

FINAL

**LEBANON ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE
TUESDAY, November 22, 2022
7:00 PM**

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

MEMBERS ABSENT: Dave Newlove, Catherine Embre (Alt)

STAFF PRESENT: Tim Corwin – Senior Planner and Zoning Administrator
Nathan Reichart – Planning Director

1. CALL TO ORDER

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

2. APPROVAL OF MINUTES

Mr. McDonough and Ms. Barkley were given voting privileges for this meeting.

A. October 3, 2022

Mr. Nash MOVED to approve the October 3, 2022, Minutes as presented in the November 22, 2022, packet, with minor corrections.

Seconded by Mr. Katz.

Amendments: Page 9, Line 9; Remove “s” from ordinances. Page 9, Line 27; correct spelling to “oversight.” Page 10, Line 3; Remove “Section 215.”

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

3. PUBLIC HEARING ITEMS

- A. Mason Storage, LLC, 38 Spencer Street (Tax Map 78, Lot 39), zoned LD:** Applicant requests a Special Exception per Sections 704 and 801.3 of the Zoning Ordinance to increase the building from two (2) stories to three (3). **ZB2022-25-SE**

Mr. Katz MOVED that ZB2022-25-SE, Mason Storage, LLC be continued to the December 5, 2022, meeting at 7:00 PM.

Seconded by Mr. McDonough.

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

Mr. Nash abstained.

- B. Mary Hitchcock Memorial Hospital, 1 Medical Center Drive (Tax Map 10, Lot 8), zoned MC:** Applicant requests Variances from Section 608.4.A.3.b of the Zoning Ordinance to

allow a wall sign in excess of 100 sq. ft. in area, and from Section 608.4.A.4 to allow more than one (1) freestanding sign on the lot. **ZB2022-26-VAR**

David Steiger appeared on behalf of the application. They are reworking the signs at the Medical Center to improve wayfinding. The intention is to reduce the number of signs, change the wording on some of the signs, and make the signs more consistent in size. They want to put a new sign on the side of the new inpatient units that would be slightly larger than what is permitted for that building.

The Chair said it was noted that the Medical Center may not be under the ordinance of signage by the City, in the documents presented. It was determined that the Zoning Board does have jurisdiction.

Mr. Steiger reviewed the documents that were submitted. It is a complex facility with multiple buildings and locations, to which people need to be directed. He reviewed the future locations of signs that was recommended by their consultants, where signs would be relocated, where signs would be removed, and the types of signs they would like to use in the future compared to existing signs. They want to add a sign at this time for the new patient pavilion building. The rest of the plan would take place over the next few years. This represents the loop road signage the consultant determined is needed to direct traffic.

Where the face of the sign is changed, only a sign permit is required. If the size or location changes, or a new sign is added, it requires approval of the Zoning Board. The applicant needs to make it clear which signs need relief. The Board reviewed the materials to determine if the information was complete enough to make a determination. Charlie Welch, MHMH, commented. He believes the wayfinding information is necessary and the goal is to make the signs easier to see to help people determine where they should go.

The applicant asked how a sign is measured. Staff explained that guidelines have changed with the last revision of the ordinance. The letters are individual, and there is no backing to the sign. It is believed that the proposal meets the size restrictions based on how the letters would be installed.

Chair Koppenheffer opened the Public Hearing. Hearing no one, the Public Hearing was closed.

Mr. Katz MOVED on November 22, 2022, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared David Steiger and Charlie Welch on behalf of Mary Hitchcock Memorial Hospital, regarding 1 Medical Center Drive (Tax Map 10, Lot 8), zoned MC. Applicant requests Variances from Section 608.4.A.3.b of the Zoning Ordinance to allow a wall sign in excess of 100 sq. ft. in area, and from Section 608.4.A.4 to allow more than one (1) freestanding sign on the lot. ZB2022-26-VAR

I. FINDINGS OF FACT

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

1. The subject property is a +/-289-acre parcel owned by the applicant. The property is currently developed as the Dartmouth Hitchcock Medical Center (DHMC), consisting of multiple buildings, which provide in-patient and out-patient clinical services and medical research along with associated improvements.
2. At this time, the applicant proposes to install a +/-106 sq. ft. wall sign on the new patient pavilion under construction at the north end of the main hospital building. The applicant also proposes to replace and update the existing freestanding signs located on the property in addition to installing

new freestanding signs. Included with the Variance application materials are sign renderings, diagrams, and maps depicting the proposed signage.

