



**LEBANON ZONING BOARD OF ADJUSTMENT
APRIL 3, 2023 - 7:00 PM
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

1. Call to Order

2. Approval of Minutes

A. March 6, 2023

3. Public Hearing Items

- A. **KS & PS Properties, LP, 3 Union Street (Tax Map 92, Lot 185), zoned R-2 Class 1:** Applicant proposes to construct an attached carport to an existing dimensionally non-conforming structure. Applicant requests a 12' right-side yard setback variance and a 2.4% maximum building coverage variance pursuant to section §801.2 Variances of the Zoning Ordinance to construct the proposed carport +/- 3 ft from the right-side lot line where the minimum required setback is 15' and the maximum building coverage is 25% as required by Section §309.3 of the Zoning Ordinance. **ZB2023-07-VAR**
- B. **Stevens Blanchard & Amanda Spencer, 43 Elm Street West (Tax Map 86, Lot 39, Plot 100), zoned R-2 Class 1:** Applicant proposes to replace and connect the front two porches, thereby adding 30 sq ft to an existing dimensionally non-conforming structure. The Applicant requests a Special Exception for the expansion of a nonconforming building pursuant to section §703.1A of the Zoning Ordinance to reconstruct and expand an existing porch +/- 19 ft from the front lot line where the minimum required front yard setback is 20' as required by Section §309.3 of the Zoning Ordinance. **ZB2023-08-SE**

4. Staff Comments

5. Adjournment

The order of agenda items is subject to change.

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

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

DRAFT

**LEBANON ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE
MONDAY, March 6, 2023
7:00 PM**

MEMBERS PRESENT: Dan Nash, Jeremy Katz, Dave Newlove, Paul McDonough, Catherine Hembree (Alt), Jennifer Barkley (Alt)

MEMBERS ABSENT: Chair William Koppenheffer

STAFF PRESENT: Tim Corwin – Senior Planner and Zoning Administrator

1. CALL TO ORDER

Vice Chair Jeremy Katz called the meeting to order at 7:02 PM.

2. APPROVAL OF MINUTES

A. February 6, 2023

Ms. Barkley and Ms. Hembree were given voting privileges for this motion. Mr. McDonough abstained from voting.

Mr. Nash MOVED to approve the February 6, 2023, Minutes as presented in the March 6, 2023, packet with amendments.

Seconded by Mr. Newlove.

Amendments: One spelling correction and correction of the location of the meeting.

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

3. PUBLIC HEARING ITEMS

- A. KS & LP, 3 Union Street (Tax Map 92, Lot 185), zoned R-2 Class 1:** Applicant proposes to construct an attached carport to an existing dimensionally non-conforming structure. Applicant requests a 12' right-side yard setback variance pursuant to section §801.2 Variances of the Zoning Ordinance to construct the proposed carport +/- 3 ft from the right-side lot line where the minimum required setback is 15' as required by Section §309.3 of the Zoning Ordinance.

ZB2023-07-VAR - Application to be postponed to the April 3, 2023 meeting

4. DELIBERATION

- A. Cote Swenson & Samantha Medina, 397 Dartmouth College Highway (Tax Map 111, Lot 9), zoned RL-2:** The property has two principal uses: a produce stand and a contractor's yard. Applicants request a Special Exception pursuant to Section 313.2 and Section 702 of the Zoning Ordinance to allow a portion of the contractor's yard to be used as storage for the produce stand.
- ZB2022-30-SE – Continued from February 6, 2023**

Ms. Hembree was given voting privileges for this hearing.

Vice Chair Katz reminded everyone that the public hearing is closed. Staff prepared a document summarizing the facts and conclusions for this hearing. A document was distributed to Board members and was previously provided to the Board.

Mr. McDonough pointed out that the farmstand is open more than a seasonal enterprise, but it is not clear that it is open all 12 months of the year. The times of operation have not been fully stated by the applicants, but it is noted that it is not a seasonal operation and that seasonal is not defined.

Mr. Katz explained that the applicants are requesting to expand the use of the nonconforming contractor's yard to include use by the farm stand. It is the responsibility of the applicants to show there are no violations that would not be remedied by the Special Exception. He reviewed the alleged violations and the violations that were seen during the site walk. It was apparent that the issuance of the Special Exception would not remedy the violations. There are more than 10 problems that would not be remedied. The applicant cannot carry their burden of proof and therefore it is recommended the Special Exception would fail.

Vice Chair Katz MOVED on December 5th 2022, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Samantha Medina and Cote Swenson on behalf of their application regarding 397 Dartmouth College Highway (Tax Map 111, Lot 9), zoned RL-2. Applicants request a special exception pursuant to Section 313.2 and Section 702 of the Zoning Ordinance to allow a portion of the contractor's yard to be used as storage for the produce stand. ZB2022-30-SE.

At the December 5th regularly scheduled Zoning Board meeting a motion was made and passed to conduct a site walk to be performed at 10 AM on December 17th, 2022, and the remainder of this matter to be completed at the January 3, 2023, regularly scheduled Zoning Board meeting. Due to inclement weather the December 17th, 2022, site walk meeting was canceled.

At the January 3rd, 2023, regularly scheduled Zoning Board meeting, Samantha Medina and Cote Swenson attended, and the previously canceled site visit was rescheduled to January 7, 2023, at 10:00 am, and the public hearing continued thereafter until Monday, February 6 at 7:00 PM.

At the February 6th, 2023, regularly scheduled Zoning Board meeting, Samantha Medina and Cote Swenson did not attend, and the public hearing was concluded and closed.

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 at 397 Dartmouth College Highway (Tax Map 111, Lot 9) contains two uses, a Contractor's Yard permitted under a Zoning Board approval on January 20th, 2009, and a temporary greenhouse and stand permitted under a Zoning Board approval on May 6th 1991.
2. The Applicants testified that they are seeking approval to use both the interior (garage) and exterior (yard) of the contractor yard part of the property to store inventory and material belonging to the produce stand business.
3. In all special exception applications, the burden of proof is upon the applicant to demonstrate that each and every one of the requirements of §801.3. are met.

- 1 4. Much of the hearings were devoted to the investigation of §801.3.C. Specifically, the applicant
2 bears the burden of proof in demonstrating that there are no existing violations of the Zoning
3 Ordinance on the property that the granting of the Special Exception would not remedy.
4
- 5 5. The applicants testified in the December 5th hearing that a violation relating to the fence issue had
6 been resolved and that they were aware of no additional violations.
7
- 8 6. Abutters appeared and testified at the December 5th hearing that they believed multiple violations
9 existed on the property that would not be remedied through the granting of the special exception
10 that has been requested. Abutter Linda Wadleigh testified to violations related to fencing and
11 landscaping. Abutter Chris Childs testified relative to violations of overnight parking, vehicular
12 maintenance, landscaping and screening. Abutter Marylou Childs presented photographic
13 evidence of violations and also testified regarding nuisance created by excessive commercial
14 light.
15
- 16 7. Upon questioning, the Abutters testified that their grievances center upon the outdoor contractor's
17 yard and the violations relative to the condition on the grounds on that yard. The Abutters
18 confirmed they are not aggrieved by contents of the produce stand being stored in the interior of
19 the garage.
20
- 21 8. Based upon the December 5th testimony received, a site walk was scheduled so that the Board and
22 Staff would be able to view the conditions on the property. The site walk was performed on
23 January 7, 2023, and was attended by 5 members of the public, including several abutters who
24 had testified in the December 5th hearing. The site walk exclusively focused on the exterior
25 grounds of the property, and no structures were entered. As stated above, the Applicants were
26 invited to the site walk but were not present at the site walk.
27
- 28 9. Limited testimony was allowed at the February 6th meeting to discuss what was seen during the
29 site walk. Applicants did not attend the February 6th meeting and did not submit testimony to
30 refute the abutter's statements or submissions.
31
- 32 10. Four violations were alleged of the May 6th, 1991 Zoning Board Decision relative to the Produce
33 Stand, as follows:
34 a. Violations Pursuant to the May 6th, 1991, Zoning Board Decision:
35 i. "This will be a temporary structure." – Multiple permanent and unpermitted
36 greenhouses and structures currently exist on the land.
37 ii. "The greenhouse will 48 feet long [sic] with a surrounding fence, both of which are
38 portable." – Multiple permanent greenhouses appear on the lot. There is no fence,
39 temporary or otherwise, surrounding the greenhouses.
40 iii. "This is a seasonal business." – There is evidence that the farm stand business is
41 operational year around.
42 iv. "[T]his is a temporary structure and shall not be attached to earth in any manner." –
43 Multiple unpermitted permanent structures exist on the property.
44

45 However, the Board notes that these violations have been rendered moot by virtue of the Board's decision
46 #ZB2020-22SE issued on October 19, 2020, reading in relevant part: "...the Board finds that the produce
47 stand at this location, operating with greenhouses on the site, is a lawful conforming use..." [Paragraph 6]
48 and "Since we determine that a produce stand with several greenhouses on the site is already a lawfully
49 conforming use..." [Paragraph 7]
50

1 Provided that the Produce Stand use is within the confines of the use footprint and intensity that
2 existed as of the October 19, 2020, decision, this Board finds no violations of the May 1991 order
3 as those restrictions were superseded by the more recent decision.
4

5 11. However, the Zoning Board finds the testimony of the abutters credible, and personally viewed in
6 the site walk, evidence of the following Zoning Violations on the property that would not be
7 remedied through the granting of the requested Special Exception. The following violations are
8 noted:
9

10 a. Violations Pursuant to the January 20th 2009 Zoning Board Decision:

- 11 i. “The building will remain a non-heated, unoccupied storage building.” – It was
12 observed that a heating stove chimney has been installed in the building. The heating
13 stove appears to have been installed without the benefit of building or zoning
14 permits.
- 15 ii. “The entire developed portion of the property will comply with the City’s
16 commercial landscaping ordinance, as subdividing the property has not occurred
17 other than for bounds of contractor’s yard.” – Landscaping has not been installed
18 pursuant to the approval.
- 19 iii. “At no time will storage of box trailer, or shipping containers be permitted.” –
20 Multiple storage devices including a trailer are present on the site.
- 21 iv. “No vehicle maintained will occur on site.” – Credible testimony was received from
22 the neighbors that vehicle maintenance is routinely performed on site.
- 23 v. “All outside storage to conform to the boundaries set forth in a supplemental site plan
24 submitted to this board and said storage to be screened by a 6’ – 0” privacy fence.” –
25 A 6 ft. privacy fence is not provided as required; there is unpermitted and unscreened
26 storage throughout the site both inside of the limits of operation and outside the limits
27 of operation as defined by the approved 2009 site plan. There is storage of items both
28 for the contractor’s yard and the farm stand throughout the site and in areas not
29 permitted.
- 30 vi. “Operating hours to be limited to between 6:30 AM and 8:30 PM” – Testimony from
31 the neighbor states that lights remain on all night and the buildings are regularly used
32 past 8:30 PM and / or before 6:30 AM.
- 33 vii. “Trucks would not be park there overnight [*sic*], nor any maintenance performed.” –
34 There is credible evidence and testimony that vehicles were parked on site overnight.
35

36 b. Additionally, Violations Pursuant to the General Zoning Provisions:

- 37 i. Zoning Ordinance Section 608.8.C.3 (for failing to remove a legal nonconforming
38 sign) – Unpermitted signs remain on the property.
- 39 ii. Zoning Ordinance 608.2(B) for installing a freestanding sign on the Property without
40 obtaining a sign permit.
- 41 iii. Zoning Ordinance Section 702.5(A) for expanding the use of the produce stand in
42 several ways without a special exception.
 - 43 1. The storage of junk, waste material, piles of dirt, mulching materials and
44 various items is present throughout the site.
 - 45 2. Unpermitted signs which state, “Bark Mulch” and “mulch for sale” appear to
46 be an unpermitted expansion of the contractor’s yard into a retail operation.
 - 47 3. There is evidence of produce stand items being used and stored in the
48 contractor’s yard as a part of an active operation to grow and store items in
49 the yard.
- 50 iv. Building Code Section 36-2(A) for installing a wood stove in the produce stand
51 without a Zoning Board approval or a building permit.

