



**LEBANON ZONING BOARD OF ADJUSTMENT
MARCH 4, 2024 - 7:00 PM
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

1. Call to Order

- A. To participate in this meeting, please [join live via Microsoft Teams](#) or call 1-929-229-5356 (access code:455 839 377#). If you have trouble accessing this meeting, please [email nathan.reichert@lebanonnh.gov](mailto:nathan.reichert@lebanonnh.gov).

2. Approval of Minutes

- A. February 5, 2024

3. Public Hearing Items

- A. **Patch Orchards, Inc., 39 Patch Road (Tax Map 138, Lot 14), zoned RL-2:** Applicant appeals the Zoning Official's calculation of qualified gross living area in both the primary dwelling and accessory dwelling unit. **ZB2024-02-AAD - Continued from February 5, 2024 meeting. To be dismissed due to City Council Zoning amendment approval.**
- B. **Lisa M. Green Trust, 31 Guyer Street (Tax Map 91, Lot 100), zoned R-3:** Applicant requests a Special Exception to allow the addition of an accessory dwelling unit to the existing single-family dwelling, to be located +/- 4.5 feet from the right-side lot line where 15 feet is required. **ZB2024-03-SE**
- C. **James & Andrea Broughton, 9 Estabrook Circle (Tax Map 58, Lot 37), zoned R-3:** Applicant requests a Special Exception to allow an addition to the existing single-family dwelling, to be located +/- 4.5 feet from the right-side lot line where 15 feet is required. **ZB2024-04-SE**
- D. **Pinewood Village Condo Association and George Blike & Rebecca Johnson, 6 Oak Ridge Road #9 (Tax map 4, lot 23, Plot 906), zoned R-3:** Applicant requests a Variance to allow an addition to the existing condominium unit, to be located +/- 11 feet from the from lot line where 20 feet is required. **ZB2024-05-VAR**

4. Study Items

- A. Cicotte Properties, LLC - Proposal to amend Section 303.2 of the Zoning Ordinance to add "vehicular sales" as a Conditional Use in the Light Industrial (IND-L) District

5. Staff Comments

6. 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

Lebanon Zoning Board of Adjustment Agenda
March 4, 2024

so by going to 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.



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Lebanon Zoning Board of Adjustment Agenda
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CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

Special Exception

Staff Memorandum – ZB2024-03-SE

March 4, 2024 Regular Meeting

Lisa M. Green Trust

31 Guyer St (Tax Map 91, Lot 100) Zone R3 Class1

APPLICATION INFORMATION

Agenda Item: 3.B

Application Type:
Special Exception
pursuant to §703.1 and §801.3

Location:
31 Guyer Street
Tax Map 91, Lot 100

Applicant/Property Owner:
Lisa M. Green Trust

Zoning District:
Residential Three (R-3) – Class 1

Property Size:
+/-0.28 acres (+/-12,196 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 §310.3)*

Overlay Districts:
None

Previous ZBA Action (since 1995):
None

Other Approvals Required:
Building Permit

Attachments:
Application
GIS and street view photos

HEARING NOTICE

Lisa M. Green Trust, 31 Guyer St (Tax Map 91, Lot 100), zoned R3: Applicant requests a Special Exception per Section §703.1 and Section §801.3 of the Zoning Ordinance to attach an Accessory Dwelling Unit to an existing detached garage +/-4.5-feet from the right-side property line where a 15-foot setback is required. **ZB2024-03-SE**

BACKGROUND

The property is improved with a one-family dwelling constructed in 1917 per the City Assessor's records and is conforming to the R-3 Class 1 District minimum lot size requirement of 10,000 sq. ft. as the lot is 12,196 sq. ft., approx. 56' – 105' wide and 239' deep. The R-3 Class 1 standard is for a 75' wide lot frontage.

PROPOSAL

The applicant proposes to construct a 16 ft x 23 ft, 368 sq ft. accessory dwelling unit. Adding 1 ADU within the R-3 zone is permissible by right pursuant to sections §310.2 and §610. The ADU will attach to the rear of the existing dimensionally non-conforming garage. The proposed setback for the ADU is +/- 5-feet*. The pre-existing legal non-conforming right side-yard setback for the garage is 4 feet* where a 15-foot setback is required. Section §703.1 permits the expansion of an existing dimensional non-conformity by Special Exception.

*(Please note that the existing garage setback and the proposed ADU setback must be clarified)

ZONING ORDINANCE REQUIREMENTS **SPECIAL EXCEPTION**

Class 1 lots (lots that are served by municipal sewer and water) in the R-3 District must maintain a minimum side yard (i.e. a space unobstructed by buildings and structures) of 15 ft. See the Dimensional Requirements specified in §310.3 of the Zoning Ordinance. §703.1 of the Zoning Ordinance allows the expansion of "any increase in the footprint and/or volume of the non-conforming part of the building or structure," by Special Exception from the Zoning Board of Adjustment. The applicable Special Exception Criteria are as follows:

703.1 Expansion.

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

1. *The reasonable use of abutting properties shall not be adversely affected by the proposed expansion.*
2. *The proposed expansion shall not render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently nonconforming cannot be made more non-conforming in the absence of a variance.*
3. *These special exception standards shall apply in addition to the standards in Section 801.3 of the Zoning Ordinance.*

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

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

801.3 Special Exceptions.

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

- A. *The Special Exception is specifically authorized by a provision of this Ordinance.*
Note: The Special Exception is authorized by §703.1.A of the Zoning Ordinance.
- B. *All special conditions required of the special exception have been met.*
Note: The special conditions for an expansion of a non-conforming buildings are those set forth above in §703.1.A of the Zoning Ordinance.
- C. *There are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy.*
Note: Staff is unaware of any Zoning Ordinance violations on the property.
- D. *The character of the area shall not be adversely affected. In examining the GIS view of the neighborhood nearly every abutting property has zero-lot-line or near zero-lot-line buildings.*
- E. *No hazard or nuisance will be created.*
- F. *The capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.*
- G. *Granting the special exception will not result in undue municipal expense.*
- H. *The proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance.*
- I. *The general welfare of the City will be protected.*

SECTION 610 ACCESSORY DWELLING UNIT (ADU).

Accessory dwelling units are intended as an option for homeowners to offer separate and independent living space for their extended families, or to offer small dwelling units as rentals to offset the expense of maintaining the dwelling.

An accessory dwelling unit shall comply with the following criteria:

- A. *An ADU is allowed on any lot in any zoning district with a one-family dwelling. For lots in any zoning district with a two-family dwelling, a detached or attached ADU is allowed. Only one such ADU is permitted per lot. The dwelling unit density requirements of the underlying zoning district shall not apply to ADUs.*

B. If attached, the appearance and character of the existing or proposed ADU shall remain single family in nature if converting a one-family dwelling to a one-family dwelling with an ADU, and shall remain two-family in nature if converting a two-family dwelling to a two-family dwelling with an ADU. If detached, the ADU shall maintain the primary building's architectural style, proportional mass, size, and height to ensure it is not taller than the principal building on the lot. A detached ADU may be permitted to be taller than the principal building by special exception.

C. The property owner must occupy one of the dwelling units as their permanent residence. A temporary leave of absence of no more than one (1) year by the property owner is allowed, provided the owner-occupied unit is not rented or occupied by anyone other than the property owner during the temporary leave or absence. Prior to the issuance of a zoning permit, the owner shall record in the Grafton County Registry of Deeds an Accessory Dwelling Unit Owner Occupancy Restriction, in a form satisfactory to the Zoning Administrator, in order to put prospective buyers on notice of the prohibition against renting out both units. All recording fees shall be the responsibility of the applicant.

D. The ADU must be located in the same building as the principal dwelling unit(s) unless the lot meets or exceeds the minimum required lot size for the respective zoning district. If the lot meets or exceeds the required minimum lot size, the ADU may be located in a separate detached accessory structure such as a garage or barn, provided the existing accessory structure conforms with the minimum required yard requirements for the respective zoning district. An ADU may also be in a new structure. By special exception, the Zoning Board of Adjustment may allow an ADU to be located in a detached structure on a lot that is non-conforming to the minimum lot size and/or to be allowed in an existing accessory structure that is legally non-conforming to the applicable minimum yard requirements.

E. If the ADU is located within or by an addition to the existing principal building, an interior door shall be provided between the ADU and the principal dwelling unit or between the ADU and one of the principal dwelling units if the principal building is a two-family dwelling.

F. If applicable, the owner must seek a permit from the State of NH Dept. of Environmental Services Subsurface Systems Bureau, in accordance with NH RSA 485-A:38, for any increased load on an existing sewage disposal system as a result of the addition of an ADU to the lot.

G. Size of ADU.

1. One-family dwellings. If the gross living area of the principal dwelling unit is 1,500 square feet or less, the gross living area of the ADU may be no greater than 65% of the gross living area of the principal dwelling unit. If the gross living area of the principal dwelling unit is greater than 1,500 square feet, but less than 3,000 square feet, the gross living area of the ADU shall not exceed 960 square feet. If the principal dwelling unit is greater than 3,000 square feet, the gross living area of the ADU can exceed 960 square feet provided the ADU is no greater than 33% of the gross living area of the principal dwelling unit. If the ADU is located on a parcel of land greater than 4 acres a detached ADU can exceed 960 square feet provided that the detached ADU is no greater than 50% of the gross living area of the principal dwelling unit.

2. Two-family dwellings. If the gross living area of the smaller of the two principal dwelling units is 1,500 square feet or less, the gross living area of the ADU may be no greater than 65% of the gross living area of the smaller of the two principal dwelling units. If the gross living area of the smaller of the two principal dwelling units is greater than 1,500 square feet, but less than 3,000 square feet, the gross living area of the ADU shall not exceed 960 square feet. If the smaller of the two principal dwelling units is greater than 3,000 square feet, the gross living area of the ADU can exceed 960 square feet provided the ADU is no greater than 33% of the gross living area of the smaller of the two principal dwelling units.

H. Any necessary additional entrances or exits to the principal building, to serve the ADU, shall be located to the side or rear of the building. All new or altered structures, intended to be used as an

ADU, must be located behind the front building line of the existing principal building except by special exception if the Zoning Board finds that the placement of the ADU on the lot will not adversely affect the character of the neighborhood; traffic on roads and highways; safety of pedestrians, and will not create a hazard or nuisance to abutting property owners.

I. In addition to the two (2) parking spaces required for each principal dwelling unit, one (1) additional parking space for the ADU must be provided.

J. An ADU located within the principal building shall have interconnected smoke and carbon monoxide alarms.

K. An ADU Permit application submission shall include a minimum of the following materials and exhibits demonstrating compliance with the applicable Zoning Ordinance requirements:

- 1. Existing and proposed site conditions and parking plan.*
- 2. Existing and proposed floor plans for all dwelling units and structures.*
 - a. If applicable this floor plan shall show compliance with ADU entrance, interconnection and smoke and carbon monoxide alarm plan requirements.*
- 3. A gross living area square footage calculation which includes existing and proposed floor plans, and a square footage calculation for both the primary dwelling and ADU demonstrating adherence with 610.G ADU Size pursuant to the definition of gross living area within Appendix A Definitions.*
- 4. A signed, recordable "Accessory Dwelling Unit Owner Occupancy Restriction".*
- 5. A bank or business check or money order for all recording fees made payable to the Grafton County Registry of Deeds.*
- 6. If applicable a copy of the State of NH Dept. of Environmental Services Subsurface Systems Bureau Approval and plans.*
- 7. If applicable a Water Connection Permit Application.*
- 8. If applicable a Sewer Connection Permit Application.*
- 9. Impact Fee Invoice Acknowledgment.*

APPLICATION AND SUPPORT STATEMENT

The applicant has submitted testimony addressing the §703.1 and §801.3 criteria in an application received by the Planning and Development Department on 18 January 2024 (see attached).

STAFF COMMENTS

Absent abutter testimony to the contrary, the proposed expansion does not appear to be inconsistent with any of the applicable criteria set forth in §703.1.A and §801.3. The ADU Use is permissible by right pursuant to section §610.

There are several factual concerns that need to be addressed.

1. There is an explanation within the Applicant's Narrative that there is a need for a NH-DES Subsurface Systems Bureau Permit for the project to be completed. After reaching out to the City Water department it was confirmed that the home currently receives City Water and Sewer services. Rather than needing an NH-DES permit the applicant needs Water and Sewer Permits from Lebanon DPW. The Board may seek to clarify this discrepancy with questions and testimony during the hearing. Should the Board choose to approve the application a condition can clarify the need for Sewer and Water Permits.
2. There are several different definitions of what the proposed right side yard setback will be for the ADU. The site plan shows an existing non-conforming garage setback of 3' and a proposed ADU setback of 4'. The Applicant's Narrative states "*The garage is located approx. 4 feet from the property line. The proposed ADU will be approx. 5 feet from the property line.*" The noticed amount of the setback was +/- 4.5 feet for the right-side yard setback. These three numbers need to be reconciled. When the number is clearly defined then a condition that the applicant update the site

plan sketch to reflect the actual non-conforming setback to the garage and the proposed setback for the ADU. Please note that the confirmed setbacks will need to be clarified in the Draft Motion.

ATTACHEMENTS

Figure 1. Street View of Subject Property.

