

FINAL

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

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

MEMBERS ABSENT: Dan Nash, Dave Newlove, Catherine Hembree (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 7:05 PM.

Ms. Barkley was given voting privileges for this meeting.

2. APPROVAL OF MINUTES

A. July 11, 2023

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

Seconded by Mr. McDonough.

**The Vote on the Motion was (3-0-1).*

Ms. Barkley abstained.

B. July 11, 2023 Building Code Board of Appeal

Approval of these minutes was postponed until the next meeting.

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

Mr. Katz MOVED to dismiss the appeal for lack of subject matter jurisdiction on the basis that there is no dispute regarding the meaning of the ordinance that was brought up but rather it is disputing the City's position of the violation and as a result it does not fall within what we have jurisdiction over under 67652.B.

Second by Mr. McDonough

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

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

Aaron Simpson appeared with Catherine Patch on behalf of the application. She has 4 tenants living in the house and is not using it as a 2-family dwelling at this time. She does not have the apartment available as a unit. She has 4 current tenants, two who came in June 2022, one in June 2021, and one in June 2020. She is looking to maintain long-term renters. She would like to comply with the Fire Department regulations and does not want to ask any of her current tenants to leave. Currently there are 3 cars parking there. She would like to follow the law that would allot 2 parking spaces per unit. Except during the winter, there is street parking and other residents of Mack Avenue also use street parking. She would like to make a door between the two units to allow flexible housing between the units. If she rented to one single large family in the future and a 5th bedroom is needed for a larger family, they would have access to five bedrooms. Aside from this legal situation, the fifth bedroom would not be used as part of the main house. She would like to install a wall with a doorway but is willing to make it a solid wall to alleviate any burden of enforcement. And she is open to future inspections. The current floor plan as proposed was distributed to the Board. She provided the building permits for the work she has done. There are kitchen appliances in one room because they became available. Her real estate taxes have increased substantially between 2021 and 2022.

Mr. Simpson said there were preexisting violations, but there are no violations at this time due to the number of occupants. He believes there is no nuisance from parking. There is no winter parking on the street. They meet the parking requirements in the drawing they submitted and intend to meet the setbacks, all City requirements and any other regulation that is expected of them, including those of the Fire Department. The City allows 4 unrelated people while the Fire Department only allows 3 unrelated people to live in one house before it becomes a boarding house. There are work arounds with the Fire Department with a master tenant lease who then rents to 3 more people. They would change egress windows and door locks that are required by the Fire Department.

The diagrams are difficult to follow and hard to read. The applicants described the floor plans regarding how the proposed two units would be laid out and how they would potentially be used. The applicants clarified that they would like two units that have two floors of unit space. The Board is concerned with privacy and movement between the two units.

The Board asked for clarification of the violations and what she is proposing to address the violations. First it was declared that 5 people shared one kitchen, but there are only 4. It was alleged that it is being used as a two-family home. It is not. But she would like to have it approved to be a two-family dwelling. One of the solutions is four bedrooms in one unit. And then make a second unit that is 2 potential bedrooms. She has a single-family home with 4 people living there and she would like to turn it into a two-family home. It is not intended to be owner occupied. She is not proposing to have sprinklers. There are smoke alarms. She has egress for both of the units, but it is not clear on the drawings how that would work with two units. There are 2 bedrooms on the first floor. There are two sets of stairs. There are 4 outside doors to the house.

A clearer plan would be helpful showing doors, walls, steps, and exits with the 2 ways of egress for each unit. It might be best to have the fire department approve the floor plans and then come before the Board. The Board needs a clear set of plans and specifications that meet all the requirements for fire and building code requirements and zoning code. Sprinklers were discussed but it was unclear if they would be needed with changes to the building.

Chair Koppenheffer opened the Public Hearing.

Dr. Luis Alvaraz, neighbor, spoke about the criteria for a special exception. He believes due to the irregularities, past violations, and potential fire violations, he is concerned about granting a special exception. One of the requirements is that all conditions of the special exception are met, and that the character of the area is not adversely affected. He asked if there is any way to regulate or enforce that no violations occur in the future. There are a limited number of options to address purported violations. It is dependent upon the public to inform the City staff. The City is dependent on voluntary compliance and correcting any violations. Dr. Alvaraz opposes the application because he believes there has already been Boarding House violations regarding nuisance and parking issues. His concern is that he is not clear who is living there and how many people are living there at any given time. There are 9 conditions that the applicant has to meet in order to get a special exception. So far there is no evidence that there is an adverse effect on the neighborhood.