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 authorized by §314.2 of the Zoning Ordinance. (§801.3.A)
2. There are no special conditions/requirements applicable. (§314.2)
3. There **are** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy. (§801.3.C)

Specifically, the applicants have not met their burden of proof in demonstrating that there are no existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy. To the contrary, the abutters presented large amounts of credible testimony as to the existence of violations and the Board directly viewed this evidence during the site walk.

4. The character of the area **will** be adversely affected. (§801.3.D)
Abutters have presented credible testimony that expansion of the outdoor storage area that is already non-compliant with its obligations will diminish the character of the area.
5. A hazard and nuisance **has** been and will be created. (§801.3.E)
Abutters have presented credible testimony that the expansion of the outdoor storage area, especially in conjunction with other evidenced violations, will create and/or exacerbate a nuisance and diminish their quality of life.
6. The capacity of existing or planned community facilities and services (including streets and highways) **will not** be adversely affected. (§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 not** 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 not** be protected. (§801.3.I)

III. DECISION

Now therefore be it resolved, that the Lebanon Zoning Board of Adjustment, on this **6th** day of **March 2023**, hereby **DENIES** the requested relief, subject to testimony, plans, and materials submitted.”

Seconded by Mr. Newlove.

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

4. STAFF COMMENTS

NONE

6. ADJOURNMENT

*Mr. Nash MOVED to adjourn the meeting at 7:26 PM.
Seconded by Mr. Newlove.*

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

Respectfully submitted,
Linda Billings
Recording Secretary



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

Staff Memorandum – ZB2023-07-VAR

April 3rd 2023 Regular Meeting

**KS & PS Properties, LP - Peter Scoppettone – General Partner
3 Union Street (Tax Map 92, Lot 185)**

APPLICATION INFORMATION

Agenda Item: 3.A

Application Type:

Variance from §309.3 to construct an attached carport.

Location:

3 Union Street
Tax Map 92, Lot 185

Applicant/Property Owner:

KS & PS Properties, LP.
Peter Scoppettone – General Partner

Zoning District:

Residential Two – Class 1 (R-2)

Property Size:

+/-0.14 acres (+/-6098.4 sq. ft.)
(per the City Assessor's records;
property is not conforming to the
min. required 10,000 sq. ft. lot size in
the R-2 Class 1 District per §309.3)

Overlay Districts:

None

Previous ZBA Action (since 1995):

None

Other Approvals Required:

Building Permit

Attachments:

Application
GIS and street view photos

HEARING NOTICE

KS & PS Properties, LP, 3 Union Street (Tax Map 92, Lot 185), zoned R-2 Class 1: Applicant proposes to construct an attached carport to an existing dimensionally non-conforming structure. Applicant requests a 12' right-side yard setback variance and a 2.4% maximum building coverage variance pursuant to section §801.2 Variances of the Zoning Ordinance to construct the proposed carport +/- 3 ft from the right-side lot line where the minimum required setback is 15' and the maximum building coverage is 25% as required by Section §309.3 of the Zoning Ordinance. ZB2023-07-VAR.

BACKGROUND

The property is improved with a one-family dwelling constructed in 1860. Per the City Assessor's records and is non-conforming to the R-2 Class 1 District minimum lot size requirement of 10,000 sq. ft. as the lot is 6098 sq. ft. additionally the lot is 50' wide and the R-2 Class 1 standard is for a 75' wide lot frontage. It appears the home itself is non-conforming to the required minimum front-yard setback of 20 ft., and to the minimum 15 ft. left side-yard. Currently, there is no garage or carport located on the property. The property is currently undergoing substantial renovation.

PROPOSAL

The applicant proposes to construct an attached 19 ft. by 18 ft. carport to be located +/-3 ft. from the right-side lot line shared with 5 Union (Tax Map 92, Lot 186). The right-side yard variance is required to allow the construction of the carport within the minimum required 15 ft. side yard. Further, the carport addition requires a Maximum Building Coverage variance. The carport addition increases the Building Coverage to 27.4% of the lot, thereby, exceeding the 25% maximum by 2.7% and triggering the need for a variance.

ZONING ORDINANCE VARIANCE REQUIREMENTS

To obtain the requested Variance from Section §309.3, the applicant must demonstrate compliance with each of the five Variance Criteria as set forth in Section §801.2 of the Zoning Ordinance and NH RSA 674:33, I(b). The five criteria are state in the bold text below, followed by general staff commentary on the meaning and intent of each.

1. **Will the variance be contrary to the public interest?** According to the Board of Adjustment in NH, 2012 Edition, for a variance to be contrary to the public interest, it must unduly and to a marked degree violate the basic zoning objectives of the zoning ordinance. To determine this, does the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?
2. **Will the spirit of the ordinance be observed?** According to the Board of Adjustment in NH, 2012 Edition, in deciding whether or not a variance will violate the spirit and intent of the ordinance, the Board must determine the legal purpose the ordinance serves and the reason it was enacted. The effect of the variance should be evaluated in light of the goals of the Ordinance, which might begin or end with a review of the master plan upon which the ordinance is based.
3. **Is substantial justice done?** According to the Board of Adjustment in NH, 2012 Edition, Board members must determine each case individually. They suggest that perhaps the only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.
4. **Are values of surrounding properties diminished?** According to the Board of Adjustment in NH, 2012 Edition, if there is conflicting evidence (dueling experts) then it is the Board's job to sift through such testimony and other evidence to make a finding as to whether there will be a decrease in property values. Board members may also draw upon their own knowledge of the area in reaching a decision on this standard. It is the applicant's burden to convince the Board that it is more likely than not that the project will not decrease values.
5. **Would literal enforcement of the provisions of the ordinance result in an unnecessary hardship?**
 - a. **Special Conditions:** According to the Board of Adjustment in NH, 2012 Edition, Zoning imposes some hardship on all property owners by setting lot dimensions, allowable uses and other restrictions. Typically, the restrictions on one parcel are balanced by similar restrictions on other parcels in the same zone. When the hardship so imposed is shared equally by all property owners, no grounds for a variance exist. Only when some characteristic of the particular land in question makes it different from others can unnecessary hardship be claimed. Even within the same community, different results may be reached with just slightly different fact patterns.
 - b. **Fair and Substantial Relationship:** Part of this standard includes whether or not a fair and substantial relationship exists between the general public purpose of the ordinance provisions and the specific application of that provision to the property. Is the restriction on the property necessary in order to give full effect to the purpose of the ordinance, or can relief be granted to this property without frustrating the purpose of the ordinance? Once the purpose of the provision has been established, the property owner needs to establish that, because of the special conditions of the property, application of the ordinance provision to their property would not advance the purposes of the ordinance provision in any "fair and substantial" way.
 - c. **Reasonable Use: Is the proposed use a reasonable one?** All applicants believe their proposed use is a reasonable one. The applicant must establish that, in light of the special conditions of the property, as identified above, the proposed use is a reasonable one.

APPLICATION AND SUPPORT STATEMENT

The applicant has submitted testimony addressing the Section 801.2 Variance criteria in an application received by the Planning & Development Department on March 7th 2023 (see attached).

STAFF COMMENTS

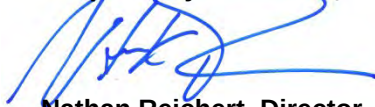
The application is a simple request to provide additional protected off-street parking. The neighborhood in which this house resides is an established, tightly packed streetscape with minimal on-street parking. The addition of the off-street parking provided by the expansion of the driveway and the area within the carport will relieve on-street parking congestion. Additionally, sidewalk access through the site can be adversely impacted by the current driveway configuration. Often parked cars, be they in the right of way or on the current driveway, block access to the sidewalk. The tight configuration of available parking on the site and in the street in front of the property will find relief with the proposed carport and driveway reconfiguration.

ATTACHEMENTS

Figure 1. Street View of Subject Property.

Figure 2. GIS View of Subject Property

Respectfully submitted,

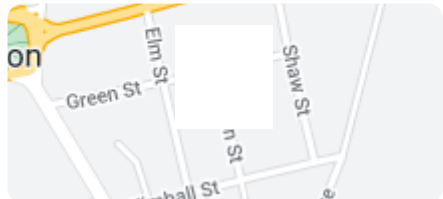


Nathan Reichert, Director
Planning and Development Department
Zoning Administrator

Google Maps 3 Union St



Image capture: Jul 2013 © 2023 Google



**Property Information**

Property ID 92-185
Location 3 UNION ST
Owner KS & PS PROPERTIES LP

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

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

Geometry updated 12/28/2022
Data updated 11/18/2018

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



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

DRAFT DECISION – ZB2023-07-VAR

April 3rd 2023 Regular Meeting

**KS & PS Properties, LP - Peter Scoppettone – General Partner
3 Union Street (Tax Map 92, Lot 185)**

DRAFT MOTION for:

Agenda Item 3.A

Case ZB2023-07-VAR

Request for Dimensional Variance from Section §309.3

Motion made by: _____

On April 3rd 2023, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared _____ regarding 3 Union Street (Tax Map 92, Lot 185), zoned R-2. The Applicant requests a 12' right side yard dimensional variance and a 2.7% maximum building coverage variance from section §309.3 to construct an attached carport to an existing dimensionally non-conforming structure +/-3 ft. from the right-side property line.

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 one-family dwelling constructed in 1860 per the City Assessor's records. At 6,098 sq. ft., the lot is non-conforming to the 10,000 sq. ft. minimum lot size required for Class 1 lots in the R-2 District.
2. The applicants propose to construct an attached 19' by 18' carport to an existing dimensionally non-conforming structure. The carport is proposed to be located 3 ft. from the right-side lot line shared with the abutting property at 5 Union (Tax Map 92, Lot 186) whereas a minimum unobstructed side yard of 15' is required.
3. In the R-2 District, Class 1 lots must maintain a minimum side yard unobstructed by buildings and structures of 15' pursuant to Section §309.3 of the Zoning Ordinance. Therefore, a 12' dimensional variance is required to permit construction of the proposed carport, which will encroach approximately 12' into the minimum required 15' side yard.
4. In the R-2 District, Class 1 lots must maintain a maximum building coverage of 25% pursuant to section §309.3 of the Zoning Ordinance. Therefore, a 2.7% maximum building coverage variance is required to permit construction of the proposed carport, which will exceed the 25% maximum by 2.7%.
5. To obtain the requested Variance from section §309.3, the applicants must demonstrate compliance with each of the five variance criteria as set forth in Section 801.2 and NH RSA 674:33, I(b).

6. The applicants have submitted testimony addressing the section §801.2 Variance criteria in an application received by the Planning and Development Department on March 7th 2023.

