



**LEBANON ZONING BOARD OF ADJUSTMENT
AUGUST 7, 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. July 11, 2023
 - B. July 11, 2023 Building Code Board of Appeals
 - 3. Public Hearing Items**
 - A. **Cicotte Holdings, LLC, 51 Evans Dr (Tax Map 78, Lot 40), zoned RO-1:** An appeal of the Zoning Official's Notice of Violation and Administrative Decision pursuant to section §801.1 Administrative Appeals, that the property is not in the flood zone, that the parking area is grandfathered, and deadlines demanded by the City are unreasonable. **ZB2023-11-AAD-** Continued from July 11, 2023 Meeting
 - B. **Catherine Patch, 5 Mack Ave (Tax Map 73, Lot 43), zone R3 Class1:** A request for a Special Exception pursuant to section §801.3 to permit the conversion of a One-family dwelling into a Two-family dwelling pursuant to section §310 Residential Three District (R-3) requirements. **ZB2023-12-SE** - Continued from June 5, 2023 Meeting
 - 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, July 11, 2023
7:00 PM**

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

MEMBERS ABSENT: Jennifer Barkley (Alt)

STAFF PRESENT: Nathan Reichert – Zoning Administrator
Tim Corwin – Deputy Planning and Development Director

1. CALL TO ORDER

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

2. APPROVAL OF MINUTES

A. June 5, 2023

Mr. Nash MOVED to approve the June 5, 2023, Minutes as presented in the July 11, 2023. Seconded by Mr. Katz with amendments.

Amendments; Page 4, Line 18: Remove ‘If Mr. Katz is willing to relinquish his attorney privileges the applicants agree to continue.’ And Add ‘Attorney Schuster stated that if Mr. Katz is willing waive his attorney client privileges, Mr. Schuster would discuss the factual basis for the request.’ Page 4, Line 25: Remove ‘reason’ and Add ‘jurisdiction’.

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

Mr. Newlove abstained.

3. PUBLIC HEARING ITEMS

- A. Cicotte Holdings, LLC, 51 Evans Dr (Tax Map 78, Lot 40), zoned RO-1:** An appeal of the Zoning Official’s Notice of Violation and Administrative Decision pursuant to section §801.1 Administrative Appeals, that the property is not in the flood zone, that the parking area is grandfathered, and deadlines demanded by the City are unreasonable. **ZB2023-11-AAD-**
Continued from June 5, 2023 Meeting

Mr. Nash recused himself from this hearing.

Chair Koppenheffer pointed out that the Zoning Administrator has approved a wetlands permit. Therefore, the issue of the wetland is no longer an issue because a flood plain permit has been issued.

Johanna Cicotte and Barry Schuster, representing Cicotte Holdings, appeared on behalf of the application. At the last hearing, the attorney was going to pursue information about the flood plain permit and grandfathering. The applicants said they believe the parking area may be grandfathered, and they reviewed with the Board the documents, exhibits, and photographs taken over several years of the area that are part of the packet provided this evening. Attorney Schuster referred to a photograph with red

1 highlighting, that indicates an area that has been used for parking over several owners and years. Cicotte
2 Holdings purchased the property in 2021. The current owners suggest the area has been used for parking
3 throughout time, but Cicotte Holdings chose to pave the area and clean up the area. There are no site plan
4 approvals that indicate anywhere that parking was approved. Given the ambiguity, there is no record that
5 states what is a parking area. Cicotte Holdings did not have any intent of expanding the parking area that
6 was already there.

7
8 Mr. Katz restated that the City believes they are in violation and the applicants do not know what the
9 approved parking is and they have not found any documents that indicate where the parking is located. If
10 the City interpreted the ordinance incorrectly, that would be one thing that the Zoning Board could
11 determine in an appeal. The applicants say this is a factual interpretation, and it needs to be determined if
12 there is improper parking.

13
14 This is a discretionary enforcement of the City and is not a decision that the Zoning Board can make. Mr.
15 Katz believes this should be denied because it is not an issue that the Zoning Board can judicate. It is a
16 matter of judication that needs to be determined in a court of law. It should be dismissed due to lack of
17 jurisdiction.

18
19 In this case, the asphalt paving was expanded, and there was never a request for approval of the
20 expansion. It is the burden of the applicant to demonstrate that the parking is legally nonconforming and
21 that something about the Zoning Administrator's decision was wrong.

22
23 ***Ms. Hembree MOVED to seek A: a legal opinion from the City Attorney on the question of whether or***
24 ***not we have jurisdiction to hear the appeal and B: to continue this hearing until the scheduled August***
25 ***7, 2023 meeting of the Zoning Board.***

26 ***Mr. McDonough seconded.***

27
28 Ms. Hembree clarified that she would like to meet with the attorney. Certainty has value and time is
29 money. This has been going on for many months and no one's justice is being served and it does not
30 increase certainty. Mr. Katz believes the Board should get out of the way of both parties.

31
32 ****The Vote on the Motion was (3-2).***

33 ***Mr. Katz and Mr. Newlove voted nay.***

34
35 **Mr. Nash rejoined the meeting.**

36 37 **4. STAFF COMMENTS**

38
39 Mr. Reichert suggested that the Board may want to add to the agenda of the proceedings for the Board
40 of Appeal. In the future, if there is an appeal of a decision of a zoning official, the City Attorney may
41 want to participate in the appeal meeting. It might help move these decisions along quicker. It will
42 involve more discussion.

43 44 **5. ADJOURNMENT**

45 ***Mr. Nash MOVED to adjourn the meeting at 7:52 PM.***

46 ***Seconded by Mr. Newlove.***

47
48 ****The Vote on the Motion was approved (5-0).***

49
50 Respectfully submitted,
51 Linda Billings, Recording Secretary

DRAFT

LEBANON BUILDING CODE BOARD OF APPEALS
MONDAY, July 11, 2023 7:30 PM
(Meeting Begins Immediately Following
Zoning Board of Adjustment)
Council Chambers, City Hall or
Remote Via Virtual Platform
LebanonNH.gov/LIVE

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

MEMBERS ABSENT: Jennifer Barkley (Alt)

STAFF PRESENT: Nathan Reichert – Zoning Administrator
Tim Corwin – Deputy Planning and Development Director

1. CALL TO ORDER

The meeting was called to order at 7:55 PM by Chair Koppenheffer.

2. APPROVAL OF MINUTES

A. June 5, 2023

Mr. Nash MOVED to approve the June 5, 2023, Minutes as presented in the July 11, 2023 packet, with amendments with amendment.

Seconded by Mr. Katz.

Amendments. Page 2, Line 35; Remove ‘code’ and Add ‘office’.

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

Mr. Newlove abstained.

3. PUBLIC REHEARING ITEMS

- A. XYZ Dairy, LLC, 1 River Park Dr (Tax Map 44, Lots 21-30 & Map 44, Lot 7), zoned R-3, CBD & IND-L:** An appeal of the Building Official’s determination pursuant to Lebanon Zoning Ordinance section §801.1 Administrative Appeals, and sections §674:34 Powers of Building Code Board of Appeals that additional documentation is required to substantiate the commencement of construction of 1 River Park under Lebanon Building Permit #2016-00293. **BCBA2023-01** - Consideration of Jurisdiction Continued from June 5, 2023 Meeting

Chet Clem, President of Lyme Properties and David Clem, manager of XYZ Dairy appeared on behalf of the application. A subsequent filing was made by June 19th. The applicant was asked if there was anything he wanted to add. He had a couple of questions and offered a presentation.

Lyme Properties has provided documentation and the question of the timeliness is a matter of interpretation. There is some missing information about the dates and there are numerous errors that are outlined in the subsequent facts. The matter of timeliness was not on their radar until it was brought forth by the City.

1 Mr. Katz said the sum total of what they need is in the February, 2023 Document where the
2 applicants were asked to provide documentation to allow the City to make a determination and to
3 establish a date when it can be appealed. In the March 24, documents there was no decision made
4 and no date of appeal was established. He believes this indicates this is an ongoing dialogue, and he
5 does not believe a decision was made and he believes the Board therefore does not have jurisdiction
6 because no decision has been made. Other members were in agreement.

7
8 David Clem spoke with all due respect; he cannot help but hark back to the previous hearing. Work
9 has been suspended because of this hearing. The excavation of the stormwater sewer has been a part
10 of the problem. He asked if the last extension is still in effect at this time.

11
12 Mr. Katz clarified what he sees. At the start of June, Mr. Clem essentially said there had been a lot of
13 conversations. Because he worried there was going to be a decision against him, he filed an appeal.
14 Attorney Hastings presented the opinion that this is not a decision and should not be held against the
15 applicants. There are two alternatives, there was no decision rather a discussion with no finality. Or
16 has this gone over the number of days. He believes the Board can agree that no decision has been
17 made and therefore there cannot be an appeal.

18
19 Mr. Clem asked if the building permit is still active and is it subject only to the conditions of the
20 original building permit or is it subject to the additional information asking for proof that any
21 construction is occurring.

22
23 ***Mr. Katz MOVED, relative to the XYZ Dairy, LLC appeal of the Building Official's determination***
24 ***pursuant to Lebanon Zoning Ordinance section §801.1, the Lebanon Building Code Boards of***
25 ***Appeals determines that this appeal be dismissed on the grounds that no decision has been made.***

26
27 ***Seconded by Mr. Newlove.***

28
29 ****The Vote on the Motion was unanimously approved (4-1).***
30 ***Mr. Nash voted nay.***

31
32 Mr. Katz asked about having a nonpublic meeting prior to the August 7 meeting. It would have to be
33 noticed, but it can be done in private session. It would be helpful if there was a document with a
34 decision.

