 501	<u>Commercial/Non-Residential</u> 1. Alternative treatment center per Section 613 2. Alternative treatment center (cultivation location only) per Section 613 3.2. Drycleaning pick-up station 4.3. Educational facility, college/university 5.4. Light industry 6.5. Research laboratory 7.6. Restaurant , sandwich shop 8.7. Retail store

[...]

SECTION 306 CENTRAL BUSINESS DISTRICT (CB).

[...]

306.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> 1. Dwelling unit(s) above first floor 2. Multi-family dwelling (see Section 306.5) 3. Senior housing complex	<u>Commercial/Non-Residential</u> 1. Craftsman's shop 2. Drive-through facility 3. Educational facility, college/university 4. Group day care facility per Section 604 5. Vehicular sales
<u>Commercial/Non-Residential</u> 4. Amusements (indoor) 5. Community center 6. Drycleaning pick-up station 7. Financial institution 8. Funeral establishment <u>home</u> 9. Health club 10. Hotel 11. House of worship 12. Laundromat 13. Library or museum 14. Local government use 15. Membership club 16. Motel 17. <u>Museum</u> 17-18. <u>Office</u> 18-19. <u>Personal service</u> 19-20. <u>Radio or TV studio</u> 20-21. <u>Renewable energy system</u> per Section 612 21-22. <u>Restaurant</u>, sandwich shop 22-23. <u>Retail store</u> 23-24. <u>Social service center</u> 24-25. <u>Theater, concert hall, movie theater</u>	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Planned Developments</u> 25-26. <u>Commercial PUD</u> per Section 501	<u>Commercial/Non-Residential</u> 1. Essential service 2. Other uses per Section 306.4 3. Parking facility 4. Publishing/printing 5. Recreational facility, indoor 6. Recreational facility, outdoor

306.3 Table of Area, Dimensions and Coverage.**CB DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Building Coverage	Height
3,000 square feet	50'	NONE	NONE	10' (*)	NONE	45' ^{**}

*May be reduced or eliminated by ~~special exception~~conditional use permit.

~~**55' is allowed for any property within the Central Business District that is located in downtown Lebanon and is adjacent to the Mascoma River; and/or is adjacent to one or more of the following primary streets: North, South, East, and West Park Streets, Hanover Street, High Street, Mechanic Street, Mascoma Street, Bank Street, Campbell Street, and Spencer Street; and/or is adjacent to any other street that intersects one of the afore-mentioned primary streets.~~

[...]

SECTION 307LEBANON DOWNTOWN DISTRICT (LD).

[...]

307.6 Non-Residential Uses.A. Buildings with Frontage on Primary Streets.

1. If a **building** is located on a **lot** with **principal frontage** on a primary **street**, a minimum of 1,000 square feet or 1/3 of the **gross floor area**, whichever is less, of the **street level story** of the **building**, shall be ~~devoted~~ reserved for a non-residential use or uses, and such combined uses shall have both a depth and width of not less than 20 feet along the primary **street**.

[...]

B. Buildings with Frontage on Secondary Streets.

[...]

1. Notwithstanding the above requirements, the Planning Board may waive the requirement for non-residential uses on **the street level story** and permit residential uses on the complete-entire street level story in these locations by **conditional use permit** pursuant to Section 302.4 provided the applicant demonstrates that:

[...]

C. Definitions. For purposes of this subsection, primary and secondary **streets** are defined as follows:

1. Primary Streets. The Downtown Mall, Taylor Street within 500 feet of the Downtown Mall, Hanover Street from Hough Street to Church Street, Mascoma Street, Mechanic Street, Court Street, West Park Street from Hanover Street to Court Street, and North Park Street from Court Street to Campbell Street.
2. Secondary Streets. Hanover Street from NH Route 120 to Hough Street, Mascoma Street, Foundry Street, Church Street, High Street, Mechanic Street, Water Street, East Park Street, Bank Street, Taylor Street more than 500 feet from the Downtown Mall, Campbell Street, and Spencer Street.

[...]

307.8 Building Height.

[...]

- B. Minimum Story Height. The **street level story** of a **building** shall not be less than twelve (12) feet in height as measured between finished floors. All other **stories** shall be no less than ten (10) feet in height as measured between finished floors. The Planning Board may waive these requirements by conditional use permit pursuant to Section 302.4.

307.9 Driveways, Parking Areas, and Circulation Areas.

[...]

- B. No **parking area** or circulation area for vehicles shall be located in the **front yard**. For improved surfaces in existence as of (insert date of ordinance adoption), the Planning Board may waive these requirements by **conditional use permit** pursuant to Section 302.4 if the Board find that there is no other location on the **lot** to provide parking. Where a **lot** abuts more than one **street**, this restriction shall only apply to the **front yard** along the **principal frontage**.

[...]

SECTION 308 RESIDENTIAL ONE DISTRICT (R-1).

[...]

308.3 Table of Area, Dimensions and Coverage.**R-1 DISTRICT****Minimum Lot Size**

Class	Area	Width	Additional Area per D.U. After Two	Maximum Height
1	10,000 sq.ft.	75'	3,000 sq.ft.	45' <u>or 55' per Section 308.4</u>
2	15,000 sq.ft.	75'	5,000 sq.ft.	45' <u>or 55' per Section 308.4</u>
3	40,000 sq.ft.	100'	15,000 sq.ft.	45' <u>or 55' per Section 308.4</u>

[...]

308.4 Building Height. By **conditional use permit** per Section 302.4, the maximum **building height** for a proposed **building** may be increased up to 10 additional feet if the increase in **building height** is for the purpose of accommodating a **parking structure** underneath or within the proposed **building**, and provided that the **building** is set back from the **setback line** a minimum distance equal to two (2) feet for every one (1) foot of additional **building height** over 45 ft.

[...]

SECTION 310 RESIDENTIAL THREE DISTRICT (R-3).

[...]

310.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> 1. One-family dwelling 2. Accessory dwelling unit (ADU) per Section 610 <u>Commercial/Non-Residential</u> 3. Home business per Section 600 4. Home-based agricultural business per Section 600B.2 (lots 5 acres or more) and per Section 600B.3 (lots greater than 10 acres) 5. Hospital 6. House of worship 6.7. Public education facility 7.8. Public recreation facility 8.9. Public safety facility 9.10. Renewable energy system per Section 612 <u>Planned Developments</u> 10.11. PURD per Section 501	<u>Residential</u> 1. Two family dwelling by conversion of existing one family dwelling 2. Senior housing complex <u>Commercial/Non-Residential</u> 3. Cemetery 4. Essential service 5. Group day care facility per Section 604 6. Home-based agricultural business per Section 600B.2 (lots less than 5 acres) and per Section 600B.3 (5–10 acre lots) 7. House of worship 8.7. Nursing home

[...]

310.4 Dwelling Unit Density.

For **senior housing complexes** and PURDs per Section 501.2 (“Planned Unit Residential Development (PURD)”), one (1) **dwelling unit** is permitted per each 10,000 sq. ft. of **lot area**. Density for **senior housing complexes** may be increased per Section 603 (“Senior Housing Complexes”).

SECTION 311B PROFESSIONAL BUSINESS DISTRICT (PB).

[...]

311B.4 Parking Requirements.

Parking shall be as set out in Section 607.4 of this Ordinance except that parking shall be provided on site for any dwelling unit(s) [per Section 607.2 \(“Table of Minimum Off-Street Parking Requirements”\)](#). Such on-site parking shall not occupy the front yard and shall be screened from abutting properties.

[...]

SECTION 313 RURAL LANDS TWO DISTRICT (RL-2).

[...]

313.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> One-family dwelling Accessory dwelling unit (ADU) per Section 610 <u>Commercial/Non-Residential</u> Agriculture Home business per Section 600 - House of worship Public recreation facility Renewable energy system per Section 612 <u>Planned Developments</u> Manufactured home park per Section 503 Manufactured home subdivision per Section 504 (or manufactured home PURD) - PRec per Section 501 - PURD per Section 501	<u>Commercial/Non-Residential</u> Care and treatment of animals - Cemetery Essential service Group day care facility per Section 604 Home-based contractor's yard per Section 600A Produce stand - Radio or TV tower or other communication equipment - Recreational camping park per Section 505 Recreational facility, indoor Recreational facility, outdoor RemovalExcavation of natural earth materials per Section 606

SECTION 314 RURAL LANDS THREE DISTRICT (RL-3).314.1 Purpose.

These are areas ~~of the City~~ within ~~which the City that are critical areas for development,~~ ~~or~~ development should be restricted until it has been further studied and detailed plans developed. ~~In the first instance these~~ These are critical areas where slopes of over twenty-five percent (25%) may be found, wetlands and a seasonably high water-table exist or have poor highway access to the rest of the community. ~~Also the~~ These areas almost uniformly have severe restrictions for on-site disposal of sewage and any extensive development, including driveways, may present problems in grades and control of erosion. The primary ~~purpose-use~~ of these areas should be for forestry ~~and with~~ only limited development for single family residential purposes on large lots. ~~The second type in this classification are areas that are reserved for future expansion when the necessary utilities and road systems are designed or in place.~~

SECTION 315 MEDICAL CENTER DISTRICT (MC).

[...]

315.2 Table of Uses.

<u>Permitted Uses</u>	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Commercial/Non-Residential</u> Essential service Group day care facility per Section 604 and Section 506.3.5 Health club Hospice Medical center complex per Section 506 - Medical office building Medical research facility Renewable energy system per Section 612 Retail product pickup <u>Planned Developments</u> - Commercial PUD per Section 501	<u>Commercial/Non-Residential</u> Drive-through facility Financial institution per Section 506.3.5 Motel Hotel Office Parking facility Personal service per Section 506.3.5 Restaurant per Section 506.3.5 Retail store per Section 506.3.5 Recreational facility, indoor per Section 506.3.5 Recreational facility, outdoor per Section 506.3.5

315.3 Table of Area, Dimensions and Coverage.**MC DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Lot Area	Lot Frontage	Front Yard	Side Yard	Rear Yard	Height	Building Coverage
75,000 sq.ft.	200'	40'	20'	20'	60', except as required by (See Section 315.4 and as permitted by Section 506.2)	50%

[...]

ARTICLE IV

OVERLAY DISTRICTS

[...]

SECTION 402 FLOODPLAIN DISTRICT.

[...]

402.2 Floodplain District Regulations.

Within the Flood Plain District, all requirements of the Flood Damage Prevention Ordinance of June 4, 1980, [City Code Chapter 74](#), as amended, shall be complied with.

402.3 Floodplain Official.

[The Floodplain Official is responsible for administering and enforcing Section 402.2. The City Engineer will normally serve as the Floodplain Official. See City Code Chapter 74-15.](#)

[...]

SECTION 409 LANDFILL RECLAMATION DISTRICT

[...]

409.3 Permitted Uses.

The following uses are permitted in a closed or capped waste disposal area:

[...]

- C. ***Accessory uses*** to the secondary permitted recreational use, such as control or maintenance buildings and structures to allow food sales. ~~More than one accessory use is permitted if all such accessory uses remain incidental and subordinate to the principal recreational use.~~

[...]

