

FINAL

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

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

MEMBERS ABSENT: Catherine Hembree (Alt)

STAFF PRESENT: Nathan Reichert – Zoning Administrator

1. CALL TO ORDER

Chair Koppenheffer called the meeting to order at 7:00 PM.

2. APPROVAL OF MINUTES

A. March 6, 2023

Ms. Barkley was given voting privileges for this motion.

Mr. Nash MOVED to approve the March 6, 2023, Minutes as presented in the April 3, 2023, packet with amendments.

Seconded by Mr. Katz.

Amendments: Page 4, Line 21: Remove ‘maintained’ and Add ‘maintenance’.

****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 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**

Peter Scoppettone, Katherine Scoppettone and Sam Scoppettone appeared on behalf of the application. On November 13 they purchased the property with the intention of completely renovating everything as it was in disrepair and planning to sell it again. In the past Peter has repaired several properties in this area. The access onto the property was a section of asphalt that was only 20 feet deep from the sidewalk, where only two vehicles could park. This created a lot of on-street parking and parking has been an issue on the street. They believe creating off-street parking would be an improvement. They would like to add a car port attached to the house on the back of the property. In order to fit a two-space carport, a 19-foot-wide total carport would be necessary to provide steps to the home. The neighbor who would be impacted is in support of this work. With the addition of the carport, the footprint coverage would increase by around

2%. The car port would not impact the site lines of the neighbors. This is in an area where the lots were created before zoning and the lots are small. There is a shed that they will leave up.

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

Mr. Nash MOVED on April 3rd 2023, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Peter Scoppettone, Katherine Scoppettone and Sam Scoppettone 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. A letter of support was received from the abutting property owner to the South.
8. No other input was received 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 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):
6. 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)
7. 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 **3rd day of April, 2023**, hereby **GRANTS** 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.

Seconded by Mr. Katz.

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

- 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**

Amanda Spencer and Stevens Blanchard appeared on behalf of the application. This is a very old house, built around the 1900s's. It has two porches. The one porch that was in disrepair has mostly been taken down. They would like to rebuild it in the same footprint and add a connection between the two existing porches on their home. The porch is less than 20 feet from the property line. There are no neighbors who would be impacted by the addition. The Board did not have any questions.

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

The application is reasonable, and no one would be negatively impacted.

Mr. Nash MOVED on April 3rd 2023, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Amanda Spencer and Stevens Blanchard 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 the 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. 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 §703.1.A of the Zoning Ordinance. (§801.3.A)
2. The following special conditions/requirements §703.1.A **are** met (§801.3.B):
 - The reasonable use of abutting properties **is not** 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** 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 3rd day of April, 2023, hereby **GRANTS** 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.

Seconded by Mr. Newlove.

****The Vote on the Motion was (5-0-1).***

Chair Koppenheffer abstained because he was not present at the meeting.

4. **STAFF COMMENTS**

Mr. Reichert was officially named Staff member of the Zoning Board. Going forward there may be some updates or changes to motions to help make the packet clear and help members prepare for the upcoming meeting. Members will have time to get answers to any questions they may have. He hopes to support the Board in any way that is needed. The goal is to make sure that decisions are made correctly and will be sustained during any appeal.

5. ADJOURNMENT

***Mr. Newlove MOVED to adjourn the meeting at 7:28 PM.
Seconded by Mr. Nash.***

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

Respectfully submitted,
Linda Billings
Recording Secretary