35
36 **4. ADJOURNMENT**

37
38 ***Vice Chair Katz MOVED to adjourn the meeting at 8:35 PM.***

39 ***Seconded by Mr. Nash.***

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

41
42 Respectfully submitted,
43 Linda Billings
44 Recording Secretary



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

Special Exception

Staff Memorandum – ZB2023-12-SE

*** UPDATED ***

August 7th 2023 Regular Meeting

Catherine Patch

5 Mack Ave (Tax Map 73, Lot 43), Zone R3 Class1

APPLICATION INFORMATION

Agenda Item: 3.B

Application Type:

Special Exception Uses required by Section §310.

Location:

5 Mack Ave
(Tax Map 73, Lot 43)

Applicant/Property Owner:

Catherine A. Patch

Zoning District:

Residential Three – Class 1 (R-3)

Property Size:

+/-0.23 acres (+/- 10,018.8 sq. ft.)
(per the City Assessor's records;
property is conforming to the min.
required 10,000 sq. ft. lot size in the
R-3 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
Complaint Documents

HEARING NOTICE

Catherine Patch, 5 Mack Ave (Tax Map 73, Lot 43), zone R3

Class1: A request for a Special Exception pursuant to section §801.3 to permit the conversion of a One-family dwelling into a Two-family dwelling pursuant to section §310 Residential Three District (R-3) requirements. **ZB2023-12-SE**

BACKGROUND

The property is improved with a one-family dwelling constructed in 1920. Per the City Assessor's records and is conforming to the R-3 Class 1 District minimum lot dimensions require 10,000 sq. ft. with 75' of frontage. The lot is 10,018 sq. ft. and is 100' wide and is therefore a conforming lot of record.

The existence of an unpermitted apartment and the operation of an unpermitted boarding house were alleged in multiple complaints received by the Zoning Office.

PROPOSAL

The applicant proposes to: "Single Family to a duplex with no construction required".

ZONING ORDINANCE REQUIREMENTS

SPECIAL EXCEPTION

Class 1 lots (lots that are served by municipal sewer and water) in the R-3 District require a Special Exception for Residential Two-family dwelling by conversion of existing one-family dwelling as required in section §310 pursuant to §801.3 Special Exception. A Special Exception requires that the Zoning Board make the following findings in order to necessitate an approval:

A.3 Special Exceptions.

A. 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:

1. The Special Exception is specifically authorized by a provision of this Ordinance.
 - a. *Note: The Special Exception is authorized by §310.0 of the Zoning Ordinance.*
2. All special conditions required of the special exception have been met.
 - a. *Note: There are no additional special exception requirements required by §310.0 of the Zoning Ordinance.*
3. There are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy.
 - a. *Note: Staff is aware of potential Zoning Ordinance violations on the property. See Staff Comments*
4. The character of the area shall not be adversely affected.
5. No hazard or nuisance will be created.
6. The capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.
7. Granting the special exception will not result in undue municipal expense.
8. The proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance.
9. The general welfare of the City will be protected.

APPLICATION AND SUPPORT STATEMENT

The applicant has submitted testimony and evidence seeking to address required findings in Section §801.3 Special Exceptions criteria in an application received by the Planning & Development Department on May 18th 2023 (see attached).

STAFF COMMENTS

Updated Staff Comments on 4 Aug 2023

Staff has had an ongoing dialog with the Applicant's Attorney about additional submissions and means to clarify possible concerns with this application from both the Zoning Board and the Neighbors.

Staff has requested the following items to help clarify the application:

1. An existing condition drawing showing the current floorplan.
2. A proposed condition drawing showing the proposed floorplan.
3. A proposed operations plan describing how the facility will operate.
4. A proposed parking plan that demonstrates the ability to park all necessary cars onsite.
5. A pre-review of the project concerning Fire Code and how it relates to the floorplan and operations.

The applicant's Attorney Aaron Simpson submitted the attached drawings for the Board's consideration.

After reviewing the submissions, it is difficult to decern the existing conditions of the facility and where doorways may provide access between the proposed apartments and what are the changes that have

been made without permits to the facility. Other than verbal descriptions of the operations plan no written operations plan has been submitted. A parking plan for 4 cars has been submitted.

Concerns:

1. Parking. Onsite Requirements:

201.7 Driveways and Parking Areas.

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

607.1 Table of Minimum Off-Street Parking Requirements.

A. Except as otherwise provided below, a lot shall provide the minimum number of off-street parking spaces as set forth in the following "Table of Minimum Off-Street Parking Requirements." For uses not listed in the table, the minimum requirement shall be that of the closest similar use as determined by the Zoning Administrator.

TABLE OF MINIMUM OFF-STREET PARKING REQUIREMENTS

(Rounded down to the nearest whole - See Section 607.2)

TYPE OF USE: RESIDENTIAL Dwelling, One-family/Two-family detached and attached

UNITS OF MEASUREMENT: Dwelling units

PARKING SPACES PER UNIT (I.E. RATIO): 2.0

607.5 Off-Lot Parking.

Parking shall be provided on the same lot as the use for which the parking is accessory, except as follows:... No applicable exemptions exist within the R-3 Zone.

A parking calculation under the minimum off street parking requirements would on its face require only 4 parking spaces for the proposed use. However, the applicant has indicated that they are going to generate a lease arrangement that may have up to 4 unrelated adults occupying the main apartment space. Thus, there could be as many as 2 spaces necessary for the second apartment and up to 4 for the main apartment. Thus, the minimum required parking would raise to 6 spaces. Should the facility require off-site parking to operate it may constitute the creation on a nuisance pursuant criterion #5 and is thereby impermissible.

2. Maximum Occupancy: Lodging House or 2-Dwelling Units?

FAMILY: Any number of persons related to each other by blood, adoption, marriage, or civil union, or by a guardianship arrangement, such as foster care, along with not more than three (3) unrelated individuals, living together as a single housekeeping unit; or, not more than four (4) persons not related to each other by blood, adoption, marriage, or by civil union, living together as a single housekeeping unit. A single housekeeping unit means that all such persons have common access to, and common use of, living, cooking, and eating areas within the **dwelling unit**; provided, however, that an owner or landlord may designate some living areas in the **dwelling unit** as private. This term shall not include any **group residence, lodging house, hotel, or motel** as defined herein.

LODGING HOUSE: Any dwelling in which living accommodations without individual kitchen facilities are rented to five (5) or more nontransient guests. A boarding or rooming house shall be deemed a lodging house.

The Use in this case is attempting to thread the needle of what is permissible and what is not permissible. A 2-Family House is permissible within the R-3 Zone by Special Exception pursuant to the R-3 Use table. The Applicant must prove that they meet all the criteria of the Special Exception for their proposed Use to be permitted.

The proposed use in this case attempts to stop just short of triggering a “Lodging House” use. A Lodging House use is not permissible within the R-3 Zone. Additionally, the Applicant has a substantial life safety concern that they do not want to trigger the need for a Commercial Use under the Fire Code which requires numerous fire safety improvements the least of which is sprinkling.

The proposed use is not clearly defined by a narrative submitted to the Board as requested by Staff. This lack of definition and specificity gives pause given the enforcement track of this matter. The Applicant admits that they have been operating the facility without the benefit of permits for some time. Thereby a credibility gap results. Ambiguity creates uncertainty as to what is being permitted by the Zoning Board in this case. Given the extremely thin line between compliance with the expressed rules and not the Zoning Board may wish to add very specific conditions about the operation of the facility as a means of finding that “No Hazard or nuisance will be created”.

Interior Doors – If open it may trigger Fire Safety requirements and become a Lodging House.

The Board may wish a condition that no access between the units within the building is permitted. Specifically, the room that could be and may be “Bedroom 5” in the main apartment or “Bedroom 2” in the upstairs apartment. A door that is open or closed could be the difference between a lodging house and a single-family dwelling unit. If the 5th bedroom in the main apartment exists, it will automatically trigger the definition of a Lodging House – thereby requiring enhanced fire safety measures to be required including sprinkling. Additionally, the 5th Bedroom thereby meets the definition of the Lodging House and is not permitted within the Zoning Ordinance. With a clear wall between the two units there is not a chance to obfuscate the Board’s Will by opening or closing a door and creating an impermissible use.

Fire Safety Requirements – A lease Loophole or Clarity

The fire safety requirements in this case may boil down to the lease arrangements for the facility. Understanding the depth of the fire safety requirements in this case is complex, yet, simple.

Example 1: College Roommates – four friends who attend Dartmouth College rent the main dwelling unit. They are all on the same lease, they each have a room, the rooms cannot be locked from the outside. One Family, mom dad and child live in the 2nd apartment This is a typical use of a facility and is permitted without the need for enhanced fire safety requirements or a sprinkler.

Example 2: Traveling Nurses – One Family, mom dad and child lives in the 2nd apartment. 4 unrelated people live in the main unit. There is no relationship, family or otherwise, to the occupants of the main unit. People come and go at various times and all lease arrangements are conducted on an individual basis by the landlord. The people who live in the apartment do not have a say about who moves in and who moves out. This arrangement likely triggers the need for enhanced fire safety.

The difference is the lease. How is the City’s Fire Department supposed to enforce these regulations? Condition #7 of the Special Exception requirements states:

7. Granting the special exception will not result in undue municipal expense.

Enforcement proceedings in this case could be exceptionally expensive and time consuming for staff. This is the scenario that we all seek to avoid.