7. _____

8. _____

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 / will be contrary to the public interest. (Section 801.2.A.1)

2. The spirit of the ordinance is / is not observed. (Section 801.2.A.2)

3. Substantial justice is / is not done. (Section 801.2.A.3)

4. The values of surrounding properties are not / are diminished. (Section 801.2.A.4)

5. Literal enforcement of the provisions of the ordinance would / 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):

6. There **is not / 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)

7. The proposed use **is / 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 **3rd day of April, 2023**, hereby **GRANTS / DENIES** the requested Variances from section §309.3 of the Zoning Ordinance to allow the construction of a carport at 3 Union Street (Tax Map 92, Lot 185) to be located +/-3 ft. from the side property line, and exceeding the maximum building coverage by 2.7% as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit.
2. _____

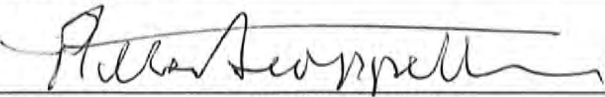
3. _____

Motion seconded by: _____

Vote: _____

CITY OF LEBANON APPLICATION FOR

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

PROPERTY OWNER (APPLICANT):			
NAME: KS & PS Properties, LP		TEL.#: 603-381-4545	
MAILING ADDRESS: 7 Union Street, Lebanon, NH 03766			
E-MAIL ADDRESS: pscoppettone@gmail.com			
CO-APPLICANT, AGENT, OR LESSEE:			
NAME:		TEL.#:	
MAILING ADDRESS:			
E-MAIL ADDRESS:			
PROJECT LOCATION:			
TAX MAP #: 92	LOT#: 185	PLOT #:	ZONE: R2
STREET ADDRESS OF PROJECT: 3 Union Street			
IS THIS PROPERTY LOCATED IN THE:			
WETLANDS		☐ YES ☒ NO	HISTORIC DISTRICT ☐ YES ☒ NO
FLOOD PLAIN		☐ YES ☒ NO	
SCOPE OF PROJECT:			
Install an attached 19'x18' carport on a pre-existing non-conforming lot within the required side yard setback.			
TYPE OF OCCUPANCY:			
EXISTING	☒ VACANT	☐ ONE FAMILY	☐ TWO FAMILY
PROPOSED	☐ VACANT	☒ ONE FAMILY	☐ TWO FAMILY
		☐ MULTI-FAMILY	☐ COMMERCIAL
		☐ INDUSTRIAL	
IF USE IS COMMERCIAL OR INDUSTRIAL , PLEASE NOTE SPECIFIC USE: _____			
SIGNATURE BLOCK:			
 PROPERTY OWNER		DATE: 2/13/23	
NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.			
_____ PROPERTY OWNER		DATE: _____	

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #			
2/13/23	92-185	ZB2023-07-VAR			

(12/07/07)

PETER SCOPPETTONE INC
ARCHITECTURAL DESIGN AND CONSTRUCTION MANAGEMENT

February 13, 2023

Revised February 15, 2023

Zoning Board of Adjustment
William Koppenheffer, Chair
City of Lebanon
51 North Park Street
Lebanon, NH 03766

RE: 3 Union Street - Application for Variance for Side Yard Setback

Mr. Chairman and Members of the Board:

My wife Katherine and I have purchased a neighboring house on our street at 3 Union Street and have been renovating it from its dilapidated state with the intention of reselling it. The house was built in 1860 and is on a small lot that predates zoning. It has no covered parking and due to the narrow shape and small size of the lot, there is no place to put covered parking that would comply with the required 15-foot setback. We fear that, without covered parking, marketing the house and earning a reasonable return on our investment will be very difficult. Therefore, we are asking the ZBA for a variance to the side-yard requirement so that we may install an attached carport on the south side of the house.

The proposed carport would be located adjacent to the side door next to the rear of the house where the existing measurement from the house to that side property line is 22.0 feet. The carport would be 19 feet in width to allow for two 8ft carbays while also covering the stairs at the door which would be 3ft in width. The resulting proposed side yard setback at the carport would be 3 feet. We have discussed our proposal with the adjacent neighbor at 5 Union Street and they are in support of our proposal and welcome the structure which would increase their privacy in their back yard. In reviewing the requirements for the grant of a Variance, we address each of the criteria below:

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

The presumed public purpose in requiring side-yard setbacks is to promote open space in neighborhoods and a degree of privacy, ensuring fresh air, less noise from neighbors, and greater safety from potential fires. The proposed carport does not have any substantial impact contrary to these intents, as it will be located to the rear of the adjacent 5 Union Street house. It will not block and views from the neighbors windows or rear porch nor from their rear patio. The carport will be open on the front and rear but will have a solid south wall blocking any view into the carport from the neighbor's rear yard. The carport will also sit back substantially from the street approximately 63 feet. The existing paved parking area at the front of the house extends less than 20 feet from the property line which, in the past has resulted in cars blocking the sidewalk. Allowing cars to park in the rear would reduce this conflict and also the visual clutter of cars visible from the street.

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

The spirit of the ordinance, as stated in Section 1, is to promote open space, privacy and safety, none of which will be materially affected by the proposed carport. The spirit of the Ordinance is to promote orderly development and to allow neighborhoods to evolve within reason. When this neighborhood was originally developed, most houses did not have cars but covered parking is important today and it is important for properties in the neighborhood to retain and improve their value.

3. *That by granting the variance, sustainable justice will be done.*

The only impacted neighbor is in favor of the project. They plan to build a privacy fence anyway and the addition of a carport where proposed will only add further privacy between the two dwellings. No one is being harmed by the proposal.

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

The carport will actually help improve the property values of nearby properties by improving the value of the subject property, supporting its renovation and reducing the clutter of vehicles parked in front yards. The carport will not be visible from the public way except from directly in front of the house, and it will not obstruct any views from the neighboring adjacent properties. It will instead improve the sense of privacy.

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

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

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

The minimum lot size in the neighborhood zone is 10,000 s.f. while the subject property is 6,447 s.f. There is no other reasonable place to locate covered property that would not also have a setback violation. The proposed carport would not be contrary to the intent of the ordinance because it would not have any substantial impact on the abutter, and it will not be occupied living space. The proposed carport has much less impact than, for example, a two-story house with a basement at a similar 3 feet from the property line. It is also worth pointing out that a large portion of properties in the immediate neighborhood are not conforming with the dimensional requirements of the Zoning Ordinance and that the 15-foot required setback has no substantial relationship to the prevailing character of neighborhood homes. Strict enforcement of such requirements would serve to devalue many of these residential properties by making them less useable for modern needs. Finally, the increase in building coverage to 26.71% is hardly any different than the 25% maximum.

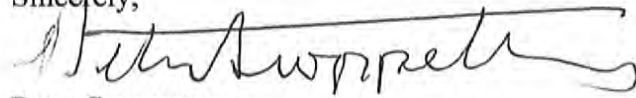
PETER SCOPPETTONE INC
ARCHITECTURAL DESIGN AND CONSTRUCTION MANAGEMENT

ii. The proposed use is a reasonable one.

It is reasonable to place a carport at the suggested location because it will provide needed covered parking while placing it outside of any conflict with the abutter or the public.

I have enclosed the proposed plans, photos of the existing exterior, a letter of support from Kelsey Redpath of 5 Union Street, and documentation showing the extent of similar nonconformities in the neighborhood. We hope the Board will agree that the proposal is not contrary to the intent of the Zoning Ordinance and will instead be beneficial in terms of improving the neighborhood.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Scoppettone', written over a horizontal line.

Peter Scoppettone
General Partner
KS & PS Properties, LP

SUPPORT STATEMENT FOR A VARIANCE

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

CITY OF LEBANON, NEW HAMPSHIRE

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

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

I (we) hereby request a variance from the terms of Article(s) III
Section(s) 309.3 of the Lebanon Zoning Ordinance.

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

801.2 Variances.

- A. To authorize, upon appeal in specific case, variances from the terms of this ordinance, no variance shall be granted unless each of the following conditions are met:
1. That the variance, if authorized, will not be contrary to the public interest;
see attached statement _____
 2. That the variance will observe the spirit of the Ordinance.
see attached statement _____
 3. That by the granting of the variance, substantial justice will be done;
see attached statement _____
 4. That the variance, if authorized, will not diminish the values of surrounding properties
see attached statement _____ and;
 5. That denial of the variance would result in unnecessary hardship.
 - (a) In this section "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
 - (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property
see attached statement _____

(ii) The proposed use is a reasonable one.

see attached statement

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

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

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

Statement of Intent:

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



Letter of Support for Variance

2 messages

Kelsey Redpath <kelsey.redpath@gmail.com>

Sun, Feb 5, 2023 at 3:24 PM

To: Peter Scoppettone <Pscoppettone@gmail.com>

Cc: Eric LeClair <eboarder45@yahoo.com>

To Whom It May Concern,

I am Kelsey Redpath, the owner of 5 Union Street, and I support Peter Scoppettone's request for a variance to the side-yard requirement at 3 Union Street.

My husband and I have been in constant communication with Peter Scoppettone and have seen his proposal. We believe that adding a driveway and carport to 3 Union Street will not only increase its value, but it will also increase the aesthetics of the entire street and add some relief to the on-going street parking.

We plan to put a fence between 3 Union and 5 Union anyway, so constructing a carport at 3 Union Street will inevitably add to our own privacy wishes.

It is our hope that you allow Peter Scoppettone to fully restore 3 Union Street - carport and all - to help create a better, more cohesive neighborhood for all of us.

Sincerely,

Kelsey Redpath

CERTIFIED NOTIFICATION LIST

THE CITY OF LEBANON IS REQUIRED UNDER NH RSA 672:3 TO NOTIFY THE FOLLOWING PERSONS OF PUBLIC HEARINGS BEFORE THE PLANNING BOARD: ALL ABUTTERS; THE APPLICANT; PROPERTY OWNER; HOLDER OF CONSERVATION, PRESERVATION, OR AGRICULTURAL PRESERVATION RESTRICTION(S); AND EVERY ENGINEER, ARCHITECT, LAND SURVEYOR, OR SOIL SCIENTIST WHOSE PROFESSIONAL SEAL APPEARS ON ANY PLAT SUBMITTED TO THE BOARD.

PLEASE PROVIDE NAMES & MAILING ADDRESSES FOR ALL PERSONS LISTED ABOVE.

MAP & LOT NUMBER: <u>92-185</u>	MAP & LOT NUMBER: <u>92-185</u>
PROPERTY OWNER: KS & PS PROPERTIES LP 7 UNION ST LEBANON, NH 03766	APPLICANT: KS & PS PROPERTIES LP 7 UNION ST LEBANON, NH 03766
MAP & LOT NUMBER: <u>92-186</u>	MAP & LOT NUMBER: <u>92-182</u>
ABUTTER/OTHER: REDPATH, KELSEY 5 UNION ST LEBANON, NH 03766	ABUTTER/OTHER: PIFFATH, CRYSTAL 16 CAVENDISH CT LEBANON, NH 03766
MAP & LOT NUMBER: <u>92-183</u>	MAP & LOT NUMBER: <u>92-184</u>
ABUTTER/OTHER: HUBBARD, KATHLEEN M 4 S PARK ST LEBANON, NH 03766	ABUTTER/OTHER: DUEMLING, KATHLEEN 1 UNION ST LEBANON, NH 03766
MAP & LOT NUMBER: <u>92-196</u>	MAP & LOT NUMBER: _____
ABUTTER/OTHER: HOWLAND, BRIAN T TTEE 33 GREEN ST, APT #1 LEBANON, NH 03766	ABUTTER/OTHER:
MAP & LOT NUMBER: _____	MAP & LOT NUMBER: _____
ABUTTER/OTHER:	ABUTTER/OTHER:
MAP & LOT NUMBER: _____	MAP & LOT NUMBER: _____
ABUTTER/OTHER:	ABUTTER/OTHER:

(9/17/04)

PETER SCOPPETTONE INC
ARCHITECTURAL DESIGN AND CONSTRUCTION MANAGEMENT

LETTER OF TRANSMITTAL

DATE: February 13, 2023

TO: ZBA

RE: Application for Variance

FROM: Peter Scoppettone
General Partner
KS & PS Properties, LP

PROJECT: 3 Union Street Alterations

ENCLOSED:

Enclosed with this Variance Application are the following:

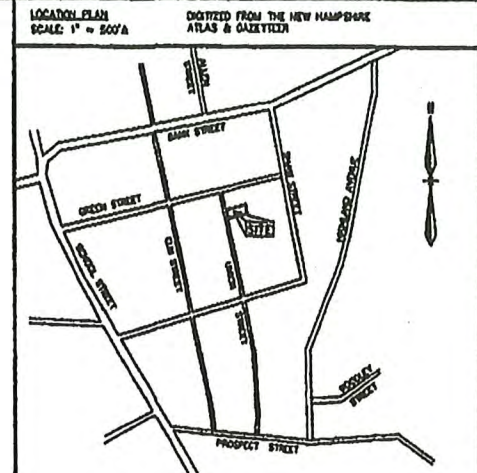
- | | |
|---|---------|
| • Variance Application 8-1/2"x11" | 1 page |
| • Support Statement 8-1/2"x11" | 6 pages |
| • Property Survey 11"x17" | 1 page |
| • Site Plan Drawing 11"x17" | 1 page |
| • South Elevation Drawing from 5 Union St 11"x17" | 1 page |
| • Photo of South Elevation of 3 Union from 5 Union Patio 8-1/2"x11" | 1 page |
| • Neighborhood Parcels Stydy 11"x17" | 1 page |
| • Letter of Support from 5 Union St 8-1/2"x11" | 1 page |
| • Thumb drive of above content | |

14322
00/00/2013 TOWN MAP
REGISTERED OF DEEDS, GRAFTON COUNTY
Chillicothe
L. Todd

#14322

REFERENCE PLANS

1. GORD PLAN NO. 9208 "AMMENDATION FOR WOLA D. WHEELER ESTATE, 5 & 7 UNION STREET, CITY OF LEBANON, GRAFTON COUNTY, NEW HAMPSHIRE, DATED SEPTEMBER 15, 1997 AND REVISED 12/19/1997 BY HATHORN SURVEYS."
2. CITY OF LEBANON ASSESSOR'S MAP SHEET 92.