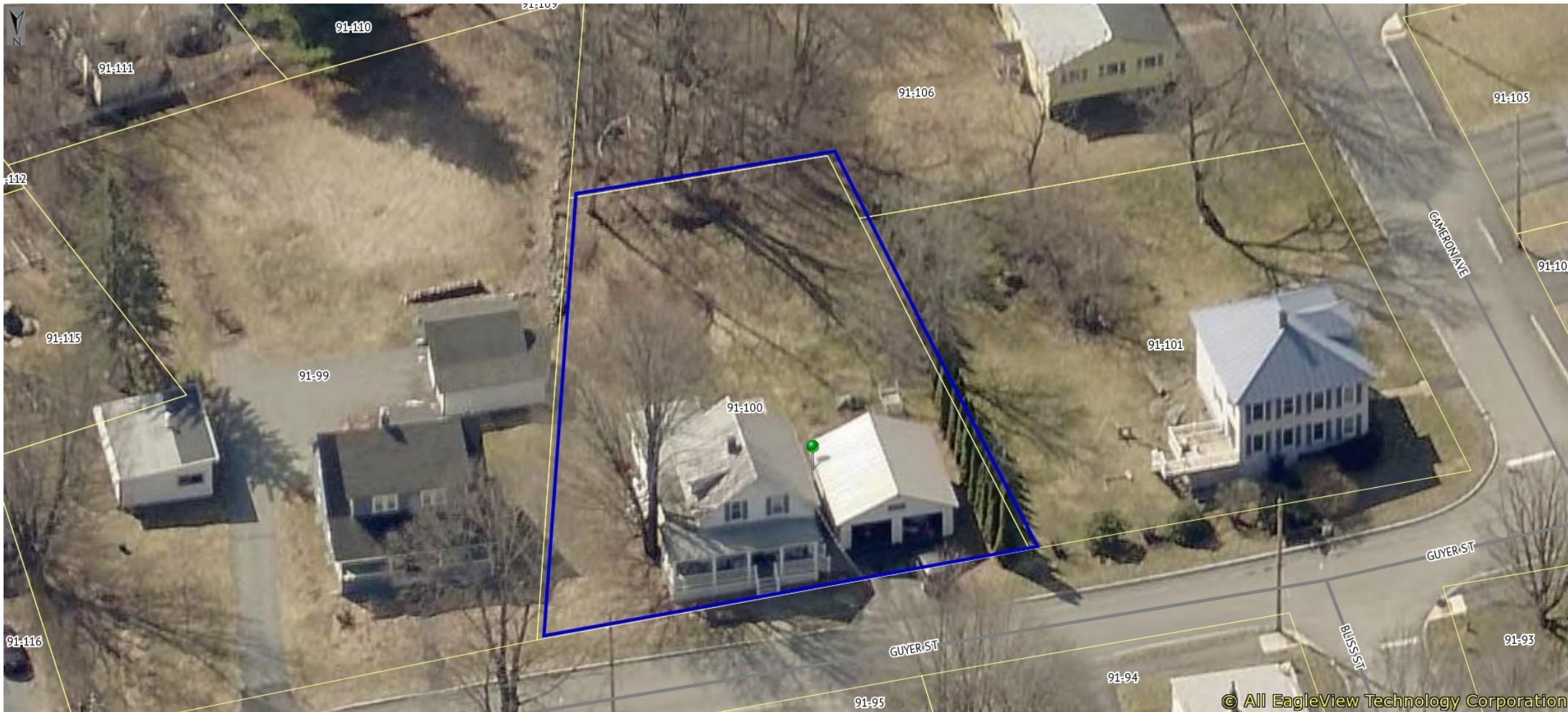
Figure 2. GIS View of Subject Property

Respectfully submitted,



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

31 Guyer Eagleview



31 Guyer Eagleview Back







CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT DRAFT DECISION – ZB2024-03-SE March 4, 2024 Regular Meeting Lisa M. Green Trust 31 Guyer St (Tax Map 91, Lot 100) Zone R3 Class1

DRAFT MOTION for:

Agenda Item: 3.B

Case: ZB2024-03-SE

Request for Special Exception per Section §703.1 and Section §801.3

Motion made by: _____

On March 4th 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared _____ regarding 31 Guyer St (Tax Map 91, Lot 100) Zone R3 Class1. The Applicant requests a Special Exception per Section 703.1 and Section §801.3 of the Zoning Ordinance to attach an Accessory Dwelling Unit to an existing detached garage _____ / **+/- 5-feet.** from the right-side property line where a 15-foot setback is required.

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 1917. The lot contains a primary residence and a dimensionally non-conforming detached garage.
2. As described in the application by the applicant, the applicant proposes to attach an ADU to the rear to the legal non-conforming garage. The addition will be located partially within the 15 ft. right side-yard setback, it will be no closer to the right-side yard lot line than then existing garage and will be approximately _____ / **+/- 5-feet.** from the property line.
3. Class 1 lots (i.e. lots that are served by municipal sewer and water) in the R-3 District must maintain a minimum side yard (i.e. a space unobstructed by buildings and structures) of 15-feet. Pursuant to section §310.3 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 January 18th 2024.

6. There are no known existing zoning violations on the property.

7. _____

8. _____

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Special Exception criteria set forth in §703.1 and §801.3 of the Zoning Ordinance:

1. The Special Exception is specifically authorized by Section §703.1 and Section §801.3 of the Zoning Ordinance. (801.3.A.1)

2. The following criteria of Section §703.1 **have been / have not been** met: (801.3.A.2)

a. The reasonable use of abutting properties shall not be adversely affected by the proposed expansion.

b. The proposed expansion shall not render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently nonconforming cannot be made more nonconforming in the absence of a variance.

3. There **are no / are** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy. (§801.3.A.3)
Staff is not aware of any Zoning Ordinance violations on the property.

4. The character of the area **will not / will** be adversely affected. (§801.3.A.4)

5. **No / A** hazard or nuisance will be created. (§801.3.A.5)

-
6. The capacity of existing or planned community facilities and services (including streets and highways) **will not / will** be adversely impacted. (§801.3.A.6)

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

-
8. The proposed Special Exception **will / will not** be developed in a manner compatible with the spirit and intent of the ordinance. (§801.3.A.8)

-
9. The general welfare of the City **will / will not** be protected. (§801.3.A.9)
-

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 4th day of March, 2024, hereby **GRANTS / DENIES** the requested Special Exception pursuant to Section §703.1 and §801.3 of the Zoning Ordinance to permit the construction of an Accessory Dwelling Unit attached to an existing detached garage / +/- 5-feet. from the right-side property line where a 15-foot setback is required at 31 Guyer St (Tax Map 91, Lot 100), as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit, and shall comply with all applicable local, state, and federal regulations in the construction of the proposed addition.
2. Prior to the issuance of a Building Permit, the Applicant shall provide an updated site plan sketch reflecting the finalized approved setbacks for the existing non-conforming garage and the proposed setback for the Accessory Dwelling Unit.
3. Prior to the issuance of a Building Permit, the Applicant shall obtain applicable City of Lebanon Sewer Use Permit and Water Service Permits from the Lebanon Department of Public Works.

4. _____

DRAFT MOTION

ZB2024-03-SE

31 Guyer Street

(Tax Map 91, Lot 100)

March 4th 2024 ZBA Meeting

Agenda Item 3.B

Page **4** of **4**

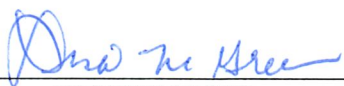
5. _____

Motion seconded by: _____

Vote: _____

CITY OF LEBANON APPLICATION FOR

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

PROPERTY OWNER (APPLICANT):			
NAME: <u>Lisa m Green Trust</u>	TEL.#: <u>603-359-7116</u>		
MAILING ADDRESS: <u>31 Guyer St, Lebanon NH</u>			
E-MAIL ADDRESS: <u>lisa.green4444@gmail.com</u>			
CO-APPLICANT, AGENT, OR LESSEE:			
NAME:		TEL.#:	
MAILING ADDRESS:			
E-MAIL ADDRESS:			
PROJECT LOCATION:			
TAX MAP #: <u>91</u>	LOT#: <u>100</u>	PLOT #: <u>-</u>	ZONE: <u>R3</u>
STREET ADDRESS OF PROJECT: <u>31 Guyer St.</u>			
IS THIS PROPERTY LOCATED IN THE: WETLANDS ☐ YES ☐ NO HISTORIC DISTRICT ☐ YES ☐ NO			
FLOOD PLAIN ☐ YES ☐ NO			
SCOPE OF PROJECT:			
<u>Addition to garage to create ADU</u>			
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:			
 _____ PROPERTY OWNER		DATE: <u>1/18/24</u>	
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 #			
<u>1/18/24</u>	<u>91/100</u>	<u>ZB2024-03-SE</u>			

(12/07/07)

City of Lebanon, New Hampshire

Support Statement for a Special Exception

Submitted by: Lisa Green, 31 Guyer Street, Lebanon, NH; 603-359-7116; lisa.green4444@gmail.com

Project Description:

The owner of 31 Guyer Street wishes to add an addition to the back of her garage to create an Accessory Dwelling Unit (ADU) for an older member of her family with mobility issues. The ADU unit will be an efficiency with a full bathroom and kitchen designed for one resident. The size of the unit will be 16'x22' or 352 sq ft.

- A. ***That the special exception is specifically authorized by a provision of this ordinance:*** Per Section 610 of the Zoning Ordinance #2, Accessory Dwelling Units (ADUs) are allowed on any lot in any zoning district with a one-family dwelling. This proposed ADU will be the only ADU on this property.
- B. ***That all special conditions required of the special exception have been met:***
- a. A special exception is needed by the Zoning Board to allow the proposed ADU to be built onto a detached structure (the garage) that is legally non-conforming to the applicable minimum yard requirements. The overall property has a generous back yard but it is not very wide. The garage is approx.. 4 feet from the property line to one side. The main house was built in 1917. The garage construction date is unknown, but it is greater than 50 years old. The ADU will have a small footprint even further from the property line than the garage and will not infringe on abutters.
 - b. It will maintain the primary building's architectural style and will not be bigger or taller than the principal building as well as the garage.
 - c. The owner will continue living in the primary dwelling as their primary residence.
 - d. The entrances/exits to the proposed ADU will be located behind the front building line of the existing dwelling which meets the ordinance requirements.
 - e. The proposed ADU will be attached to the back of the property's garage which is a detached structure and takes advantage of ample backyard space as the property is quite deep. The garage is located approx. 4 feet from the property line. The proposed ADU will be approx. 5 feet from the property line.
 - f. The ADU will utilize the existing water/sewer system of the primary dwelling. A permit from the State of NH Dept of Environmental Services Subsurface Systems Bureau will be requested because of the increased load on the existing sewage disposal system.
 - g. The size of the principal dwelling unit is 1200 sq ft and the proposed addition will be 352 sq ft, which meets the ordinance requirement of not being more than 65% of the gross living area of the principal dwelling unit.
 - h. The property has a 2-car garage and the ADU resident will take one of these garage parking spots. There are 2-3 additional parking spaces in front of the garage. This meets the ordinance's requirement for ADU parking.

- i. The request is reasonable. It is not feasible to add to the back of the primary dwelling and because of the narrowness of the property, it limits the Owner's options for an adding an ADU. Therefore a special exception is requested as a reasonable option to allow for this small addition to the back of the garage.
- C. *That there are no existing violations of this ordinance on the property that the granting of this special exception would not remedy:***
 - a. There are no violations of this ordinance on the property.
- D. *That the character of the area shall not be adversely affected:***
 - a. The placement of the ADU will be directly behind the garage and will not adversely affect the character of the neighborhood.
 - b. The unit will have a small footprint and will actually be a greater distance from the property line of one abutter than the garage currently is.
- E. *That no hazard or nuisance will be created:***
 - a. The ADU will create no hazard or nuisance to abutting property owners and will not adversely affect traffic or safety of pedestrians.
 - b. The ADU will cause no harm and will not be contrary to the public interest.
- F. *That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted:***
 - a. The ADU will not adversely impact existing or planned community facilities and services.
 - b. The ADU will house only one resident.
- G. *That granting the special exception will not result in undue municipal expense:***
 - a. The ADU will not create undue municipal expense as it will house only one resident.
- H. *That the proposed special exception will be developed in a manner compatible with the spirit and intent of the ordinance:***
 - a. The proposed ADU will be developed in a manner compatible with the spirit and intent of the ordinance.
 - b. The proposed structure will be a residence within an existing residential neighborhood.
- I. *That the general welfare of the City will be protected:***
 - a. The proposed ADU will not negatively impact the general welfare of the City and it's citizens.
 - b. Creating additional housing in downtown Lebanon is something the City is actually encouraging. The proposed ADU will create additional housing in downtown Lebanon which is in demand.

SUPPORT STATEMENT FOR A VARIANCE

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

CITY OF LEBANON, NEW HAMPSHIRE

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

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

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

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

801.2 Variances.

A. To authorize, upon appeal in specific case, variances from the terms of this ordinance, no variance shall be granted unless each of the following conditions are met:

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

This addition will cause no harm and will not be contrary to the public interest. It does not alter the essential character of the neighborhood.

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

This addition will not violate the spirit or intent of the ordinance. The addition has small footprint, will create an ADU without infringing on neighbors

3. That by the granting of the variance, substantial justice will be done;

This addition will create an ADU which is sorely needed in downtown Lebanon and will do so without infringing on neighborhood

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

The addition will be located in back of garage on the property where there is ample space without and; infringing on surrounding properties.

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

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

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

Owing to special conditions of the property, denial of this variance request would result in unnecessary hardship and inability for landowner to create an ADU addition within the spirit of the ordinance; and

(ii) The proposed use is a reasonable one.

because of the narrowness of the property, it limits the applicant's options for an addition within setback requirements. A variance is reasonable to allow for a small addition to the back of the garage on the part of property that has most space and has smaller footprint than garage.

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

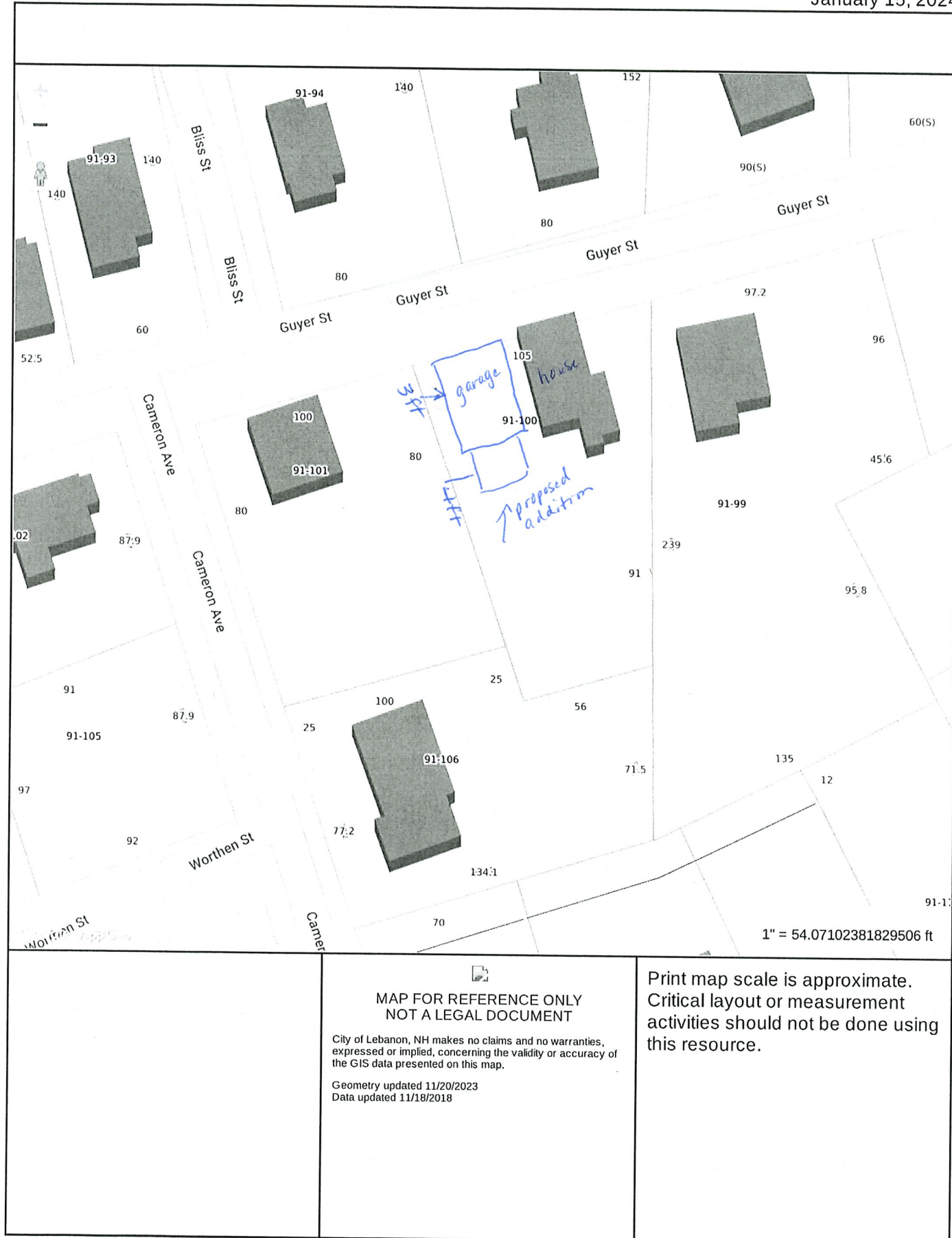
variance is necessary to enable the landowner reasonable use of their property to create an ADU to benefit the greater community with its housing issues.