Clarity of purpose and use is required. Additional precautions may be in order, such as the Board requiring enhanced sprinkler and fire safety for the building to be converted into two dwelling units and avoid expensive legal arguments about lease arrangements that in the end put the occupants of the facility at risk.

*** The Zoning Office sent the submitted plans to the Fire House on Thursday. The Fire Officials did not comment. A request to have a Fire Official attend the meeting has been made. ***

Possible Conditions

The Board may seek clarification around the area of Special Exception criteria:

5. No hazard or nuisance will be created.

7. Granting the special exception will not result in undue municipal expense.

8. The proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance.

The Board may consider:

1. Clearly State that the operation of a Lodging house is not being permitted.
2. No interior Passage doors between the two units.
3. An Onsite Parking Plan that provides available parking for all occupants.
4. Require Enhanced Fire Safety Improvements including sprinklers.
5. Apply and pay for all applicable impact fees, sewer and water fees.

Existing Conditions

Staff seeks to understand what changes have taken place at the facility. Thus, we are asking for an existing floor plan. When it was listed for sale Zillow described the property as *"Handsome, traditional 4 bedroom, 3 bath home graced by a delightful, screened porch features hardwood floors, living room with fireplace, cozy family room, huge master suite, outstanding garage work shop. Quiet, tree lined Mack Avenue is just around the corner from Mt. Leb. School, Kilton Library, Main Street, Advance Transit bus stop and a quick jog to WRJ's theaters, galleries, restaurants."* The Assessors card shows the property as a 4-bedroom.

The floor plans being proposed contemplate a 2-bedroom apartment and a 4-bedroom apartment. As such there are two additional bedrooms? Additional Kitchen? Given that work has been done on the house without all the required permits there are several impacts.

1. The Assessor's card is wrong, and the property tax valuation is likely undervalued.
2. The Impact fees required to add bedrooms to a house have not been accounted for.
3. Sewer and Water impact fees may not have been resolved.

The unresolved impacts on the City's permit system have potentially saved the Landlord thousands of dollars in unpaid property tax, and applicable fees. Before the Zoning Board contemplates any approval a clear condition to resolve and pay all applicable fees and impacts shall be required.

Additional Attachments

Additional Attachment 3: Building layout and parking plan submitted by the applicant.
Assessors Property Card.

Original Staff Comments from June 2023:

The application is to posthumously convert the use of the property from a One-Family Dwelling to a Two-family dwelling. The case arrives after the Planning and Development Department received multiple complaints from individuals who are presumed to be both tenants and neighbors. The Zoning Office reached out to the Landlord about possible violations after receiving multiple complaints about two concerns: the operation of a two-family dwelling and the possible operation of a lodging house.

Floor Plan and Operations Plan

The Board may seek further details on the proposed operation of the entire facility by requiring that the Applicant submit a floor plan and operations plan for the entire facility.

Two-Family Dwelling

The application for this Special Exception addresses the need to posthumously permit a Two-family use that has been in place since at least 2020. The Special Exception Findings must all be met for the Application to be approved. One required finding must be addressed by the Applicant that:

"3. There are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy."

The complaints testify that there have been up to five unrelated tenants in the main apartment of the property. Given that the operation of a Lodging House is not a permissible use in the R-3 zone the use must be neutered or a use variance granted. The Applicant has not addressed this matter with this application. Additionally given that multiple complaints have been received by the Zoning Office concerning the operation of this facility the Board may find it difficult to conclude that:

"4. The character of the area shall not be adversely affected."

And further that "5. No hazard or nuisance will be created."

Given that the Applicant has potentially created a hazard by changing the use with out the benefit of permits and is likely not in compliance with Building and Fire Code Safety requirements the Board must be assured by the Application that all manner of hazard must be rectified. Finally, the Board may wish to deeply consider the final findings and determine if this application meets the standards:

"8. The proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance."

9. The general welfare of the City will be protected."

Operation of a Lodging House

(Zoning Ordinance definition: "*LODGING HOUSE: Any dwelling in which living accommodations without individual kitchen facilities are rented to five (5) or more non transient guests. A boarding or rooming house shall be deemed a lodging house*").

A two-family dwelling is permissible under §310.0 which generates this application for a Special Exception. A Lodging House is not a permissible use within the R-3 zoning district. The Applicant has not addressed Staff's concern about the possible operation of a Lodging House with any proposed plan of operation or a use variance application that would permit such an activity. In the absence of a resolution of this concern the Board may fall short of finding that this permit application addresses all Zoning Violations present on the property.

Fire Code Requirements

As a special condition of any approval, a condition that the applicant meets all aspects of the Building and Fire Code is strongly recommended to ensure life safety requirements for the building are met. The operation of a Lodging House or similar configuration is a commercial operation and likely triggers substantial fire code upgrades to the property. Staff recommends that any approval be conditioned with a requirement that the Applicant apply for and receive approval for all applicable Building and Fire Code

permits for the facility. The Fire Code may require fire safety improvements to be made including the installation of common alarms, fire separation measures and sprinklers for any use similar to a Lodging House Use. The Zoning Board does not have jurisdiction of the specifics of how the Fire Code is met, that authority rests with the Fire Department. However, a condition that all life safety measures must be met for this building prior to the issuance of a Certificate of Occupancy is clearly a prudent condition as the Applicant has operated the facility for some time with out the benefit of applicable permits and in a manner that has potentially put residents as risk.

ATTACHEMENTS

Figure 1. Street View of Subject Property. Figure 2. GIS View of Subject. Property Attachment 1: Application Attachment. 2: Complaints