NOTES

1. OWNER OF RECORD: LAURA TODD, TRUSTEE
ANNIE L. GRZEGOROWICZ REVOCABLE TRUST
338 FRANCHETOWN ROAD
NEW BOSTON, N.H. 03070
FOR DESCRIPTION SEE GRAFTON COUNTY REGISTRY OF DEEDS (GORD)
VOLUME 3490 PAGE 921 (FEBRUARY 0, 2005).
2. PLAN COMPILED FROM AN ELECTRONIC TOTAL STATION INSTRUMENT SURVEY HAVING A RELATIVE PRECISION OF BETTER THAN ONE PART IN TEN THOUSAND PERFORMED ACCORDING TO STANDARDS FOR REAL PROPERTY SURVEYS, CLASSIFICATION R, SET FORTH IN ADMINISTRATIVE RULES LAH 002 AND LAH 503 ADOPTED 8/16/2003 BY THE STATE OF NEW HAMPSHIRE UNDER RSA 310-A:66 AND RSA 841-A.
3. BEARING AND DISTANCE OF LINES AND AREAS COMPUTED ON A GATEWAY E SERIES COMPUTER RUNNING AUTODESK LAND DEVELOPMENT DESKTOP SOFTWARE.
4. THE PURPOSE AND INTENT OF THIS PLAT IS TO SHOW THE METES AND BOUNDS OF LAND DESCRIBED IN THE LOCUS DEED AND THE IMPROVEMENTS FOUND THEREON.
5. ALL MONUMENTS SHOWN ON THIS PLAT HAVE BEEN SET AS OF SEPTEMBER 29, 1997.

BOUNDARY PLAT
LAND OF
ANNIE L. GRZEGOROWICZ
REVOCABLE TRUST
LAURA TODD, TRUSTEE
MAP 92 LOT 185
UNION STREET
LEBANON
GRAFTON COUNTY
NEW HAMPSHIRE

LEGEND

P PROPERTY LINE
MAP LOT ADJOINING TAX PARCEL IDENTIFIER

SCALE 1"=10'
10 0 10 20 30 40 FEET
10 0 10 20 30 40 METERS
100.00 METERS / 100.00 METERS

PURSUANT TO RSA 876:12 AND RSA 872:14

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

DATE 6/25/12

Robert Todd
ROBERT B. TODD, LLC 250

I CERTIFY THAT THIS SURVEY & PLAT
WERE PREPARED BY ME OR BY THOSE
UNDER MY DIRECT SUPERVISION.

Robert Todd
ROBERT B. TODD, LLC 250

NO.	DATE	DESCRIPTION
1	6/25/12	Initial Survey
2		
3		
4		
5		
6		
7		
8		
9		
10		



LAND USE CONSULTANTS, LLC

ROBERT B. TODD 338 FRANCHETOWN ROAD NEW BOSTON N.H. 03070-2090
PROFESSIONAL SERVICES/ LAND SURVEYS - FORESTRY - SCULPTURE DESIGN
SOIL ANALYSES - LAND USE PLANNING - WETLAND SCIENCE
TRIPASS DAMAGE APPRAISAL - LANDSCAPE DESIGN

DATE: JUNE 25, 2012 JOB NO. 6890
SHEET 1 OF 1 FIELD BOOK & PAGE: 180-18

UNION STREET

W
A
L
K

W
A
L
K

NEW
BRICK
WALK

EXISTING
BLACKTOP

PLANTINGS

HOUSE

PORCH

PATIO

HOUSE

P
O
R
C
H

DRIVEWAY

EXISTING
SHED

P
O
R
C
H

LANDING

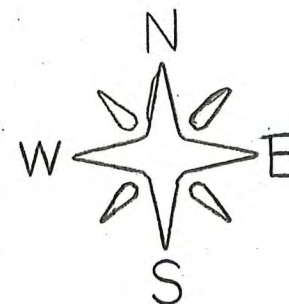
PROPOSED
CARPORT

SOLID WALL

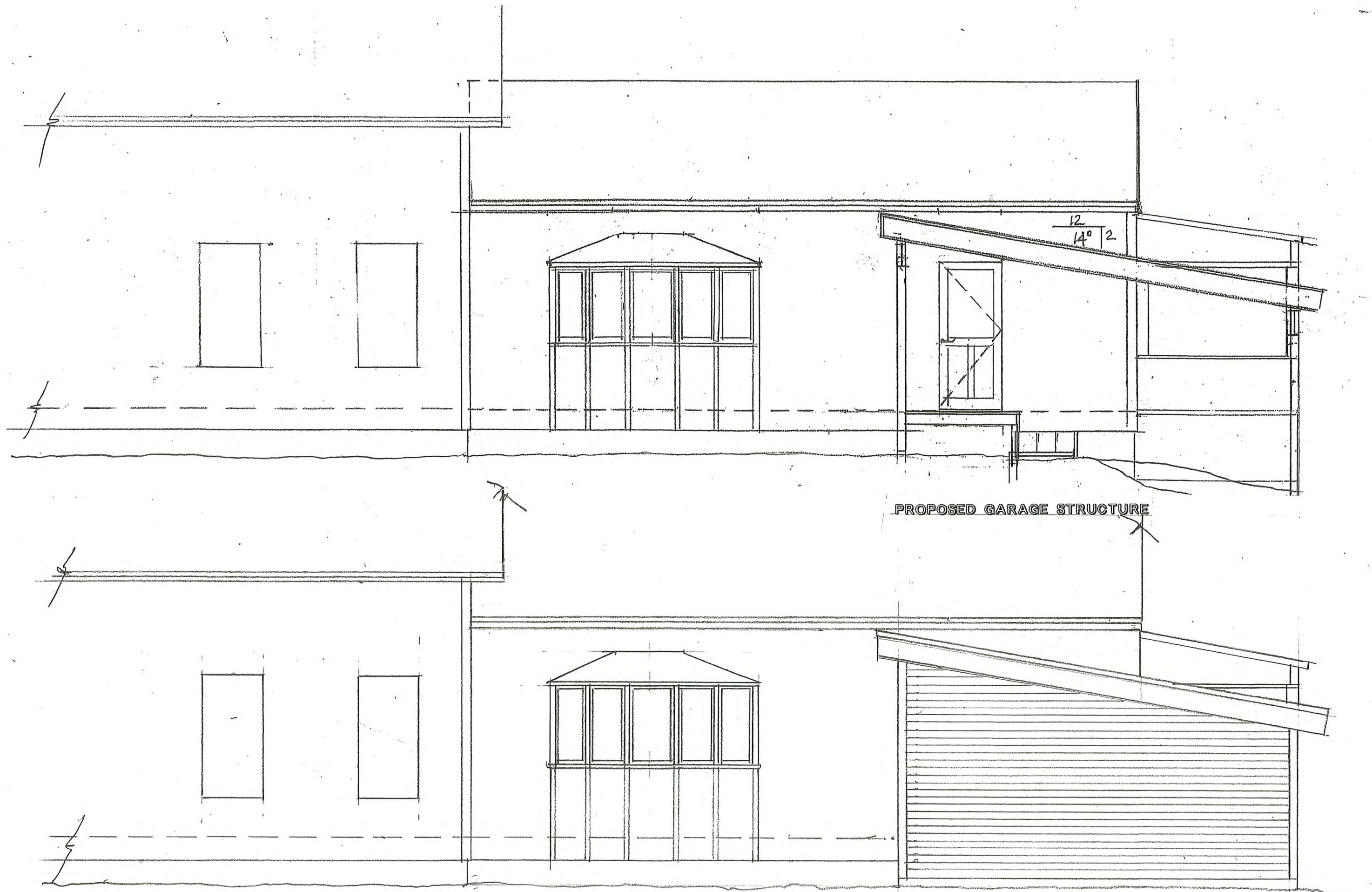
3 UNION ST PROPOSED SITE PLAN

5 UNION ST EXISTING SITE

GARAGE



1" = 10'



1/4"=1'-0" PMS.

VIEW FROM 5 UNION PATIO



The parcels colored in yellow measure less than 10,000sf in area. The parcels having red structures appear to cover more than 25% footprint. Owing to the approximate positioning of the structures it is not possible to reasonably assess the setbacks. But it appears that many structures violate the setback requirements of this Zone.

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

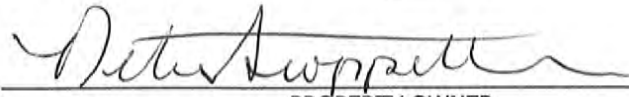
City of Lebanon, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

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

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

CITY OF LEBANON APPLICATION FOR

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

PROPERTY OWNER (APPLICANT):			
NAME: KS & PS Properties, LP		TEL.#: 603-381-4545	
MAILING ADDRESS: 7 Union Street, Lebanon, NH 03766			
E-MAIL ADDRESS: pscoppettone@gmail.com			
CO-APPLICANT, AGENT, OR LESSEE:			
NAME:		TEL.#:	
MAILING ADDRESS:			
E-MAIL ADDRESS:			
PROJECT LOCATION:			
TAX MAP #: 92	LOT#: 185	PLOT #:	ZONE: R2
STREET ADDRESS OF PROJECT: 3 Union Street			
IS THIS PROPERTY LOCATED IN THE:			
WETLANDS		☐ YES ☒ NO	HISTORIC DISTRICT
FLOOD PLAIN		☐ YES ☒ NO	☐ YES ☒ NO
SCOPE OF PROJECT:			
Install an attached 19'x18' carport on a pre-existing non-conforming lot within the required side yard setback and exceeding the maximum lot coverage requirement.			
TYPE OF OCCUPANCY:			
EXISTING	☒ VACANT	☐ ONE FAMILY	☐ TWO FAMILY
PROPOSED	☐ VACANT	☒ ONE FAMILY	☐ TWO FAMILY
		☐ MULTI-FAMILY	☐ COMMERCIAL
		☐ INDUSTRIAL	
IF USE IS COMMERCIAL OR INDUSTRIAL , PLEASE NOTE SPECIFIC USE: _____			
SIGNATURE BLOCK:			
 _____ PROPERTY OWNER		G.P. DATE: 3/7/23	
NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.			
_____ PROPERTY OWNER		DATE: _____	

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #			
3/7/2023	92-185	2B2023-07-VAR			

SUPPORT STATEMENT FOR A VARIANCE

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

CITY OF LEBANON, NEW HAMPSHIRE

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

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

I (we) hereby request a variance from the terms of Article(s) III
Section(s) 309.3 of the Lebanon Zoning Ordinance.

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

801.2 Variances.

- A. To authorize, upon appeal in specific case, variances from the terms of this ordinance, no variance shall be granted unless each of the following conditions are met:
1. That the variance, if authorized, will not be contrary to the public interest;
see attached statement _____
 2. That the variance will observe the spirit of the Ordinance.
see attached statement _____
 3. That by the granting of the variance, substantial justice will be done;
see attached statement _____
 4. That the variance, if authorized, will not diminish the values of surrounding properties
see attached statement _____ and;
 5. That denial of the variance would result in unnecessary hardship.
 - (a) In this section "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
 - (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property
see attached statement _____

(ii) The proposed use is a reasonable one.

see attached statement

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

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

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

Statement of Intent:

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

PETER SCOPPETTONE INC
ARCHITECTURAL DESIGN AND CONSTRUCTION MANAGEMENT

February 13, 2023

Revised March 7, 2023

Zoning Board of Adjustment
William Koppenheffer, Chair
City of Lebanon
51 North Park Street
Lebanon, NH 03766

RE: 3 Union Street - Application for Variance for Side Yard Setback & Building Coverage

Mr. Chairman and Members of the Board:

My wife Katherine and I have purchased a neighboring house on our street at 3 Union Street and have been renovating it from its dilapidated state with the intention of reselling it. The house was built in 1860 and is on a small lot that predates zoning. It has no covered parking and due to the narrow shape and small size of the lot, there is no place to put covered parking that would comply with the required 15-foot setback. We fear that, without covered parking, marketing the house and earning a reasonable return on our investment will be very difficult. Therefore, we are asking the ZBA for a variance to the side-yard requirement so that we may install an attached carport on the south side of the house.