3. Per Section 608.4.A.3.b of the Zoning Ordinance, the maximum permitted size for a wall sign is 100 sq. ft., and per Section 608.4.A.4, only one (1) freestanding sign is allowed per lot. Therefore, the applicant requires a Variance from Section 608.4.A.3.b and Section 608.4.A.4 in order to install the wall sign and in order to install those freestanding signs depicted in the application materials that are new, changing location, or changing size.
4. To obtain the requested Variances, the applicant must demonstrate compliance with each of the five variance criteria as set forth in Section 801.2 and NH RSA 674:33, I(b).
5. Nobody from the Public spoke for or against the application.

II. CONCLUSIONS OF LAW

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

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

Specifically, the property is a uniquely large private medical center campus. Most signage is not visible from public right of way or abutting properties and there is a substantial interest in the safe and efficient management of traffic, for healthcare purposes, guiding in and out of the facility.

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

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **22nd day of November, 2022**, hereby **GRANTS** the requested Variances, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a sign permit.

2. The Project will be completed substantially in conformity with the design and specifications included with the application.

Seconded by Mr. Nash.

The Board discussed the need for the applicant to provide information regarding the hardship. The Chair said the hardship was not presented by the applicant and it is wrong to approve just because the sign is proposed to be larger. A little over a year ago, the Board approved an increased sign to direct people for safety and health reasons. In this case, it is an internal facing sign, and it is identified as necessary for patient direction on a private campus. The property is a distinguishable property.

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

Chair Koppenheffer voted nay.

- C. **Lisa Johnson (applicant), Jolin Salazar-Kish (property owner), 185 North Main Street (Tax Map 44, Lot 4), zoned R-3:** Applicant requests a Special Exception pursuant to Section 702.5 of the Zoning Ordinance to expand the non-conforming furniture retail store use by offering retail sales of products to decorate and repair furniture and home décor and offering workshops to learn to decorate and repair furniture and home décor. **ZB2022-27-SE - Application has been withdrawn**
- D. **Shawn Griffin, 2 Freeman Avenue (Tax Map 90, Lot 13), zoned R-3:** Applicant requests a Special Exception pursuant to Section 610.H of the Zoning Ordinance to allow a proposed detached structure with an accessory dwelling unit (ADU) to be two (2) ft. taller than the existing principal residence. **ZB2022-28-SE**

Shawn Griffin appeared on behalf of the application. He is building a second garage and would like to build an ADU for his son to live at his property. The height of the garage would be 9 feet and the pitch of the roof impacts the height of the building. Due to snow, it is recommended that the pitch be used as designed. The Board did not have further questions.

Chair Koppenheffer opened the Public Hearing. Hearing no one, the Public Hearing was closed.

Mr. Nash MOVED on November 22, 2022, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Shawn Griffin regarding 2 Freeman Avenue (Tax Map 90, Lot 13), zoned R-3. Applicant requests a Special Exception pursuant to Section 610.H of the Zoning Ordinance to allow a proposed detached structure with an accessory dwelling unit (ADU) to be two (2) ft. taller than the existing principal residence. ZB2022-28-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. 2 Freeman Avenue, a +/-0.38 acre lot improved with a one-family dwelling, was recently merged with the adjacent vacant lot of 0.11 acres, for a total lot size of +/-0.49 acres.
2. On the 0.11-acre portion of the lot recently merged into 2 Freeman Avenue, the applicant proposes to construct a detached garage with an accessory dwelling unit on the second floor. The proposed building will be +/-2 ft. taller in height than the existing one-family dwelling which has a height of +/-21.6 ft.