ARTICLE V

SUBDIVISIONS AND PLANNED DEVELOPMENTS

[...]

SECTION 501 PLANNED UNIT DEVELOPMENT (PUD).

[...]

501.2 Planned Unit Residential Development (PURD).

- A. Objectives. The objectives of the PURD provisions of this ordinance are as follows:

[...]

1. To establish a connected network of conservation lands, trails, and working farm and forest land throughout the City by linking the Open Spaces and trails within the [subdivision development](#), to conservation lands, important natural resources and trails on adjoining lands wherever possible, and as particularly found in the Lebanon *Master Plan* and *Natural Lebanon*.

[...]

C. Uses Allowed in a PURD.

1. Residential Uses. A PURD may include dwelling units in ~~one-family detached~~, one-family ~~attached~~, two-family and multi-family dwellings. A mix of dwelling types may be permitted at the reasonable discretion of the Planning Board. In a manufactured home PURD only manufactured homes are permitted and shall be on individual lots.

[...]

501.3 Planned Unit Recreational Developments.

[...]

D. Uses Allowed in a PRec.

1. Residential Uses. A PRec shall provide a minimum of 15 dwelling units. A PRec may include dwelling units in one-family ~~detached, one-family attached~~, two-family and multi-family dwellings or appropriate mixes thereof, at the discretion of the Planning Board. In a PRec at least 75 percent of the land area used for building development shall be devoted to residential uses.

[...]

501.4 Commercial or Industrial Planned Unit Developments.

[...]

- D. Uses Allowed in a Commercial or Industrial PUD. Any non-residential use permitted in the Industrial, CB, GC, or GC-1 Districts may be allowed in a Commercial PUD.

Any non-residential use permitted or allowed by special exception or **conditional use** permit in the IND-L District may be allowed in an Industrial PUD. Additionally, no more than 25 percent of the [gross floor area building coverage](#) in an Industrial PUD may be allocated to **hotels**, restaurants, personal services and retail sales necessary to serve the needs of the other businesses in the PUD (or of their employees).

Dwelling units in one-family ~~detached, one-family attached~~, two-family and multi-family dwellings or appropriate mixes thereof Multi-family dwellings may be allowed in Commercial or Industrial PUDs, at the discretion of the Planning Board, provided that the Board determines that such residential uses are compatible within the proposed PUD. The density of residential uses allowed pursuant to this section shall be determined based on a maximum of 25% of the net land area of the PUD not planned for open space, roads, or utilities and calculated at a density of 13 dwelling units per acre. Where allowed, such **multi-**

~~family~~ dwelling units may be clustered together and/or distributed within the Commercial or Industrial PUD in mixed-use buildings at the discretion of the Planning Board.

[...]

SECTION 506 MEDICAL CENTER COMPLEXES.

[...]

506.3 Allowed Uses

In addition to a hospital, the following uses are allowed within the Medical Center Complex:

3. Congregate Living Facilities/Dormitory - A congregate living facility or dormitory is a housing facility provided by the Medical Center Complex which provides housing for ten or more of their adult health care students and/or staff in single or double living quarters. [...]
5. Any of the following uses, as defined in this Ordinance, when all or substantially all of the business will be with and for the patients, and the visitors of those patients, the employees and the staff of the building and facilities located within the medical center complex.
 - a. Personal service.
 - b. Retail store.
 - c. Restaurant.
 - d. ~~Branch bank~~ Financial institution.
 - e. Indoor/outdoor recreational facilities.
 - f. Group day care facility.

[...]

SECTION 508 PLANNED BUSINESS PARKS.

[...]

508.4 Sectors, Allowed Uses.

- A. The Planned Business Park shall be shown on an approved Subdivision Plan and Use Allocation Plan. The Subdivision Plan and Use Allocation Plan approved by the Planning Board shall designate the allocation of the Industrial/ Office, Commercial and Residential Uses within the Park.
- B. No more than 20% of the net land area not planned for open space, roads, or utilities shall be used for the Commercial Sector.
- C. Unless limited by the Planning Board at the time of subdivision approval, the following uses shall be permitted.
 1. The following uses shall be permitted by right for any Planned Business Park Industrial/Office Sector: light industry; warehouse; trucking terminal; publishing/printing; plumbing, electrical or carpentry shop; research laboratory; local government use; essential service; outdoor storage per Section 303.4 (less than 20%); group day care facility per Section 604; general business offices, research facilities, medical office buildings;

health clubs, Educational Facility, College/University; Educational Facility, Vocational School; and **accessory uses** to a permitted use. Retail showrooms per Sections 303.5 and 303A.5 shall be allowed by **conditional use** permit.

2. The following uses shall be permitted by right for any Planned Business Park Commercial Sector: retail store(s) up to a cumulative maximum of 20,000 sq. ft. of gross floor area; personal service; bank, branch bank; restaurant, sandwich shop/deli; refreshment stand; office; **motel**; **hotel**; movie theater; membership club; **amusements (indoor)**; printing (i.e. retail copy store); radio or TV studio; group day care facility per Section 604; local government use; and **health clubs**.

- D. **Dwelling units in one-family, two-family and multi-family dwellings or appropriate mixes thereof at the discretion of the Planning Board.** ~~Multi-family dwellings~~ shall be provided for in all Planned Business Parks. The maximum number of dwelling units allowed pursuant to this section shall be based on a minimum of 15% and a maximum of 25% of the net land area of the Park not planned for open space, roads, or utilities and calculated at a density of 13 dwelling units per acre. Such ~~multi-family~~ dwelling units may be clustered together and/or distributed within the Park at the discretion of the Planning Board.

[...]

ARTICLE VI

ADDITIONAL STANDARDS FOR SPECIFIC USES

[...]

SECTION 601 SPECIAL DESIGN STANDARDS.

[...]

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 ~~of offices~~ shall be compatible with the architectural character or the abutting properties and neighborhoods.

[...]

601.7 (Reserved)Mixed Uses.

~~In the R-2, R-O and R-O-1 Districts, a converted building may have both residential and office uses.~~

[...]

SECTION 602 NON-COMMERCIAL SWIMMING POOLS AND HOT TUBS.

[...]

602.4 Water Supply.

- A. If the water for such pool/tub is supplied from a private well, there shall be no cross-connection with the public water supply system.
- B. If the water for such pool/tub is supplied from the public water supply system, the inlet shall be above the overflow level of said pool. Backflow prevention devices shall be installed ~~as required by the Department of Public Works~~ when determined to be required by the City.

[...]

602.6 Permits.

- A. Every non-commercial swimming pool or hot tub shall have a permit from the Zoning Administrator.
- B. No permit shall be granted for the installation or construction of such swimming pool unless the plans shall meet the minimum construction requirements of the City and unless the City ~~Engineer, or a licensed professional engineer of the State of New Hampshire~~ has certified-determined that the drainage of such pool is adequate and will not interfere with the public water supply system, with existing sanitary facilities or with the public streets.

[...]

SECTION 607 PARKING

[...]

607.7 Off-Street Loading.

Off-street loading facilities shall be located so that delivery vehicles are parked completely outside of the **street** right-of-way, and shall comply with the requirements of the Site Plan Review Regulations as applicable.

SECTION 608 SIGNS.

[...]

608.4 Non-Residential Uses.

[...]

1. Maximum Permitted Sign Area.

[...]

- e. Multi-Tenant Buildings. The maximum **sign area** permitted for a **multi-tenant building** in existence as of *(insert date of ordinance adoption)* is the greater of either:

i. the total **sign area** allowed pursuant to Section 608.4.A.1.a; or

ii. the total **sign area** of all existing legal **signs** on the **building** as of *(insert date of ordinance adoption)*. For any vacant tenant spaces as of *(insert date of ordinance adoption)*, the **sign area** utilized by the immediate prior tenant may be included in the calculation of permitted **sign area** under this subsection.

[...]

608.8 Non-Conforming Signs.

[...]

- A. Loss of Legal Non-Conforming Status. A legal non-conforming **sign** shall lose its legal non-conforming status if it is altered, reconstructed, replaced, or expanded, ~~or relocated.~~ A mere change in copy is not an alteration or replacement for purposes of this Section.

[...]

SECTION 610 ACCESSORY DWELLING UNIT (ADU)

Accessory dwelling units are intended as an option for homeowners to offer separate and independent living space for their extended families, or to offer small **dwelling units** as rentals to offset the expense of maintaining the **dwelling**. ~~The appearance and character of the existing or proposed new dwelling shall remain single family in nature. An accessory dwelling unit is only allowed on lots with a detached one-family dwelling, and only one such accessory unit is permitted per lot. As an alternative, if allowed in the respective Zoning District, a property owner can seek a conversion of the unit to either a standard two-family or a multi-family dwelling.~~

An **accessory dwelling unit** shall comply with the following criteria:

A. An **ADU** is only allowed on **lots** with a detached **one-family dwelling**, and only one such **ADU** is permitted per **lot**.

B. A.—The appearance and character of the existing or proposed **ADU** shall remain single family in nature.

A-C. The property owner must occupy either the ~~primaryprincipal~~ **residence** ~~dwelling unit~~ or the **ADU** as their permanent residence. A temporary leave of absence by the property owner is allowed, provided the owner-occupied unit is not rented or occupied by anyone other than the property owner during the temporary leave or absence.

Prior to the issuance of a zoning/building permit, the owner shall record in the Grafton County Registry of Deeds an acknowledgment of the above owner-occupancy requirement, in a form satisfactory to the Zoning Administrator, in order to put prospective buyers on notice of the prohibition against renting out both units.

- B. The **ADU** must be located in the same **building** as the ~~primaryprincipal~~ **residence** ~~dwelling unit~~ unless the **lot** meets or exceeds the minimum required lot size for the

respective zoning district. If the **lot** meets or exceeds the required minimum lot size, the **ADU** may be located in a separate detached **structure** such as a garage or barn, provided the existing **structure** conforms with the minimum required yard setbacks requirements for the respective zoning district. An **ADU** may also be in a new **structure**.

- C. If the **ADU** is located within or by an addition to the existing onesingle-family dwelling, an interior door shall be provided between the principal **dwelling unit** and the **ADU**.
- D. If the **ADU** is located within or by an addition to the existing single-one-family dwelling, the **ADU** must be connected to the same utilities (except telephone and television) as the principal dwelling unitexisting dwelling. If the ADU is located in a detached structure, then connections to municipal utilities (i.e. municipal water/sewer) must be separate.

If applicable, the owner must seek a permit from the State of NH Dept. of Environmental Services Subsurface Systems Bureau, in accordance with NH RSA 485-A:38, for any increased load on an existing sewage disposal system as a result of the addition of an **ADU** to the **lot**.