The proposed carport would be located adjacent to the side door next to the rear of the house where the existing measurement from the house to that side property line is 22.0 feet. The carport would be 19 feet in width to allow for two 8ft carbays while also covering the stairs at the door which would be 3ft in width. The resulting proposed side yard setback at the carport would be 3 feet. We have discussed our proposal with the adjacent neighbor at 5 Union Street and they are in support of our proposal and welcome the structure which would increase their privacy in their back yard. In reviewing the requirements for the grant of a Variance, we address each of the criteria below:

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

The presumed public purpose in requiring side-yard setbacks is to promote open space in neighborhoods and a degree of privacy, ensuring fresh air, less noise from neighbors, and greater safety from potential fires. The proposed carport does not have any substantial impact contrary to these intents, as it will be located to the rear of the adjacent 5 Union Street house. It will not block and views from the neighbors windows or rear porch nor from their rear patio. The carport will be open on the front and rear but will have a solid south wall blocking any view into the carport from the neighbor's rear yard. The carport will also sit back substantially from the street approximately 63 feet. The existing paved parking area at the front of the house extends less than 20 feet from the property line which, in the past has resulted in cars blocking the sidewalk. Allowing cars to park in the rear would reduce this conflict and also the visual clutter of cars visible from the street.

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

The spirit of the ordinance, as stated in Section 1, is to promote open space, privacy and safety, none of which will be materially affected by the proposed carport. The spirit of the Ordinance is to promote orderly development and to allow neighborhoods to evolve within reason. When this neighborhood was originally developed, most houses did not have cars but covered parking is important today and it is important for properties in the neighborhood to retain and improve their value. The setback variance only affects a small portion of the lot and the building coverage variance would be very small. Neither are substantial variances in terms of the impacts the ordinance intends to address.

3. *That by granting the variance, sustainable justice will be done.*

The only impacted neighbor is in favor of the project. They plan to build a privacy fence anyway and the addition of a carport where proposed will only add further privacy between the two dwellings. No one is being harmed by the proposal.

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

The carport will actually help improve the property values of nearby properties by improving the value of the subject property, supporting its renovation and reducing the clutter of vehicles parked in front yards. The carport will not be visible from the public way except from directly in front of the house, and it will not obstruct any views from the neighboring adjacent properties. It will instead improve the sense of privacy.

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

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

The minimum lot size in the neighborhood zone is 10,000 s.f. while the subject property is 6,447 s.f. There is no other reasonable place to locate covered property that would not also have a setback violation. The proposed carport would not be contrary to the intent of the ordinance because it would not have any substantial impact on the abutter, and it will not be occupied living space. The proposed carport has much less impact than, for example, a two-story house with a basement at a similar 3 feet from the property line. It is also worth pointing out that a large portion of properties in the immediate neighborhood are not conforming with the dimensional requirements of the Zoning Ordinance and that the 15-foot required setback has no substantial relationship to the prevailing character of neighborhood homes. Strict enforcement of such requirements would serve to devalue many of these residential properties by making them

PETER SCOPPETTONE INC
ARCHITECTURAL DESIGN AND CONSTRUCTION MANAGEMENT

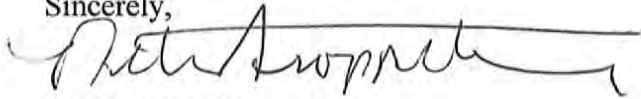
less useable for modern needs. Finally, the increase in building coverage to 27.4% is hardly any different than the 25% maximum.

ii. The proposed use is a reasonable one.

It is reasonable to place a carport at the suggested location because it will provide needed covered parking while placing it outside of any conflict with the abutter or the public.

I have enclosed the proposed plans, photos of the existing exterior, a letter of support from Kelsey Redpath of 5 Union Street, and documentation showing the extent of similar nonconformities in the neighborhood. We hope the Board will agree that the proposal is not contrary to the intent of the Zoning Ordinance and will instead be beneficial in terms of improving the neighborhood.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Scoppettone", written over a horizontal line.

Peter Scoppettone
General Partner
KS & PS Properties, LP

Letter of Support for Variance2 messages

Kelsey Redpath <kelsey.redpath@gmail.com>

Sun, Feb 5, 2023 at 3:24 PM

To: Peter Scoppettone <Pscoppettone@gmail.com>

Cc: Eric LeClair <eboarder45@yahoo.com>

To Whom It May Concern,

I am Kelsey Redpath, the owner of 5 Union Street, and I support Peter Scoppettone's request for a variance to the side-yard requirement at 3 Union Street.

My husband and I have been in constant communication with Peter Scoppettone and have seen his proposal. We believe that adding a driveway and carport to 3 Union Street will not only increase its value, but it will also increase the aesthetics of the entire street and add some relief to the on-going street parking.

We plan to put a fence between 3 Union and 5 Union anyway, so constructing a carport at 3 Union Street will inevitably add to our own privacy wishes.

It is our hope that you allow Peter Scoppettone to fully restore 3 Union Street - carport and all - to help create a better, more cohesive neighborhood for all of us.

Sincerely,

Kelsey Redpath

PETER SCOPPETTONE INC
ARCHITECTURAL DESIGN AND CONSTRUCTION MANAGEMENT

LETTER OF TRANSMITTAL

DATE: March 7, 2023

TO: ZBA

RE: Application for Variances

FROM: Peter Scoppettone
General Partner
KS & PS Properties, LP

PROJECT: 3 Union Street Alterations

ENCLOSED:

Enclosed with this Variance Application are the following:

- | | |
|---|---------|
| • Variance Application 8-1/2x11" | 1 page |
| • Support Statement revised 8-1/2"x11" | 6 pages |
| • Property Survey 11"x17" | 1 page |
| • Site Plan Drawing revised 11"x17" | 1 page |
| • South Elevation Drawing view from 5 Union Street 11"x17" | 1 page |
| • Photo of South House Elevation from 5 Union ST Patio 8-1/2"x11" | 1 page |
| • Neighborhood Parcels Study 11"x17" | 1 page |
| • Letter of Support fro 5 Union Street 8-1/2"x11" | 1 page |



CERTIFIED NOTIFICATION LIST

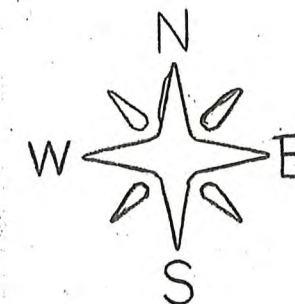
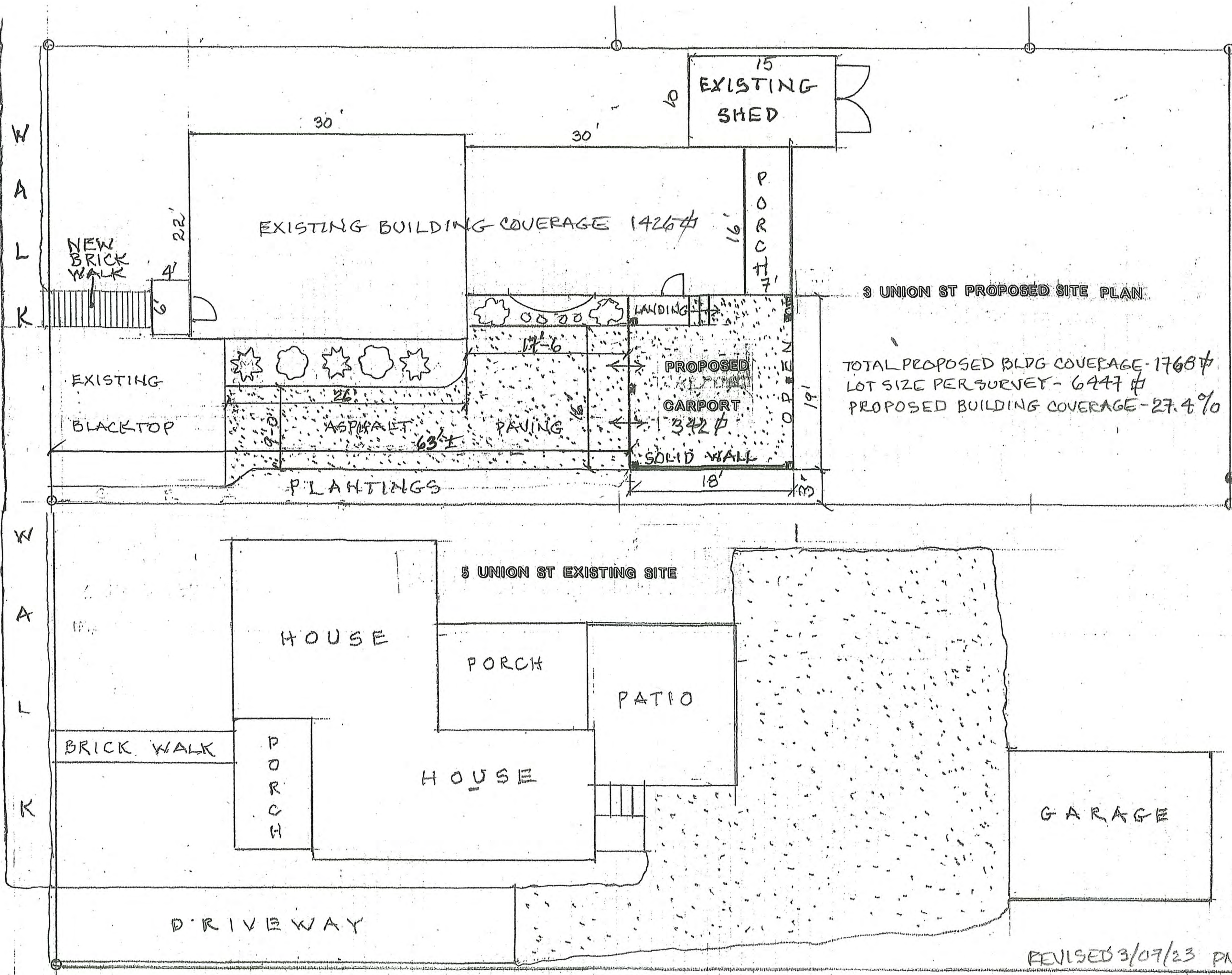
THE CITY OF LEBANON IS REQUIRED UNDER NH RSA 672:3 TO NOTIFY THE FOLLOWING PERSONS OF PUBLIC HEARINGS BEFORE THE PLANNING BOARD: ALL ABUTTERS; THE APPLICANT; PROPERTY OWNER; HOLDER OF CONSERVATION, PRESERVATION, OR AGRICULTURAL PRESERVATION RESTRICTION(S); AND EVERY ENGINEER, ARCHITECT, LAND SURVEYOR, OR SOIL SCIENTIST WHOSE PROFESSIONAL SEAL APPEARS ON ANY PLAT SUBMITTED TO THE BOARD.

PLEASE PROVIDE NAMES & MAILING ADDRESSES FOR ALL PERSONS LISTED ABOVE.