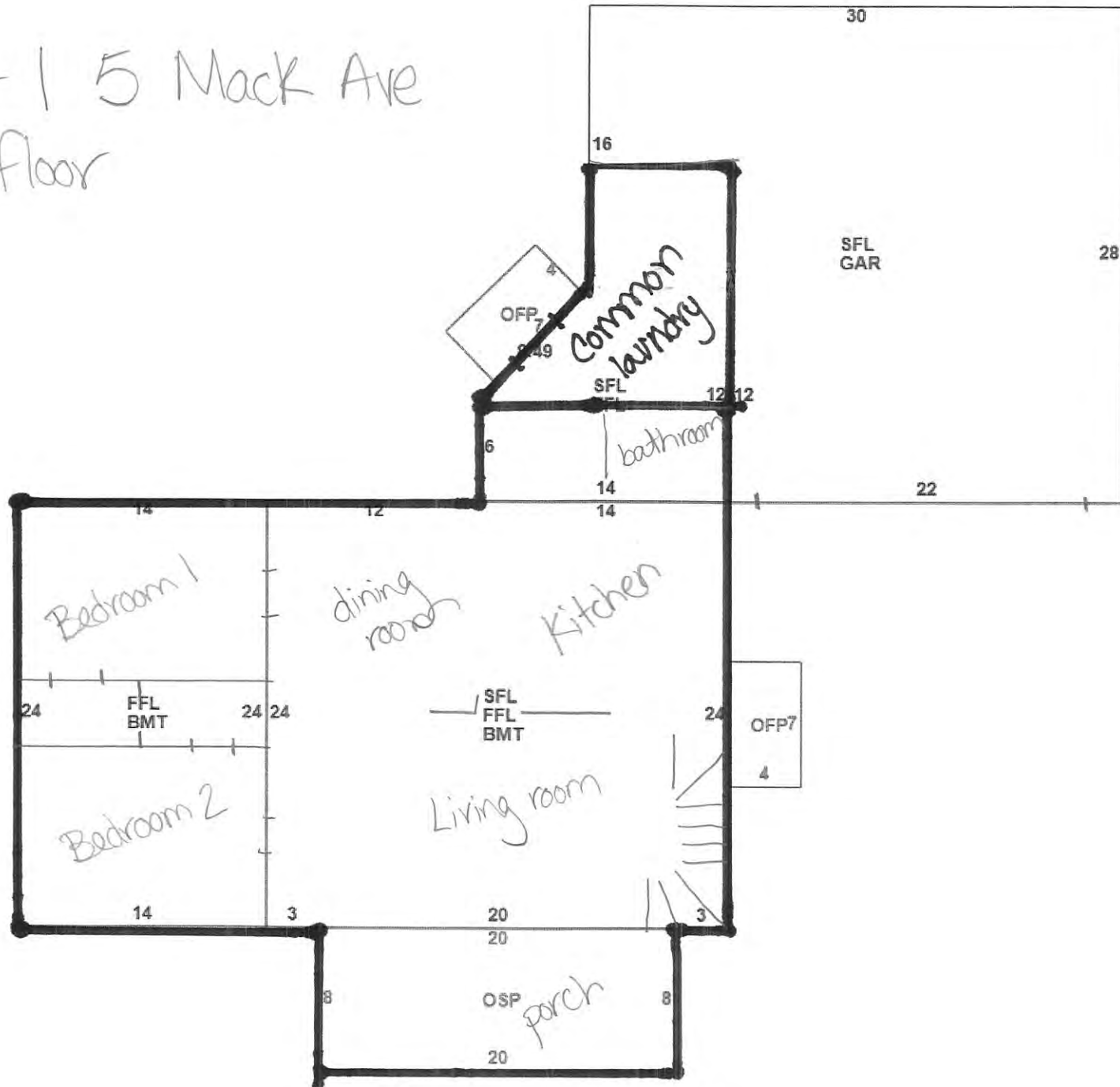
Respectfully submitted,



**Nathan Reichert, Director
Planning and Development Department
Zoning Administrator**

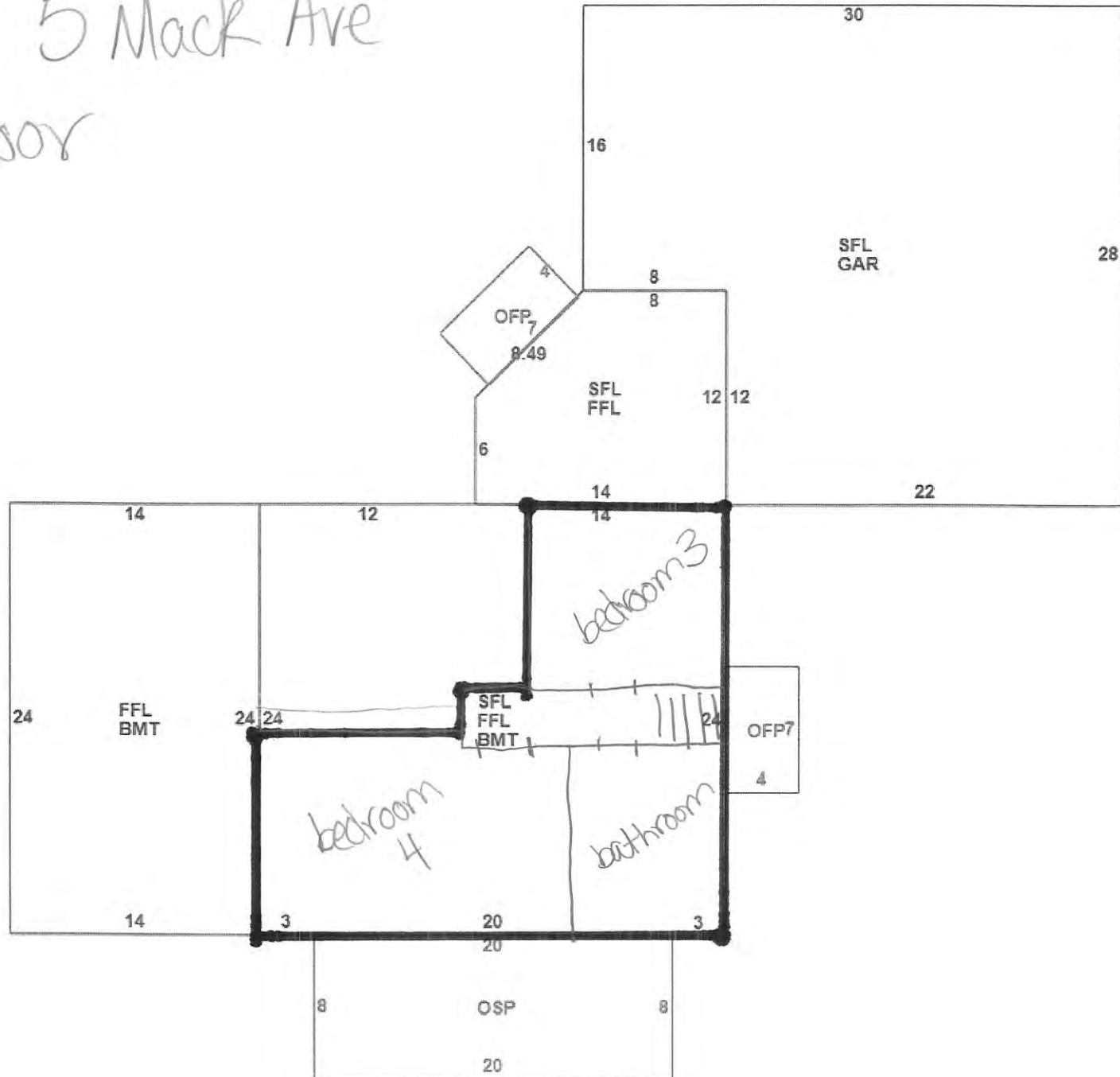
Building Layout

Unit 1 5 Mack Ave
1st floor



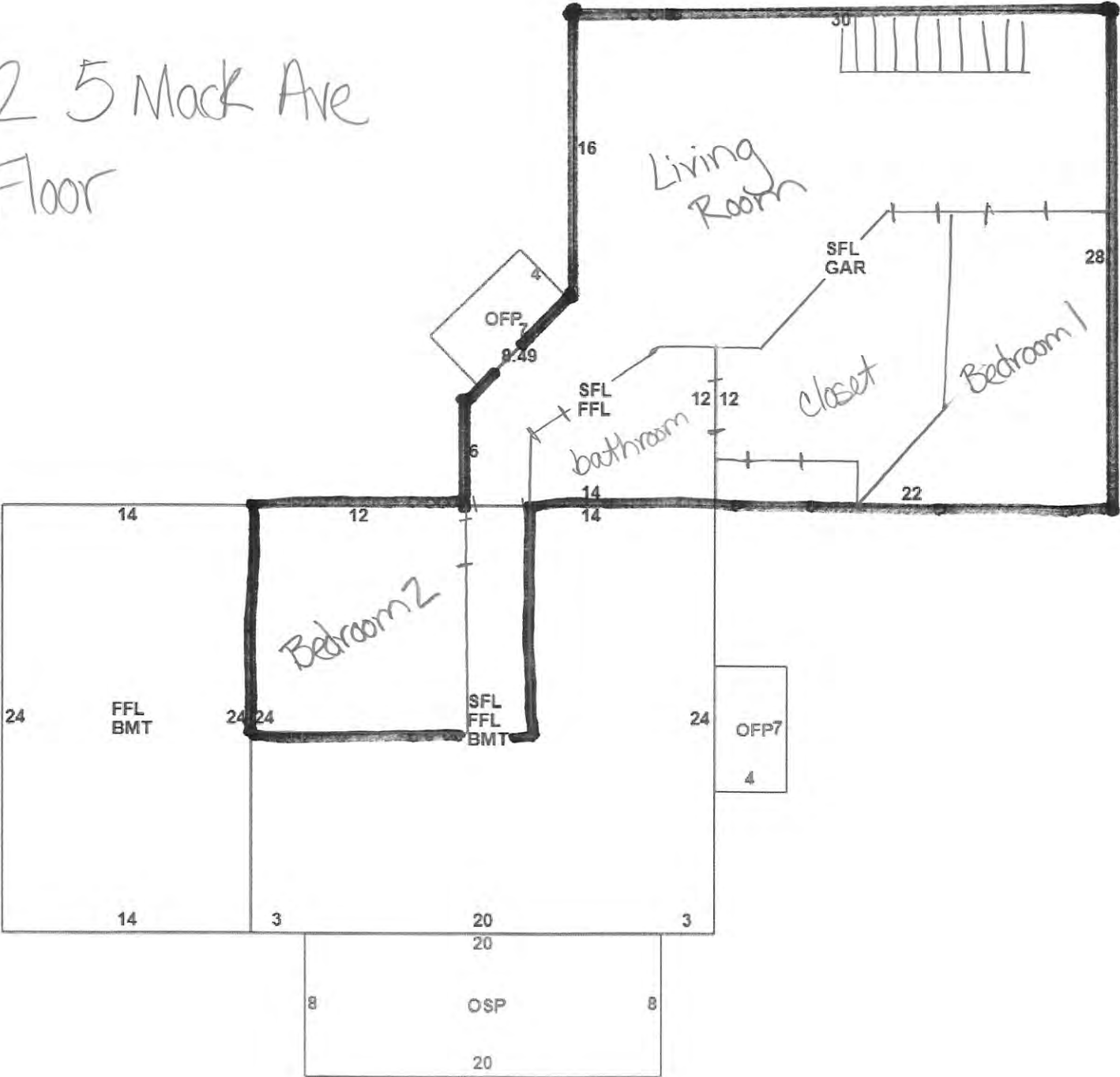
Building Layout

Unit 1 5 Mack Ave
2nd Floor

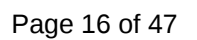


Building Layout

Unit 2 5 Mack Ave
2nd Floor



Unit 2 5 Mack Ave
1st floor







Property Information Property ID 73-43 Location 5 MACK AVE Owner PATCH, CATHERINE A	 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.
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Map Theme Legends

Zoning District

- RL3 - RURAL LAND 3
- RL2 - RURAL LAND 2
- RL1 - RURAL LAND 1
- R1 - RESIDENTIAL 1
- R2 - RESIDENTIAL 2
- R3 - RESIDENTIAL 3
- RO - RESIDENTIAL OFFICE
- RO1 - RESIDENTIAL OFFICE 1
- GC- GENERAL COMMERCIAL
- GC-1 - GENERAL COMMERCIAL 1
- CB - CENTRAL BUSINESS
- IND-L - INDUSTRIAL LIGHT
- IND-RA - INDUSTRIAL RAIL ACCESS
- IND-H - INDUSTRIAL HEAVY
- MC - MEDICAL CENTER
- PB - PROFESSIONAL BUSINESS
- LD - LEBANON DOWNTOWN

5 MACK AVE

Location 5 MACK AVE

Mblu 73/ 43/ / /

Acct# 1350

Owner PATCH, CATHERINE A

PBN

Assessment \$408,100

Appraisal \$408,100

PID 794

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$316,000	\$92,100	\$408,100
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$316,000	\$92,100	\$408,100

Owner of Record

Owner PATCH, CATHERINE A
Co-Owner
Address 5 MACK AVE
WEST LEBANON, NH 03784

Sale Price \$310,000
Certificate
Book & Page 4487/0367
Sale Date 12/11/2019
Instrument 99