- E. If the gross living area of the primaryprincipal dwelling unitresidence is 1,500 square feet or less, the gross living area of the ADU may be no greater than 50% of the gross living area of the primaryprincipal dwelling unitresidence. If the gross living area of the primaryprincipal dwelling unit is greater than 1,500 square feet, but less than 3,000 square feet, the gross living area of the ADU shall not exceed 750 square feet. If the primaryprincipal dwelling unit is greater than 3,000 square feet, the gross living area of the ADU can exceed 750 square feet provided the **ADU** is no greater than 25% of the gross living area of the primaryprincipal dwelling unit.
- F. A detached **ADU**, if permitted under paragraph B above, shall maintain a proportional mass, size, and height to ensure it is not taller than the primaryprincipal residence building on the lot. Detached ADU height shall not exceed the height of the primaryprincipal buildingresidence as measured to the eave line, with a maximum eave height of ten (10) feet for single-story and sixteen (16) feet for two-story detached ADUs.
- G. Any necessary additional entrances or exits to the primaryprincipal residencebuilding, to serve the **ADU**, shall be located to the side or rear of the **building**. All new or altered **structures**, intended to be used as an **ADU**, must be located behind the **building line** of the existing primaryprincipal residence building except when theby special exception if the Zoning Board finds that the placement of the **ADU** on the **lot** will not adversely affect the character of the neighborhood; traffic on roads and highways; safety of pedestrians, and will not create a hazard or nuisance to abutting property owners.
- H. In addition to the two (2) on-site **parking spaces** required for the primaryprincipal residence, one (1) additional on-site **parking space** for the **ADU** must be provided, and no more than two (2) ADU on-site spaces are allowed. The additional parking space shall comply with the parking standards contained in the Zoning Ordinance and the City of Lebanon's Driveway Regulations.

I. I. An ADU located within the principal building shall have an interconnected fire alarm system.

~~A zoning/building permit application for the ADU must be approved and issued prior to its construction, and a certificate of occupancy, specifying that the dwelling unit is an ADU, must be obtained prior to its occupancy. The ADU constructed within a primary residence shall have an interconnected fire alarm system. All ADU's shall meet all life safety and building codes.~~

SECTION 611 THE KEEPING OF CHICKENS.

[...]

The keeping of chickens shall be permitted for all **one-** and/or **two-family dwellings**, provided the following standards are met (these standards do not apply to chickens kept in the rural lands zoning districts where **agriculture** is a permitted use):

[...]

- A. A coop shall be provided ~~ll chickens shall be kept outdoors~~ within a **secure enclosure**. ~~All chickens shall be kept outdoors within the secure enclosure~~ at all times. The **secure enclosure** and **coop** shall be maintained in a humane and sanitary manner.

[...]

APPENDIX A

DEFINITIONS

[...]

ALTERNATIVE TREATMENT CENTER: An “Alternative Treatment Center” as defined in RSA 126-X:1, I, ~~namely, a not for profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and education materials, to qualifying patients and~~ **Alternative Treatment Centers.**

~~**ALTERNATIVE TREATMENT CENTER (CULTIVATION LOCATION ONLY):** A and/or a “cultivation location” as defined in RSA 126-X:1, IV, namely, a locked and enclosed site under the control of an **Alternative Treatment Center** where cannabis is cultivated, secured with one or more locks or other security devices in accordance with RSA 126-X and the Department of Health and Human Service’s administrative rules.~~

[...]

BUILDING COVERAGE: That percentage of the lot area covered by buildings. In determining the percentage of building coverage of a lot, ~~porches or carports open at the sides but roofed, and all~~ principal and **accessory buildings** shall be included.

[...]

~~**BUSINESS CENTER OR PLAZA:** A grouping of any commercial or industrial uses in one or more buildings, for example, retail, office, restaurant, entertainment, storage or manufacturing uses, sharing common access and parking facilities.~~

BUSINESS STORE FRONT: ~~That portion of the side of a structure occupied by a business use which faces the main street or major point of access. If the business use faces two main streets or major points of access, then said business shall be deemed to have two business store fronts. If the business use faces three or more main streets or major points of access, then said business shall designate only two faces which shall be deemed business store fronts.~~

[...]

CENTRALIZED WATER SYSTEM: ~~A water system that does not connect to the municipal water system and that is designed to serve as the water system for an entire development. Such a system shall be approved by the NHWSPCD and the City of Lebanon. Such systems, if approved, are permitted in the RL Districts only.~~

[...]

DWELLING, ONE-FAMILY: A dwelling with one (1) dwelling unit ~~detached or free-standing dwelling other than a manufactured home, designed for and occupied by one family only.~~

DWELLING, TWO-FAMILY: A ~~detached dwelling designed for or occupied by two families living independently of each other in individual attached~~ with two (2) dwelling units.

DWELLING, MULTI-FAMILY: A dwelling ~~designed for or occupied by~~ with three (3) or more families, ~~with the number of families in residence not exceeding the number of~~ dwelling units provided.

DWELLING UNIT, ONE-FAMILY ATTACHED: A dwelling unit designed for and occupied by one family only and separated from another dwelling unit on one or two sides by a vertical party wall.

EXCAVATION OF NATURAL EARTH MATERIAL: The removal of natural material is the removal of loam, sand, gravel, stone or other fill material for sale in commercial quantities, or for use in another location.

[...]

FLEX BUILDING: ~~A building capable of adapting to use by multiple occupants and normally located in an industrial area.~~

[...]

MAJOR THOROUGHFARE: ~~A major thoroughfare shall mean any public way which handles an average daily traffic volume greater than 750 vehicles.~~

[...]

MIXED USE: A development or ~~principle principal~~ building having two (2) or more of the uses allowed within the Zoning District in which it is located.

[...]

PARKING SPACES, OFF-STREET: For the purpose of these regulations, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Except for a two-family dwelling or a one-family dwelling with an ADU, ~~Required off-~~

street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked without moving another.

[...]

REHABILITATION HOSPITAL: A facility designed specifically to treat patients that have suffered strokes, or dramatic brain, spinal or orthopedic injuries. These patients no longer need acute care found in a traditional hospital, but are also not ready to go home or back to work. A rehabilitation hospital:

- Is licensed as a hospital, has a full-time medical director, and a staff of hospital-level nurses.
- Offers patients three (3) or more hours of therapy a day, with nurse-level, over-night care.
- Typically have patient stays of about 14 days.
- Have no emergency traffic, no intensive care units, and do not offer surgical services.

REMOVAL OF NATURAL MATERIAL: The removal of natural material is the removal of loam, sand, gravel, stone or other fill material for sale in commercial quantities, or for use in another location.

[...]

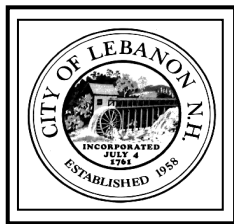
SHOPPING MALL: A group of stores and shops including retail office and/or restaurant/entertainment uses located along an open or enclosed pedestrian walkway sharing common access and parking facilities.

[...]

**Agenda
Zoning Board of Adjustment
November 16, 2020**

**Agenda Item #4A
Other Business**

**Zoning Ordinance
Amendments:
Review and comment to
City Council
on proposed amendments to
the Zoning Ordinance**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Zoning Board of Adjustment

FROM: Planning & Development Department Staff

RE: 2020-2021 Proposed Zoning Amendments

DATE: October 27, 2020

On October 7th, Planning & Development Department staff presented to the City Council a set of proposed Zoning Ordinance text amendments for initial consideration. Following the presentation, the City Council agreed to move the proposed amendments forward for further review. Pursuant to the zoning amendment process outlined in Section 1000 of the Zoning Ordinance, the City's Land Use Boards will be reviewing the proposed amendments at the following meetings:

- Zoning Board of Adjustment – November 2, 2020
- Conservation Commission – November 12, 2020
- Planning Board - November 23, 2020

Pursuant to Section 1000.3.B.1 of the Zoning Ordinance, the Zoning Board is required to “comment on the proposed amendment as to whether it would be inconsistent with other applicable sections of the Ordinance, does not conflict with other sections of the Ordinance, and the meaning and effect is understood. The ZBA shall not comment as to whether or not the amendment is desirable from a planning viewpoint.”

Attached are the following the Board's reference and review:

- A legal opinion from Christine Fillmore, Esq., dated October 27, 2020.
- A staff memo dated September 29, 2020 explaining the proposed amendments.
- A redline the current Zoning Ordinance (redline last revised October 14, 2020).

Please note:

- The attached redline reflects comments made by the Council at their October 7th meeting. Consequently, the page references in the attached staff memo are to the redline presented to the Council on October 7th and may no longer match the updated redline that is attached to this memo.
- Once review has been completed by the Land Use Boards, the City Council will hold a public hearing followed by a vote on whether to adopt the amendments and/or to place them on the March 2020 ballot for referendum vote.

October 27, 2020

David Brooks, Director of Planning and Zoning
City of Lebanon
51 N. Park Street
Lebanon, NH 03766

RE: Zoning Ordinance Amendments Draft of Oct. 15, 2020

Mr. Brooks:

This is a legal opinion as required by Section 1000.3(B)(2) of the Lebanon Zoning Ordinance concerning a set of proposed text amendments and one proposed map amendment. I reviewed a staff memorandum regarding these proposed amendments dated September 29, 2020 and a draft of these amendments dated October 15, 2020, and now provide this opinion based on those documents.

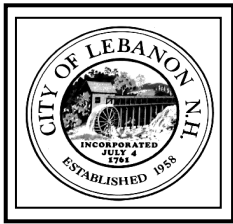
The Ordinance requires this legal review to cover: (a) whether such amendments are within the authority delegated to the City under State law; (b) whether the form is appropriate; and (c) whether, from an administrative point of view, the amendments can be administered and enforced.

In this case, the answer to these three questions is "yes" and I discern no legal or administrative issues of concern.

Sincerely,



C. Christine Fillmore



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council

CC: Shaun Mulholland, City Manager
Paula Maville, Deputy City Manager

FROM: Planning Staff

RE: 2020-2021 Proposed Zoning Amendments

DATE: September 29, 2020

Honorable Mayor and City Councilors,

The Planning & Development Department has prepared draft amendments to the Zoning Ordinance for consideration by the City Council, and request that the proposed amendments be placed on the October 7, 2020 Council meeting agenda for discussion. The proposed amendments are summarized below and highlighted in the attached redlined excerpt of the Zoning Ordinance. The new or revised text is blue and underlined. The text to be deleted is shown as ~~red with a strike-out~~.

If the Council chooses to move forward with the proposal, the draft amendments will be sent to the City's legal counsel and land use boards for further review. Once the review process is complete, the amendments will be scheduled for a public hearing before the City Council.

BACKGROUND

It is staff's practice to present a set of proposed zoning amendments to the Council each fall for review and consideration. Presenting the amendments in the fall allows them to move through the required review process in time for placement on the ballot the following March, when necessary.

The current set of proposed changes are primarily process-oriented and/or are intended to address ambiguities and inconsistencies in the existing text. A few substantive amendments are also proposed (such as adjusting the building height requirement in the R-1 District).

OVERVIEW OF AMENDMENTS

The proposed amendments are grouped into four general categories: those impacting permitted uses in the non-residential zoning districts, those involving the Lebanon Downtown District, those requiring ballot approval, and all other miscellaneous amendments (other than minor edits – such as those correcting punctuation, correcting references in the Zoning Ordinance necessitated by other amendments, and other editorial changes – which are not specifically reviewed in this memo).