MAP & LOT NUMBER: <u>92-185</u>	MAP & LOT NUMBER: <u>92-185</u>
PROPERTY OWNER: KS & PS PROPERTIES LP 7 UNION ST LEBANON, NH 03766	APPLICANT: KS & PS PROPERTIES LP 7 UNION ST LEBANON, NH 03766
MAP & LOT NUMBER: <u>92-186</u>	MAP & LOT NUMBER: <u>92-182</u>
ABUTTER/OTHER: REDPATH, KELSEY 5 UNION ST LEBANON, NH 03766	ABUTTER/OTHER: PIFFATH, CRYSTAL 16 CAVENDISH CT LEBANON, NH 03766
MAP & LOT NUMBER: <u>92-183</u>	MAP & LOT NUMBER: <u>92-184</u>
ABUTTER/OTHER: HUBBARD, KATHLEEN M 4 S PARK ST LEBANON, NH 03766	ABUTTER/OTHER: DUEMLING, KATHLEEN 1 UNION ST LEBANON, NH 03766
MAP & LOT NUMBER: <u>92-196</u>	MAP & LOT NUMBER: _____
ABUTTER/OTHER: HOWLAND, BRIAN T TTEE 33 GREEN ST, APT #1 LEBANON, NH 03766	ABUTTER/OTHER:
MAP & LOT NUMBER: _____	MAP & LOT NUMBER: _____
ABUTTER/OTHER:	ABUTTER/OTHER:
MAP & LOT NUMBER: _____	MAP & LOT NUMBER: _____
ABUTTER/OTHER:	ABUTTER/OTHER:

(9/17/04)

UNION STREET



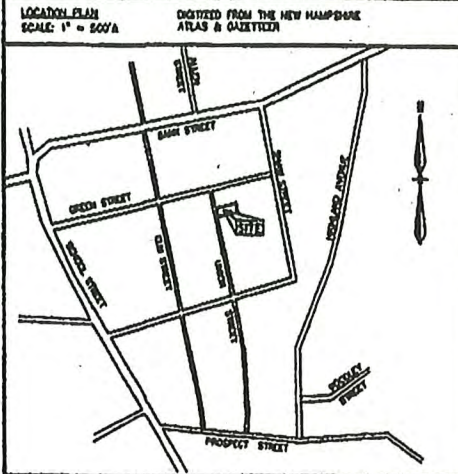
REVISED 3/07/23 PWS

14322
00/24/2012 10:41 AM Page 1
REGISTERED DEED, GRAFTON COUNTY
Chillicothe
L. Todd

#14322

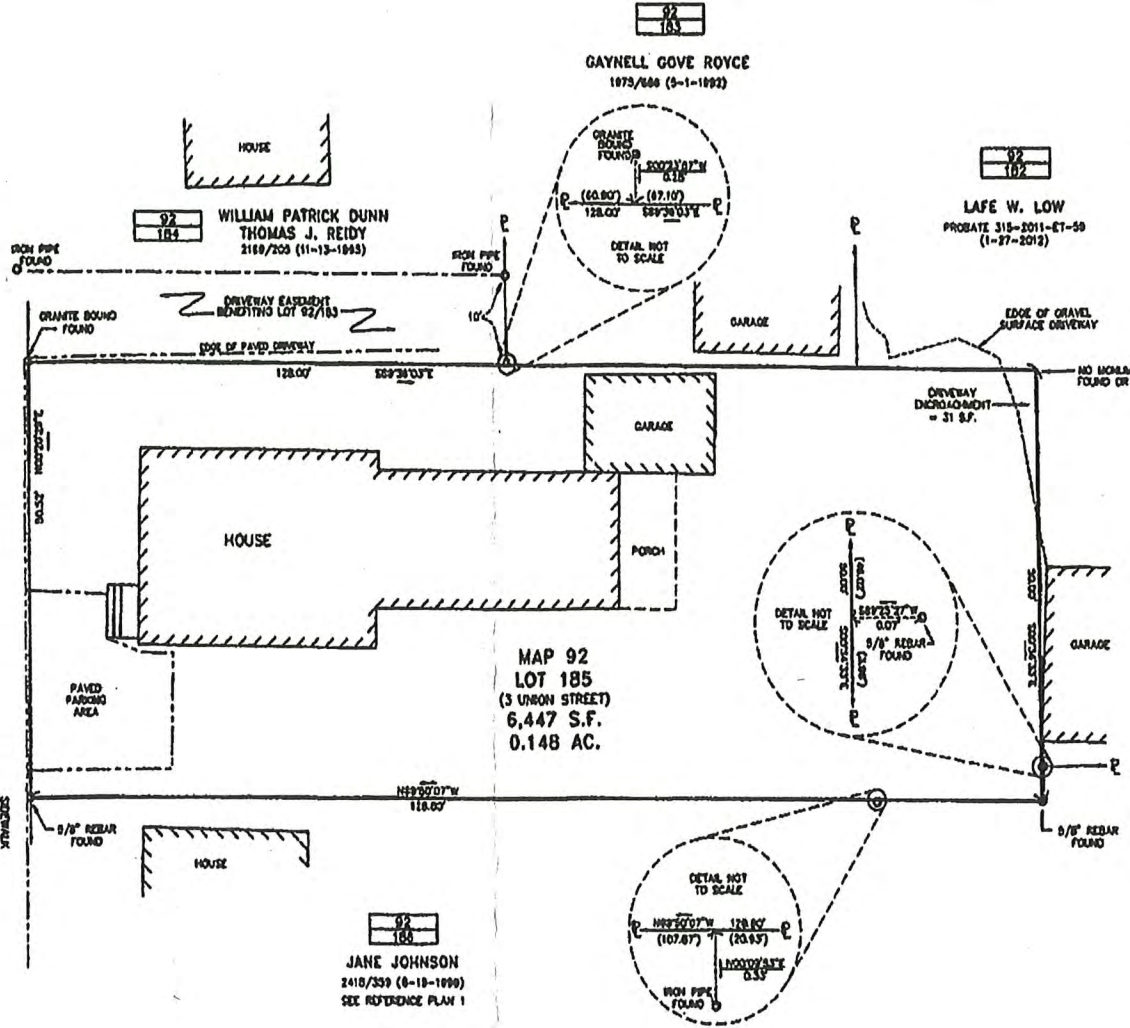
REFERENCE PLANS

- CORD PLAN NO. 9208 "ANNEXATION FOR WOLA D. WHEELER ESTATE, 5 & 7 UNION STREET, CITY OF LEBANON, GRAFTON COUNTY, NEW HAMPSHIRE" DATED SEPTEMBER 15, 1997 AND REVISED 12/19/1997 BY HATHORN SURVEYS.
- CITY OF LEBANON ASSESSOR'S MAP SHEET 92.



92
185
BRIAN T. HOWLAND
2750/030 (11-29-2010)

UNION STREET
24' PAVED TRAVELED WAY
RIGHT OF WAY WIDTH =
40' PER PHYSICAL EVIDENCE



NOTES

- OWNER OF RECORD: LAURA TODD, TRUSTEE
ANNE L. GRZEGOROWICZ REVOCABLE TRUST
338 FRANCHESTOWN ROAD
NEW BOSTON, N.H. 03070
FOR DESCRIPTION SEE GRAFTON COUNTY REGISTRY OF DEEDS (CORD)
VOLUME 3480 PAGE 921 (FEBRUARY 6, 2005).
- PLAN COMPILED FROM AN ELECTRONIC TOTAL STATION INSTRUMENT SURVEY HAVING A RELATIVE PRECISION OF BETTER THAN ONE PART IN TEN THOUSAND PERFORMED ACCORDING TO STANDARDS FOR REAL PROPERTY SURVEYS, CLASSIFICATION R SET FORTH IN ADMINISTRATIVE RULES LAH 802 AND LAH 803 ADOPTED 8/16/2003 BY THE STATE OF NEW HAMPSHIRE UNDER RSA 310-A:80 AND RSA 841-A.
- BEARING AND DISTANCE OF LINES AND AREAS COMPUTED ON A GATEWAY E SERIES COMPUTER RUNNING AUTODESK LAND DEVELOPMENT DESKTOP SOFTWARE.
- THE PURPOSE AND INTENT OF THIS PLAT IS TO SHOW THE LINES AND BOUNDS OF LAND DESCRIBED IN THE LOCUS DEED AND THE IMPROVEMENTS FOUND THEREON.
- ALL MONUMENTS SHOWN ON THIS PLAT HAVE BEEN SET AS OF SEPTEMBER 25, 1997.

BOUNDARY PLAT
LAND OF
ANNIE L. GRZEGOROWICZ
REVOCABLE TRUST
LAURA TODD, TRUSTEE
MAP 92 LOT 185
UNION STREET
LEBANON
GRAFTON COUNTY
NEW HAMPSHIRE

LEGEND

- P PROPERTY LINE
MAP LOT ADJOINING TAX PARCEL IDENTIFIER



PURSUANT TO RSA 876:18.0 AND RSA 876:14
I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBORDINATION
PURSUANT TO THIS TITLE AND THAT THE LINES OF SURVEY
AND BOUNDARY ARE THOSE OF PUBLIC OR PRIVATE SURVEY
ON WHICH ALREADY ESTABLISHED AND THAT NO NEW BOUNDARY
SHOWN
DATE: 6/25/12
Robert Todd
ROBERT B. TODD, LLC, S.D.

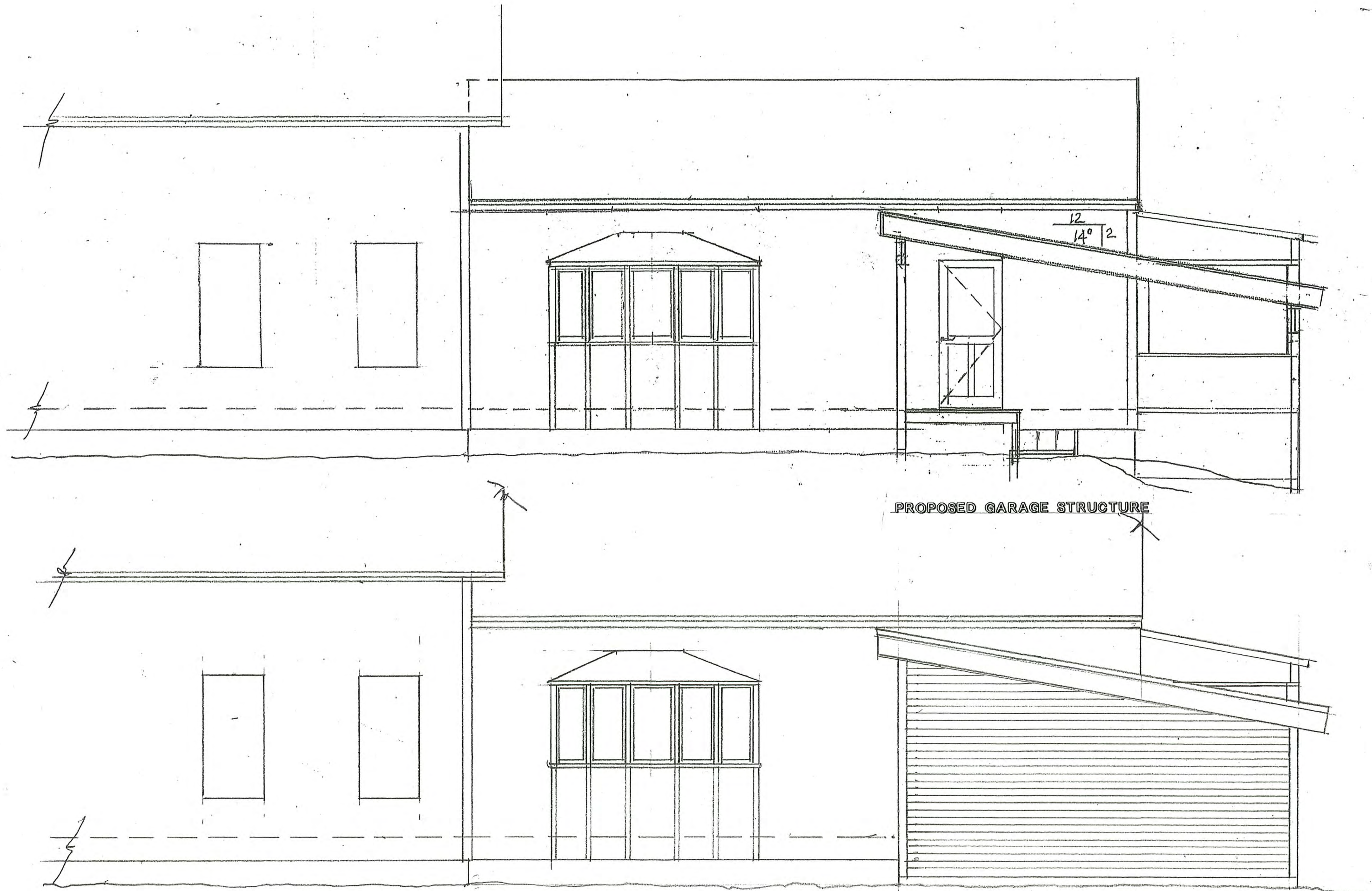
I CERTIFY THAT THIS SURVEY & PLAT
WERE PREPARED BY ME OR BY THOSE
UNDER MY DIRECT SUPERVISION
Robert Todd
ROBERT B. TODD, LLC, S.D.