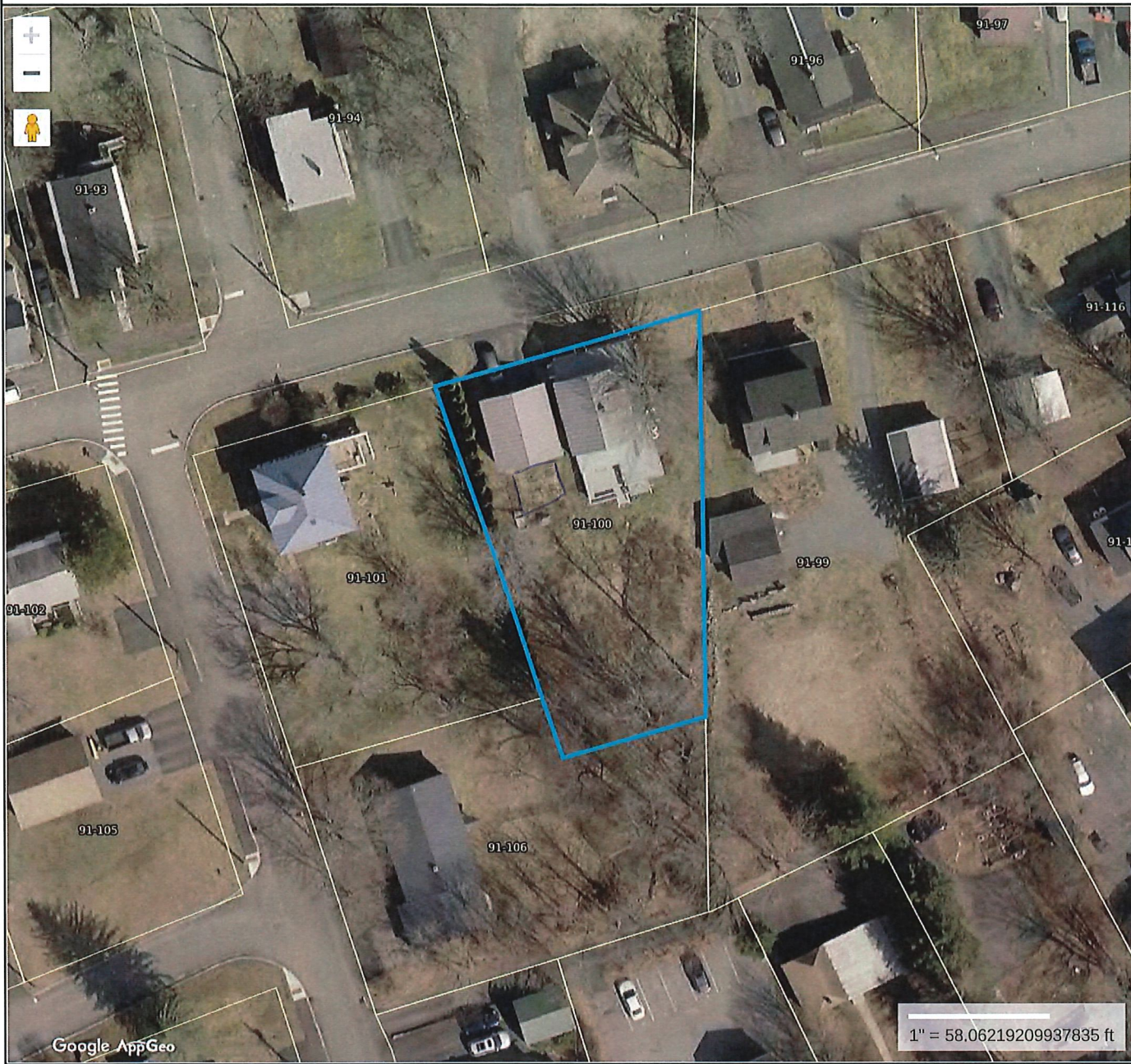
A variance shall expire if: (1) the use is not in place within two years of the date of issuance of a zoning permit or approval by the Zoning Board of Adjustment for a variance; or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a variance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

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

Statement of Intent:

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





Property Information

Property ID 91-100
Location 31 GUYER ST
Owner GREEN, LISA M TTEE



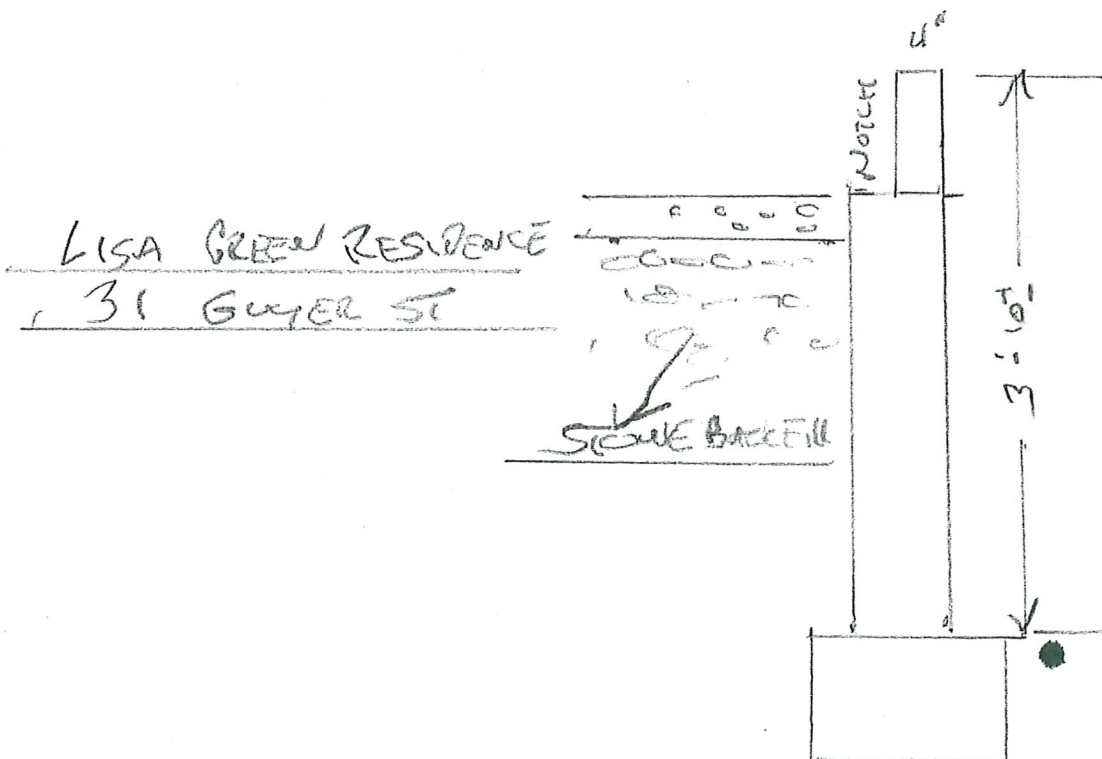
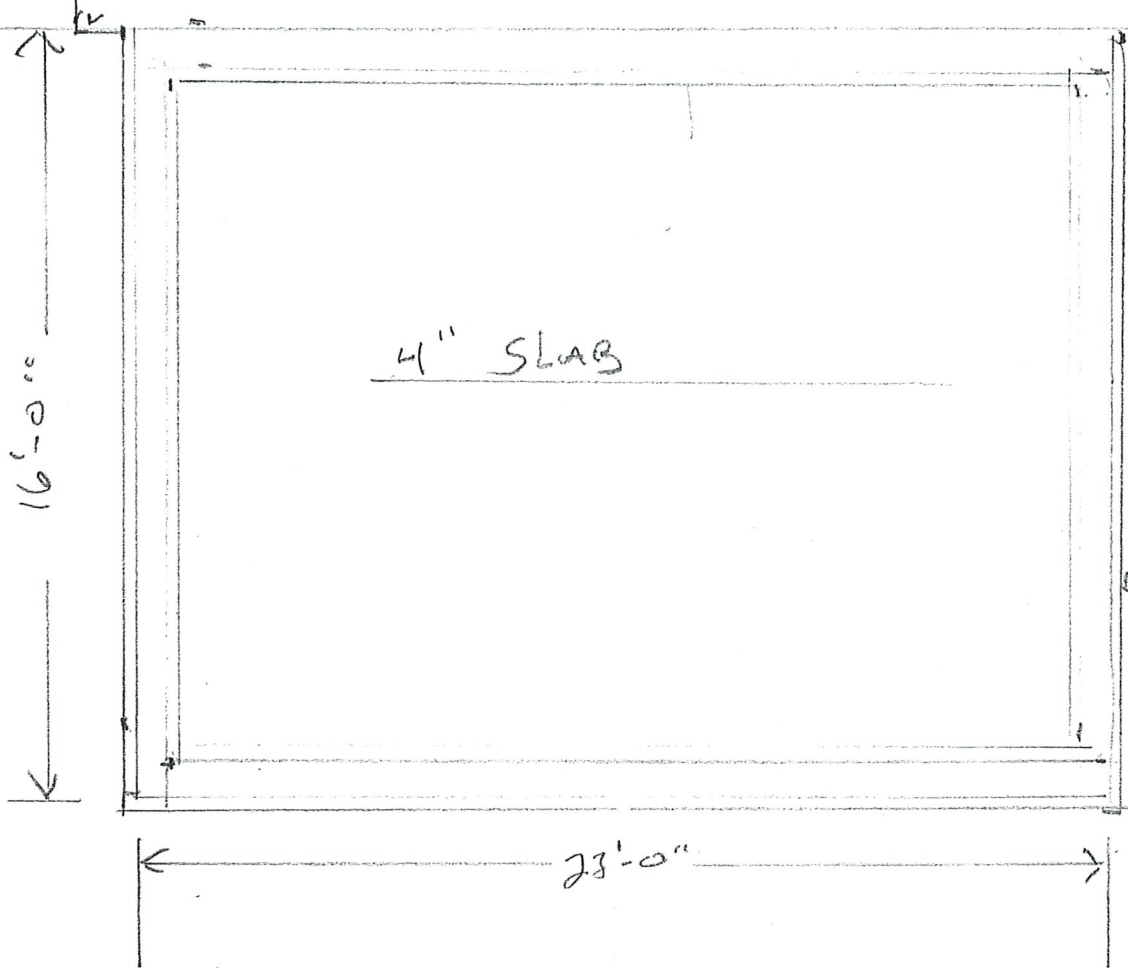
**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

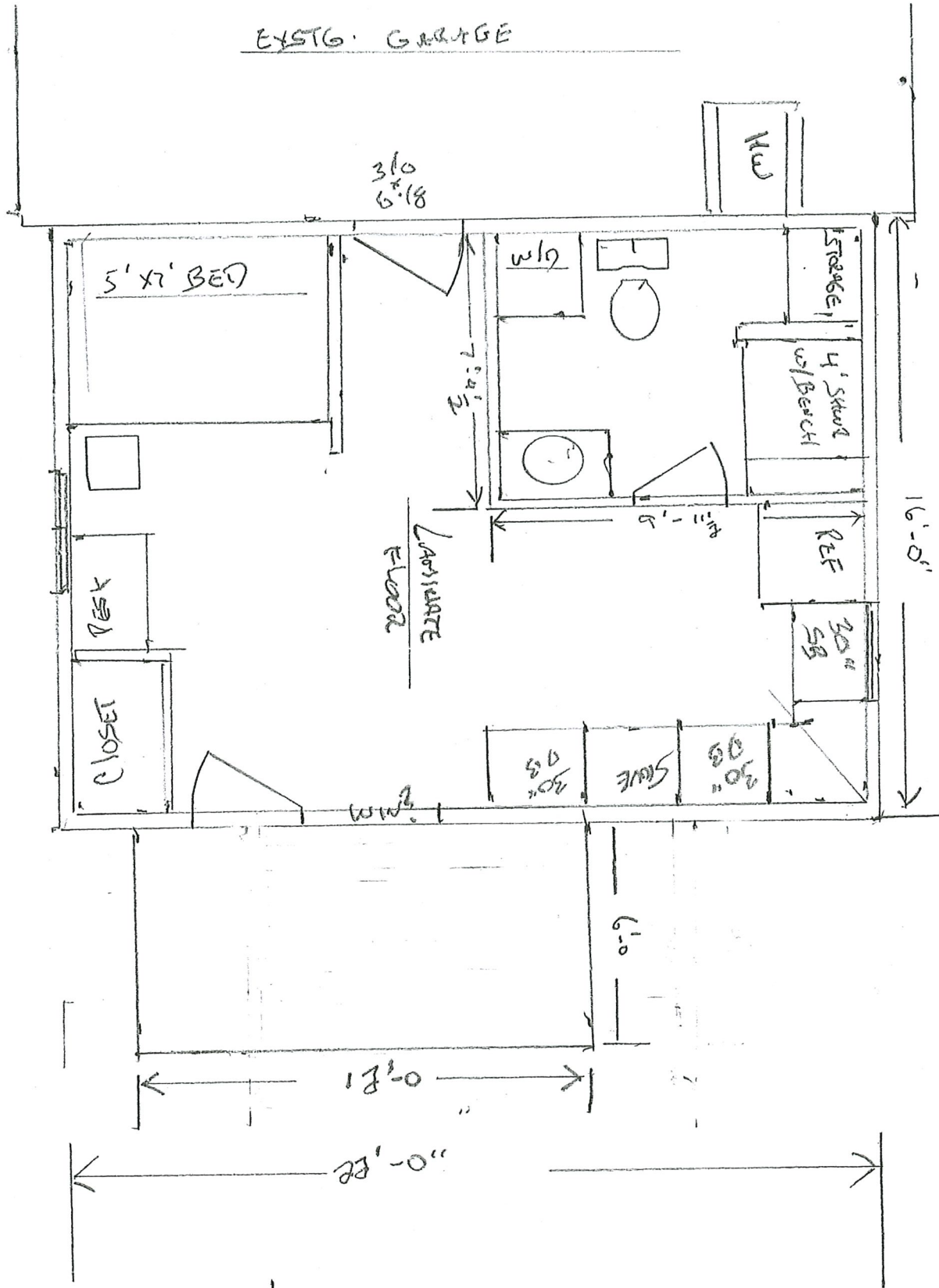
City of Lebanon, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 11/20/2023
Data updated 11/18/2018