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
PATCH, CATHERINE A	\$310,000		4487/0367	99	12/11/2019
LARIVIERE, BONNIE C TTEE	\$302,333		4275/0141	99	03/28/2017
DEAN, JAMES C	\$0		3325/0259	99	08/23/2006
DEAN, SALLY S	\$115,000		1980/0719	99	07/31/1992
GREEN, GLYN & SHIRLEY	\$115,000		01980/0719	99	07/31/1992

Building Information

Building 1 : Section 1

Year Built: 1920
Living Area: 2,628
Replacement Cost: \$471,688
Building Percent Good: 67
Replacement Cost Less Depreciation: \$316,000

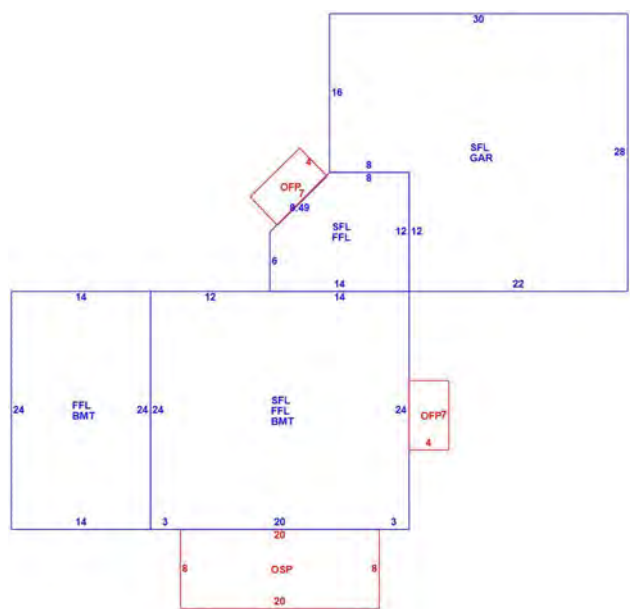
Building Attributes	
Field	Description
Style	COLONIAL
Model	RESIDENTIAL
Grade	AVERAGE
Stories	2
Foundation	CONCRETE
Exterior Wall 1	CLAPBOARD
Exterior Wall 2	
Roof Structure	GABLE
Roof Cover	STD SEAM
Interior Wall 1	DRYWALL
Interior Wall 2	PLASTER
Interior Floor 1	HARDWOOD
Interior Floor 2	CARPET
Heat Fuel	OIL
Heat Type	STEAM
AC Percent	0.00
Bedrooms	4
Full Bath(s)	3
Half Bath(s)	0
Extra Fixture(s)	1
Total Rooms	9
Bath Rating	AVERAGE
Kitchen Rating	AVERAGE
Kitchen(s)	2
Interior/Exterior	
Nbhd Modifier	
Fireplace Rating	AVERAGE
WS Flue Rating	
Electric	ADEQUATE
Insulation	TYPICAL
Parking	
Fireplace(s)	1

Building Photo

Building Photo

(https://images.vgsi.com/photos/lebanonnhPhotos///0010/129_0006_10202)

Building Layout



([ParcelSketch.ashx?pid=794&bid=794](#))

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
SFL	2ND FLOOR	1,518	1,518
FFL	1ST FLOOR	1,110	1,110
BMT	BASEMENT	960	0
GAR	GARAGE	744	0
OFF	OPEN PORCH	56	0
OSP	SCRN PORCH	160	0
		4,548	2,628

CNS_USRFLD_108	
Plumbing	TYPICAL
Bsmt Garage	0
WS Flues	0
2nd Heat Type	ELECTRC BB
# Heat Systems	2.00
% Heated	100.00
View	AVERAGE
Frame	WOOD
Basement Floor	CONCRETE
Comm Units	0
MH Make	
Solar Hot Water	No
Central Vac	No
Partition	TYPICAL

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code	1012
Description	ONE FAM W ACC
Zone	R3
Neighborhood	R4
Alt Land Appr	No
Category	

Land Line Valuation

Size (Acres)	0.23
Frontage	
Depth	
Assessed Value	\$92,100
Appraised Value	\$92,100
lblndfront	

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$299,300	\$92,100	\$391,400
2021	\$208,100	\$73,700	\$281,800

2020	\$208,100	\$73,700	\$281,800
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$299,300	\$92,100	\$391,400
2021	\$208,100	\$73,700	\$281,800
2020	\$208,100	\$73,700	\$281,800

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From Craigslist:

\$2,200 / 1br - ALL Utilities Included, Fully Furnished Apartment (West Lebanon, NH)

I have a fully furnished apartment to rent in West Lebanon, NH for one person. Beautiful new kitchen with butcher block counters, slate backsplash, and a fancy stove for the most avid chef (electric ovens- 2, gas burners), full size fridge! Big bathroom with double sinks. Huge walk in closet (that is so big that it has a closet inside the closet!) and you can actually walk through. It has a beautiful office that will make you love working from home! Fast internet, tastefully furnished. Furnished with a new California King size mattress and bed, desk, couch, nightstands, TV stand, new TV, etc. Great location, quiet side street, close to the bus stop, in sight of the school and near the Kilton Library and Yama Sushi! Perfect for anyone working at Dartmouth Hitchcock Medical Center (DHMC) or Dartmouth College. House features some shared amenities with the other side of quiet tenants, such as two washers and two dryers, big garage/ off street parking, fast internet, tons of storage space, grill, and a large yard.

Willing to do a shorter lease at a higher rent if you are interested.

Looking for one person who is responsible, easy going, quiet at home and considerate. Please let me know more about yourself if you are interested. FaceTime/ Zoom a tour and meeting available. Willing to consider a well trained dog or cat.

This house has a bedroom that is also available on the other side of the building that has a shared bathroom if you are interested, please inquire.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

Special Exception

Staff Memorandum – ZB2023-12-SE

June 5th 2023 Regular Meeting

Catherine Patch

5 Mack Ave (Tax Map 73, Lot 43), Zone R3 Class1

APPLICATION INFORMATION

Agenda Item: 3.B

Application Type:

Special Exception Uses required by Section §310.

Location:

5 Mack Ave
(Tax Map 73, Lot 43)

Applicant/Property Owner:

Catherine A. Patch

Zoning District:

Residential Three – Class 1 (R-3)

Property Size:

+/-0.23 acres (+/- 10,018.8 sq. ft.)
(per the City Assessor's records;
property is conforming to the min.
required 10,000 sq. ft. lot size in the
R-3 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
Complaint Documents

HEARING NOTICE

Catherine Patch, 5 Mack Ave (Tax Map 73, Lot 43), zone R3

Class1: A request for a Special Exception pursuant to section §801.3 to permit the conversion of a One-family dwelling into a Two-family dwelling pursuant to section §310 Residential Three District (R-3) requirements. **ZB2023-12-SE**

BACKGROUND

The property is improved with a one-family dwelling constructed in 1920. Per the City Assessor's records and is conforming to the R-3 Class 1 District minimum lot dimensions require 10,000 sq. ft. with 75' of frontage. The lot is 10,018 sq. ft. and is 100' wide and is therefore a conforming lot of record.

The existence of an unpermitted apartment and the operation of an unpermitted boarding house were alleged in multiple complaints received by the Zoning Office.

PROPOSAL

The applicant proposes to: "Single Family to a duplex with no construction required".

ZONING ORDINANCE REQUIREMENTS

SPECIAL EXCEPTION

Class 1 lots (lots that are served by municipal sewer and water) in the R-3 District require a Special Exception for Residential Two-family dwelling by conversion of existing one-family dwelling as required in section §310 pursuant to §801.3 Special Exception. A Special Exception requires that the Zoning Board make the following findings in order to necessitate an approval:

A.3 Special Exceptions.

A. 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:

1. The Special Exception is specifically authorized by a provision of this Ordinance.
 - a. *Note: The Special Exception is authorized by §310.0 of the Zoning Ordinance.*
2. All special conditions required of the special exception have been met.
 - a. *Note: There are no additional special exception requirements required by §310.0 of the Zoning Ordinance.*
3. There are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy.
 - a. *Note: Staff is aware of potential Zoning Ordinance violations on the property. See Staff Comments*
4. The character of the area shall not be adversely affected.
5. No hazard or nuisance will be created.
6. The capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.
7. Granting the special exception will not result in undue municipal expense.
8. The proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance.
9. The general welfare of the City will be protected.

APPLICATION AND SUPPORT STATEMENT

The applicant has submitted testimony and evidence seeking to address required findings in Section §801.3 Special Exceptions criteria in an application received by the Planning & Development Department on May 18th 2023 (see attached).

STAFF COMMENTS

The application is to posthumously convert the use of the property from a One-Family Dwelling to a Two-family dwelling. The case arrives after the Planning and Development Department received multiple complaints from individuals who are presumed to be both tenants and neighbors. The Zoning Office reached out to the Landlord about possible violations after receiving multiple complaints about two concerns: the operation of a two-family dwelling and the possible operation of a lodging house.

Floor Plan and Operations Plan

The Board may seek further details on the proposed operation of the entire facility by requiring that the Applicant submit a floor plan and operations plan for the entire facility.

Two-Family Dwelling

The application for this Special Exception addresses the need to posthumously permit a Two-family use that has been in place since at least 2020. The Special Exception Findings must all be met for the Application to be approved. One required finding must be addressed by the Applicant that:

“3. There are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy.”

The complaints testify that there have been up to five unrelated tenants in the main apartment of the property. Given that the operation of a Lodging House is not a permissible use in the R-3 zone the use must be neutered or a use variance granted. The Applicant has not addressed this matter with this application. Additionally given that multiple complaints have been received by the Zoning Office concerning the operation of this facility the Board may find it difficult to conclude that:

"4. The character of the area shall not be adversely affected."