3. In order to allow the ADU to be located in a detached structure that is taller than the principal dwelling, the applicant requires a Special Exception pursuant to Section 601.H of the Zoning Ordinance.
4. An accessory dwelling unit (ADU) is a permitted use in the R-3 District, subject to the criteria set forth in Section 610 of the Zoning Ordinance. Section 610.H provides that: “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 principal building on the lot. An ADU may be permitted to be taller than the principal building by special exception.”
5. Here, the applicant proposes to locate the ADU in a detached building having a height that exceeds the height of the principal dwelling and, therefore, requires a Special Exception pursuant to Section 610.H.
6. In order to grant a Special Exception to allow the proposed ADU to be located in the front yard, the Board must determine that the proposal meets the Special Exception criteria set forth in Section 801.3.
7. The applicant has submitted testimony addressing the Section 801.3 criteria in an application received by the Planning and Development Department.
8. No one from the public spoke for or against the application.

II. CONCLUSIONS OF LAW

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

1. The Special Exception is specifically authorized by §310.2 of the Zoning Ordinance. (§801.3.A)
2. There are no special conditions/requirements applicable to the proposed use. (§801.3.B)
3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy. (§801.3.C) *Staff is not aware of any Zoning Ordinance violations on the property.*
4. The character of the area **will not** be adversely affected. (§801.3.D)
5. **No** hazard or nuisance will be created. (§801.3.E)
6. The capacity of existing or planned community facilities and services (including streets and highways) **will not** be adversely impacted. (§801.3.F)
7. The granting of the Special Exception **will not** result in undue municipal expense. (§801.3.G)
8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and intent of the ordinance. (§801.3.H)
9. The general welfare of the City **will** be protected. (§801.3.I)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **22nd day of November 2022**, hereby **GRANTS** the requested Special Exception 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 pay impact fees pursuant to §213 of the Zoning Ordinance.
2. As part of the building permit application, the applicant shall demonstrate compliance with all applicable criteria set forth in Section 610 of the Zoning Ordinance and, prior to the issuance of a building permit, shall record the notice required by Section 610.C.

Seconded by Mr. Katz.

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

- E. Chorro, LLC, 77 Bank Street (Tax Map 92, Lot 79), zoned RO:** Applicant requests a Special Exception per Sections 311.2 and 601 of the Zoning Ordinance to convert the existing building to an 8-unit multi-family dwelling. **ZB2022-29-SE**

Jim Wasser from Studio Nexus, Architects and Tim Sidore, from Chorro, LLC, appeared on behalf of the application. Mr. Katz recused himself from a previous case regarding this property, but he has not had any financial relationship with the property for more than a year. No one objected to Mr. Katz sitting on this hearing.

Mr. Wasser said the building is about 5500 square feet on three floors. It was originally a single-family house with an attached barn. Most recently it is office use and a one-bedroom apartment. They would like to convert the barn and the second floor of the main house into 7 studio apartments, keep the one-bedroom apartment on the 3rd floor, and keep one office on the main floor. They do not intend to change the exterior other than adding a porch and doing maintenance to the exterior. The site is heavily landscape now and they intend to add additional landscaping.

They are cleaning up the parking lot and would provide sufficient parking for the tenants. It was clarified that parking is available on an adjoining location, but it would not be necessary. They are providing 18 spaces for 8 units and one office. There may be a problem with how the spaces are laid out, but there is proper density. The Board discussed receptable and trash placement. The receptacle would be located on the 77 Bank Street property near the parking lot.

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

The Chair reopened the Public Hearing.

The applicant was asked why they could not get one dumpster for 75 Bank Street and one for 77 Bank Street. The intent is to cut down on the unsightliness of another dumpster. It would be screened. There are 45 studios using the current dumpster. It gets emptied once or twice a week and it is adequate for disposal. It would be the Planning Board that would need to address if the dumpster situation is problematic.