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

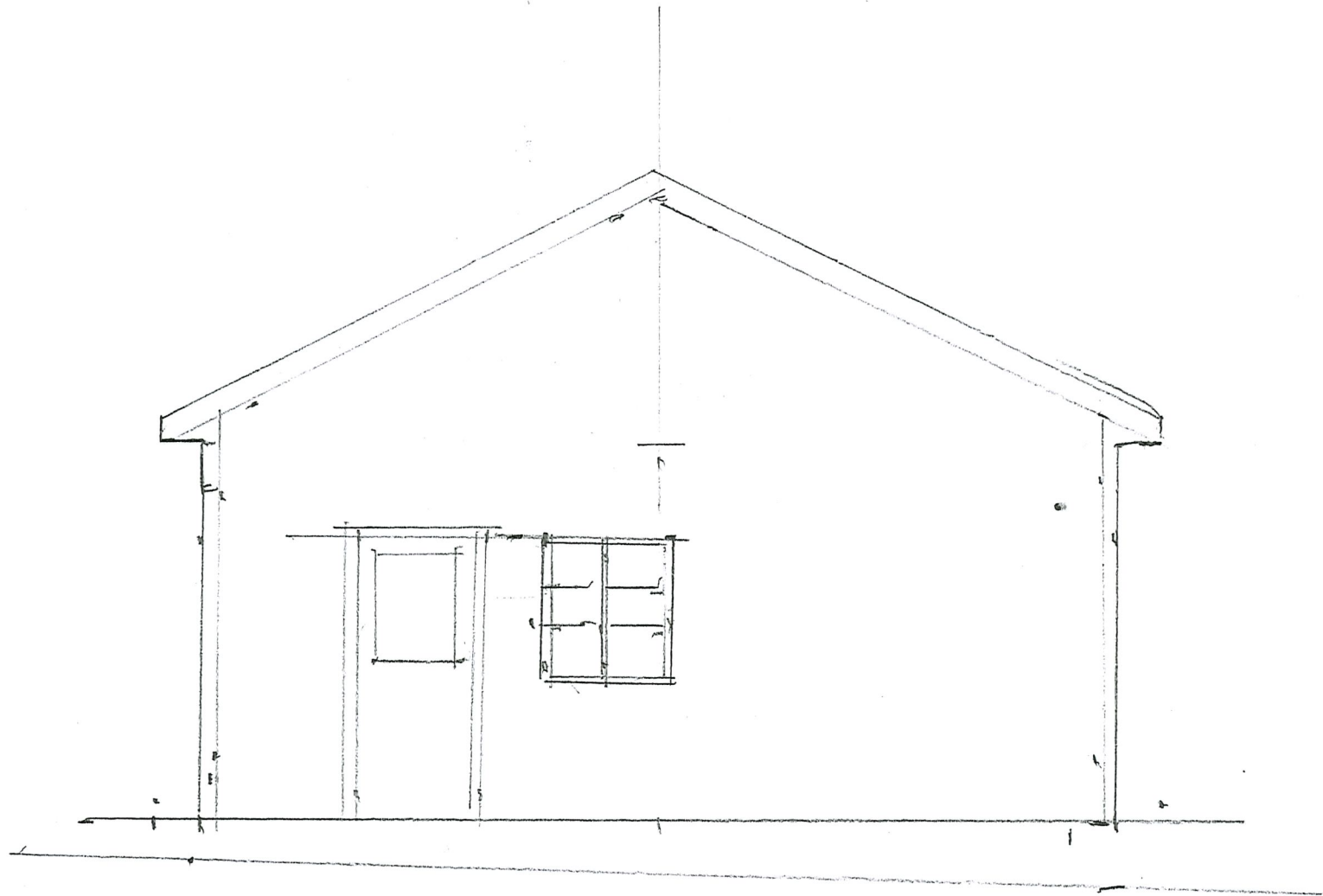
EXTG. GARAGE



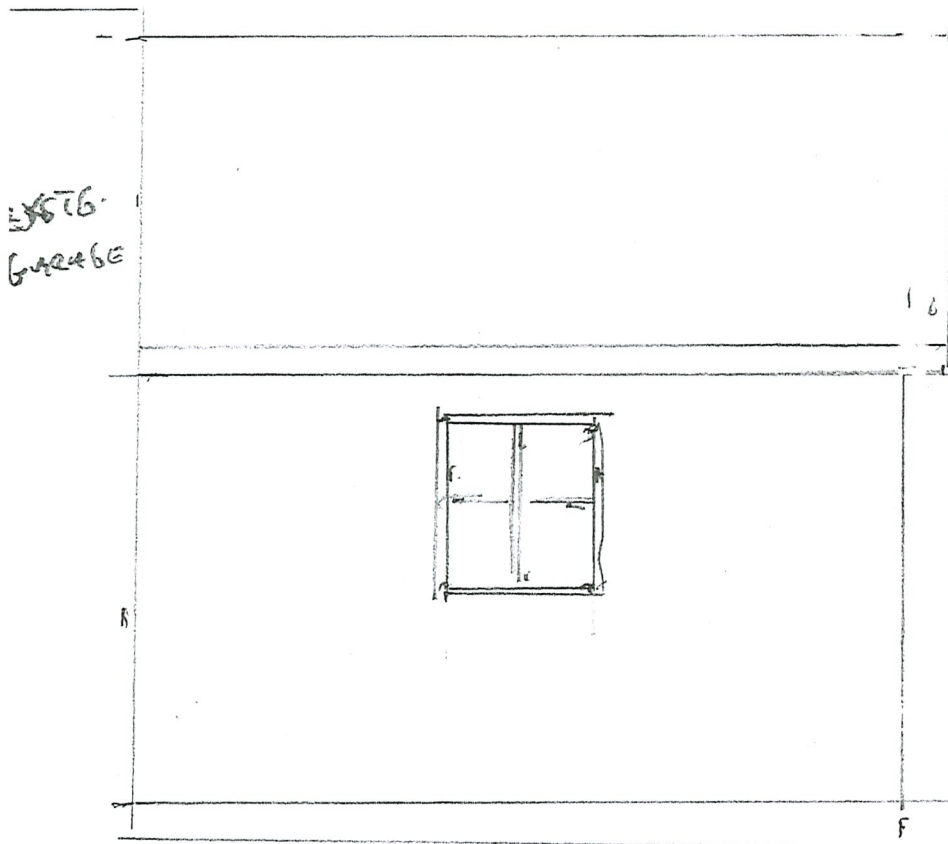


LISA GREEN
31 GUYER ST.
SCALE: 1/4" = 1'-0"

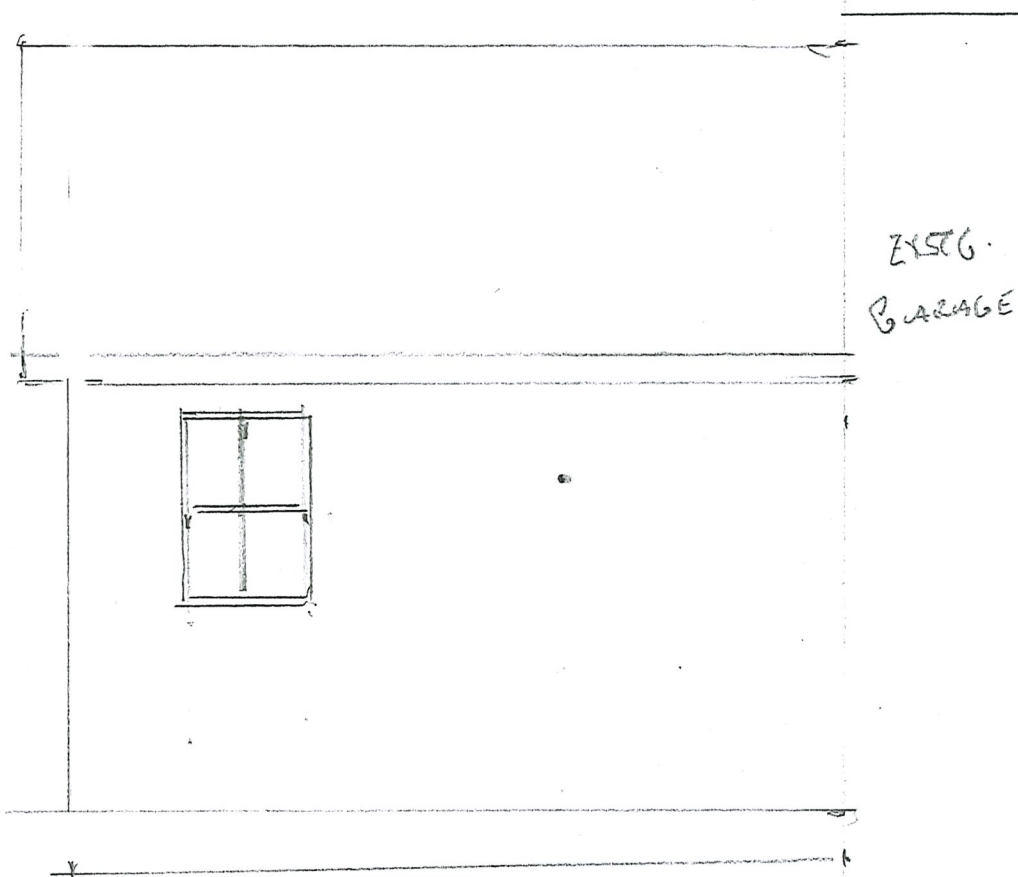
LISA GREGG RESIDENCE
FRONT ELEVATION
SCALE 1/4" = 1'-0"

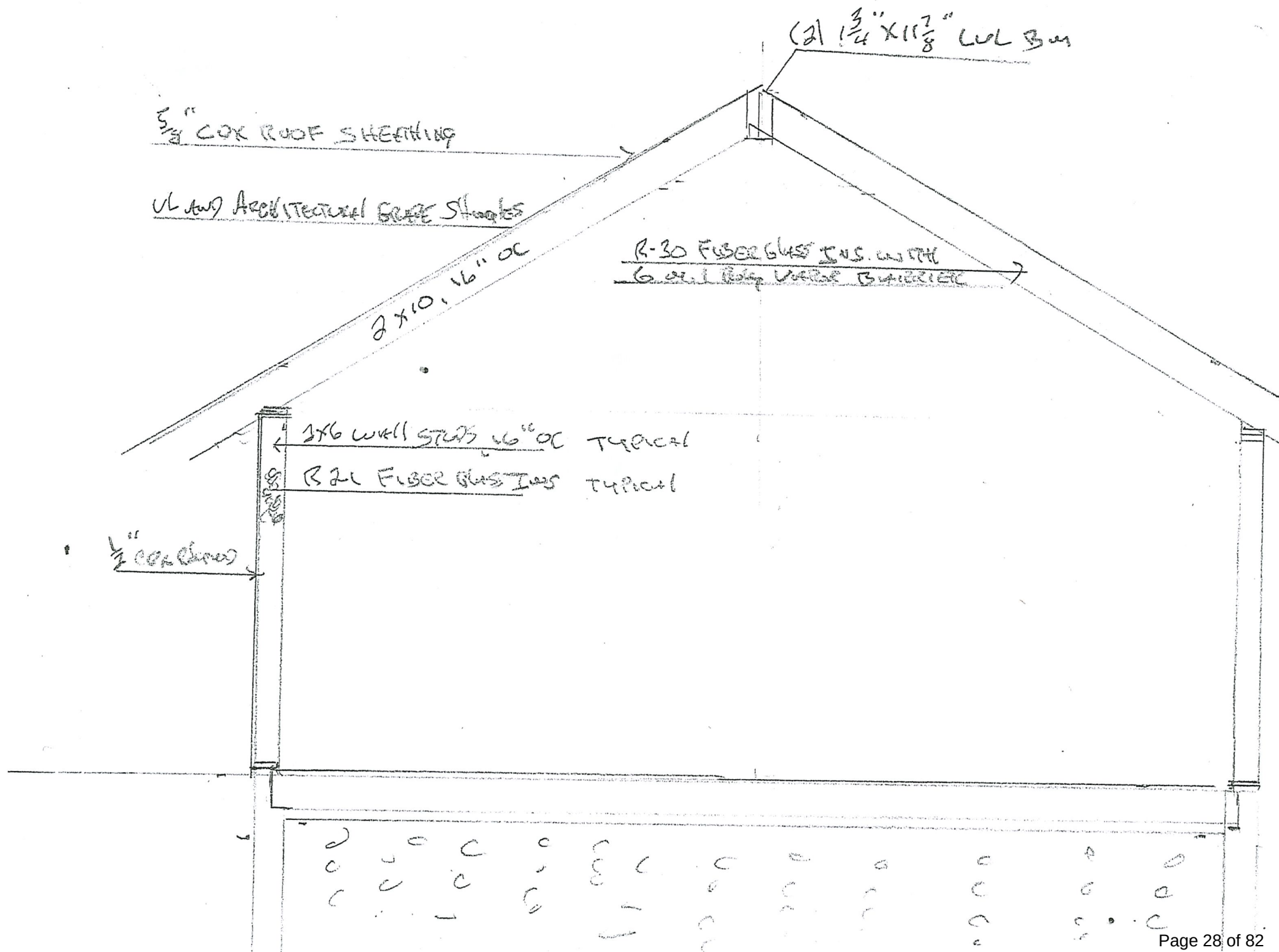


LEFT ELEVATION



RIGHT ELEVATION





From: [City of Lebanon-Planning](#)
To: [Tiffany Adams](#)
Cc: [Nathan Reichert](#)
Subject: FW: [EXTERNAL] Online Form Submission #9579 for Boards and Committees Contact Form
Date: Thursday, February 29, 2024 12:07:45 PM

From: noreply@civicplus.com <noreply@civicplus.com>
Sent: Wednesday, February 28, 2024 6:51 PM
To: webmaster <webmaster@lebcity.com>; Beth Beraldi <beth.beraldi@lebanonnh.gov>; City of Lebanon-Planning <Planning@lebanonnh.gov>
Subject: [EXTERNAL] Online Form Submission #9579 for Boards and Committees Contact Form

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Boards and Committees Contact Form

Please complete this form to contact a City of Lebanon board or committee. Your submission will be received by a city staff member who will forward your communication to members of the board or committee you choose below. Please be aware that your submission will become part of the public record.

Visit our [Boards and Committees page](#) to find rosters, agendas, meeting details, and more. Please [contact the City Manager's office](#) if you have questions about this form.

(Section Break)

Your First Name	Kristi
Your Last Name	Medill
Email Address	ampluskm1@gmail.com
Contact Phone Number	602-272-4835

(Section Break)

Which board or committee do you wish to contact?	Zoning Board
--	--------------

Please enter your
comments:

To: Zoning Board of Adjustment
Subject: ZB2024-03-SE

To Whom It May Concern: We own the residence on 27 Guyer St which borders 31 Guyer St (Lisa M. Green Trust) to the east. My husband and I fully support granting a Special Exemption to Ms Green for the addition of an ADU to be located approx 4.5 feet from the property line.
Respectfully, Kristi Medill and Alexander Medicott

Do you need to attach a
file?

No

Email not displaying correctly? [View it in your browser.](#)



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

Special Exception

Staff Memorandum – ZB2024-04-SE

March 4, 2024 Regular Meeting

James & Andrea Broughton

9 Estabrook Cir (Tax Map 58, Lot 37) Zone R3 Class1

APPLICATION INFORMATION

Agenda Item: 3.C

Application Type:

Special Exception
pursuant to §801.3 and §703.1.

Location:

9 Estabrook Circle
Tax Map 58, Lot 37

Applicant/Property Owner:

James & Andrea Broughton

Zoning District:

Residential Three (R-3) – Class 1

Property Size:

+/-0.23 acres (+/-10,018 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 §310.3)

Overlay Districts:

None

Previous ZBA Action (since 1995):

None

Other Approvals Required:

Building Permit

Attachments:

Application
GIS and street view photos

HEARING NOTICE

James & Andrea Broughton, 9 Estabrook Cir (Tax Map 58, Lot 37), zoned R3: Applicant requests a Special Exception to allow an addition to the existing single-family dwelling, to be located +/- 4.5 feet from the right-side lot line where a right yard setback of 15 feet is required.
ZB2024-04-SE

BACKGROUND

The property is improved with a one-family dwelling constructed in 1950 per the City Assessor's records and is conforming to the R-3 Class 1 District minimum lot size requirement of 10,000 sq. ft. as the lot is 10,018 sq. ft., approx. 80' wide and 117' deep. The R-3 Class 1 standard is for a 75' wide lot frontage. It appears the home itself is conforming to the minimum required side-yard of 15-feet. Currently, there is an aged car port and breezeway attached to the primary house on the property. The existing non-conformity is for a right-side yard setback that is +/- 0' from the right-side property line, with a 15' side-yard setback being required by the ordinance.