And further that "5. No hazard or nuisance will be created."

Given that the Applicant has potentially created a hazard by changing the use with out the benefit of permits and is likely not in compliance with Building and Fire Code Safety requirements the Board must be assured by the Application that all manner of hazard must be rectified. Finally, the Board may wish to deeply consider the final findings and determine if this application meets the standards:

"8. The proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance.

9.The general welfare of the City will be protected."

Operation of a Lodging House

(Zoning Ordinance definition: "*LODGING HOUSE: Any dwelling in which living accommodations without individual kitchen facilities are rented to five (5) or more non transient guests. A boarding or rooming house shall be deemed a lodging house*"). A two-family dwelling is permissible under §310.0 which generates this application for a Special Exception. A Lodging House is not a permissible use within the R-3 zoning district. The Applicant has not addressed Staff's concern about the possible operation of a Lodging House with any proposed plan of operation or a use variance application that would permit such an activity. In the absence of a resolution of this concern the Board may fall short of finding that this permit application addresses all Zoning Violations present on the property.

Fire Code Requirements

As a special condition of any approval, a condition that the applicant meets all aspects of the Building and Fire Code is strongly recommended to ensure life safety requirements for the building are met. The operation of a Lodging House or similar configuration is a commercial operation and likely triggers substantial fire code upgrades to the property. Staff recommends that any approval be conditioned with a requirement that the Applicant apply for and receive approval for all applicable Building and Fire Code permits for the facility. The Fire Code may require fire safety improvements to be made including the installation of common alarms, fire separation measures and sprinklers for any use similar to a Lodging House Use. The Zoning Board does not have jurisdiction of the specifics of how the Fire Code is met, that authority rests with the Fire Department. However, a condition that all life safety measures must be met for this building prior to the issuance of a Certificate of Occupancy is clearly a prudent condition as the Applicant has operated the facility for some time with out the benefit of applicable permits and in a manner that has potentially put residents at risk.

ATTACHEMENTS

Figure 1. Street View of Subject Property. Figure 2. GIS View of Subject. Property Attachment 1: Application Attachment. 2: Complaints

Respectfully submitted,



Nathan Reichert, Director
Planning and Development Department
Zoning Administrator

Google Maps

5 Mack Ave



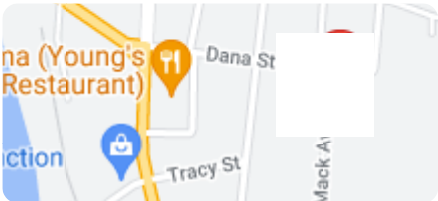
Image capture: Jul 2013 © 2023 Google

←

5 Mack Ave

All

Street View & 360°





Property Information Property ID 73-43 Location 5 MACK AVE Owner PATCH, CATHERINE A	 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.
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Map Theme Legends

Zoning District

- RL3 - RURAL LAND 3
- RL2 - RURAL LAND 2
- RL1 - RURAL LAND 1
- R1 - RESIDENTIAL 1
- R2 - RESIDENTIAL 2
- R3 - RESIDENTIAL 3
- RO - RESIDENTIAL OFFICE
- RO1 - RESIDENTIAL OFFICE 1
- GC- GENERAL COMMERCIAL
- GC-1 - GENERAL COMMERCIAL 1
- CB - CENTRAL BUSINESS
- IND-L - INDUSTRIAL LIGHT
- IND-RA - INDUSTRIAL RAIL ACCESS
- IND-H - INDUSTRIAL HEAVY
- MC - MEDICAL CENTER
- PB - PROFESSIONAL BUSINESS
- LD - LEBANON DOWNTOWN

**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: Catherine Patch TEL.#: (802)881-2453
MAILING ADDRESS: 66 NH Route 4a, Enfield, NH 03748
E-MAIL ADDRESS: catherineapatch@gmail.com

CO-APPLICANT, AGENT, OR LESSEE:

NAME: _____ TEL.#: _____
MAILING ADDRESS: _____
E-MAIL ADDRESS: _____

PROJECT LOCATION:

TAX MAP #: 73 LOT#: 43 PLOT #: _____ ZONE: R3
STREET ADDRESS OF PROJECT: 5 Mack Ave, West Lebanon, NH 03784
IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

Single Family to a duplex with no construction required.

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: _____ DATE: _____

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 #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #
<u>5/18/23</u>	<u>73/43</u>	<u>2B2023-12-SE</u>			

CITY OF LEBANON, NEW HAMPSHIRE

SUPPORT STATEMENT FOR A SPECIAL EXCEPTION

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

I (we) hereby request a Special Exception as provided for in Article(s) III,
Section(s) 310.2, of the Lebanon Zoning Ordinance.

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

I propose changing the zoning of my house at 5 Mack Ave, West Lebanon, NH from a single family home to a two family home. Minor changes to divide the current space will be made to the interior in order to improve the comfort and privacy of those living in the house. The additional kitchen and means of egress were added by permit in 2020, a step was missed while working with a contractor to apply for a duplex status and my goal is to correct that now. The outside of the building and property will remain unchanged.

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:

5 Mack Ave, West Lebanon, NH is in the R3 zone, which allows a single family home to be converted into a two family home through a special exception by the Lebanon Zoning Board of Adjustments.

B. That all special conditions required of the special exception have been met:

5 Mack Ave, West Lebanon, NH is currently a single family home which is allowed to be divided into a two family home if granted by the zoning board of adjustments. The fire department and the city building department have both certified that the house is

currently up to Lebanon City code in order to operate as a two family home. The property is on city water and sewer.

C. That there are no existing violations of this ordinance on the property that the granting of this special exception would not remedy:

Granting 5 Mack Ave, West Lebanon, NH as a two family unit will bring the house into compliance and there are no other violations to be addressed. Each unit will follow the Lebanon City Codes including that of “not more than four (4) persons not related to each other by blood, adoption, marriage, or by civil union, living together as a single housekeeping unit.” The fire inspector who inspected the house on May 17th, 2023 told me to add three smoke detectors and I have addressed that concern.

D. That the character of the area shall not be adversely affected:

The character of the neighborhood will remain the same. The neighborhood is currently made up of a mix of single family and two family homes. On Dana Street, which is adjacent to Mack Ave, there are more two family homes than one family homes. Including a two family home, which is an abutter diagonal from the front of 5 Mack Ave, West Lebanon, NH. Nearby, on Maple Street, which runs parallel to Mack Ave., there are also more two family and multi family homes than single family homes.

No changes will be made to the outside of the house for this special exception. Since I bought the house in 2019, I have replaced the roof with a standing seam metal roof, most of the windows, replaced septic pipes inside the house and have already hired someone to repaint the outside of the house this summer the same color as it is now. I care about my home, my property value, my neighbors and their property values. By making these overdue upgrades to the building, I have significantly improved the character of my home and in turn, that of our neighborhood. The continuous improvement to my home has had positive effects on my neighbor's property values. The lives of my tenants have also been improved by the changes I have made.

Over the past four years, I have invested so much of my time and finances in this property that I will face financial hardship and be forced to consider other options if I am denied this request. I may need to sell my house or consider a different business model, such as short term rentals, to help recoup my losses. Neither of these options are desirable for me and would have adverse effects on my current tenants and contribute to Lebanon's growing residential housing crisis. Caring for my home has come at a high price, but I have always considered it an investment in my community and a positive way I can demonstrate care for my tenants.

E. That no hazard or nuisance will be created:

Since owning 5 Mack Ave, West Lebanon, NH there haven't been any complaints from neighbors made to me or the city regarding any hazards or nuisances. I maintain a high standard for my tenants and always consider my neighbors when I choose tenants and undertake property improvements. My lease includes respectful quiet hours and guest policies that ensure a peaceful living environment for neighbors. The house was inspected by the state fire marshal and Lebanon building inspector on 5/17/23 and they did not identify any hazards or issues which would preclude its use as a two family dwelling.

F. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted:

Converting my single family home at 5 Mack Ave, West Lebanon, NH into a two family home without adding any additional livable space will not impact community facilities and services. It will only serve to divide the current space for a more comfortable living environment for my tenants.

G. That granting the special exception will not result in undue municipal expense:

Converting my single family home into a two family home will increase property tax revenue from this property and provide much needed housing in Lebanon in our current housing crisis.

H. That the proposed special exception will be developed in a manner compatible with the spirit and intent of the ordinance:

The Statement of Purpose in the Housing section of Lebanon's Master Plan states: "The City of Lebanon shall actively foster a diverse range of housing opportunities and choices for current and prospective residents, and will strive to promote the development of diverse, sustainable neighborhoods". Converting this house from a single family into a two family directly follows Lebanon's Master Plan. Lebanon wants to expand their partnership with the Lebanon Housing Authority and provide affordable housing for the community. Some of my current tenants and many of my past tenants, such as medical residents or graduate students would have qualified for LHA assistance based on their income brackets. It is in the spirit and intent of the ordinance to bolster the community and improve the lives of Lebanon residents, a community which I have been deeply invested in my entire life.

I. That the general welfare of the City will be protected:

All the changes I am making are to improve the general welfare of the community. Since taking over the property in 2019, the property's appearance and maintenance has significantly improved. I provide a professional groundskeeper and a professional

housekeeper to make sure the home is kept in top condition for the benefit of the tenants and neighbors. This is unusual for landlords to provide, but I am committed and I care about the wellbeing of the property, my tenants, and community. By converting my single family home into a two family home I will create much needed housing and a better environment for my tenants by creating division and privacy. In the past four years of ownership of this property I have strived for positive and respectful relationships with both my tenants and neighbors.