1. Non-Residential Uses:

- a. **Amend Section 303.2, the IND-L District Table of Uses**, as follows (*see p. 7 of the redline*):
 - i. Add “rehabilitation hospital” (which is not currently a use category in the Zoning Ordinance) as a use allowed by Conditional Use Permit from the Planning Board. Chip Brown of Brown Commercial Realty, LLC, at whose request this suggested amendment has been forwarded to the City Council, will be in attendance at the October 7th meeting to explain and discuss the proposal.
 - ii. Change “retail product pickup” from a use allowed by Conditional Use Permit to a permitted use.
 - iii. Replace “office for 50 or more employees” with “office” within Uses by Conditional Use Permit.
- b. **Amend Section 303A.2, the IND-RA District Table of Uses** to (i) adjust the “excavation of natural earth material” use for consistency with similar uses in the IND-H and RL-2 Districts, and with Section 606 (“Excavation of Natural Earth Material”), and (ii) replace “office building” with “office”. (*see p. 8 of the redline*)
- c. **Amend Section 304.2, the IND-H District Table of Uses** to adjust the “excavation of natural earth material” use for consistency with similar uses in the IND-RA and RL-2 Districts, and with Section 606 (“Excavation of Natural Earth Material”). (*see p. 10 of the redline*)
- d. **Amend Section 305.2, the GC District Table of Uses**, as follows (*see p. 11 of the redline*):
 - i. Change “retail product pickup” from a use allowed by Conditional Use Permit to a permitted use.
 - ii. Change “indoor recreational facility” from a use allowed by Conditional Use Permit to a permitted use.
 - iii. Change “funeral establishment” to “funeral home” for consistency of terminology.
 - iv. Remove “alternative treatment center (cultivation location only)”, in connection with the proposal to combine the definitions of “alternative treatment center” and “alternative treatment center (cultivation location only)” (*see Appendix A, p. 27 of the redline*)
- e. **Amend Section 305A.2, the GC-1 District Table of Uses** to remove “alternative treatment center (cultivation location only)”, in connection with the proposal to combine the definitions of “alternative treatment center” and “alternative treatment center (cultivation location only).” (*see p. 12 of the redline; see also Appendix A, p. 27 of the redline*)
- f. **Amend Section 306.2, the CB District Table of Uses** to (i) remove “vehicular sales,” and (ii) change “funeral establishment” to “funeral home.” (*see p. 13 of the redline*)
- g. **Amend Section 315.2, the MC District Table of Uses** to adjust uses for consistency with the medical center complex requirements set forth in Section 506. (*see p. 19 of the redline*)

2. Lebanon Downtown District:

- a. **Amend Sections 307.6.A & B** to clarify verbiage. (*see p. 15 of the redline*)

- b. **Amend Section 307.6.C** to designate Mechanic Street a secondary street and to designate Mascoma Street a primary street. These designations relate to Sections 307.6.A & B which require a certain portion of the first floor of a building to be reserved for non-residential uses. The requirements for a secondary street (Section 307.6.B) are more flexible, only apply to buildings of a certain size, and may by “waived” by Conditional Use Permit from the Planning Board. (*see p. 15 of the redline*)
- c. **Amend Section 307.8.B** to allow the “waiver” of the minimum story height requirements by Conditional Use Permit. (*see p. 15 of the redline*)
- d. **Amend Section 307.9.B** to allow parking in the front yard by Conditional Use Permit for properties with pre-existing improved surfaces in the front yard, provided that parking cannot be accommodated elsewhere on the lot. (*see p. 16 of the redline*)

3. **Ballot Amendments:**

- a. **Amend Section 308.3 and add new Section 308.4** to allow additional building height of up to ten (10) ft. by Conditional Use Permit provided that the additional height is for the purpose of accommodating parking underneath the building. At the suggestion of the Planning Board, proposed Section 308.4 requires an enhanced building setback of two (2) feet for every one (1) foot of additional building height so authorized by Conditional Use Permit. For example, if the Planning Board were to approve a building height of 50 ft. (which is 5 ft. more than the existing 45 ft. maximum), the minimum required setbacks would be increased by 10 ft. for the structure. (*see p. 16 of the redline*)
- b. **Amend Section 310.2, the R-3 District Table of Uses** to change “house of worship” from a use allowed by Special Exception to a permitted use. This change is consistent with all other districts that allow house of worship where, in those districts, “house of worship” is designated a permitted use and does not require a Special Exception or Conditional Use Permit. (*see p. 17 of the redline*)
- c. **Add new Section 310.4 (“Dwelling Unit Density”)** to clarify that the permitted density in the R-3 District for senior housing complexes and PURDs is based on one dwelling unit per 10,000 sq. ft. of lot area. (*see p. 17 of the redline*)
- d. **Amend Section 313.2, the RL-2 District Table of Uses** to adjust the “excavation of natural earth material” use for consistency with similar uses in the IND-RA and IND-H Districts, and with Section 606 (“Excavation of Natural Earth Material”). (*see p. 18 of the redline*)

3. **Miscellaneous:**

- a. **Remove Section 303.6 (“Flex Buildings”).** The “flex building” concept is redundant to Sections 302.2 and 302.3 which already allow accessory uses and mixed-use buildings, respectively, “by right”. (*see p. 7 of the redline*)
- b. **Amend the IND-RA District regulations, Sections 303A.3, 4, and 5** to clarify that “waivers” of the minimum yard requirements where necessary to allow rail access may be authorized by Conditional Use Permit (Section 303A.3) and to clarify the verbiage of Sections 303A.4 and 5. (*see p. 9 of the redline*)

- c. **Amend Section 306.3, the CB District Table of Area, Dimensions and Coverage** to (i) allow a reduction of the minimum rear yard requirement by Conditional Use Permit from the Planning Board instead of by Special Exception from the Zoning Board of Adjustment, and (ii) as a clean-up item related to the recent adoption of the LD District regulations, remove the language allowing increased building height in downtown Lebanon (as the areas described are now located in the LD District). (*see p. 14 of the redline*)
- d. **Amend Section 311B.4 (“Parking Requirements”)** to clarify that the minimum number of parking spaces that must be provided for each dwelling unit shall be as set forth in Section 607.2 (“Table of Minimum Off-Street Parking Requirements”). (*see p. 17 of the redline*)
- e. **Amend Section 314.1 (“Purpose”)** to update the RL-3 District purpose statement by removing verbiage that is inconsistent with the remainder of the purpose statement and with the Master Plan. (*see p. 18 of the redline*)
- f. **Amend Section 501.4.D (“Uses Allowed in a Commercial or Industrial PUD”)**. Currently, hotels, restaurants, personal services, and retail are permitted uses in an Industrial PUD, but may occupy no more than 25% of the total “building coverage”. The proposed amendment changes “building coverage” to “gross floor area” which is a more logical metric and will avoid encouraging large, sprawling, one-story buildings which is the inadvertent result of using “building coverage” as the metric. (*see p. 21 of the redline*)
- g. **Add new Section 608.4.1.e (“Multi-Tenant Buildings”)** to allow the existing sign area for existing multi-tenant buildings to be used as the permitted sign area for the building, as an alternative to the building sign area formulas set forth in Section 608.4.1.a. (*see p. 24 of the redline*)
- h. **Miscellaneous amendments** to Sections 201 (“Yard Requirements”), 201.1 (“Reduction for an Average Front Yard”), 201.4 (“Fences, Hedges and Walls”), 201.7 (“Driveways and Parking Areas”), 203.1 (“Exceptions to Height Requirements”), 203.3 (“Accessory Wind Energy Facilities”), 203.4 (“Telecommunication Facilities”), 203.5 (“Bonding and Security for Towers and Similar Structures”), 204 (“Lots in Two Zoning Districts”), 206 (“Sight Distance at Street Intersections”), 208 (“Off-Street Loading”), 213 (“Impact Fees”), 301 (“Zoning Map”), 302 (“Uses”), 402 (“Flood Plan District”), 409 (“Landfill Reclamation District”), 501.2 (“Planned Unit Residential Development (PURD)”), 501.3 (“Planned Unit Recreational Developments”), 506 (“Medical Center Complexes”), 601 (“Special Design Standards”), 602 (“Non-Commercial Swimming Pools and Hot Tubs”), 607 (“Parking”), 608.8 (“Non-Conforming Signs”), 610 (“Accessory Dwelling Unit (ADU)”), 611 (“The Keeping of Chickens”), Appendix A (“Definitions”), and all other miscellaneous editorial edits and typographical corrections depicted in the attached redline.

SCHEDULE

The procedure to adopt zoning amendments is set forth in Section 1000 of the Zoning Ordinance and is summarized below:

1. Staff presents amendments to City Council for initial consideration - *scheduled for the October 7, 2020 Council meeting*. Section 1000.2.A.

2. If Council decides to move forward with the amendments, they will set a tentative schedule including review by legal counsel, review before the City's land use boards, and a public hearing before the Council. Section 1000.3.A.
3. The amendments will be forwarded to the City's attorney for review. *Legal opinion expected to be received by the end of October.* Section 1000.3.B.2.
4. The amendments are forwarded to the City's land use boards for review. Sections 1000.3.B.1 and C.
 - a. Zoning Board – *expected to be scheduled for the November 2, 2020 meeting.*
 - b. Conservation Commission – *expected to be scheduled for the November 12, 2020 meeting.*
 - c. Planning Board - *expected to be scheduled for the November 23, 2020 meeting.*
5. Council will then hold a work session to review the amendments as modified based on legal input and land use board feedback – *expected to be scheduled for the January 6, 2021 Council meeting.*
6. Finally, the Council will hold a public hearing followed by a vote on whether to adopt the amendments - *expected to be scheduled for January 20, 2021 Council meeting.* Section 1000.3.D.

Please note that amendments to the Article III Tables of Use for the R-1, R-2, R-3, RL-1, RL-2, and/or RL-3 Districts require approval by referendum vote per Section 1000.4 of the Zoning Ordinance. The remainder require adoption by City Council per Section 1000.4.B of the Zoning Ordinance (keeping in mind that the Council has the ability to place any proposed amendment on the March ballot for voter approval).

ATTACHMENT

- Redline excerpt of current Zoning Ordinance (redline last revised 9/29/20)

ZONING ORDINANCE



Ordinance #2

CITY OF LEBANON, NEW HAMPSHIRE

ADOPTED:

January 16, 2013

LAST AMENDED:

~~*March 10,*~~

~~*2020*~~ *, 2021*

ARTICLE II

GENERAL PROVISIONS

[...]

SECTION 201 YARD REQUIREMENTS.

Except as otherwise provided herein, no building or structure other than accessory structures and buildings of 130 sq. ft. or less per Section 201.8 below shall occupy any part of any yard required by Article III, except that ~~the ordinary projections of sills, cornices, pilasters, chimneys and eaves~~ architectural details may extend not more than two (2) feet into any required yard.