PROPOSAL

The applicant proposes to demolish the existing carport and breezeway and construct a 22' x 37' two-bedroom one-bath addition in its place. The proposed addition will remain 4'- 5 1/2" to 6'-3" from the right-side property line. The proposed setback is greater than the current pre-existing legal non-conforming right side-yard setback of +/-0'.

ZONING ORDINANCE REQUIREMENTS

SPECIAL EXCEPTION

Class 1 lots (lots that are served by municipal sewer and water) in the R-3 District must maintain a minimum side yard (i.e. a space unobstructed by buildings and structures) of 15 ft. See the Dimensional Requirements specified in §310.3 of the Zoning Ordinance. §703.1 of the Zoning Ordinance allows the expansion of "any increase in the footprint and/or volume of the non-conforming part of the building or structure," by Special Exception from the Zoning Board of Adjustment. The applicable Special Exception Criteria are as follows:

703.1 Expansion.

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

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

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

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

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

801.3 Special Exceptions.

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

- 1. The Special Exception is specifically authorized by a provision of this Ordinance.*
 - i. Note: The Special Exception is authorized by §703.1.A of the Zoning Ordinance.*
- 2. All special conditions required of the special exception have been met.*
 - i. Note: The special conditions for an expansion of a non-conforming buildings are those set forth above in §703.1.A of the Zoning Ordinance.*
- 3. There are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy.*
 - i. Note: Staff is unaware of any Zoning Ordinance violations on the property.*
- 4. The character of the area shall not be adversely affected. In examining the GIS view of the neighborhood nearly every abutting property has zero-lot-line or near zero-lot-line buildings.*
- 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.*

STAFF MEMORANDUM

ZB2024-04-SE
9 Estabrook Circle
(Tax Map 58, Lot 37)
March 4, 2024 ZBA Meeting
Agenda Item 3.C
Page 4 of 4

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 addressing the §801.3 and §703.1.A criteria in an application received by the Planning and Development Department on 5 Feb 2024 (see attached).

STAFF COMMENTS

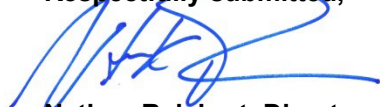
Absent abutter testimony to the contrary, the proposed expansion does not appear to be inconsistent with any of the applicable criteria set forth in §801.3 and §703.1.A.

ATTACHEMENTS

Figure 1. Street View of Subject Property.

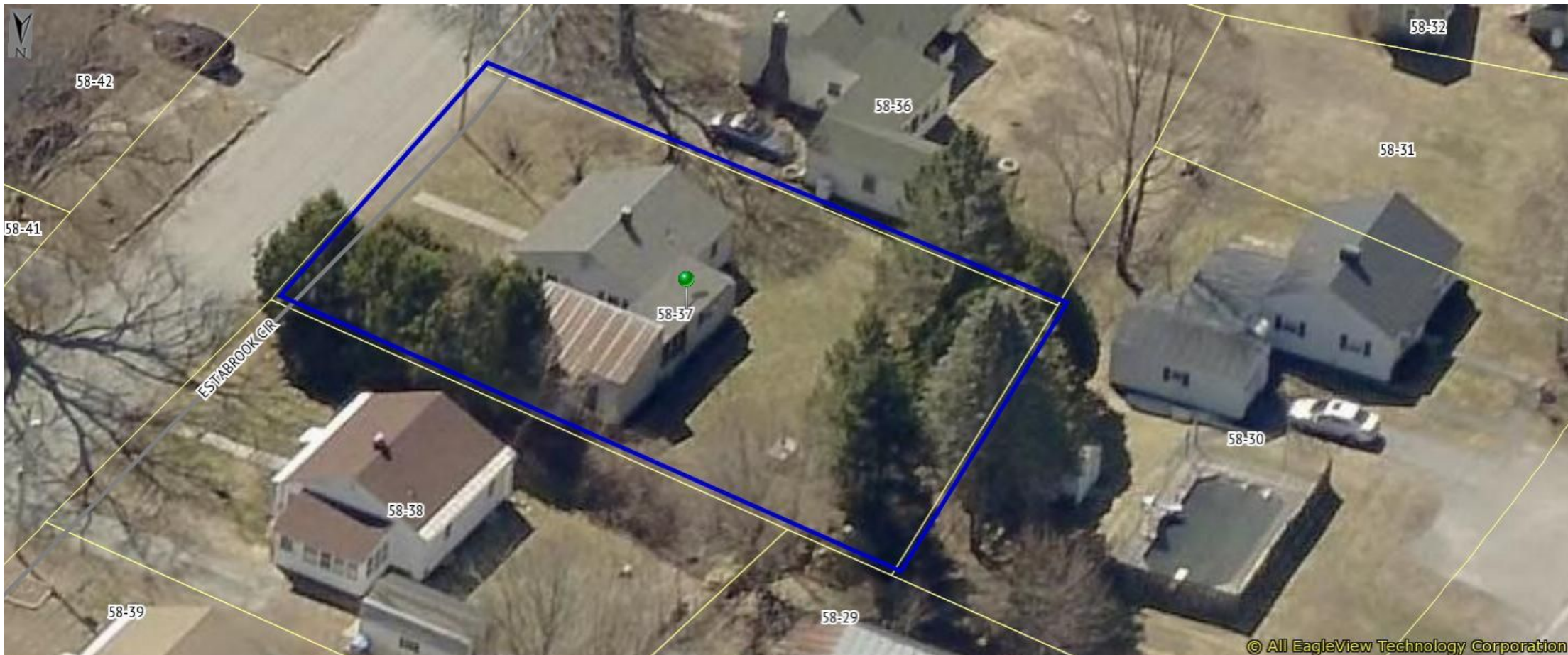
Figure 2. GIS View of Subject Property

Respectfully submitted,



Nathan Reichert, Director
Planning and Development Department
Zoning Administrator

9 Estabrook 1



9 Estabrook 2



© All EagleView Technology Corporation





12 Estabrook Cir

9 Estabrook Cir. West Lebanon

//



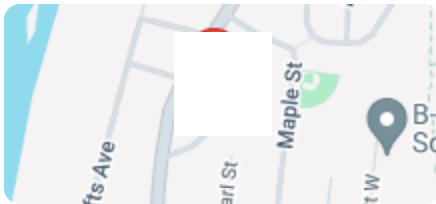
Lebanon, New Hampshire

Google Street View

Jul 2013

See more dates

Image capture: Jul 2013 © 2024 Google





CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

DRAFT DECISION – ZB2024-04-SE

March 4, 2024 Regular Meeting

James & Andrea Broughton

9 Estabrook Cir (Tax Map 58, Lot 37) Zone R3 Class1

DRAFT MOTION for:

Agenda Item: 3.C

Case: ZB2024-04-SE

Request for Special Exception per Section §703.1 and Section §801.3

Motion made by: _____

On March 4th 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared _____ regarding 9 Estabrook Cir (Tax Map 58, Lot 37) Zone R3 Class1. The Applicant requests a Special Exception per Section §703.1 and Section §801.3 of the Zoning Ordinance to allow an addition to the existing single-family dwelling, to be located +/- 4.5 feet from the right-side lot line where a right-yard setback of 15 feet is required.

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 1950. The lot contains a primary residence and a dimensionally non-conforming attached carport and breezeway.
2. As described in the application by the applicant, the applicant proposes to demolish the existing legal non-conforming carport and breezeway and attach a two-bedroom 1-bath addition in its place. The addition will be located partially within the 15-foot right side-yard setback, it will be no closer to the right-side yard lot line than the existing zero lot line carport and will be **+/- 4.5 feet.** from the right property line.
3. Class 1 lots (i.e. lots that are served by municipal sewer and water) in the R-3 District must maintain a minimum side yard (i.e. a space unobstructed by buildings and structures) of 15-feet. Pursuant to section §310.3 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 February 5th 2024.
6. There are no known existing zoning violations on the property.
7. _____

8. _____

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Special Exception criteria set forth in §703.1 and §801.3 of the Zoning Ordinance:

1. The Special Exception is specifically authorized by Section §703.1 and Section §801.3 of the Zoning Ordinance. (801.3.A.1)
2. The following criteria of Section §703.1 **have been / have not been** met: (801.3.A.2)
 - a. The reasonable use of abutting properties shall not be adversely affected by the proposed expansion.

 - b. The proposed expansion shall not render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently nonconforming cannot be made more nonconforming in the absence of a variance.

3. There **are no / are** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy. (§801.3.A.3)
Staff is not aware of any Zoning Ordinance violations on the property.

4. The character of the area **will not / will** be adversely affected. (§801.3.A.4)

5. **No / A** hazard or nuisance will be created. (§801.3.A.5)

6. The capacity of existing or planned community facilities and services (including streets and highways) **will not / will** be adversely impacted. (§801.3.A.6)

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

8. The proposed Special Exception **will / will not** be developed in a manner compatible with the spirit and intent of the ordinance. (§801.3.A.8)

9. The general welfare of the City **will / will not** be protected. (§801.3.A.9)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 4th day of March, 2024, hereby **GRANTS / DENIES** the requested Special Exception pursuant to Section §703.1 and §801.3 of the Zoning Ordinance to permit the construction of an Accessory Dwelling Unit attached to an existing detached garage **+/- 4.5feet** from the right-side property line where a 15-foot setback is required at 9 Estabrook Cir (Tax Map 58, Lot 37), as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit, and shall comply with all applicable local, state, and federal regulations in the construction of the proposed addition.
2. Prior to the issuance of a Building Permit, the Applicant shall obtain applicable City of Lebanon Sewer Use Permit and Water Service Permits from the Lebanon Department of Public Works.

3. _____

4. _____

DRAFT MOTION

ZB2024-03-SE

31 Guyer Street

(Tax Map 91, Lot 100)

March 4th 2024 ZBA Meeting

Agenda Item 3.B

Page **4** of **4**

Motion seconded by: _____

Vote: _____

**CITY OF LEBANON
APPLICATION FOR**

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

PROPERTY OWNER (APPLICANT):

NAME: Andrea Broughton TEL.#: 603-252-5891
 MAILING ADDRESS: 9 Estabrook Circle W. Leb, NH 03784
 E-MAIL ADDRESS: broughtonandrea@hotmail.com

CO-APPLICANT, AGENT, OR LESSEE:

NAME: Jim Broughton TEL.#: 603-252-5852
 MAILING ADDRESS: 9 Estabrook Circle W. Leb, NH 03784
 E-MAIL ADDRESS: jimb52002@yahoo.com

PROJECT LOCATION:

TAX MAP #: 58 LOT#: 37 PLOT #: - ZONE: R3
 STREET ADDRESS OF PROJECT: 9 Estabrook Circle W. Leb, NH 03784
 IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

Adding 2 bedrooms, 1 bath, and a little more living space only for expansion of our small house.

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 March 4th, 2024 unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY OWNER: Andrea Broughton 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: Andrea Broughton DATE: _____

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #			
2/5/24	58/37	ZB2024-045E			

(Last Revised 4/04/18)

**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) _____, Section(s) _____, of the Lebanon Zoning Ordinance.

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

We would like to add on 2 bedrooms, 1 bath, & a little more living space. Existing is so small w/out any storage or basement and our daughter moved home. We are paying for a storage unit and the current attached entry area & carport have damage that should be repaired.

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:

_____.

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

_____.

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

_____.

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

E. That no hazard or nuisance will be created:

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

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

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

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

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.

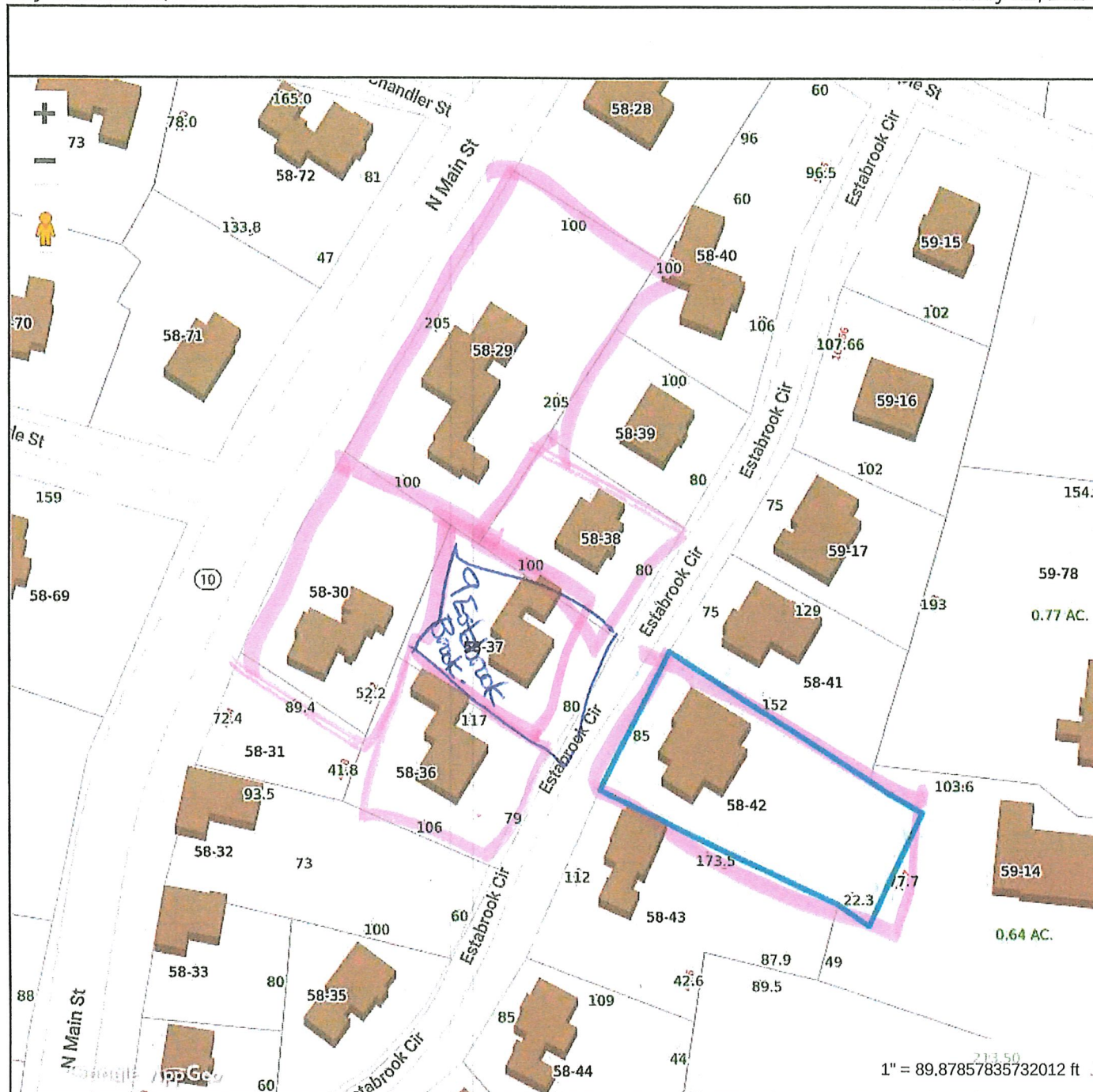
A special exception shall expire if: (1) the use is not in place within two years of the date of issuance of a zoning permit or approval by the Zoning Board of Adjustment for a special exception or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application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

Jim and Andrea Broughton
9 Estabrook Circle, Lebanon, NH

Contractor: ADW Builders,
Canaan NH.