NO.	DATE	DESCRIPTION	BY
1	6/25/12	BOUNDARY PLAT	Robert Todd

LAND USE CONSULTANTS, LLC

ROBERT B. TODD 338 FRANCHESTOWN ROAD NEW BOSTON N.H. 03070-2990
PROFESSIONAL SERVICES / LAND SURVEYS • FORESTRY • SDP THE DESIGNS
SOIL ANALYSES • LAND USE PLANNING • WETLAND SCIENCE
TRESPASS DAMAGE APPRAISAL • LANDSCAPE DESIGN

DATE: JUNE 25, 2012 JOB NO. 6800
SHEET 1 OF 1 FIELD BOOK & PAGE: 229-10





The parcels colored in yellow measure less than 10,000sf in area. The parcels having red structures appear to cover more than 25% footprint. Owing to the approximate positioning of the structures it is not possible to reasonably assess the setbacks. But it appears that many structures violate the setback requirements of this Zone.

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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

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

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



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

Staff Memorandum – ZB2023-08-SE

April 3rd 2023 Regular Meeting

Stevens Blanchard & Amanda Spencer

43 Elm Street West (Tax Map 86, Lot 39, Plot 100)

APPLICATION INFORMATION

Agenda Item: 3.B

Application Type:
Special Exception
pursuant to §703.1A.

Location:
43 Elm Street West
Tax Map 86, Lot 39, Plot 100

Applicant/Property Owner:
Stevens Blanchard & Amanda
Spencer

Zoning District:
Residential Two – Class 1 (R-2)

Property Size:
+/-0.33 acres (+/-14,374.8 sq. ft.)
(per the City Assessor's records;
property is conforming to the min.
required 10,000 sq. ft. lot size in the
R-2 Class 1 District per §309.3)

Overlay Districts:
None

Previous ZBA Action (since 1995):
None

Other Approvals Required:
Building Permit

Attachments:
Application
GIS and street view photos

HEARING NOTICE

Stevens Blanchard & Amanda Spencer, 43 Elm Street West (Tax Map 86, Lot 39, Plot 100), zoned R-2 Class 1: Applicant proposes to replace and connect the front two porches, thereby adding 30 sq ft to an existing dimensionally non-conforming structure. The Applicant requests a Special Exception for the expansion of a nonconforming building pursuant to section §703.1A of the Zoning Ordinance to reconstruct and expand an existing porch +/- 19 ft from the front lot line where the minimum required front yard setback is 20' as required by Section §309.3 of the Zoning Ordinance. ZB2023-08-SE

BACKGROUND

The property is improved with a one-family dwelling constructed in 1900 per the City Assessor's records and is conforming to the R-2 Class 1 District minimum lot size requirement of 10,000 sq. ft. as the lot is 14,374.8 sq. ft., approx. 136.03' – 131.73' wide and 100.29' – 112.03' deep. The R-2 Class 1 standard is for a 75' wide lot frontage. It appears the home itself is non-conforming to the minimum required front yard of 20 ft. Currently, there are two aged front porches on the property. The two porches do not presently connect. The existing non-conformity is for a front yard setback that is +/- 19' from the front property line, with 20' being required by the ordinance. Only the smaller front porch projects into the front yard setback thereby creating the pre-existing legal non-conforming front yard setback.

PROPOSAL

The applicant proposes to re-construct the existing porches and to connect them with a 5' x 7' porch addition to be located +/-19 ft. from the front-side lot line shared Elm Street West. The proposed setback is equivalent to the pre-existing legal non-conforming front-yard setback of +/-19ft.

ZONING ORDINANCE REQUIREMENTS

SPECIAL EXCEPTION

Class 1 lots (lots that are served by municipal sewer and water) in the R-2 District must maintain a minimum front yard (i.e. a space unobstructed by buildings and structures) of 20 ft. See the Dimensional Requirements specified in §308.3 of the Zoning Ordinance. §703.1 of the Zoning Ordinance allows the expansion of "any increase in the footprint and/or volume of the non-conforming part of the building

or structure,” by Special Exception from the Zoning Board of Adjustment. The applicable Special Exception Criteria are as follows:

703.1 Expansion.

In order to grant a Special Exception for the proposed expansion, the Board must make each of the following findings per §703.1.A:

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

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

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

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

801.3 Special Exceptions.

Per §703.1.A.3 of the Zoning Ordinance, in order to grant a Special Exception for an expansion of a non-conforming structure, the Board must also determine that the proposal meets the general Special Exception criteria, set forth in §801.3 as follows:

- A. The Special Exception is specifically authorized by a provision of this Ordinance.
Note: The Special Exception is authorized by §703.1.A 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 §703.1.A 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.

APPLICATION AND SUPPORT STATEMENT

The applicant has submitted testimony addressing the §801.3 criteria in an application received by the Planning and Development Department on March 13th 2023 (see attached).

STAFF COMMENTS

Absent abutter testimony to the contrary, the proposed expansion does not appear to be inconsistent with any of the applicable criteria set forth in §703.1.A and §801.3.

ATTACHEMENTS

Figure 1. Street View of Subject Property.

Figure 2. GIS View of Subject Property

Respectfully submitted,



Nathan Reichert, Director
Planning and Development Department
Zoning Administrator

Google Maps

39 Elm St W

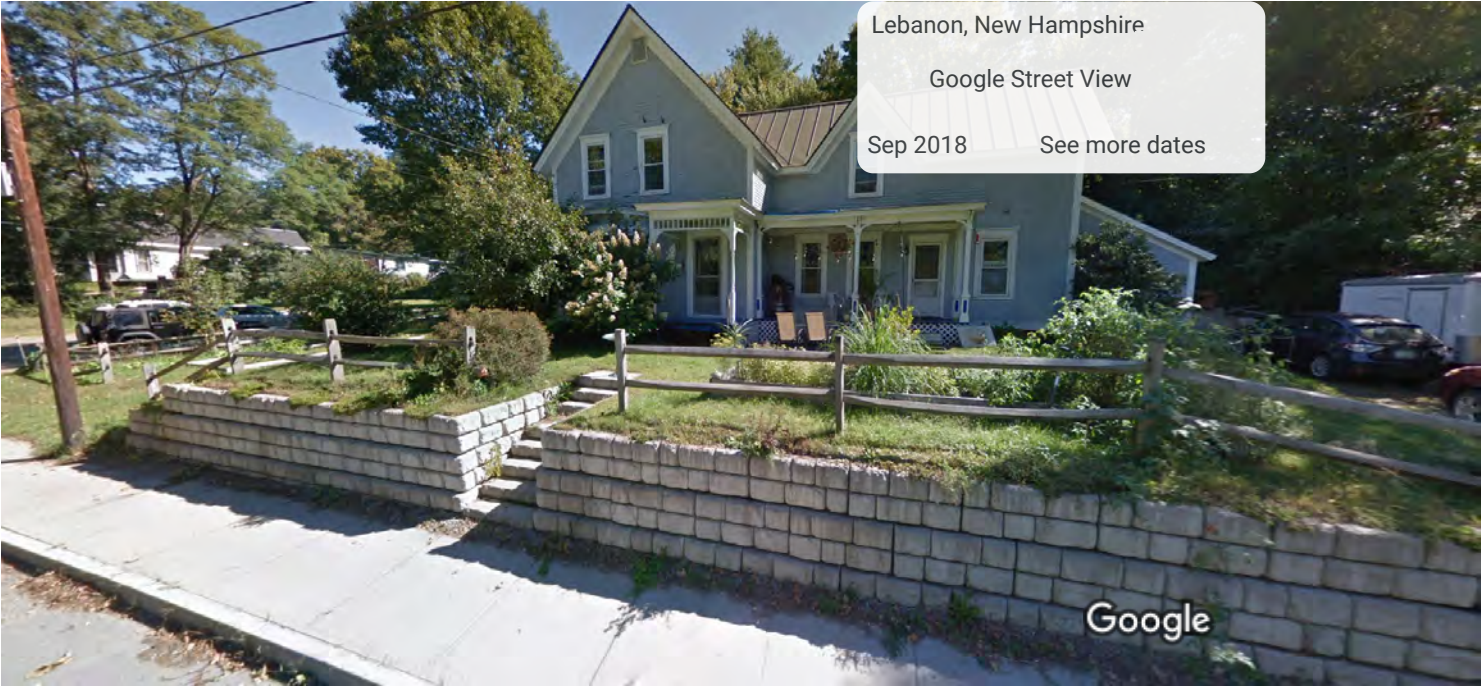


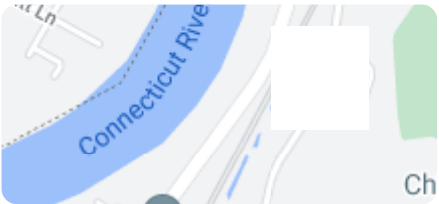
Image capture: Sep 2018 © 2023 Google

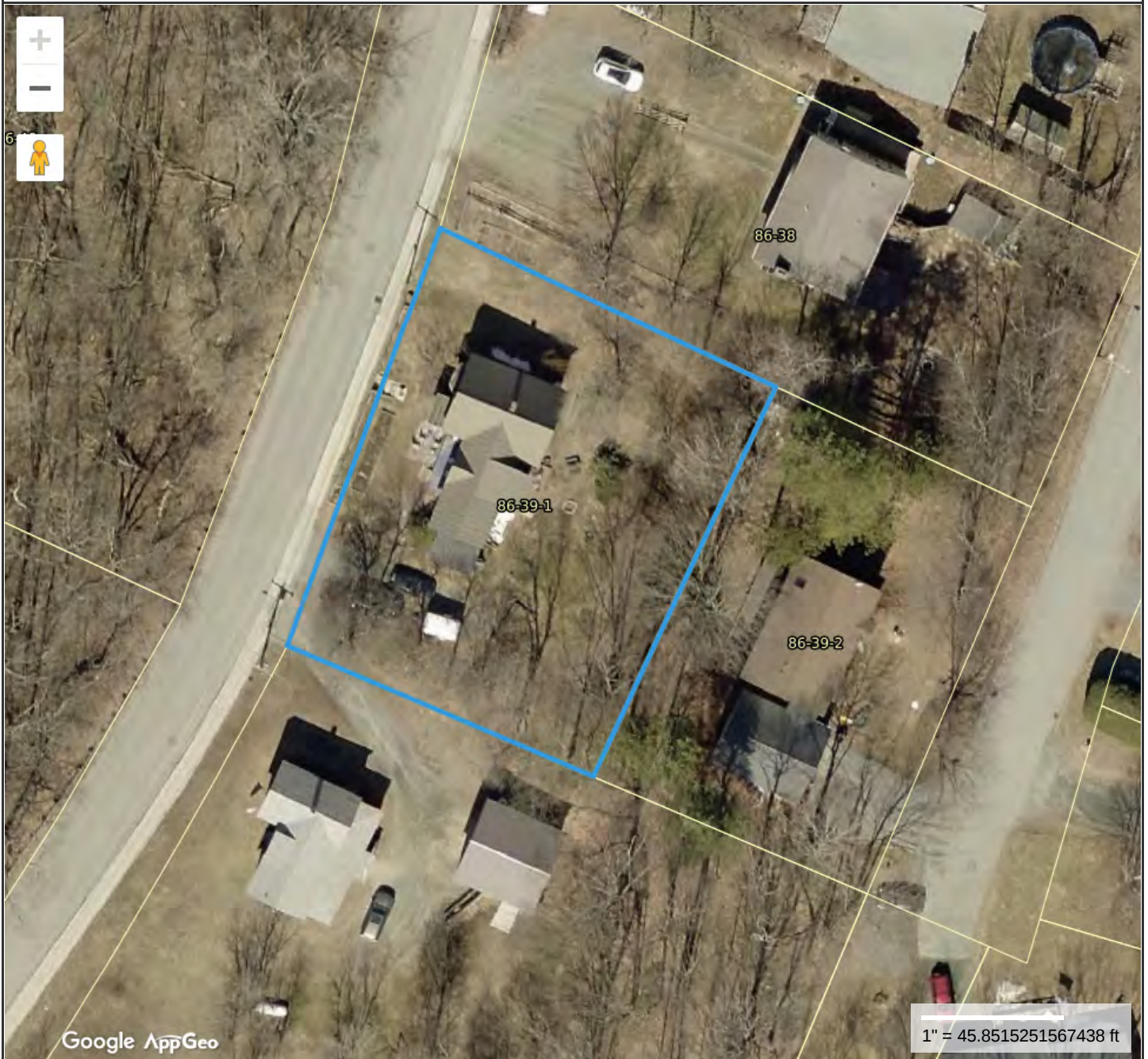
←

43 Elm St W

All

Street View & 360°



**Property Information**

Property ID 86-39-100
Location 43 ELM STWEST
Owner BLANCHARD, STEVENS

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

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

Geometry updated 12/28/2022
Data updated 11/18/2018

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



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT DRAFT DECISION – ZB2023-08-SE April 3rd 2023 Regular Meeting Stevens Blanchard & Amanda Spencer 43 Elm Street West (Tax Map 86, Lot 39, Plot 100)