201.1 Reduction for an Average Front Yard.

The required front yard may be reduced to the average front yard of the existing buildings on the same side of the street in the same block, provided that there are at least two (2) such buildings and provided that all such buildings are within 300 feet of the premises (as measured along the street line). This reduction shall not be allowed for lots fronting on a state highway ~~or major thoroughfare~~.

[...]

201.4 Fences, Hedges and Walls.

Fences, hedges and walls may be located within minimum required yards, but ~~Fences, hedges or walls~~ if located within required front yards they shall not exceed 3 ½ feet in height unless ~~the set back at least is~~ 15 feet from the right-of-way. The Board of Adjustment, as a special exception, may allow fences, hedges and walls of a greater height. This section shall not apply to fences and walls erected for agricultural (e.g., the confinement of animals), safety or security purposes in the industrial, commercial or rural lands districts.

[...]

201.7 Driveways and Parking Areas.

Driveways may occupy required **yard** areas. Parking areas may occupy required yard areas provided they maintain a least a 5 ft. setback from all lot lines, except that (i) parking areas in the front yard are prohibited in the LD District per Section 307.9.B, and (ii) Parking areas parking areas in the front yard in the residential districts and, the R-O District and the R-O-1 District, shall be set back no less than the lesser of the minimum front yard requirement or the building line, but in no case less than five (5) feet.

[...]

SECTION 203 HEIGHT REQUIREMENTS.203.1 Exceptions to Height Requirements.

Except as provided in Section 407 for structures near the airport or in the airport approach zone, the following structures may exceed the maximum height limitations of Article III by not more than 20 percent:-

A. Flagpoles.

- B. Rooftop features including ~~c~~Chimneys, spires, ~~silos~~, towers, lightning rods, heating, ventilation and air-conditioning equipment, elevator shafts, accessory solar energy facilities or similar structures/equipment. ~~The Board of Adjustment may allow a greater height for silos in the RL Districts by special exception granted pursuant to Section 801.3.~~
- C. Radio or TV antennae or satellite dish for private, non-commercial reception.
- D. Accessory wind energy facilities, except as provided in Section 203.3.
- E. Silos, except that the Board of Adjustment may allow a greater height for silos in the RL Districts by *special exception* granted pursuant to Section 801.3.

[...]

203.3 Accessory Wind Energy Facilities.

Accessory wind energy facilities may exceed the ~~above~~ Section 203.1 exception to the maximum height limits in RL Districts (Sections 312, 313 and 314) by special exception, except as provided in Section 407 (the more restrictive Section applies).

[...]

203.4 Telecommunication Facilities.

- A. Location of Telecommunication Facilities:

[...]

- 3. Facilities Other Than Collocation or Modification. **Telecommunication facilities** requiring a new dedicated tower or other structure, or which otherwise do not fit within paragraphs A.1 or A.2 above, shall be:
 - a. Permitted in the Industrial, General Commercial, and Medical Center zoning districts by Conditional Use Permit;
 - b. Allowed by Special Exception ~~and Conditional Use Permit~~ in the RL zoning districts and,

[...]

- D. ~~Conditional Use Permits and~~ Procedure:

- 1. Unless specifically exempted under Subsection A.1 of this Section, **telecommunications facilities** are permitted only after obtaining a **conditional use permit** ~~from the Planning Board and/or, where required, a special exception~~ as required under Subsection A.3 ~~from the Zoning Board~~. All such uses must comply with other applicable ordinances and regulations of the City of Lebanon, State of New Hampshire, and Federal Government.
- 2. Telecommunications facilities requiring a new dedicated tower or other structure, or which otherwise do not fit within Subsections A.1 or A.2, shall obtain site plan approval from tThe Planning Board which shall act upon

the [site plan](#) application in accordance with the procedural requirements of ~~its~~ [the](#) Site Plan Review Regulations, provided that regional notification requirements contained in RSA 12-K:7 must also be followed.

[...]

203.5 Bonding and Security for Towers and Similar Structures.

Whenever ~~either the Zoning Board of Adjustment or~~ Planning Board [or the Zoning Board \(in the event that site plan review is not required\)](#) approves an application to construct a tower or similar structure which, if abandoned and unmaintained, could present a hazard to health or safety from a potential fall or collapse, including but not limited to broadcast antennas or towers under Section 203.2, telecommunications towers under Section 203.4, or wind energy facilities under Section 203.3, the respective Board shall require the applicant to provide a bond or other security to the City in an amount sufficient to cover the costs of removal and disposal of such structure. The Board shall set the form and amount of the security. Any engineer, attorney, or other consultant engaged by the Board to determine the adequacy of the form and amount of security shall be at the applicant's expense. The Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed structure prior to construction.

SECTION 204 LOTS IN TWO ZONING DISTRICTS.

Where a district boundary line divides a lot of record at the time such district boundary line is established, the regulations for either district of such lot may extend up to thirty feet (one hundred feet in rural lands districts) into the other district, provided the lot has frontage on a street in the district which is being extended, and provided that the lot has not been altered by subdivision, merger, or lot line adjustment subsequent to the establishment of the district boundary. ~~Determinations under this section shall be made by the Zoning Administrator, subject to appeal under Section 801.1.~~

[...]

SECTION 206 SIGHT DISTANCE AT STREET [AND DRIVEWAY](#) INTERSECTIONS.

There shall be no obstruction to vision between the heights of three (3) feet and ten (10) feet above the **street** surface within ~~the~~ [any](#) triangular area formed by the intersection of two **street lines** and a third line joining them at points 25 feet away from their intersection, [or by the intersection of a driveway and a street line and a third line joining them at points 25 feet away from their intersection](#). The Board of Adjustment may grant a **special exception** to this requirement, pursuant to Section 801.3, in the commercial and industrial districts only.

[...]

SECTION 208 [OFF-STREET LOADING \(Reserved\)](#).

~~Off street loading facilities shall be provided for all institutional, commercial and industrial uses. These facilities shall be located so that delivery vehicles are parked completely outside of the street right of way, and shall comply with the requirements of the Site Plan Review Regulations as applicable.~~

[...]

SECTION 213 IMPACT FEES.

[...]

213.3 Definitions.

The following definitions shall be considered to pertain to this Section (213) only:

[...]

E. New development means an activity that results in:

- (1) The creation of a new dwelling unit or units ~~or in the habitable portion of a residential building~~ or new manufactured housing; or
- (2) The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units; or
- (3) Construction resulting in a new non-residential building or a net increase in the gross floor area of any non-residential building; or

[...]

213.5 Standards and Basis of Assessment.

[...]

- D. In the case of new development created by conversion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee assessed for the new use for each category of impact fee assessment as compared to the highest impact fee that was or would have been assessed for each category of impact fee assessment for the previous use in existence on or after the effective date of this Ordinance.

[...]

213.9 Appeals under This Section.

- A. A party aggrieved by a decision made by the ~~Code Enforcement Officer~~ Zoning Administrator relating to administrative decisions in the assessment or collection of impact fees authorized by this Section may appeal such decision to the Planning Board within 30 days of the administrative decision, and not afterward.

[...]

ARTICLE III

USE DISTRICTS

[...]

SECTION 301 ZONING MAP.

301.1 Establishment.

The districts and the boundaries of such districts shall be as shown on a map entitled "OFFICIAL ZONING MAP OF THE CITY OF LEBANON, NEW HAMPSHIRE." ~~together with all notations, references and other matter and things set forth and/or attached thereto.~~ This map, which was adopted on July 19, 1978, and amended several times thereafter, is hereby re-adopted. ~~It shall be known as the Official Zoning Map of the City of Lebanon and shall be certified by the Mayor and City Clerk.~~ Said map is to be prepared and updated maintained by the City of Lebanon Planning ~~Office~~ & Development Department, and amendments thereto shall be certified by the City Clerk.

[...]

301.3 Final Authority.

Regardless of the existence of purported copies of the Official Zoning Map~~y~~ which may from time to time be published, the Official Zoning Map which is on file with the City Clerk shall be the final authority on current zoning.

[...]

SECTION 302 USES.

302.1 Permitted Uses. In the districts described herein, only those uses listed as "permitted uses" shall be permitted. Uses listed as "special exception" may be allowed, but only at the discretion of the Board of Adjustment pursuant to Section 801.3. Uses listed as "conditional use permit" may be allowed, but only at the discretion of the Planning Board pursuant to Section 302.4. It is the intent of this Ordinance that no other uses be allowed. All uses shall comply with the dimensional requirements of the "Table of Area, Dimensions and Coverage" of the zoning district in which the use is located. Uses not listed are neither permitted nor allowed by special exception nor allowed by **conditional use** permit.

[...]

SECTION 303 LIGHT INDUSTRIAL DISTRICT (IND-L).

[...]

303.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Commercial/Non-Residential</u> 1. Airport 2. Bus terminal 3. Essential service 4. Health club 5. Light industry 6. Local government use 7. Outdoor storage per Section 303.4 (less than 20%) 8. Plumbing, electrical or carpentry shop 9. Publishing/printing 10. Research laboratory 11. Renewable energy system per Section 612 12. Retail product pickup 12.13. Retail showroom per Section 303.5 (less than 10%) 13.14. Trucking terminal 14.15. Warehouse <u>Planned Developments</u> 15.16. Industrial PUD per Section 501 16.17. Planned business park per Section 508	<u>Commercial/Non-Residential</u> 1. Care and treatment of animals 2. Contractor's yard 3. Educational facility, college/university 4. Educational facility, vocational school 5. Group day care facility per Section 604 <u>Uses by Conditional Use Permit</u> (see Section 302.4) <u>Commercial/Non-Residential</u> 1. Car wash 2. Office building for 50 or more employees 3. Outdoor storage per Section 303.4 (more than 20%) 4. Retail showroom per Section 303.5 (between 10-20%) 5. Rehabilitation hospital Retail product pickup

[...]

~~303.6 Flex Buildings.~~

~~Flex buildings (i.e. multi-use buildings) having no more than 30% of the floor area occupied by independent office uses are permitted, provided the principal use of the building is for a permitted use.~~

[...]

SECTION 303A INDUSTRIAL - RAIL ACCESS DISTRICT (IND-RA).

[...]

303A.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Commercial/Non-Residential</u> 1. Bituminous paving plant 2. Concrete mixing plant 3. Contractor's yard 4. Essential service 5. Health club 6. Light industry 7. Local government use 8. Outdoor storage and sales 9. Recycling facility 10. Research laboratory 11. Renewable energy system per Section 612 12. Retail showroom per Section 303A.5 13. Warehouse	<u>Commercial/Non-Residential</u> 1. Bulk petroleum and liquid propane gas storage 2. Excavation of natural earth material per Section 606 and/or processing of natural earth material Natural resource extraction and/or processing facility (timber, stone, or soil) 3. Intermodal transportation facility 4. Educational facility, vocational school 5. Group day care facility per Section 604
	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Planned Developments</u> 14. Industrial PUD per Section 501 15. Planned business park per Section 508	<u>Commercial/Non-Residential</u> 1. Office building

303A.3 Table of Areas, Dimensions, and Coverage.**IND - RA DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Building Coverage	Height
2 acres	200'	30' (*)	20' (*)	20' (*)	50%	65'

*~~Setback will be waived for~~ This restriction may be relaxed by **conditional use permit**, if the Planning Board finds, in addition to the standards set forth in Section 302.4, that such relaxation is required to allow access to or use of rail service. ~~these portions of the lot where rail access is along the property line.~~

303A.4 Special Setback Restrictions.