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.

See Attached

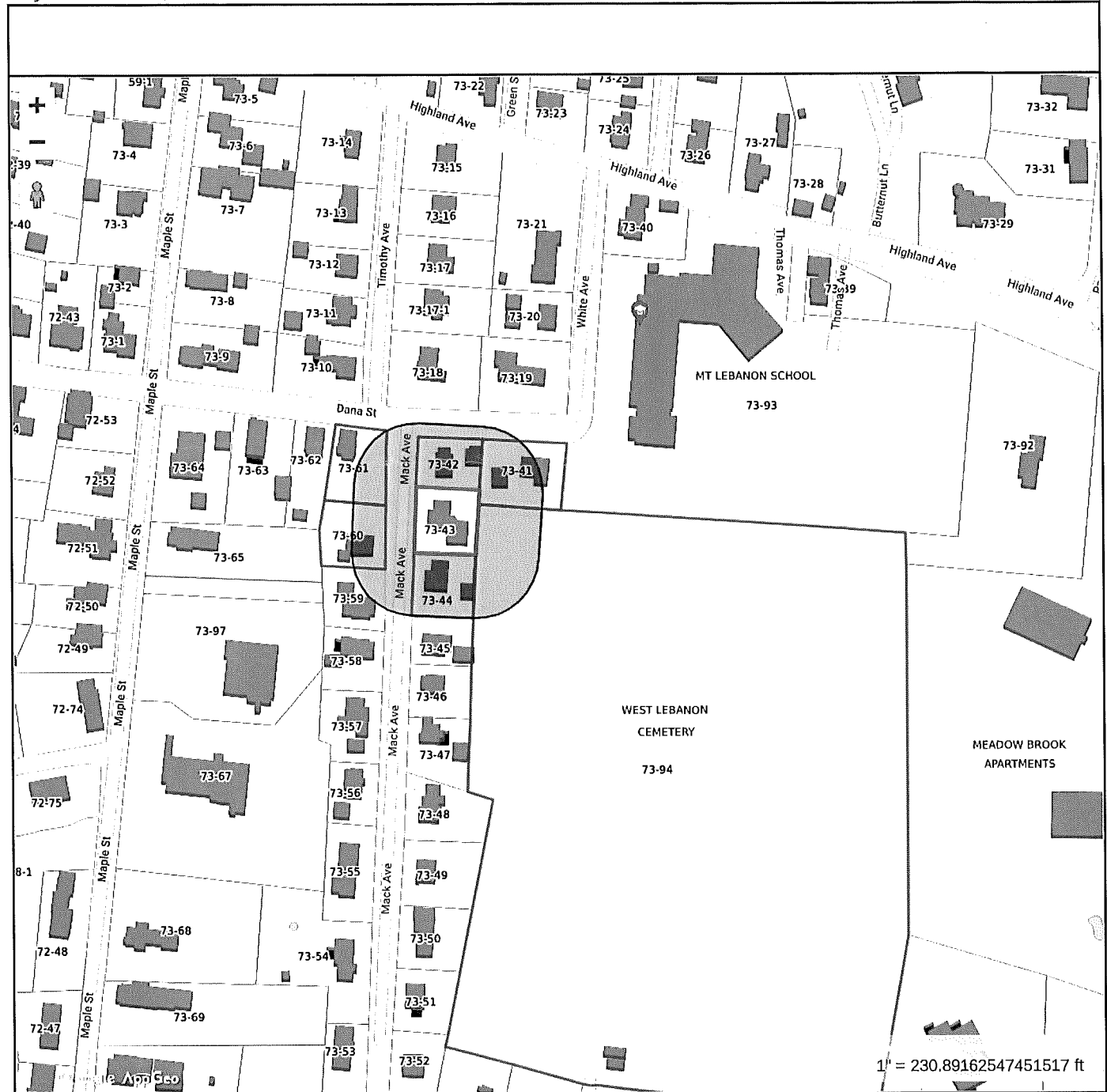
CERTIFIED NOTIFICATION LIST

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: _____	MAP & LOT NUMBER: _____
PROPERTY OWNER:	APPLICANT:
MAP & LOT NUMBER: _____	MAP & LOT NUMBER: _____
ABUTTER/OTHER:	ABUTTER/OTHER:
MAP & LOT NUMBER: _____	MAP & LOT NUMBER: _____
ABUTTER/OTHER:	ABUTTER/OTHER:
MAP & LOT NUMBER: _____	MAP & LOT NUMBER: _____
ABUTTER/OTHER:	ABUTTER/OTHER:
MAP & LOT NUMBER: _____	MAP & LOT NUMBER: _____
ABUTTER/OTHER:	ABUTTER/OTHER:
MAP & LOT NUMBER: _____	MAP & LOT NUMBER: _____
ABUTTER/OTHER:	ABUTTER/OTHER:

ID	Site Address	Owner Name	Owner Address	Owner City	Owner St Owner
73-41	38 DANA ST	LEBANON SCHOOL DISTRICT	20 SEMINARY HILL	WEST LEBANON NH	03784
73-42	3 MACK AVE	HASTINGS, JONATHAN & MARGARET	13 MACK AVE	WEST LEBANON NH	03784
73-44	7 MACK AVE	APEL CRAM, CHRISTINE TTEE	7 MACK AVE	LEBANON NH	03766
73-60	6 MACK AVE	DAMREN, JAMES L	6 MACK AVE	WEST LEBANON NH	03784
73-61	30 DANA ST	HENKEN MATTHEW J	2528 HIGHVIEW TER	FORT WORTH TX	76109
73-94	0 PLEASANT ST	CITY OF LEBANON	51 NORTH PARK ST	LEBANON NH	03766
73-43	5 MACK AVE	PATCH, CATHERINE A	5 MACK AVE	WEST LEBANON NH	03784



1" = 230.89162547451517 ft

Property Information

Property ID 73-43
Location 5 MACK AVE
Owner PATCH, CATHERINE A



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.

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)	\$4.57 per certified notice x _____ notices	
TOTAL DUE		\$ _____

VARIANCE:		
		TOTALS
FILING FEE	\$150.00	\$150.00
ADVERTISING FEE	\$100.00	\$100.00
NOTIFICATION FEE (SEE NOTE)	4.75 per certified notice x 6 notices	\$28.50
TOTAL DUE		\$ 278.50

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.

SECLICKFIX ID
14074296

PRIORITY
Normal

REQUEST TYPE
Private Property Issues
(Zoning/Code Violations)

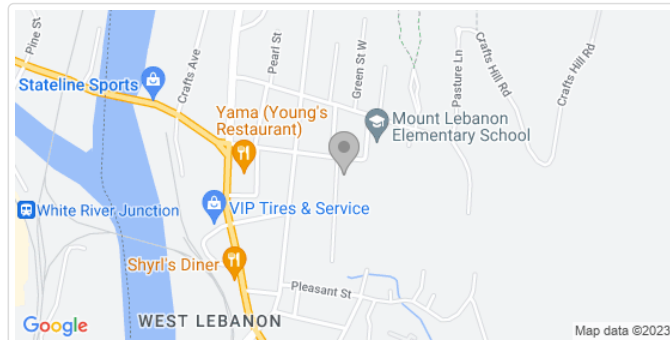
ADDRESS
5 Mack Ave Lebanon, NH, 03784, USA

ASSIGNEE
Zoning Administrator

SLA EXPIRES
February 17, 2023 17:00
about 1 month late

REPORTED
February 14, 2023 18:07

LOCATION

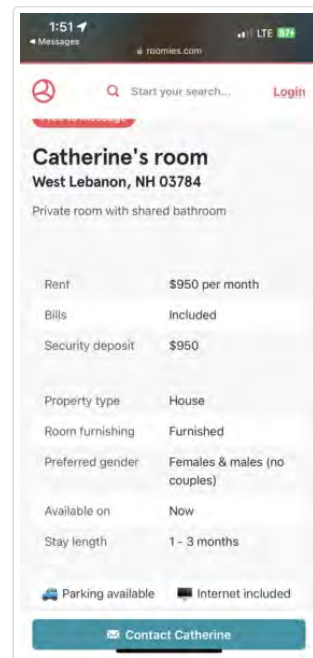


SUMMARY & DESCRIPTION

Private Property Issues (Zoning/Code Violations)

Catherine A. Patch is currently leasing out all 6 bedrooms/living quarters of this single family home. The home is not zoned to be a lodging house and she is currently only zoned as R3, which is a single family house. When I called the City of Lebanon about this due to issues with Catherine and trying to sort out my tenancy, I discovered that she has reported the house being occupied by a single family. We are all six individuals with six different leases and none of us are related. I am currently living in the master suite, which was advertised as an apartment, and there is no separate entrance or separation at all from the main house besides one door which is not secure. The wiring in the area, particularly in the downstairs kitchen is also not up to code and the area has no heating source despite being a livable area. When I brought these concerns to Catherine, she threatened me with her lawyer and a lawsuit. I am concerned that she is renting this property illegally. She does not live at the residence and the only mail she receives here are notifications from the City of Lebanon about taxes. Catherine lives in Enfield as confirmed in several text messages. A week and a half ago when an inspector from the city came to inspect the property for tax purposes, she sent me and my housemates text messages telling us to not speak to anyone, let them inside, or answer questions besides saying "she was not home". When she instructed us to lie, I began to be suspicious about her rental operations as she owns several other properties in the Upper Valley, in Lebanon and Enfield in particular.