Contact: Walt Hammond
603-304-9798
adwbuilders@yahoo.com





Property Information		
Property ID	58-42	
Location	10 ESTABROOK CIR	
Owner	FRIDAY, DAVID T	
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 11/20/2023 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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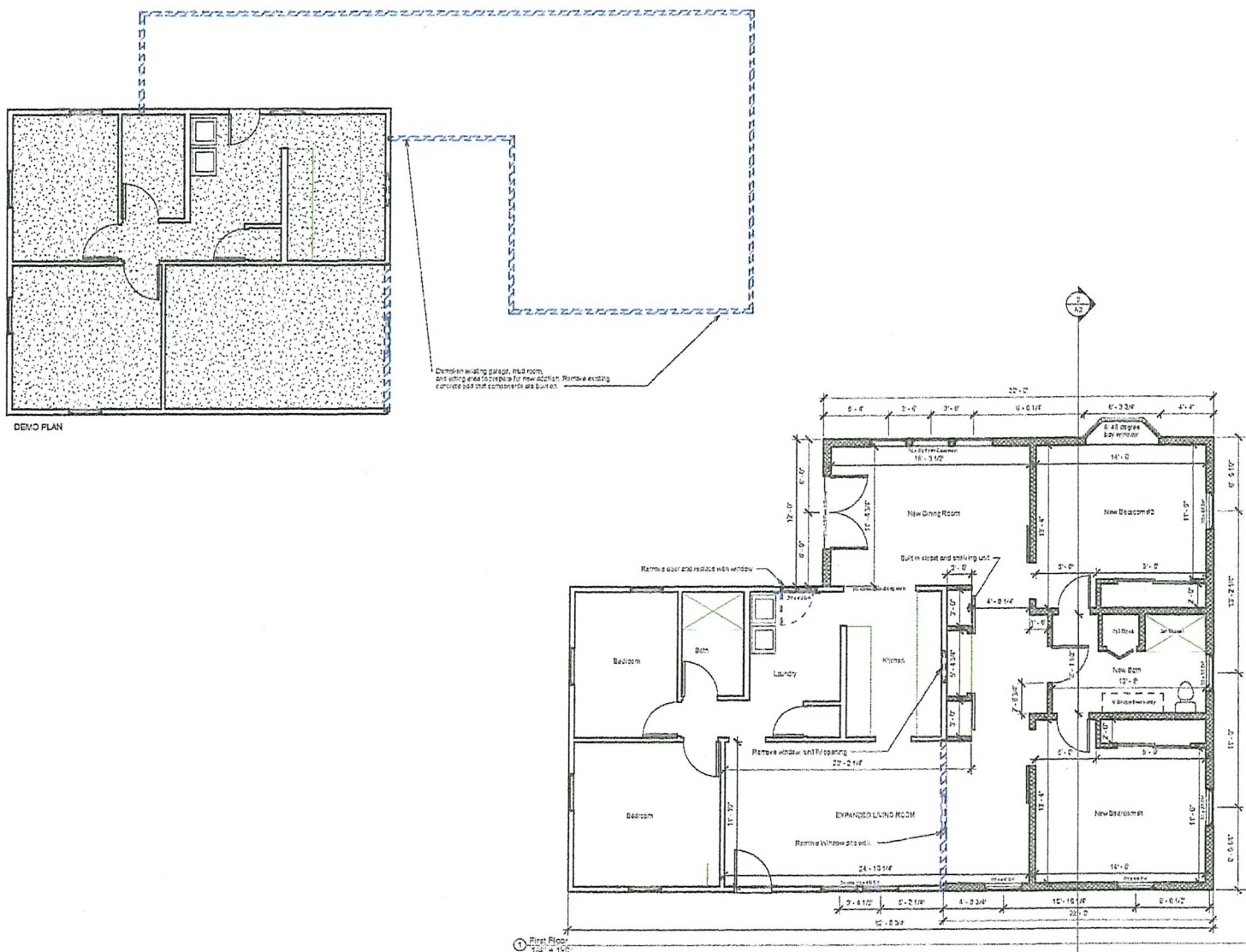
WH BUILDING AND DESIGN LLC
whbulldesign@gmail.com
(603) 304-9798

[illegible]

Broughton
Renovation
First Floor Plan

Project number	Project Number
Date	Issue Date
Drawn by	Author
Checked by	Checker
A1	
Scale	1/4" = 1'-0"

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CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

Staff Memorandum – ZB2024-05-VAR

March 4, 2024 Regular Meeting

PINEWOOD VILLAGE CONDO ASSOC and GEORGE BLIKE & REBECCA JOHNSON
6 Oak Ridge Road Unit 9 (Tax Map 4, Lot 23, Plot 906)

APPLICATION INFORMATION

Agenda Item: 3.D

Application Type:

Variance from §310.3 to construct an attached carport.

Location:

6 Oak Ridge Road, Unit 9
Tax Map 4, Lot 23, Plot 90

Applicant/Property Owner:

Pinewood Village Condo Association
George Blike & Rebecca Johnson

Zoning District:

Residential Three – Class 1 (R-3)

Property Size:

+/-8.16 acres (+/-355,449.6 sq. ft.)
(per the City Assessor's records;
property is not conforming to the
min. required lot size 75' frontage in
the R-3 Class 1 District per §310.3)

Overlay Districts:

None

Previous ZBA Action (since 1995):

None

Other Approvals Required:

Building Permit

Attachments:

Application
GIS and street view photos

HEARING NOTICE

Pinewood Village Condo Association and George Blike & Rebecca Johnson, 6 Oak Ridge Road #9 (Tax map 4, lot 23, Plot 906), zoned R-3: Applicant requests a Variance to allow an addition to the existing condominium unit, to be located +/- 11 feet from the front lot line where 20 feet is required. **ZB2024-05-VAR**

BACKGROUND

The property is improved with a condominium constructed in 1977. Per the City Assessor's records, the condominium lot is conforming to the standard R-3 Class 1 District minimum lot size requirement of 10,000 sq. ft. as the lot is 355,449.6 sq. ft. The lot frontage is non-conforming on Oak Ridge Road is 50' and is 30' on Main Street where the R-3 Class 1 standard is for a 75' wide lot frontage within this Zone. It appears the condo unit #9 is not conforming to the current standard zoning requirements that require a minimum front-yard setback of 20 ft.

PROPOSAL

The applicant proposes to construct an attached 13' by 21'-3" lap pool addition and a 7' to 4' x 12' deck onto the back of the condo. The deck is proposed to be 11'-3" from the front property line and the lap pool 3-season room is proposed to be 15' from the front property line shared with 14 Oak Ridge Road (Tax Map 4, Lot 21). The front yard variance is required to allow the construction of the lap pool and deck within the minimum required 20' front yard.

ZONING ORDINANCE VARIANCE REQUIREMENTS

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

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

801.4 Other Matters C. Notwithstanding Section 801.2, the Board of Adjustment may grant a variance from the terms of this Ordinance without a finding of hardship arising from the condition of the premises and without meeting the other standards of Section 801.2 when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that: (I) any variance granted under this paragraph shall be in harmony with the general purpose and intent of this Ordinance; and (ii) in granting any variance under this paragraph, the Board of Adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises.

APPLICATION AND SUPPORT STATEMENT

The applicant has submitted testimony addressing the Section 801.2 Variance criteria in an application received by the Planning & Development Department on February 5th 2024 (see attached).

STAFF COMMENTS

This is a unique application insofar as it is a variance requested for building onto a Condominium built in 1977. City records of the approvals in 1977 are scarce as a flood in City Hall destroyed much of the records from this era. If standard zoning conditions of R-3 are applied to the property, then it is subject to a 20' Front Yard setback requirement due to the unique configuration of the lot. Setting aside the configuration of individual condos on the lot the main lot's setback requirements prevail given the lack of a record to the contrary. Thus, the applicant requires a variance to build the proposed structures.

There are several ways to interpret the Zoning Ordinance in this case. Clearly a reasonable accommodation under the terms of the Americans with Disability Act could easily apply.

C. Notwithstanding Section 801.2, the Board of Adjustment may grant a variance from the terms of this Ordinance without a finding of hardship arising from the condition of the premises and without meeting the other standards of Section 801.2 when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that: (I) any variance granted under this paragraph shall be in harmony with the general purpose and intent of this Ordinance; and (ii) in granting any variance under this paragraph, the Board of Adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises.

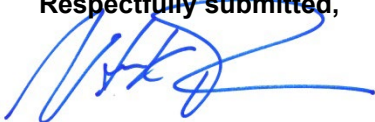
The Board's interpretation of a variance under this standard should rest upon the use of the term "may provide". It appears to be discretion given to the Board to allow for an ADA based variance to occur and it is the discretion of the Board that this Variance may or may not expire upon the person with whom whose health was used to justify the variance no longer needs the accommodation. Essentially, if the Board chooses to use the 801.4C exception they may or may not attach what essentially becomes a "life estate" rider to the approval.

ATTACHEMENTS

Figure 1. Street View of Subject Property.

Figure 2. GIS View of Subject Property

Respectfully submitted,



STAFF MEMORANDUM

ZB2024-05-VAR
6 Oak Ridge Road Unit 9
(Tax Map 4, Lot 23, Plot 906)
March 4th 2024 ZBA Meeting
Agenda Item 3.C
Page 4 of 4

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



Property Information

Property ID 4-23-906
 Location 6 OAK RIDGE RD 9
 Owner BLIKE, GEORGE T



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 11/20/2023
 Data updated 11/18/2018

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



Property Information Property ID 4-23-906 Location 6 OAK RIDGE RD 9 Owner BLIKE, GEORGE T	 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 11/20/2023 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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6 OAK RIDGE RD 9

Location 6 OAK RIDGE RD 9

Mblu 4/ 23/ 906/ /

Acct# 97

Owner BLIKE, GEORGE T &

PBN

Assessment \$413,400

Appraisal \$413,400

PID 68

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$413,400	\$0	\$413,400
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$413,400	\$0	\$413,400

Owner of Record

Owner	BLIKE, GEORGE T &	Sale Price	\$310,000
Co-Owner	JOHNSON, REBECCA L	Certificate	
Address	9 PINWOOD VILLAGE	Book & Page	4309/0253
	WEST LEBANON, NH 03784	Sale Date	08/22/2017
		Instrument	15

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
BLIKE, GEORGE T &	\$310,000		4309/0253	15	08/22/2017
MCKEOWN, JAMES P & JUDITH S	\$0		2548/0217	99	06/12/2001
VONHOORN, ANN M, TTEE	\$235,000		2548/0218	99	05/22/2001
VONHOORN, ANN M TTEE	\$0		2384/0312	99	03/19/1999
MACADAM, RILLA R	\$0		0/0	99	01/24/1999

Building Information

Building 1 : Section 1

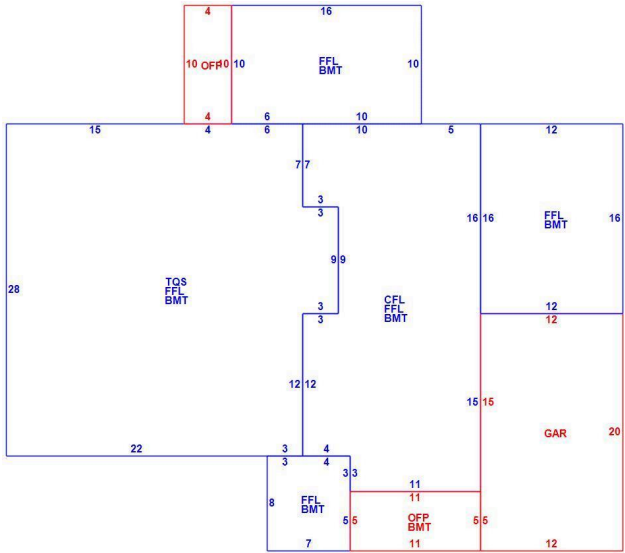
Year Built:	1977
Living Area:	2,106
Replacement Cost:	\$486,124
Building Percent Good:	81
Replacement Cost Less Depreciation:	\$413,400
Building Attributes	
Field	Description
CNS_HTWTR_TYPE	
CNS_KITCHEN_FUNC	
CNS_NUM_PART_BEDRM	
CNS_PARK_OWN	
Model	RES CONDO
Style	CONDO-TNHS
Grade	
Grade	GOOD (-)
Stories	1T
Stories	
Comm Units	0
Exterior Wall 1	AVERAGE
Exterior Wall 1	VINYL
Exterior Wall 2	
Exterior Wall 2	
Roof Structure	
Roof Structure	GABLE
Roof Cover	
Roof Cover	ASPHALT SH
Interior Wall 1	DRYWALL
Interior Wall 2	
Interior Floor 1	CARPET
Interior Floor 2	
Basement Floor	CONCRETE
% Heated	100.00
Heat Fuel	GAS
Heat Type	FORCED H/W
2nd Heat Type	
# Heat Systems	1.00
AC Percent	50.00
Bedrooms	3
Full Bath(s)	2

Building Photo



(<https://images.vgsi.com/photos/lebanonnhPhotos//9201.JPG>)

Building Layout



([ParcelSketch.ashx?pid=68&bid=68](#))

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
FFL	1ST FLOOR	1,561	1,561
TQS	3/4 STORY	727	545
BMT	BASEMENT	1,616	0
CFL	CATHEDRAL CEILING	426	0
GAR	GARAGE	240	0
OFF	OPEN PORCH	95	0
		4,665	2,106

Bath Rating	AVERAGE
Half Bath(s)	1
Extra Fixture(s)	0
Plumbing	A
Kitchen(s)	1
Kitchen Rating	AVERAGE
Extra Kitchen(s)	0
Total Rooms	5
Frame	
Frame	WOOD
Foundation	
Foundation	CONCRETE
Parking	
Fireplace(s)	1
WS Flues	0
WS Flue Rating	
Interior/Exterior	
View	AVERAGE
Electric	ADEQUATE
Insulation	TYPICAL
Partition	TYPICAL
Solar Hot Water	No
Central Vac	No
% Sprinkled	0
Nbhd Modifier	

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use		Land Line Valuation	
Use Code	1020	Size (Acres)	0
Description	CONDO	Frontage	
Zone		Depth	
Neighborhood	PV	Assessed Value	\$0
Alt Land Appr	No	Appraised Value	\$0
Category			

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2023	\$413,400	\$0	\$413,400
2022	\$413,400	\$0	\$413,400
2021	\$312,100	\$0	\$312,100

Assessment			
Valuation Year	Improvements	Land	Total
2023	\$413,400	\$0	\$413,400
2022	\$413,400	\$0	\$413,400
2021	\$312,100	\$0	\$312,100



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT VARIANCE

Decision Template - ZB2024-05-VAR

March 4, 2024 Regular Meeting

PINEWOOD VILLAGE CONDO ASSOC and GEORGE BLIKE & REBECCA JOHNSON
6 Oak Ridge Road Unit 9 (Tax Map 4, Lot 23, Plot 906)

DRAFT MOTION for:

Agenda Item 3.C

Case ZB2024-05-VAR

Request for Dimensional Variance from Section §310.3

Motion made by: _____

On March 4th 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared _____ regarding 6 Oak Ridge Road Unit 9 (Tax Map 4, Lot 23, Plot 906). The Applicant requests an 8' – 9" front yard dimensional variance from section §310.3 to construct a deck and lap pool enclosure +/-11' – 3" from the property line with 14 Oak Ridge Road.