Principal structures on lots in the IND-RA district which abut a residential zoning district ~~lines will~~ shall be set back a minimum of 75 feet from the property line or lines which abut the residential zone.

303A.5 Retail Showrooms.

Showrooms and on-premises sales may be allowed as part of a ~~manufacturing~~ light industry or ~~warehouse or distribution facility~~ provided that: (1) such showrooms are limited in floor area to no more than 10% of the total acreage of the lot on which they are located or a maximum of 20,000 square feet, whichever is smaller, and, (2) the goods being displayed are the same as those being manufactured/stored/distributed on the premises.

[...]

SECTION 304 HEAVY INDUSTRIAL DISTRICT (IND-H).

[...]

304.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Commercial/Non-Residential</u> 1. Contractor's yard 2. Essential service 3. Recycling facility 4. Renewable energy system per Section 612 5. Sanitary landfill 6. Sawmill per Section 304.5	<u>Commercial/Non-Residential</u> 1. Bulk storage of petroleum products 2. Junkyard per Section 605 3. Removal of natural materials <u>Excavation of natural earth material per Section 606 and/or processing of natural earth material</u>
<u>Planned Developments</u> 7. Industrial PUD per Section 501 8. Planned business park per Section 508	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
	<u>Commercial/Non-Residential</u> 1. Bituminous paving plant 2. Concrete mixing plant 3. Stone crushing plant

[...]

SECTION 305 GENERAL COMMERCIAL DISTRICT (GC).[...]305.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> 1. Dwelling unit(s) above first floor 2. Multi-family dwelling (see Section 305.5)	<u>Commercial/Non-Residential</u> 1. Alternative treatment center per Section 613 2. Alternative treatment center (cultivation location only) per Section 613 3.2 Bus terminal 4.3 Educational facility, college/university 5.4 Essential service 6.5 Truck terminal
<u>Commercial/Non-Residential</u> 3. Amusements (indoor) 4. Car wash 5. Community center 6. Drive-in restaurant, refreshment stand 7. Drive-through facility 8. Drycleaning pick-up station 9. Financial institution 10. Funeral establishment <u>home</u> 11. Group day care facility per Section 604 12. Health club 13. Hotel 14. House of worship 15. Laundromat 16. Local government use 17. Membership club 18. Motel 19. Movie theater 20. Office 21. Personal service 22. Publishing/printing 23. Radio or TV studio 24. <u>Recreational facility, indoor</u> 24-25. <u>Renewable energy system</u> per Section 612 25-26. <u>Restaurant</u> , sandwich shop 27. <u>Retail product pickup</u> 26-28. <u>Retail store</u> 27-29. <u>Service station</u> 28-30. <u>Vehicular repair</u> 29-31. <u>Vehicular sales</u>	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Planned Developments</u> 30-32. <u>Commercial PUD</u> per Section 501	<u>Commercial/Non-Residential</u> 1. Care and treatment of animals 2. Contractor's yard 3. Craftsman's shop 4. Plumbing, electrical or carpentry shop 5. Produce stand 6. Recreational facility, indoor 7.6 <u>Recreational facility, outdoor</u> 8. Retail product pickup 9.7 <u>Warehouse</u> 10-8. <u>Wholesale sales</u>

[...]

SECTION 305A GENERAL COMMERCIAL ONE DISTRICT (GC-1).

[...]

305A.2 Table of Uses.

<u>Permitted Uses</u>	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Residential</u> 1. Multi-family dwelling (see Section 305A.4) <u>Commercial/Non-Residential</u> 2. Dwelling unit(s) above first floor 3. Essential service 4. Financial institution 5. Group day care facility per Section 604 6. Office 7. Personal service 8. Renewable energy system per Section 612 <u>Planned Developments</u> 9. Commercial PUD per Section 501	<u>Commercial/Non-Residential</u> 1. Alternative treatment center per Section 613 2. Alternative treatment center (cultivation location only) per Section 613 3.2. <u>2.</u> Drycleaning pick-up station 4.3. <u>3.</u> Educational facility, college/university 5.4. <u>4.</u> Light industry 6.5. <u>5.</u> Research laboratory 7.6. <u>6.</u> Restaurant , sandwich shop 8.7. <u>7.</u> Retail store

[...]

SECTION 306 CENTRAL BUSINESS DISTRICT (CB).

[...]

306.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> 1. Dwelling unit(s) above first floor 2. Multi-family dwelling (see Section 306.5) 3. Senior housing complex	<u>Commercial/Non-Residential</u> 1. Craftsman's shop 2. Drive-through facility 3. Educational facility, college/university 4. Group day care facility per Section 604 5. Vehicular sales
<u>Commercial/Non-Residential</u> 4. Amusements (indoor) 5. Community center 6. Drycleaning pick-up station 7. Financial institution 8. Funeral establishment <u>home</u> 9. Health club 10. Hotel 11. House of worship 12. Laundromat 13. Library or museum 14. Local government use 15. Membership club 16. Motel <u>17. Musuem</u> 17. <u>18.</u> Office 18. <u>19.</u> Personal service 19. <u>20.</u> Radio or TV studio 20. <u>21.</u> Renewable energy system per Section 612 21. <u>22.</u> Restaurant, sandwich shop 22. <u>23.</u> Retail store 23. <u>24.</u> Social service center 24. <u>25.</u> Theater, concert hall, movie theater	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Planned Developments</u> 25. <u>26.</u> Commercial PUD per Section 501	<u>Commercial/Non-Residential</u> 1. Essential service 2. Other uses per Section 306.4 3. Parking facility 4. Publishing/printing 5. Recreational facility, indoor 6. Recreational facility, outdoor

306.3 Table of Area, Dimensions and Coverage.**CB DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Building Coverage	Height
3,000 square feet	50'	NONE	NONE	10' (*)	NONE	45' ^{**}

*May be reduced or eliminated by ~~special exception~~conditional use permit.

~~**55' is allowed for any property within the Central Business District that is located in downtown Lebanon and is adjacent to the Mascoma River; and/or is adjacent to one or more of the following primary streets: North, South, East, and West Park Streets, Hanover Street, High Street, Mechanic Street, Mascoma Street, Bank Street, Campbell Street, and Spencer Street; and/or is adjacent to any other street that intersects one of the afore-mentioned primary streets.~~

[...]

SECTION 307LEBANON DOWNTOWN DISTRICT (LD).

[...]

307.6 Non-Residential Uses.A. Buildings with Frontage on Primary Streets.

1. If a **building** is located on a **lot** with **principal frontage** on a primary **street**, a minimum of 1,000 square feet or 1/3 of the **gross floor area**, whichever is less, of the **street level story** of the **building**, shall be ~~devoted~~ reserved for a non-residential use or uses, and such combined uses shall have both a depth and width of not less than 20 feet along the primary **street**.

[...]

B. Buildings with Frontage on Secondary Streets.

[...]

1. Notwithstanding the above requirements, the Planning Board may waive the requirement for non-residential uses on **the street level story** and permit residential uses on the ~~complete-entire~~ street level story in these locations by **conditional use permit** pursuant to Section 302.4 provided the applicant demonstrates that:

[...]

C. Definitions. For purposes of this subsection, primary and secondary **streets** are defined as follows:

1. Primary Streets. The Downtown Mall, Taylor Street within 500 feet of the Downtown Mall, Hanover Street from Hough Street to Church Street, Mascoma Street, ~~Mechanic Street~~, Court Street, West Park Street from Hanover Street to Court Street, and North Park Street from Court Street to Campbell Street.
2. Secondary Streets. Hanover Street from NH Route 120 to Hough Street, ~~Mascoma Street~~, Foundry Street, Church Street, High Street, Mechanic Street, Water Street, East Park Street, Bank Street, Taylor Street more than 500 feet from the Downtown Mall, Campbell Street, and Spencer Street.

[...]

307.8 Building Height.

[...]

- B. Minimum Story Height. The **street level story** of a **building** shall not be less than twelve (12) feet in height as measured between finished floors. All other **stories** shall be no less than ten (10) feet in height as measured between finished floors. The Planning Board may waive these requirements by conditional use permit pursuant to Section 302.4.

307.9 Driveways, Parking Areas, and Circulation Areas.

[...]

- B. No **parking area** or circulation area for vehicles shall be located in the **front yard**. For improved surfaces in existence as of (insert date of ordinance adoption), the Planning Board may waive these requirements by **conditional use permit** pursuant to Section 302.4 if the Board find that there is no other location on the **lot to provide parking**. Where a **lot** abuts more than one **street**, this restriction shall only apply to the **front yard** along the **principal frontage**.

[...]

SECTION 308 RESIDENTIAL ONE DISTRICT (R-1).

[...]

308.3 Table of Area, Dimensions and Coverage.**R-1 DISTRICT****Minimum Lot Size**

Class	Area	Width	Additional Area per D.U. After Two	Maximum Height
1	10,000 sq.ft.	75'	3,000 sq.ft.	45' <u>or 55' per Section 308.4</u>
2	15,000 sq.ft.	75'	5,000 sq.ft.	45' <u>or 55' per Section 308.4</u>
3	40,000 sq.ft.	100'	15,000 sq.ft.	45' <u>or 55' per Section 308.4</u>

[...]

308.4 Building Height. By **conditional use permit** per Section 302.4, the maximum **building height** for a proposed **building** may be increased up to 10 additional feet if the increase in **building height** is for the purpose of accommodating a **parking structure** underneath or within the proposed **building**, and provided that the **building** is set back from the **setback line** a minimum distance equal to two (2) feet for every one (1) foot of additional **building height** over 45 ft.

[...]

SECTION 310 RESIDENTIAL THREE DISTRICT (R-3).

[...]

310.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> 1. One-family dwelling 2. Accessory dwelling unit (ADU) per Section 610 <u>Commercial/Non-Residential</u> 3. Home business per Section 600 4. Home-based agricultural business per Section 600B.2 (lots 5 acres or more) and per Section 600B.3 (lots greater than 10 acres) 5. Hospital 6. House of worship 6.7. Public education facility 7.8. Public recreation facility 8.9. Public safety facility 9.10. Renewable energy system per Section 612 <u>Planned Developments</u> 10.11. PURD per Section 501	<u>Residential</u> 1. Two family dwelling by conversion of existing one family dwelling 2. Senior housing complex <u>Commercial/Non-Residential</u> 3. Cemetery 4. Essential service 5. Group day care facility per Section 604 6. Home-based agricultural business per Section 600B.2 (lots less than 5 acres) and per Section 600B.3 (5–10 acre lots) 7. House of worship 8.7. Nursing home

[...]

310.4 Dwelling Unit Density.

For **senior housing complexes** and PURDs per Section 501.2 (“Planned Unit Residential Development (PURD)”), one (1) **dwelling unit** is permitted per each 10,000 sq. ft. of **lot area**. Density for **senior housing complexes** may be increased per Section 603 (“Senior Housing Complexes”).