Georgia Tuttle, 10 Mack Avenue spoke next. She is against the application. Several houses, including her own, have the same floor plans and they are all single family homes. She said there has been construction going on at the 5 Mack property since 2020 and she said there should be some evidence for past permit requirements. She highlighted the conditions of a special exception. The City made a decision to have single family homes in some areas and she believes there are options for two family homes in other areas of the City.

Mr. Katz asked for clarification about any violations that would not be remedied through the granting of a special exception. She clarified that ADUs would be supported because the owner would live on site and it would not be the nature of a boarding house. There is one two-family home because it was grandfathered in at the time the zoning ordinances were put in place.

Dr. Keily Thomas, spoke in opposition of the application. She is a former tenant at the home. She believes the drawings of the home are confusing to her as well. When she moved into the apartment, she was under the impression that it was a separate unit, with 5 other associated tenants in the building on one lease. They were all on individual leases. She became concerned about the issues of hazards and nuisances. Safety and privacy are her concerns as well as the access and egress in that unit. She spoke to the electrical concerns. She addressed a number of landlord and tenant issues. The Chair stated the Board does not have any jurisdiction or control over landlord and tenant matters. Ms. Thomas stated that she believes the owner is not reliable and the house as it stands is not in good condition and has several safety and fire hazards. Given the structure of the house, a duplex does not seem to be feasible. If the same issues remain, more people and more allowable individuals would exasperate the situations.

Mr. Katz proposed a 10 minute break at 8:57 and the Board returned at 9:09.

Sanaa Siddiqi lives at 30 Dana Street, the only 2 family unit that was grandfathered into the neighborhood. There is a property manager on site. She is opposed to the application. She referenced a large party that had police involvement. There have been 5 cars in the parking in the past and there are a number of people coming and going that come at late hours and do not stay a long time. She is uncomfortable with her sense of what is going on in the house. There is no one paying attention to who is living there and what they are doing. There is no manager on the premises. Mr. Katz asked if she would have opposition to a two-family dwelling if it was managed similar to where she lives. She said she would not oppose that.

Margaret Hastings, an abutter at 3 Mack Avenue appeared in opposition. She has lived in the neighborhood for many years. Prior to the sale in 2020 the house was a family neighborhood. Since the new owner, and the large number of tenants, this dwelling has become a revolving door. She voiced concerns about the changing nature of the community with the number of tenants and nature of the tenants. Mr. Katz said he is struggling that Ms. Patch owns the house and she has a right to rent it to anyone. There have been complaints brought to the City and Ms. Patch has made efforts to comply with the City. He asked if the application was approved would the neighbors be better off. Her hope is that moving forward the owner follows the laws. She would like it if it was a two-family unit and it was two families instead of an increased number of individuals.

Christine Apel-Eram has lived on the street for over 37 years. It was developed in the 1920s and all the houses were built in the same style. She expressed her experiences about the family nature of the neighborhood. She is not sure if she agrees with converting it to a two-family home but is not completely against it. She wishes it would become a home where two families move in and live there. Mr. Katz said considering her neutral stance, are there any logical conditions that could be imposed that would appease some of the other owners in the neighborhood. She did not provide any concrete ideas.

Georgia Tuttle returned to speak. If nothing is done, the house would return to a single-family home with a maximum of 4 people living there. It is hard to know how many people have lived there at any one time. Mr. Katz clarified that if the application is denied there is a maximum of 4 unrelated people. There can be visitors that stay overnight. He asked if an organized plan with limitations of a duplex would be preferable to what is currently happening.

Attorney Simpson and Ms. Patch returned to speak. They provided the Board with additional documents showing the certificate of completion and final approval of the changes she has made to the building that were approved 9/2/2020. It is clear that this should be addressed at the next meeting. The Board would like a floor plan that is unambiguous. It needs to show all the doors and windows and the egress. Mr. Reichert suggested what it could be beneficial to do a code assessment of the building done by a professional which would help the owner meet the requirements of the building codes. The Site plan would show the size and location of parking, all doors, and all windows.

***Mr. Katz MOVED to continue this hearing until Tuesday, September 5, 2023 at 7:00 PM.
Seconded by Ms. Barkley.***

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

4. STAFF COMMENTS

Mr. Reichert is pleased with how tonight's meeting was operated. It is a complex topic.

5. ADJOURNMENT

***Mr. Katz MOVED to adjourn the meeting at 10:04 PM.
Seconded by Ms. Barkley.***

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

Respectfully submitted,
Linda Billings, Recording Secretary