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 condominium complex constructed in 1977. At 355,449.6 sq. ft., the lot is conforming to the 10,000 sq. ft. minimum lot size required for Class 1 lots in the R-3 District.
2. The applicants propose to construct a deck and a lap pool enclosure. The deck is proposed to be located +/-11' – 3" from the front lot line shared with the abutting property at 14 Oak Ridge Road (Tax Map 4, Lot 21) where a minimum unobstructed front yard of 20' is required.
3. In the R-3 District, Class 1 lots must maintain a minimum front yard unobstructed by buildings and structures of 20' pursuant to Section §310.3 of the Zoning Ordinance. Therefore, an 8' – 9" dimensional variance is required to permit construction of the proposed deck and lap pool enclosure, which will encroach approximately 11' – 3" into the minimum required 20' front yard.
4. To obtain the requested Variance from section §310.3, 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).
5. The applicants have submitted testimony addressing the section §801.2 Variance criteria in an application received by the Planning and Development Department on February 5th 2024.

6. _____

7. _____

II. CONCLUSIONS OF LAW

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

1. The variance **will not / will** be contrary to the public interest. (Section 801.2.A.1)

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

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

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

5. Literal enforcement of the provisions of the ordinance **would / would not** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area (Section 801.2.A.5.a):

6. There **is not / is** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. (Section 801.2.A.5.a.i)

7. The proposed use **is / is not** a reasonable one. (Section 801.2.A.5.a.ii)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **4th day of March, 2024**, hereby **GRANTS / DENIES** the requested Variances from section §310.3 of the Zoning Ordinance to allow the construction of a deck and pool enclosure +/- 8' - 3" from the front yard at **6 Oak Ridge Road Unit 9 (Tax Map 4, Lot 23, Plot 906)** where a minimum unobstructed front yard of 20' is required, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit.

2.

3.

Motion seconded by:

Vote:

CITY OF LEBANON APPLICATION FOR

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

PROPERTY OWNER (APPLICANT):

NAME: Pinewood Village Condominium Association TEL.#: (603)359-3256

MAILING ADDRESS: Moseley Associates Ltd. (Property Managers); PO Box 706; White River Jct., VT 05001

E-MAIL ADDRESS: Pinewoodvillageboard@gmail.com

CO-APPLICANT, AGENT, OR LESSEE:

NAME: George Blike TEL.#: (603)359-3256

MAILING ADDRESS: 9 Pinewood Village Rd; W Lebanon, NH 03784

E-MAIL ADDRESS: georgeblike@comcast.net

PROJECT LOCATION:

TAX MAP #: LOT#: 4-23-906 PLOT #: ZONE: R3

STREET ADDRESS OF PROJECT: 6 Oakridge Rd; Unit #9; W Lebanon, NH 03784

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

FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT: A structure (13'x20'3") addition that will enclose an 8'x11' hydrotherapy pool, 60" deep. There will be a foundation, roof, walls and windows "sunroom" type enclosure that matches the conventions of the condo association standards/requirements. The room will be level with the ground floor of the existing structure with crawl area.

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:

DATE: 2-12-24

PROPERTY OWNER
Board President, PWV Condominium Association

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.

DATE: _____

PROPERTY OWNER

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #			
2/5/24	4/23/906	ZB2024-05-VAR			

CITY OF LEBANON APPLICATION FOR

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

PROPERTY OWNER (APPLICANT):			
NAME: Pinewood Village Condominium Association		TEL.#: (603)359-3256	
MAILING ADDRESS: Moseley Associates Ltd. (Property Managers); PO Box 706; White River Jct., VT 05001			
E-MAIL ADDRESS: Pinewoodvillageboard@gmail.com			
CO-APPLICANT, AGENT, OR LESSEE:			
NAME: George Blike		TEL.#: (603)359-3256	
MAILING ADDRESS: 9 Pinewood Village Rd; W Lebanon, NH 03784			
E-MAIL ADDRESS: georgeblike@comcast.net			
PROJECT LOCATION:			
TAX MAP #:	LOT#: 4-23-906	PLOT #:	ZONE: R3
STREET ADDRESS OF PROJECT: 6 Oakridge Rd; Unit #9; W Lebanon, NH 03784			
IS THIS PROPERTY LOCATED IN THE: WETLANDS ☐ YES ☒ NO HISTORIC DISTRICT ☐ YES ☒ NO			
FLOOD PLAIN ☐ YES ☒ NO			
SCOPE OF PROJECT: A structure (13'x20'3") addition that will enclose an 8'x11' hydrotherapy pool, 60" deep. There will be a foundation, roof, walls and windows "sunroom" type enclosure that matches the conventions of the condo association standards/requirements. The room will be level with the ground floor of the existing structure with crawl area.			
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:			
		DATE: 2-12-24	
PROPERTY OWNER			
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.			
		DATE: _____	
PROPERTY OWNER			

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #

SUPPORT STATEMENT FOR A VARIANCE

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

CITY OF LEBANON, NEW HAMPSHIRE

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

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

I (we) hereby request a variance from the terms of Article(s) III
Section(s) 310.3 of the Lebanon Zoning Ordinance.

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

801.2 Variances.

- A. To authorize, upon appeal in specific case, variances from the terms of this ordinance, no variance shall be granted unless each of the following conditions are met:
1. That the variance, if authorized, will not be contrary to the public interest;
The proposed structure will not alter the character of the Pinewood Village or Oakridge neighborhoods. It will not threaten the health, safety or welfare of the public. There will be no impact on water supply lines or storm drainage.
 2. That the variance will observe the spirit of the Ordinance.
The proposed structure does not create overcrowding or noise and will visually match other structures in Pinewood Village and Oakridge. It will not alter the essential character of the neighborhood.
 3. That by the granting of the variance, substantial justice will be done;
The owner has a medical condition with special requirements for treatment. She needs year-round hydrotherapy/physical therapy with space for wheelchair access. The proposed structure will allow her to age in place. It will not pose a burden to the public. Note: This is the minimum size pool and associated space to allow access that is recommended by the owner's medical caregivers. Her condition does not allow for alternatives (such as using a public pool). Not having this medically necessary treatment, and the structure to enclose it, would be an injustice because it poses a significant loss to the overall well-being of the owners that is not outweighed by a gain to the general public. Visually, it will meet the standards of Pinewood Village and Oakridge. There are existing trees that will maintain a visual barrier between the proposed structure and abutting neighbors. Granting the variance relieves the injustice without compromising public interests.
 4. That the variance, if authorized, will not diminish the values of surrounding properties
in Pinewood Village or the abutting Oakridge homes. and;

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

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

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

Providing relief from the 20' setback requirement by 5' (to 15') will not create overcrowding or negatively impact water-lines or storm water drainage.

(ii) The proposed use is a reasonable one.

The proposed structure will enclose a hydrotherapy pool to help treat the owner's medical condition. In all other ways, this home has been modified to be accessible and meet her medical care needs.

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

The majority (21 of 31) of homes within Pinewood Village condo association would not require a variance due to the existing distance of those structures from property lines. A map is provided showing this unit #9 hardship as described.

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

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

Statement of Intent:

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

Pinewood Village with Boundary for Condo Association



Property Information

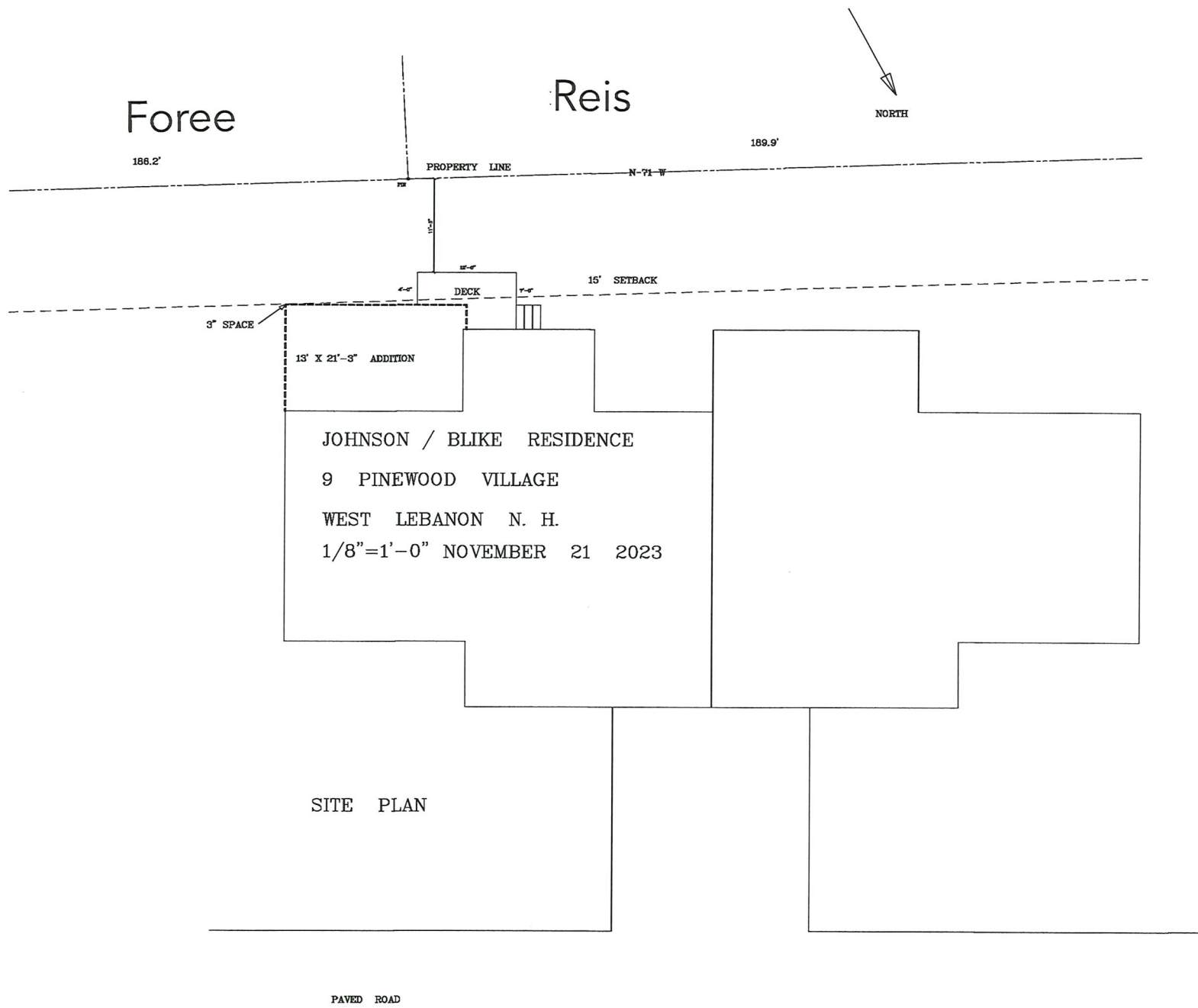
Property ID 4-23
Location 6 UNASSIGNED RD
Owner PINEWOOD VILLAGE CONDO ASSOCIA

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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Geometry updated 11/20/2023
Data updated 11/18/2018

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



Unit 9 Pinewood Village with Abutters

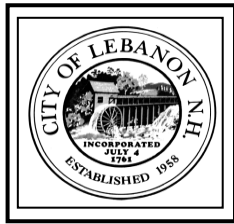


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CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Zoning Board of Adjustment

FROM: Planning and Development Department Staff

RE: Request by Cicotte Properties, LLC to Amend Section 303.2 of the Zoning Ordinance – IND-L District Table of Uses

DATE: February 27, 2024

On January 4, 2024, the City received a request from Dan Nash, of Advanced Geomatics, on behalf of Cicotte Properties, LLC, pursuant to Section 1000.2.C of the Zoning Ordinance, for an amendment to Section 303.2 of the Zoning Ordinance to allow “vehicular sales” by Conditional Use in the IND-L District. The proposal is discussed in the attached staff memo dated January 9, 2024.

On January 17, 2024, the City Council agreed to submit the petitioner’s proposed amendment to the Zoning Board of Adjustment, Planning Board and Conservation Commission for review and comment, in accordance with Section 1000 of the Zoning Ordinance, as follows:

“Assistant Mayor Below MOVED, that the Lebanon City Council, in accordance with the City of Lebanon Zoning Ordinance, Article X, Section 1000.3, Amendment Procedures, hereby submits the Zoning Ordinance amendment to add “Vehicular sales” to the Light Industrial (IND-L) District Table of Uses as a use allowed by Conditional Use Permit as described in a January 2, 2024 letter from Daniel Nash of Advanced Geomatics & Design to the Planning Board, Conservation Commission, and Zoning Board of Adjustment for their review and comment. The City Council hereby sets the following tentative review schedule:

City Council’s decision to proceed – January 17, 2024

Legal Review – by February 1, 2024

Planning Board – February 26, 2024

Zoning Board of Adjustment March 4, 2024

Conservation Commission – March 14, 2024

City Council Work Session – March 20, 2024

City Council Public Hearing – April 3, 2024”

Pursuant to Section 1000.3.B.1 of the Zoning Ordinance, the Zoning Board is required to “comment on the proposed amendment as to whether it would be inconsistent with other applicable sections of the Ordinance, does not conflict with other sections of the Ordinance, and the meaning and effect is understood. The ZBA shall not comment as to whether or not the amendment is desirable from a planning viewpoint.”

For the Board’s reference and review, please find attached the following:

- Staff memo to the City Council, dated January 9, 2024, providing a description of the proposed amendment as well as staff’s recommendations

STAFF MEMORANDUM

Cicotte Properties, LLC
Proposed Zoning Amendment
March 4, 2024 ZBA Mtg
Page 2 of 2

- January 4, 2024, rezoning request letter from Dan Nash, of Advanced Geomatics, on behalf of Cicotte Properties, LLC, with attachments
- September 28, 2023 rezoning request letter from Dan Nash, of Advanced Geomatics, on behalf of Cicotte Properties, LLC, without attachments
- A legal opinion from Christine Fillmore, Esq., dated February 26, 2024

Once review has been completed by the City's land use boards, the City Council will hold a public hearing followed by a vote on whether to adopt the proposed amendment to Section 303.2.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council

CC: Shaun Mulholland, City Manager
David Brooks, Deputy City Manager

FROM: Planning and Development Department Staff

RE: Request by Cicotte Properties, LLC, to Amend Section 303.2 of the Zoning Ordinance (IND-L District Table of Uses)

DATE: January 9, 2024

On September 28, 2023, the City received a request from Dan Nash, of Advanced Geomatics and Design, on behalf of Cicotte Properties, LLC, pursuant to Section 1000.2.C of the Zoning Ordinance, for three Zoning Map amendments and an amendment to Section 311A.2 of the Zoning Ordinance to add several additional uses as permitted uses in the R-O-1 District. Cicotte Properties, LLC's proposed amendments are outlined in the attached September 28, 2023 rezoning request letter from Dan Nash, PE.