SECTION 311B PROFESSIONAL BUSINESS DISTRICT (PB).

[...]

311B.4 Parking Requirements.

Parking shall be as set out in Section 607.4 of this Ordinance except that parking shall be provided on site for any dwelling unit(s) [per Section 607.2 \(“Table of Minimum Off-Street Parking Requirements”\)](#). Such on-site parking shall not occupy the front yard and shall be screened from abutting properties.

[...]

SECTION 313 RURAL LANDS TWO DISTRICT (RL-2).

[...]

313.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> One-family dwelling Accessory dwelling unit (ADU) per Section 610 <u>Commercial/Non-Residential</u> Agriculture Home business per Section 600 - House of worship Public recreation facility Renewable energy system per Section 612 <u>Planned Developments</u> Manufactured home park per Section 503 Manufactured home subdivision per Section 504 (or manufactured home PURD) - PRec per Section 501 - PURD per Section 501	<u>Commercial/Non-Residential</u> Care and treatment of animals - Cemetery Essential service Group day care facility per Section 604 Home-based contractor's yard per Section 600A Produce stand - Radio or TV tower or other communication equipment - Recreational camping park per Section 505 Recreational facility, indoor Recreational facility, outdoor RemovalExcavation of natural earth materials per Section 606

SECTION 314 RURAL LANDS THREE DISTRICT (RL-3).314.1 Purpose.

These are areas ~~of the City~~ within ~~which the City that are critical areas for development,~~ ~~or~~ development should be restricted until it has been further studied and detailed plans developed. ~~In the first instance these~~ ~~These~~ are critical areas where slopes of over twenty-five percent (25%) may be found, wetlands and a seasonably high water-table exist or have poor highway access to the rest of the community. ~~Also the~~ ~~These~~ areas almost uniformly have severe restrictions for on-site disposal of sewage and any extensive development, including driveways, may present problems in grades and control of erosion. The primary ~~purpose-use~~ of these areas should be for forestry ~~and with~~ only limited development for single family residential purposes on large lots. ~~The second type in this classification are areas that are reserved for future expansion when the necessary utilities and road systems are designed or in place.~~

SECTION 315 MEDICAL CENTER DISTRICT (MC).

[...]

315.2 Table of Uses.

<u>Permitted Uses</u>	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Commercial/Non-Residential</u> 1. Essential service 2. Group day care facility per Section 604 and Section 506.3.5 3. Health club 4. Hospice 5. Medical center complex per Section 506 6. Medical office building 7. Medical research facility 8. Renewable energy system per Section 612 9. Retail product pickup <u>Planned Developments</u> 10. Commercial PUD per Section 501	<u>Commercial/Non-Residential</u> 1. Drive-through facility 2. Financial institution per Section 506.3.5 3. Motel 4. Hotel 5. Office 6. Parking facility 7. Personal service per Section 506.3.5 8. Restaurant per Section 506.3.5 9. Retail store per Section 506.3.5 10. Recreational facility, indoor per Section 506.3.5 9-11. Recreational facility, outdoor per Section 506.3.5

315.3 Table of Area, Dimensions and Coverage.**MC DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Lot Area	Lot Frontage	Front Yard	Side Yard	Rear Yard	Height	Building Coverage
75,000 sq.ft.	200'	40'	20'	20'	60' except as required by (See Section 315.4 and as permitted by Section 506.2)	50%

[...]

ARTICLE IV

OVERLAY DISTRICTS

[...]

SECTION 402 FLOODPLAIN DISTRICT.

[...]

402.2 Floodplain District Regulations.

Within the Flood Plain District, all requirements of the Flood Damage Prevention Ordinance of June 4, 1980, [City Code Chapter 74](#), as amended, shall be complied with.

402.3 Floodplain Official.

[The Floodplain Official is responsible for administering and enforcing Section 402.2. The City Engineer will normally serve as the Floodplain Official. See City Code Chapter 74-15.](#)

[...]

SECTION 409 LANDFILL RECLAMATION DISTRICT

[...]

409.3 Permitted Uses.

The following uses are permitted in a closed or capped waste disposal area:

[...]

- C. ***Accessory uses*** to the secondary permitted recreational use, such as control or maintenance buildings and structures to allow food sales. ~~More than one accessory use is permitted if all such accessory uses remain incidental and subordinate to the principal recreational use.~~

[...]

ARTICLE V

SUBDIVISIONS AND PLANNED DEVELOPMENTS

[...]

SECTION 501 PLANNED UNIT DEVELOPMENT (PUD).

[...]

501.2 Planned Unit Residential Development (PURD).

- A. Objectives. The objectives of the PURD provisions of this ordinance are as follows:

[...]

1. To establish a connected network of conservation lands, trails, and working farm and forest land throughout the City by linking the Open Spaces and trails within the subdivision development, to conservation lands, important natural resources and trails on adjoining lands wherever possible, and as particularly found in the Lebanon *Master Plan* and *Natural Lebanon*.

[...]

C. Uses Allowed in a PURD.

1. Residential Uses. A PURD may include dwelling units in ~~one-family detached~~, one-family ~~attached~~, two-family and multi-family dwellings. A mix of dwelling types may be permitted at the reasonable discretion of the Planning Board. In a manufactured home PURD only manufactured homes are permitted and shall be on individual lots.

[...]

501.3 Planned Unit Recreational Developments.

[...]

D. Uses Allowed in a PRec.

1. Residential Uses. A PRec shall provide a minimum of 15 dwelling units. A PRec may include dwelling units in one-family ~~detached, one-family attached~~, two-family and multi-family dwellings or appropriate mixes thereof, at the discretion of the Planning Board. In a PRec at least 75 percent of the land area used for building development shall be devoted to residential uses.

[...]

501.4 Commercial or Industrial Planned Unit Developments.

[...]

- D. Uses Allowed in a Commercial or Industrial PUD. Any non-residential use permitted in the Industrial, CB, GC, or GC-1 Districts may be allowed in a Commercial PUD.

Any non-residential use permitted or allowed by special exception or **conditional use** permit in the IND-L District may be allowed in an Industrial PUD. Additionally, no more than 25 percent of the gross floor area ~~building coverage~~ in an Industrial PUD may be allocated to **hotels**, restaurants, personal services and retail sales necessary to serve the needs of the other businesses in the PUD (or of their employees).

Dwelling units in ~~one-family detached, one-family attached, two-family and multi-family dwellings~~ or appropriate mixes thereof Multi-family dwellings may be allowed in Commercial or Industrial PUDs, at the discretion of the Planning Board, provided that the Board determines that such residential uses are compatible within the proposed PUD. The density of residential uses allowed pursuant to this section shall be determined based on a maximum of 25% of the net land area of the PUD not planned for open space, roads, or utilities and calculated at a density of 13 dwelling units per acre. Where allowed, such ~~multi-~~

~~family~~ dwelling units may be clustered together and/or distributed within the Commercial or Industrial PUD in mixed-use buildings at the discretion of the Planning Board.

[...]

SECTION 506 MEDICAL CENTER COMPLEXES.

[...]

506.3 Allowed Uses

In addition to a hospital, the following uses are allowed within the Medical Center Complex:

3. Congregate Living Facilities/Dormitory - A congregate living facility or dormitory is a housing facility provided by the Medical Center Complex which provides housing for ten or more of their adult health care students and/or staff in single or double living quarters. [...]
5. Any of the following uses, as defined in this Ordinance, when all or substantially all of the business will be with and for the patients, and the visitors of those patients, the employees and the staff of the building and facilities located within the medical center complex.
 - a. Personal service.
 - b. Retail store.
 - c. Restaurant.
 - d. ~~Branch bank~~ Financial institution.
 - e. Indoor/outdoor recreational facilities.
 - f. Group day care facility.

[...]

SECTION 508 PLANNED BUSINESS PARKS.

[...]

508.4 Sectors, Allowed Uses.

- A. The Planned Business Park shall be shown on an approved Subdivision Plan and Use Allocation Plan. The Subdivision Plan and Use Allocation Plan approved by the Planning Board shall designate the allocation of the Industrial/ Office, Commercial and Residential Uses within the Park.
- B. No more than 20% of the net land area not planned for open space, roads, or utilities shall be used for the Commercial Sector.
- C. Unless limited by the Planning Board at the time of subdivision approval, the following uses shall be permitted.
 1. The following uses shall be permitted by right for any Planned Business Park Industrial/Office Sector: light industry; warehouse; trucking terminal; publishing/printing; plumbing, electrical or carpentry shop; research laboratory; local government use; essential service; outdoor storage per Section 303.4 (less than 20%); group day care facility per Section 604; general business offices, research facilities, medical office buildings;

health clubs, Educational Facility, College/University; Educational Facility, Vocational School; and **accessory uses** to a permitted use. Retail showrooms per Sections 303.5 and 303A.5 shall be allowed by **conditional use** permit.

2. The following uses shall be permitted by right for any Planned Business Park Commercial Sector: retail store(s) up to a cumulative maximum of 20,000 sq. ft. of gross floor area; personal service; bank, branch bank; restaurant, sandwich shop/deli; refreshment stand; office; **motel**; **hotel**; movie theater; membership club; **amusements (indoor)**; printing (i.e. retail copy store); radio or TV studio; group day care facility per Section 604; local government use; and **health clubs**.

- D. Dwelling units in one-family, two-family and multi-family dwellings or appropriate mixes thereof at the discretion of the Planning Board. ~~Multi-family dwellings~~ shall be provided for in all Planned Business Parks. The maximum number of dwelling units allowed pursuant to this section shall be based on a minimum of 15% and a maximum of 25% of the net land area of the Park not planned for open space, roads, or utilities and calculated at a density of 13 dwelling units per acre. Such ~~multi-family~~ dwelling units may be clustered together and/or distributed within the Park at the discretion of the Planning Board.

[...]

ARTICLE VI

ADDITIONAL STANDARDS FOR SPECIFIC USES

[...]

SECTION 601 SPECIAL DESIGN STANDARDS.

[...]

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 ~~of offices~~ shall be compatible with the architectural character or the abutting properties and neighborhoods.

[...]

601.7 (Reserved)Mixed Uses.

~~In the R-2, R-O and R-O-1 Districts, a converted building may have both residential and office uses.~~

[...]

SECTION 602 NON-COMMERCIAL SWIMMING POOLS AND HOT TUBS.

[...]

602.4 Water Supply.

- A. If the water for such pool/tub is supplied from a private well, there shall be no cross-connection with the public water supply system.
- B. If the water for such pool/tub is supplied from the public water supply system, the inlet shall be above the overflow level of said pool. Backflow prevention devices shall be installed ~~as required by the Department of Public Works~~ when determined to be required by the City.

[...]

602.6 Permits.

- A. Every non-commercial swimming pool or hot tub shall have a permit from the Zoning Administrator.
- B. No permit shall be granted for the installation or construction of such swimming pool unless the plans shall meet the minimum construction requirements of the City and unless the City ~~Engineer, or a licensed professional engineer of the State of New Hampshire~~ has certified-determined that the drainage of such pool is adequate and will not interfere with the public water supply system, with existing sanitary facilities or with the public streets.