Mr. Nash MOVED on November 22, 2022, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Tim Sidore and Jim Wasser on behalf of Chorro, LLC, regarding 77 Bank

Street (Tax Map 92, Lot 79), zoned R-O. Applicant requests a Special Exception per Sections 311.2 and 601 of the Zoning Ordinance to convert the existing building to an 8-unit multi-family dwelling. ZB2022-29-SE

I. FINDINGS OF FACT

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

1. The property is improved with a mixed-use building containing office space and one dwelling unit. The applicant proposes to convert the building to an eight (8) unit multi-family dwelling.
2. A conversion of a building to a multi-family dwelling is allowed by Special Exception in the R-O District provided that the conversion complies with the requirements set forth in §601 (“Special Design Standards”).
3. Section 601.4 requires compliance with the applicable density requirements. Per §311.3, in order to accommodate the proposed 8 dwelling units, the lot would need to be at least 28,000 sq. ft. in size, whereas the lot is only 21,200 sq. ft. in size.
4. To provide the minimum required lot area for 8 dwelling units, the applicant has submitted an application to the Planning Board for a boundary line adjustment with 75 Bank Street (PB2022-55-BLA).
5. “Multi-family conversion per Section 601” is a use permitted by Special Exception in the R-O District per §311.2 of the Zoning Ordinance, provided that the conversion complies with the requirements set forth in §601 (“SPECIAL DESIGN STANDARDS”).
6. To grant the requested Special Exception, the Board must also determine that the proposal meets the general Special Exception criteria, set forth in §801.3.
7. No one from the public spoke for or against the proposal.

II. CONCLUSIONS OF LAW

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

1. The Special Exception is specifically authorized by §311.2 and §601 of the Zoning Ordinance. (§801.3.A)
2. The following special conditions/requirements of §601 **are** met (§801.3.B):
 - a. 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. (§601.1)
 - b. Adequate off-street parking shall be provided on the lot, unless off-premise parking is approved pursuant to §607.4. Such parking shall not occupy the front yard and shall be screened from abutting properties. (§601.2)

- c. Impermeable coverage plus unpaved parking and driveway areas shall not exceed 65 percent of the lot area. (§601.3)
- d. The conversion or new construction of multi-family complies with the zoning district requirement for "Additional Area Per Dwelling Unit After Two." (§601.4)
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)
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 **22nd day of November 2022**, hereby **GRANTS** the requested Special Exception as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain site plan approval per the Lebanon Site Plan Review Regulations, a building permit, and a certificate of occupancy, and shall pay impact fees pursuant to §213 of the Zoning Ordinance.
2. Prior to application for a building permit, the boundary line plat between the subject property and 75 Bank Street (PB2022-55-BLA), shall be approved by the Planning Board and recorded in the Grafton County Registry of Deeds, as shown on page 2 of 8 on the plan submitted.
3. The Project will be completed substantially in conformity to the plans provided to the Zoning Board of Adjustment.

Seconded by Mr. Katz.

Mr. Katz, asked that # 3 in the Decision be added, as written above. The Chair asked that the site plan be identified, as written above, in # 2 in the Decision.

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

4. OTHER BUSINESS

A. Zoning Amendments - Review of proposed amendments to the Zoning Ordinance and Zoning Map

The purview of the Zoning Board of the Adjustment is to determine whether the proposed amendments are stated in a manner that the Board can apply the amendments in future decisions. There will be a number of upcoming public hearings regarding the amendments with the City Council. The language regarding the electric vehicle discussion and requirements were highly technical and would require a high level of competence and understanding. It will be difficult to interpret. There were no suggested revisions.

5. STAFF COMMENTS

The schedule will return to normal next month. There will be a thank you pizza dinner for Board Members at the next meeting. Nate Reichert, the new Planning Director was introduced.

6. ADJOURNMENT

Mr. Nash MOVED to adjourn the meeting at 8:24 PM.

Seconded by Ms. Barkley.

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

Respectfully submitted,
Linda Billings
Recording Secretary