DRAFT MOTION for:

Agenda Item 3.B

Case ZB2023-08-SE

Request for Special Exception per Section §309.3 and §703.1A

Motion made by: _____

On April 3rd 2023, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared _____ regarding 43 Elm Street West (Tax Map 86, Lot 39, Plot 100) zoned R-2: Applicant requests a Special Exception per Section 703.1 of the Zoning Ordinance to replace and connect the front two porches that are pre-existing legal non-conforming to the minimum required 20 ft. front setback. ZB2023-08-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 improved with a one-family dwelling constructed in 1900. The house contains two front porches in need of repair. As shown on the plot plan provided by the applicant, the porches are 19' from the front lot line along Elm Street West and, therefore, is non-conforming to the minimum required front yard of 20 ft.
2. As shown on the plot plan provided by the applicant, the applicant proposes to re-construct the two porches and connect them with a 30 sq. ft. addition that interconnects the porches. The addition will be located at least partially within the 20 ft. front setback, but no closer to the front lot line than then existing garage.
3. Class 1 lots (i.e. lots that are served by municipal sewer and water) in the R-2 District must maintain a minimum front yard (i.e. a space unobstructed by buildings and structures) of 20 ft. See Section 309.3 of the Zoning Ordinance. Section 703.1 of the Zoning Ordinance allows the expansion of "any increase in the footprint and/or volume of the non-conforming part of the building or structure," by Special Exception from the Zoning Board of Adjustment.
4. In order to grant a Special Exception for the proposed expansion, the Board must determine that the proposal meets the criteria set forth in Section 703.1.A of the Zoning Ordinance. Per Section 703.1.A.3, the Board must also determine that the proposal meets the general Special Exception criteria set forth in Section 801.3.

-
5. The applicant has submitted testimony addressing the Section 703.1.A and Section 801.3 criteria in an application received by the Planning and Development Department on March 13th 2023.
 6. There are no known existing zoning violations on the property.
 7. _____

 8. _____

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 §703.1.A of the Zoning Ordinance. (§801.3.A)
2. The following special conditions/requirements §703.1.A **are / are not** met (§801.3.B):
 - The reasonable use of abutting properties **is not / is** adversely affected by the proposed expansion. (§703.1.A.1)

 - The proposed expansion will not render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently nonconforming cannot be made more non-conforming in the absence of a variance. (§703.1.A.2)
3. There **are no / are** 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 / will** be adversely affected. (§801.3.D)

5. **No / A** 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 / will** be adversely impacted. (§801.3.F)

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

8. The proposed Special Exception will / will not 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 / will not be protected. (§801.3.I)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 3rd day of April, 2023, hereby **GRANTS / DENIES** the requested Special Exception per Section 703.1 of the Zoning Ordinance to allow the expansion of a non-conforming building at 43 Elm Street West (Tax Map 86, Lot 39, Plot 100) 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 shall comply with all applicable local, state, and federal regulations in the construction of the proposed addition.

2. _____

3. _____

Motion seconded by: _____

Vote: _____

**CITY OF LEBANON
APPLICATION FOR**

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

☐ OTHER _____

PROPERTY OWNER (APPLICANT):

NAME: STEVENS BLANCHARD & AMANDA SPENCER TEL.#: 603-667-7712

MAILING ADDRESS: 43 ELM ST. WEST, WEST LEBANON, NH 03784

E-MAIL ADDRESS: stevens.blanchard@mac.com

CO-APPLICANT, AGENT, OR LESSEE:

NAME: AMANDA SPENCER TEL.#: 802-224-6044

MAILING ADDRESS: 43 ELM ST. WEST, WEST LEBANON, NH 03784

E-MAIL ADDRESS: spencer_mandy@yahoo.com

PROJECT LOCATION:

TAX MAP #: 86 LOT#: 39 PLOT #: 100 ZONE: R2

STREET ADDRESS OF PROJECT: 43 ELM ST. WEST, W. LEBANON, NH 03784

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

SCOPE OF PROJECT:

Rebuild and extension of existing front porch. closer than the required front set back +/- 19'

TYPE OF OCCUPANCY:

EXISTING ☐ VACANT ☒ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL
PROPOSED ☐ VACANT ☒ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL
IF USE IS COMMERCIAL OR INDUSTRIAL, PLEASE NOTE SPECIFIC USE: _____

SIGNATURE BLOCK:

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

PROPERTY OWNER: [Signature] DATE: 3/13/23

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

PROPERTY OWNER: _____ DATE: _____

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #			
3/13/23	86/39/100	ZB2023-08-SE			

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

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

I (we) hereby request a Special Exception as provided for in Article(s) A. 1&2, Section(s) 703.1.A, of the Lebanon Zoning Ordinance.

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

We plan to take down existing rotting porches and replace with a new construction which will connect the two smaller porch areas into one. The expansion will not extend closer to property lines than existing footprint, but will add 30sq feet so that one can walk from one porch to the other, via a 5' x 7 ft area (new).

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:
We believe this expansion satisfies the provisions set forth in Section 703.1.A. 1&2 of the Zoning Ordinance.
- B. That all special conditions required of the special exception have been met:

- 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 ordinance violations.

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

- D. That the character of the area shall not be adversely affected:
We feel there will be no adverse affect due to
these changes, rather improvement.
- E. That no hazard or nuisance will be created:
This new structure will be less hazardous than
existing as it will be built under newer safety laws
than current, including proper railings / footing etc.
- F. That the capacity of existing or planned community facilities and services
(including streets and highways) will not be adversely impacted:
There should be no impact to these areas.
- G. That granting the special exception will not result in undue municipal
expense:
This build should have no impact or expense to
the City.
- H. That the proposed special exception will be developed in a manner
compatible with the spirit and intent of the ordinance:
Our builder is aware of special exception requirements
- I. That the general welfare of the City will be protected:
We believe this to have a positive impact to our city
by adding value and upgrades to our home.

Please Note:

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

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



43 ELM ST. W.

PORCH DIMENSIONS

all covered w/metal roof

New forage - all else, existing



5' 6"

15'

5'

12'

8'

7'

7'

19' 3"

CERTIFIED NOTIFICATION LIST

THE CITY OF LEBANON IS REQUIRED UNDER NH RSA 672:3 TO NOTIFY THE FOLLOWING PERSONS OF PUBLIC HEARINGS BEFORE THE PLANNING BOARD: ALL ABUTTERS; THE APPLICANT; PROPERTY OWNER; HOLDER OF CONSERVATION, PRESERVATION, OR AGRICULTURAL PRESERVATION RESTRICTION(S); AND EVERY ENGINEER, ARCHITECT, LAND SURVEYOR, OR SOIL SCIENTIST WHOSE PROFESSIONAL SEAL APPEARS ON ANY PLAT SUBMITTED TO THE BOARD.

PLEASE PROVIDE NAMES & MAILING ADDRESSES FOR ALL PERSONS LISTED ABOVE.

MAP & LOT NUMBER: <u>86-39-100</u> PROPERTY OWNER: STEVENS BLANCHARD & AMANDA SPENCER 43 ELM ST. WEST WEST LEBANON, NH 03784	MAP & LOT NUMBER: <u>86-39-100</u> APPLICANT: STEVENS BLANCHARD & AMANDA SPENCER 43 ELM ST. WEST WEST LEBANON, NH 03784
MAP & LOT NUMBER: <u>86-38</u> ABUTTER/OTHER: MARIE MELENDY 39 ELM ST. WEST W. LEBANON, NH 03784	MAP & LOT NUMBER: <u>86-39-200</u> ABUTTER/OTHER: YAN LI 22 BIRCH TERRACE W. LEBANON, NH 03784
MAP & LOT NUMBER: <u>86-40</u> ABUTTER/OTHER: LARRY PICKERING 51 ELM ST. WEST W. LEBANON, NH 03784	MAP & LOT NUMBER: <u>86-47</u> ABUTTER/OTHER: City of Lebanon
MAP & LOT NUMBER: <u>86-48</u> ABUTTER/OTHER:	MAP & LOT NUMBER: _____ ABUTTER/OTHER:
MAP & LOT NUMBER: _____ ABUTTER/OTHER:	MAP & LOT NUMBER: _____ ABUTTER/OTHER:
MAP & LOT NUMBER: _____ ABUTTER/OTHER:	MAP & LOT NUMBER: _____ ABUTTER/OTHER:

FEE SCHEDULE
ZONING BOARD OF ADJUSTMENT
(Revised 7/25/2022, postage increase)

SPECIAL EXCEPTION:		
		TOTALS
FILING FEE	\$150.00	\$150.00
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (SEE NOTE)	4.75 \$4.57 per certified notice x 4 notices	\$ 19.00
TOTAL DUE		\$ 269.00

VARIANCE:		
		TOTALS
FILING FEE	\$150.00	\$150.00
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (SEE NOTE)	\$4.57 per certified notice x _____ notices	
TOTAL DUE		\$

APPEAL OF AN ADMINISTRATIVE DECISION:		
		TOTALS
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (SEE NOTE)	\$4.57 per certified notice x _____ notices	
TOTAL DUE		\$

*REHEARING:		
		TOTALS
*ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (SEE NOTE)	\$4.57 per certified notice x _____ notices	
TOTAL DUE		\$

* Fees are only required if the motion for rehearing is granted by the board.

**FEE SCHEDULE
ZONING BOARD OF ADJUSTMENT**

WETLANDS SPECIAL EXCEPTION:		
		TOTALS
FILING FEE	\$150.00	\$150.00
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (SEE NOTE)	\$4.57 per certified notice x _____ notices	
TOTAL DUE		\$

RIVERBANK SPECIAL EXCEPTION:		
		TOTALS
FILING FEE	\$150.00	\$150.00
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (SEE NOTE)	\$4.57 per certified notice x _____ notices	
TOTAL DUE		\$

NOTE - THE NOTIFICATION FEE IN ALL SECTIONS ABOVE INCLUDES THE FOLLOWING: ALL ABUTTERS; THE APPLICANT; PROPERTY OWNER; HOLDER OF CONSERVATION, PRESERVATION, OR AGRICULTURAL PRESERVATION RESTRICTION(S); AND EVERY ENGINEER, ARCHITECT, LAND SURVEYOR, OR SOIL SCIENTIST WHOSE PROFESSIONAL SEAL APPEARS ON ANY PLAT SUBMITTED TO THE BOARD.