[...]

SECTION 607 PARKING

[...]

607.7 Off-Street Loading.

Off-street loading facilities shall be located so that delivery vehicles are parked completely outside of the ~~street~~ right-of-way, and shall comply with the requirements of the Site Plan Review Regulations as applicable.

SECTION 608 SIGNS.

[...]

608.4 Non-Residential Uses.

[...]

1. Maximum Permitted Sign Area.

[...]

- e. Multi-Tenant Buildings. The maximum **sign area** permitted for a **multi-tenant building** in existence as of *(insert date of ordinance adoption)* is the greater of either:

i. the total **sign area** allowed pursuant to Section 608.4.A.1.a; or

ii. the total **sign area** of all existing legal **signs** on the **building** as of *(insert date of ordinance adoption)*. For any vacant tenant spaces as of *(insert date of ordinance adoption)*, the **sign area** utilized by the immediate prior tenant may be included in the calculation of permitted **sign area** under this subsection.

[...]

608.8 Non-Conforming Signs.

[...]

- A. Loss of Legal Non-Conforming Status. A legal non-conforming **sign** shall lose its legal non-conforming status if it is altered, reconstructed, replaced, or expanded, ~~or relocated.~~ A mere change in copy is not an alteration or replacement for purposes of this Section.

[...]

SECTION 610 ACCESSORY DWELLING UNIT (ADU)

Accessory dwelling units are intended as an option for homeowners to offer separate and independent living space for their extended families, or to offer small **dwelling units** as rentals to offset the expense of maintaining the **dwelling**. ~~The appearance and character of the existing or proposed new dwelling shall remain single family in nature. An accessory dwelling unit is only allowed on lots with a detached one-family dwelling, and only one such accessory unit is permitted per lot. As an alternative, if allowed in the respective Zoning District, a property owner can seek a conversion of the unit to either a standard two-family or a multi-family dwelling.~~

An **accessory dwelling unit** shall comply with the following criteria:

A. An **ADU** is only allowed on **lots** with a detached **one-family dwelling**, and only one such **ADU** is permitted per **lot**.

B. ~~A.~~ The appearance and character of the existing or proposed **ADU** shall remain single family in nature.

A-C. The property owner must occupy either the ~~primary~~**principal residence** ~~dwelling unit~~ or the **ADU** as their permanent residence. A temporary leave of absence by the property owner is allowed, provided the owner-occupied unit is not rented or occupied by anyone other than the property owner during the temporary leave or absence.

Prior to the issuance of a zoning/building permit, the owner shall record in the Grafton County Registry of Deeds an acknowledgment of the above owner-occupancy requirement, in a form satisfactory to the Zoning Administrator, in order to put prospective buyers on notice of the prohibition against renting out both units.

- B. The **ADU** must be located in the same **building** as the ~~primary~~**principal residence** ~~dwelling unit~~ unless the **lot** meets or exceeds the minimum required lot size for the

respective zoning district. -If the **lot** meets or exceeds the required minimum lot size, the **ADU** may be located in a separate detached **structure** such as a garage or barn, provided the existing **structure** conforms with the minimum required yard setbacks-requirements for the respective zoning district. An **ADU** may also be in a new **structure**.

- C. If the **ADU** is located within or by an addition to the existing one~~single~~-family **dwelling**, an interior door shall be provided between the principal **dwelling unit** and the **ADU**.
- D. If the **ADU** is located within or by an addition to the existing ~~single~~-one-family **dwelling**, the **ADU** must be connected to the same utilities (except telephone and television) as the principal dwelling unit~~existing dwelling~~. ~~If the ADU is located in a detached structure, then connections to municipal utilities (i.e. municipal water/sewer) must be separate.~~

If applicable, the owner must seek a permit from the State of NH Dept. of Environmental Services Subsurface Systems Bureau, in accordance with NH RSA 485-A:38, for any increased load on an existing sewage disposal system as a result of the addition of an **ADU** to the **lot**.

- E. If the gross living area of the ~~primary~~principal dwelling unit~~residence~~ is 1,500 square feet or less, the gross living area of the **ADU** may be no greater than 50% of the **gross living area** of the ~~primary~~principal dwelling unit~~residence~~. -If the gross living area of the ~~primary~~principal dwelling unit is greater than 1,500 square feet, but less than 3,000 square feet, the gross living area of the **ADU** shall not exceed 750 square feet. If the ~~primary~~principal dwelling unit is greater than 3,000 square feet, the gross living area of the **ADU** can exceed 750 square feet provided the **ADU** is no greater than 25% of the **gross living area** of the ~~primary~~principal dwelling unit.
- F. A detached **ADU**, if permitted under paragraph B above, shall maintain a proportional mass, size, and height to ensure it is not taller than the ~~primary~~principal residence~~building~~ on the lot. Detached **ADU** height shall not exceed the height of the ~~primary~~principal building~~residence~~ as measured to the eave line, with a maximum eave height of ten (10) feet for single-story and sixteen (16) feet for two-story detached **ADUs**.
- G. Any necessary additional entrances or exits to the ~~primary~~principal residencebuilding, to serve the **ADU**, shall be located to the side or rear of the **building**. All new or altered **structures**, intended to be used as an **ADU**, must be located behind the **building line** of the existing ~~primary~~principal residence~~building~~ except ~~when the~~by special exception if the Zoning Board finds that the placement of the **ADU** on the **lot** will not adversely affect the character of the neighborhood; traffic on roads and highways; safety of pedestrians, and will not create a hazard or nuisance to abutting property owners.
- H. In addition to the two (2) on-site **parking spaces** required for the ~~primary~~principal residence, one (1) additional on-site **parking space** for the **ADU** must be provided. ~~and no more than two (2) ADU on-site spaces are allowed. The additional parking space shall comply with the parking standards contained in the Zoning Ordinance and the City of Lebanon's Driveway Regulations.~~

I. ~~I.~~—An **ADU** located within the principal **building** shall have an interconnected fire alarm system.

~~A zoning/building permit application for the ADU must be approved and issued prior to its construction, and a certificate of occupancy, specifying that the dwelling unit is an ADU, must be obtained prior to its occupancy. The ADU constructed within a primary residence shall have an interconnected fire alarm system. All ADU's shall meet all life safety and building codes.~~

SECTION 611 THE KEEPING OF CHICKENS.

[...]

The keeping of chickens shall be permitted for all **one-** and/or **two-family dwellings**, provided the following standards are met (these standards do not apply to chickens kept in the rural lands zoning districts where **agriculture** is a permitted use):

[...]

- A. A coop shall be provided ~~ll chickens shall be kept outdoors~~ within a **secure enclosure**. ~~All chickens shall be kept outdoors within the secure enclosure~~ at all times. The **secure enclosure** and **coop** shall be maintained in a humane and sanitary manner.

[...]

APPENDIX A

DEFINITIONS

[...]

ALTERNATIVE TREATMENT CENTER: An “Alternative Treatment Center” as defined in RSA 126-X:1, I, ~~namely, a not-for-profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and education materials, to qualifying patients and~~ ***Alternative Treatment Centers.***

~~**ALTERNATIVE TREATMENT CENTER (CULTIVATION LOCATION ONLY):** A and/or a “cultivation location” as defined in RSA 126-X:1, IV, ~~namely, a locked and enclosed site under the control of an~~ ***Alternative Treatment Center*** where cannabis is cultivated, secured with one or more locks or other security devices in accordance with RSA 126-X and the Department of Health and Human Service’s administrative rules.~~

[...]

BUILDING COVERAGE: That percentage of the lot area covered by buildings. In determining the percentage of building coverage of a lot, ~~porches or carports open at the sides but roofed, and all~~ principal and ***accessory buildings*** shall be included.

[...]

~~**BUSINESS CENTER OR PLAZA:** A grouping of any commercial or industrial uses in one or more buildings, for example, retail, office, restaurant, entertainment, storage or manufacturing uses, sharing common access and parking facilities.~~

BUSINESS STORE FRONT: ~~That portion of the side of a structure occupied by a business use which faces the main street or major point of access. If the business use faces two main streets or major points of access, then said business shall be deemed to have two business store fronts. If the business use faces three or more main streets or major points of access, then said business shall designate only two faces which shall be deemed business store fronts.~~

[...]

CENTRALIZED WATER SYSTEM: ~~A water system that does not connect to the municipal water system and that is designed to serve as the water system for an entire development. Such a system shall be approved by the NHWSPCD and the City of Lebanon. Such systems, if approved, are permitted in the RL Districts only.~~

[...]

DWELLING, ONE-FAMILY: A dwelling with one (1) dwelling unit ~~detached or free-standing dwelling other than a manufactured home, designed for and occupied by one family only.~~

DWELLING, TWO-FAMILY: A ~~detached dwelling designed for or occupied by two families living independently of each other in individual attached~~ with two (2) dwelling units.

DWELLING, MULTI-FAMILY: A dwelling ~~designed for or occupied by~~ with three (3) or more families, with the number of families in residence not exceeding the number of **dwelling units** provided.

DWELLING UNIT, ONE-FAMILY ATTACHED: A dwelling unit designed for and occupied by one family only and separated from another dwelling unit on one or two sides by a vertical party wall.

EXCAVATION OF NATURAL EARTH MATERIAL: The removal of natural material is the removal of loam, sand, gravel, stone or other fill material for sale in commercial quantities, or for use in another location.

[...]

FLEX BUILDING: ~~A building capable of adapting to use by multiple occupants and normally located in an industrial area.~~

[...]

MAJOR THOROUGHFARE: ~~A major thoroughfare shall mean any public way which handles an average daily traffic volume greater than 750 vehicles.~~

[...]

MIXED USE: A development or ~~principle~~ principal building having two (2) or more of the uses allowed within the Zoning District in which it is located.

[...]

PARKING SPACES, OFF-STREET: For the purpose of these regulations, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Except for a two-family dwelling or a one-family dwelling with an ADU, r ~~Required off-~~

street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked without moving another.

[...]

REHABILITATION HOSPITAL: A facility designed specifically to treat patients that have suffered strokes, or dramatic brain, spinal or orthopedic injuries. These patients no longer need acute care found in a traditional hospital, but are also not ready to go home or back to work. A rehabilitation hospital:

- Is licensed as a hospital, has a full-time medical director, and a staff of hospital-level nurses.
- Offers patients three (3) or more hours of therapy a day, with nurse-level, over-night care.
- Typically have patient stays of about 14 days.
- Have no emergency traffic, no intensive care units, and do not offer surgical services.

~~REMOVAL OF NATURAL MATERIAL:~~ ~~The removal of natural material is the removal of loam, sand, gravel, stone or other fill material for sale in commercial quantities, or for use in another location.~~

[...]

~~SHOPPING MALL:~~ ~~A group of stores and shops including retail office and/or restaurant/entertainment uses located along an open or enclosed pedestrian walkway sharing common access and parking facilities.~~

[...]