MEDIA



SEELICKFIX ID
14072463

PRIORITY
Normal

REQUEST TYPE
Private Property Issues
(Zoning/Code Violations)

ADDRESS
5 Mack Ave Lebanon, NH, 03784, USA

ASSIGNEE
Zoning Administrator

SLA EXPIRES
February 17, 2023 13:10
25 days late

REPORTED
February 14, 2023 13:10

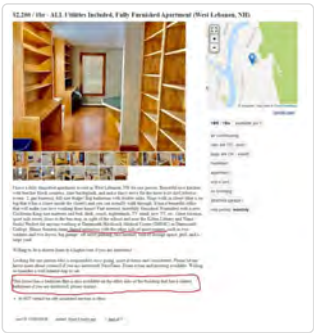
LOCATION



SUMMARY & DESCRIPTION
Private Property Issues (Zoning/Code Violations)

general noise, high volume of cars
Reported by: Lebanon, NH Neighbor 02/14/2023 - 01:10PM

MEDIA



SECLICKFIX ID
14075939

PRIORITY
Normal

REQUEST TYPE
Private Property Issues
(Zoning/Code Violations)

ADDRESS
5 Mack Ave Lebanon, NH, 03784, USA

ASSIGNEE
Zoning Administrator

SLA EXPIRES
February 21, 2023 09:55
21 days late

REPORTED
February 15, 2023 09:55

LOCATION



SUMMARY & DESCRIPTION

Private Property Issues (Zoning/Code Violations)

I apologize for issuing so many missives about this, but this past weekend (Superbowl) was well and truly the final straw.

Reported by: Lebanon, NH Neighbor 02/15/2023 - 09:55AM

MEDIA

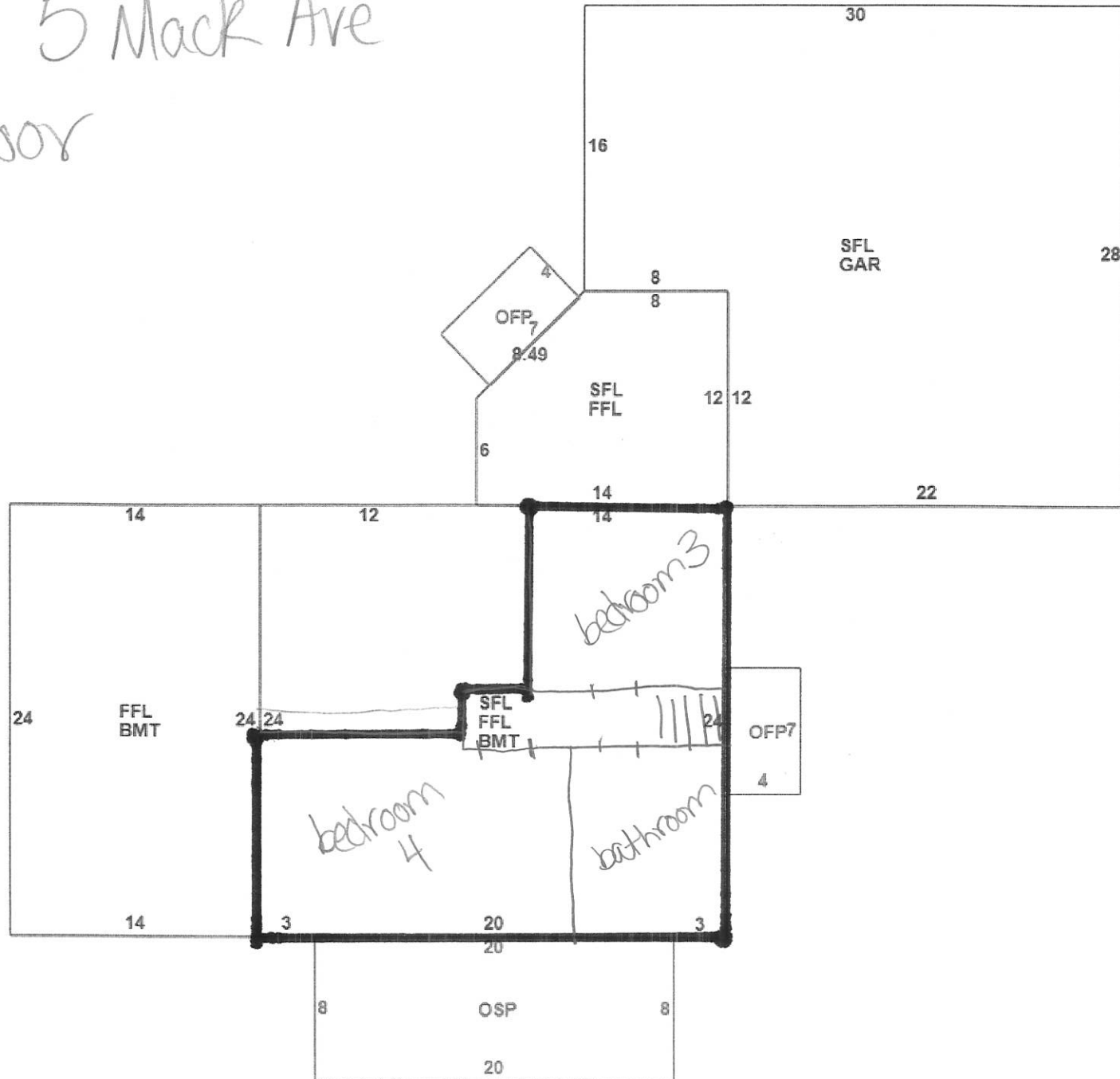


Unit 1 5 Mack Ave
1st floor



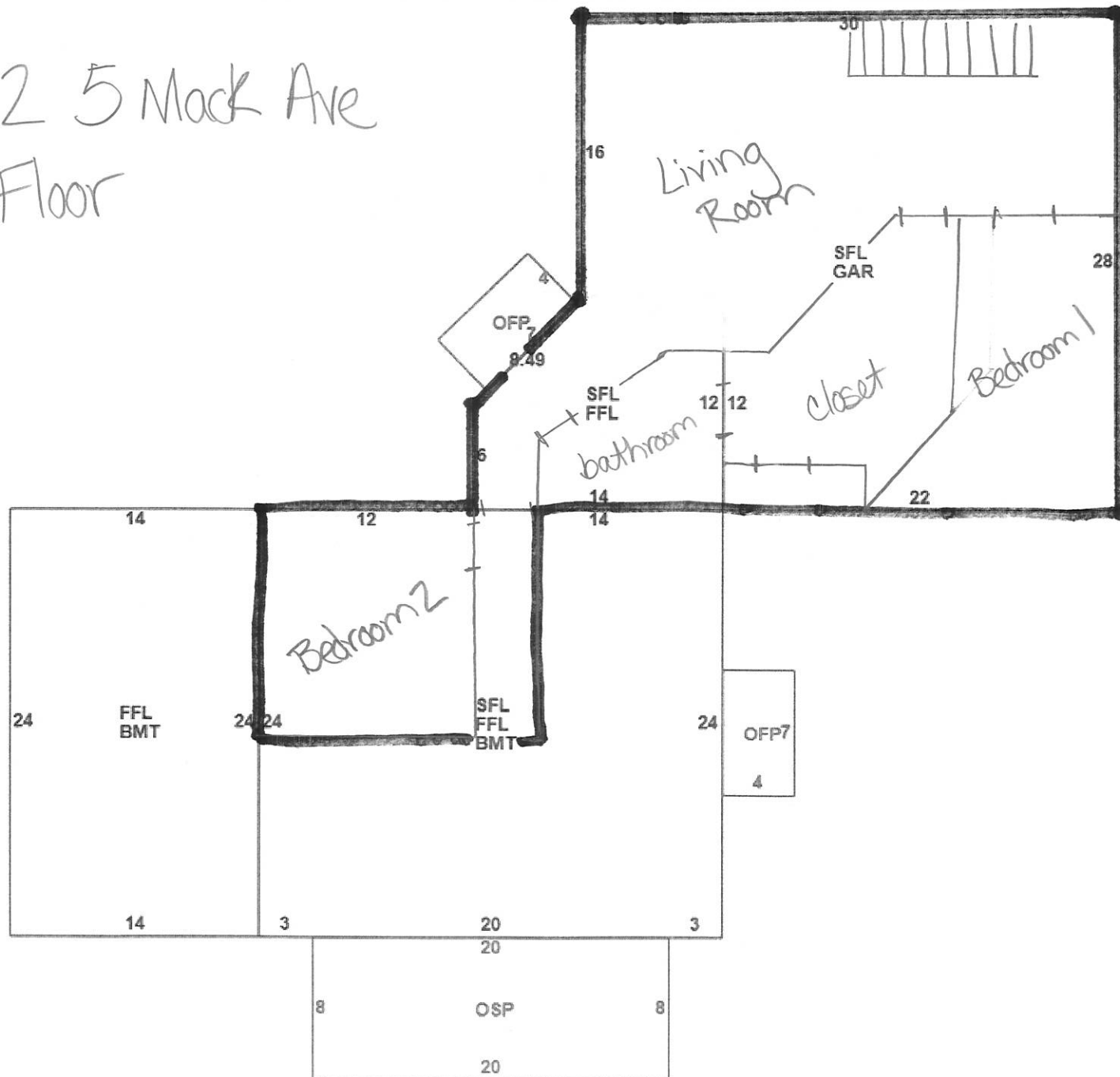
Building Layout

Unit 1 5 Mack Ave
2nd Floor



Building Layout

Unit 2 5 Mack Ave
2nd Floor



Unit 2 5 Mack Ave
1st floor