As set forth in the attached memo from Mr. Nash dated January 2, 2024, the applicant has narrowed the scope of their zoning amendment request, which is now limited to the following:

1. Amend Section 311A.2 of the Zoning Ordinance to add "vehicular sales" as a use allowed by Conditional Use Permit in the Residential-Office-One (R-O-1) District. ("Cicotte Amendment #1")
2. Amend Section 303.2 of the Zoning Ordinance to add "vehicular sales" as a use allowed by Conditional Use Permit in the Light Industrial (IND-L) District. ("Cicotte Amendment #2")

Regarding Cicotte Amendment #1, a public hearing has been scheduled for January 17, 2024.

As discussed with the Council at its January 3, 2024 meeting, the City's legal counsel considers Cicotte Amendment #2 to be substantially different from the amendments as first presented on October 18th, and concluded that the proposed amendment would need its own review in accordance with the procedures outlined in Section 1000 of the Zoning Ordinance. Based on legal counsel's recommendation, the Council agreed that Cicotte Amendment #2 should be reviewed separately from Cicotte Amendment #1 which was fully reviewed under the Section 1000 process.

Note that Mr. Nash's January 2nd letter and materials refer to adding "auto sales and service" in the IND-L, which is not a use category identified in the Zoning Ordinance. Rather, staff recommends that the Council consider Cicotte Amendment #2 as a request relating to the existing "vehicular sales" category which is defined in Appendix A of the Zoning Ordinance as follows:

The display and sales of new or used motor vehicles, motorcycles, recreational vehicles, manufactured homes, and boats. No retail sale of gasoline or oil is

permitted. Vehicular sales shall include facilities for the short term leasing of automobiles and trucks to the end consumer.

Note that the “vehicular sales” use category includes all uses that are accessory to the primary “vehicular sales” use, including but not limited to auto repair.

MASTER PLAN

The City’s current Master Plan, adopted in March 2012, describes the current land use of the Exit 18 area as follows [Section 2|C-2b]:

- **Exit 18.** In the vicinity of Exit 18, there are several auto-related business (gas stations, convenience stores, auto dealerships, trucking facilities), as well as additional general commercial uses within close proximity (hotels, retail, etc.) In recent years, new construction and some redevelopment has been occurring in this area.

The Master Plan identifies the desired land uses north of Exit 18 as including “small-scale commercial, light industrial, office and residential uses”, but also recommends a study of the Route 120 corridor to address traffic patterns, land uses, and aesthetic concerns. See Section 2|D-2j:

- 2|D-2j **Heater Road-Route 120-Evans Drive-Hanover Street.** For the Heater Road area, the general recommendation is to determine the appropriate level and type of future development. The area surrounding the Hanover Street School and Lebanon High School would be appropriate for mixed-use development, including small-scale commercial, light industrial, office, and residential uses. Because of the proximity to schools and residential areas, surrounding wetlands, and difficult access for traffic from Route 120 onto Evans Drive, development must meet well-defined performance standards for traffic, hours of operation, impervious surface, and parking. A study of the entire Route 120 corridor is needed to address traffic patterns, land uses, and aesthetic concerns. The City supports the NHDOT’s position that no further curb cuts should be granted on Route 120 north of Exit 18. The entry corridor from Exit 18 to Hanover Street should be landscaped by the state to reduce the current expanse of impervious pavement.

See also Action# 2.2.A6 (“Conduct a study of the Route 120 corridor to address traffic patterns, land uses & aesthetic concerns”); and Action# 2.3.A10 (“Determine the appropriate level and type of future development in the Heater Road area”).

RECOMMENDATIONS:

Staff recommends the City Council consider postponing the applicant’s request in light of a pending land use study of the Route 120 corridor. Pursuant to the recommendations of the Master Plan (as described above), the City has contracted with VHB to prepare a neighborhood plan for the Route 120 corridor extending from Exit 18 to the Hanover line. A project “kick off” meeting was held with staff on January 3, 2024. The study will identify existing land uses and projected development demands along the corridor and will likely result in proposed amendments to the Zoning Ordinance to accommodate desired growth and uses. To add “vehicular sales” at this time on an ad-hoc basis is premature given the pending neighborhood master planning effort, the results of which are expected in the late spring/summer with zoning amendments to be presented to the City Council for “kick off” in October.

Alternatively, should the City Council elect to proceed with consideration of Cicotte Amendment #2 now, the Planning and Development Department recommends that the Council establish a

tentative schedule for review, as is required pursuant to Section 1000.3.A of the Zoning Ordinance. Staff offers the following tentative schedule for review and comment:

City Council decision to proceed: **January 17, 2024**
Legal review: **by February 1, 2024**
Planning Board: **February 26, 2024**
Zoning Board: **March 4, 2024**
Conservation Commission: **March 14, 2024**
City Council setting public hearing: **March 20, 2024**
City Council public hearing: **April 3, 2024**

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Supporting Materials:

- September 28, 2023 rezoning request letter from Dan Nash, of Advanced Geomatics, on behalf of Cicotte Properties, LLC, including attachments
- January 2, 2024 letter from Dan Nash, of Advanced Geomatics and Design, on behalf of Cicotte Properties, LLC, including attachment



TO: NATHAN REICHERT, PLANNING & DEVELOPMENT DIRECTOR

FROM: DANIEL A. NASH, PE

RE: PROPOSED ZONING CHANGES

CC: SHAUN MULHOLLAND, CITY MANAGER

DATE: 2 JANUARY 2024

In reviewing the City Council agenda for 3Jan24, I observed what appears to have been an oversight. On item 10.G., the item includes no mention of the petitioned changes brought before the city council on 18Oct23. At that meeting, the council directed that the petitioned changes track with those prepared by planning staff, being routed to the Zoning and Planning Boards and the Conservation commission.

At the Planning Board meeting on 11Dec23, the petitioned requests were narrowed to include automobile sales and service as a Conditional Use in the RO-1 and IND-L zones. This refinement is acceptable to the petitioner. Attached is a transcription of the motion made by the Planning Board. I have attached recommended changes to the zoning tables for each zone. As I understand, the Zoning Board and Conservation Commission comments do not conflict with the Planning Board recommendation.

Can you please ensure that this information is sent to the City Council as supplemental information for Item 10.G. on their 3Jan24 meeting? Please let me know if you have any questions regarding this request.

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SECTION 303 LIGHT INDUSTRIAL DISTRICT (IND-L).

303.1 Purpose.

The purpose of the IND-L District is to provide land in appropriate locations for the establishment of manufacturing plants and other businesses of a similar nature, which improve employment opportunities and strengthen the economic base of the city. Such activities should not adversely affect the natural environment, adjacent residential areas or community facilities. A variety of manufacturing, distribution and service industries, and certain limited support activities are allowed in the district. However, in order to preserve appropriate land for such uses, residential uses and many types of commercial uses, such as retailing and **personal services**, are not allowed.

303.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Commercial/Non-Residential</u> 1. Airport 2. Bus terminal 3. Essential service 4. Equipment and machinery sales, rental and service 5. Group day care facility per Section 604 6. Health club 7. Light industry 8. Local government use 9. Outdoor storage per Section 303.4 (less than 20%) 10. Plumbing, electrical or carpentry shop 11. Publishing/printing 12. Research laboratory 13. Renewable energy system per Section 612 14. Retail product pickup 15. Retail showroom per Section 303.5 (less than 10%) 16. Trucking terminal 17. Warehouse	<u>Commercial/Non-Residential</u> 1. Care and treatment of animals 2. Contractor's yard 3. Educational facility, college/university 4. Educational facility, vocational school
	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Planned Developments</u> 18. Industrial PUD per Section 501 19. Planned business park per Section 508	<u>Commercial/Non-Residential</u> 1. Car wash 2. Inpatient rehabilitation facility 3. Office 4. Outdoor storage per Section 303.4 (more than 20%) 5. Retail showroom per Section 303.5 (between 10-20%) 6. Auto sales and Service

SECTION 311A RESIDENTIAL-OFFICE-ONE DISTRICT (R-O-1).

311A.1 Purpose.

The purpose of the R-O-1 district is to provide for well-planned neighborhoods of **offices** and higher density housing by carefully guiding the integration of multi-residential housing and **office** uses. The district balances the goals of: (1) preserving the economic viability of older, large **dwelling**s modified to accommodate multiple residential units or **office** space or both; (2) providing for attractive locations for small **offices**; and (3) providing for new **office** buildings compatible with surroundings.

311A.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> One-family dwelling Two-family dwelling Multi-family dwelling (4 dwelling units or less) per Section 601 Accessory dwelling unit (ADU) per Section 610 <u>Commercial/Non-Residential</u> - Construction of new office building (3,000 sq. ft. or less) per Section 601 - Conversion of a dwelling to office use per Section 601 Financial institution Group day care facility per Section 604 Home business per Section 600 - House of worship Personal service Renewable energy system per Section 612 <u>Planned Developments</u> - PURD per Section 501	<u>Residential</u> Multi-family dwelling (5 dwelling units or more) per Section 601 Senior housing complex <u>Commercial/Non-Residential</u> - Construction of new office building (3,001 sq. ft. – 6,000 sq. ft.) per Section 601 Educational facility, college/university Educational facility, primary/secondary Essential service - Funeral home Group residence Health club Hospice Lodging house Public safety facility Recreational facility, indoor Recreational facility, outdoor Tourist home (or bed and breakfast facility)

	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
	<u>Residential</u> 1. Cottage development per Section 509 2. Auto sales and Service

311A.3 Table of Area, Dimensions and Coverage.

Minimum Lot Size

Class	Area	Width	Additional Area per D.U. After Two	Maximum Height
1	10,000 sq.ft.	75'	3,000 sq.ft.	45'
2	15,000 sq.ft.	75'	5,000 sq.ft.	45'
3	40,000 sq.ft.	100'	15,000 sq.ft.	45'

Minimum Yard

Class	Front	Side	Rear	Maximum Building Coverage
1	20'	15'	20'	25%
2	20'	15'	20'	20%
3	25'	25'	30'	15%

Planning Board Motion

Extracted from meeting media for 11Dec2023 meeting

Motion is on media from time stamp 2:22:28 to 2:25:13.

Richard Ford Burley moved: the Planning Board would like to recommend that

a) it would seem to us to be acceptable that allowing auto sales and service in the IND-L and RO-1 zones only as a Conditional Use could be acceptable as a stop gap measure given the pending Route 120 neighborhood planning effort

b) we would like to strongly encourage matters like the present to be considered in the pending neighborhood planning effort and potential rezoning

c) we believe that Lot 63-4 should be left zoned as RL-3 pending further zoning and environmental review.

Seconded by Jeremy Rutter.

Vote 6-0 in favor.



28 September 2023

Honorable Mayor and City Council
City of Lebanon
51 North Park Street
Lebanon, NH 03766

Re: Request for Zoning Changes

Dear Mayor and Councilors:

On behalf of Cicotte Properties, this letter is being written to request zoning changes to be part of the city's annual zoning review.

Request #1. Rezone parcels 64-30 and 78-61 on Little Heater Road to GC (see attached "Little Heater").

Parcel 64-30 is an auto dealership and has been since 1985. The existing operation essentially maxes out the usable property. As can be seen on the sketch, the parcel is divided by a drainage feature. The land on the west side of the drain feature is likely wetlands and difficult to permit for use. The inclusion of the vacant parcel to the south, 78-61, is to preclude a claim of "spot zoning". As discussed, there is little risk of this change promoting a project that has harmful impacts, as it is essentially fully developed. The need is to restore the use of this land as a "Permitted Use". This status was lost when the zoning was changed to IND-L some time ago. This change placed an unnecessary burden on the landowner to obtain either a zoning special exception or a variance to make any changes to the property. The city's recent change to the expansion of non-conforming properties required the applicant to obtain a Variance to expand a legitimate addition to an auto dealership. This property has been a responsible and productive business for the city. The property generates roughly \$90,000 of tax revenue each year.

Restoring the proper zoning to these parcels would be just, appropriate, and not cause the potential for harmful impacts from development.

Request #2. Rezone parcels 78-40-1, 78-40-2, and 63-4 on Evans Drive to GC (see attached "Evans Drive").

These parcels were GC before their conversion to RO-1. It is my opinion that this change was inappropriate for the parcels involved and should be undone. In particular, the zoning of parcel 64-3 to RL-3 was "Spot zoning" and should never have been allowed. Parcel 78-40-2 has been an auto dealership since the 1960's and it is unjust for it to lose its "Permitted Use" status for no legitimate public purpose. There is no need or purpose for residential uses on these properties.

Request #3. Rezone parcel 63-4 on Evans Drive to RO-1 (see attached “Evans Drive”).

If request #2 does not find favor with the city, we request Parcel 63-4 be converted to RO-1, to be zoned as the abutting parcels. The zoning of parcel 64-3 to RL-3 was “Spot zoning” and should never have been allowed.

Request #4. Add several uses allowed in GC to be allowed in RO-1 by Special Exception or Conditional Use (see attached “GC”).

If requests #2 or #3 do not find favor with the city, we request the city allow several uses, namely uses 25-31, be allowed in the RO-1 zone as Special Exceptions or Conditional Uses. These uses were permitted uses before the parcels were inappropriately converted to RO-1 from GC. By placement of the uses under Special Exception or Conditional Use, allows additional city review of proposed uses to prevent adverse impacts to the city from development of these uses.

Please let me know if you have any questions regarding this request.

Sincerely,

Daniel A. Nash, PE
Principal

Attachments:
-Little Heater
-Evans Drive
-GC

CC: Johanna Cicotte

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February 26, 2024

Nathan Reichert, Director of Planning & Development
City of Lebanon
51 S. Park Street
Lebanon, NH 03766

**RE: Petitioned Zoning Amendment
Uses in IND-L District; Section 303.2**

Mr. Reichert:

This is a preliminary legal opinion as required by Section 1000.3(B)(2) of the Lebanon Zoning Ordinance concerning a proposed amendment to add “auto sales and service” as a Conditional Use in the IND-L District. I have reviewed the following documents in connection with this opinion:

- Request letter dated January 4, 2024 on behalf of Cicotte Properties
- Staff Memo to City Council dated January 9, 2024 regarding the requested amendment

The Ordinance requires this legal review to cover: (a) whether such amendments are within the authority delegated to the City under State law; (b) whether the form is appropriate; and (c) whether, from an administrative point of view, the amendments can be administered and enforced.

The proposal is simply to change the table of uses in Section 303.2 for the IND-L District. The appropriateness of particular uses in the IND-L District (or any zoning district) is a policy question. Consequently, my answer to the three questions in Section 1000.2.B(2) is “yes” and I discern no legal or administrative issues of concern with that request, except for the following recommendation: The petitioner’s proposed use category of “auto sales and service” is not a term currently found in the Zoning Ordinance. The Ordinance does currently include “vehicular sales” as a defined use category in other districts. As I understand it, “vehicular sales” includes both auto sales and all accessory uses thereto, including auto repair, and would accomplish the petitioner’s proposed goal without creating unnecessary confusion about whether there is any difference between the two terms. Therefore, I recommend that, if the amendment proceeds, the term “vehicular sales” be substituted for “auto sales and service.”

Please do not hesitate to contact me about any aspect of this.

Sincerely,



C. Christine (Fillmore) Johnston