

FINAL

**LEBANON ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE
MONDAY, April 1, 2024
7:00 PM**

MEMBERS PRESENT: Vice Chair Jeremy Katz, Dave Newlove, Paul McDonough, Jennifer Barkley, Michael Morris (alternate)

MEMBERS ABSENT: Chair William Koppenheffer

STAFF PRESENT: Nathan Reichert – Zoning Administrator

1. CALL TO ORDER

Vice Chair Jeremy Katz called the meeting to order at 7:00 PM.

Mr. Reichert gave the Right to Know, RS 91A public announcement.

2. APPROVAL OF MINUTES

A. March 4, 2024

Mr. Morris is appointed a full voting member for this meeting.

Mr. Newlove *MOVED* to approve the March 4, 2024 Minutes as presented in the April 1, 2024 packet.

Seconded by Mr. Morris.

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

Ms. Barkley abstained as she did not attend the meeting.

3. PUBLIC HEARING ITEMS

- A. *Pinewood Village Condo Association and George Blike & Rebecca Johnson, 6 Oak Ridge Road #9 (Tax Map 4, Lot 23, Plot 906), zoned R-3: Applicants request a Variance from Section 310.3, pursuant to Section 801.2 of the Zoning Ordinance to construct 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***

George Blike and Geoffrey Blike appeared on behalf of the application. They are asking to change the existing patio into a structure that would be 13x20 feet. The purpose is to put in a hydrotherapy pool for medical reasons. The pool would be 6 feet deep. It needs to be an enclosed structure so it can be used year around. Normally a hot tub would be allowed without a variance, but due to the nature of the layout of the condo association and the amount of frontage for two abutting rear yards a variance is required. It appears there was a front setback requirement, but it is really a setback in the backyard of his property and a neighbor's property. The pool would have a full foundation with footings. The therapy pool would be set up inside the foundation and be at one level with the house.

Mr. Katz asked if the Condo Association is in approval and that was confirmed.

Vice Chair Katz opened the Public Hearing,

Jay Hutchins, living in the same neighborhood, spoke of extreme caution of granting variances. He stated, there is a good reason in most cases, but the zoning ordinance stipulates the requirements for a hardship. Mr. McDonough asked if in this specific application Mr. Hutchins feels that this situation is an encroachment. It appeared that Mr. Hutchins did not speak against this application, but he is concerned about granting variances in general.

Terry Melendy Jr., an abutter, spoke about water run off that happens during every storm. He is concerned that it would flow back onto his property. He also has permission to build a workshop and he believes it is very tight in that area. The Board asked for clarification regarding this specific request. He does not oppose it provided drainage conditions in that area are addressed. Because there are already drainage issues and it is very tight quarters, he would like to see a fence put in because he is right in the applicant's back yard.

Michael Foree, an adjacent neighbor, understands the need for medical treatment. He has some concerns. There were already trees in place for privacy, but he believes a two-story building would infringe on his privacy. He would like to know a plan for maintaining privacy. He would like to know the plan for bringing in construction equipment and how that would impact his leach field.

Mr. Blike commented that last year a drain was added where previous flooding was occurring. The patio blocks have gravel and there is a storm drain now. They intend to add additional drainage that is laid out in the plan for the permit. The access to the area for equipment would be from the front yard and would not travel on the neighbors' yard. It is going to be a one-story building, at ground level. The windows would be at the same level as the existing building. Neighbors would only see a roof. Mr. Katz asked if satisfactory drainage and a design that ensures privacy would be an acceptable condition of the application. Mr. Blike is willing to put in a fence.

Hearing no one else from the Public, the Public Hearing was closed.

Staff clarified there are two ways to look at this application. If the application meets all the criteria of a unique property for a hardship it would be a normal variance. If the pathway does not meet the full 5 criteria, there is another way to make an application for a medical variance for a life state. That variance would only be in force while there is a medical need and after it is no longer needed, the therapy pool would have to be removed. The Board could move forward under either variance.

It was discussed that there are several unique characteristics. There is something wrong with the property where the front and back are mixed up, and where it does not allow the owner full enjoyment of the property.

Mr. McDonough MOVED on April 1st 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared George Blike and Geoffrey Blike 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 hydrotherapy 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 hydrotherapy 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 this information was supplemented with additional information submitted on March 15th 2024.
6. There were members of the neighborhood and abutters spoke. Jay Hutchins is in the neighborhood and asked the Board to be careful about variances being granted unnecessarily. And Terry Melendy Jr. and Michael Foree, both part of the association or live in the neighborhood, did not object to this but they had conditions that they thought would be of assistance both to the neighborhood and to the applicant which included concerns regarding a drainage system which was agreed upon by the applicant, privacy fencing agreed to by the applicant, and to make sure that heavy construction equipment was not traveling over other peoples' property.
7. No one else spoke and no one spoke against it specifically.

II. CONCLUSIONS OF LAW

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

1. The variance **will not** be contrary to the public interest. (Section 801.2.A.1)
2. The spirit of the ordinance **is** observed. (Section 801.2.A.2)
3. Substantial justice **is** done. (Section 801.2.A.3)
4. The values of surrounding properties **are not** diminished. (Section 801.2.A.4)
5. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area (Section 801.2.A.5.a):

The provisions of the property that are considered are the dimensions that have been mentioned both in the application and by Mr. Reichert that would justify that the Board could find a hardship unique to this particular property.

6. There **is not** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. (Section 801.2.A.5.a.i)
7. The proposed use **is** a reasonable one. (Section 801.2.A.5.a.ii)

III. **DECISION**

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **1st day of April, 2024**, hereby **GRANTS** the requested Variances from section §310.3 of the Zoning Ordinance to allow the construction of a deck and hydrotherapy 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. Applicant shall address any and all drainage issues that were raised by the abutters and neighbors to ensure that there are not drainage issues that are going to interfere with abutters and neighbors.
3. A privacy fence shall be in place consistent with the ordinances of the City of Lebanon.
4. Construction vehicles will not cross the property of neighbors in the construction of this project.

Seconded by Ms. Barkley.

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

Mr. Newlove voted nay

B. WISE of the Upper Valley, Inc., 38 Bank Street (Tax Map 92, Lot 116), zoned R-O: Applicant requests a Variance from Section 607.1, pursuant to Section 801.2 of the Zoning Ordinance to allow the elimination of 3 required parking spaces. ZB2024-06-VAR

Mr. McDonough spoke of his experience with WISE. He said he could be impartial during this hearing and will not recuse himself.

Frank J. Barrett Jr. and Peggy O'Neil appeared on behalf of the application. Mr. Barrett discussed the full letter that he provided in the application. He works as an architect with WISE as a volunteer. Renovations are needed at 38 Bank Street. The building was built in the early 19th century. There is an existing garage. This project is proposed because Wise needs some additional office space and looking at the garage it was determined it would be best to build a new code compliant structure on the same footprint, but it would be two stories high. Two garage bays would remain, and the second floor would be office space. A second means of egress would be added to the second floor. There would be a new entrance from the rear. WISE owns 3 separate properties, but they do not intend to use parking from any of the other properties.

Most of the WISE staff are remote 60% of the time or work at other locations. There is not the normal need for parking because some staff come and go. They have already used up all the space on the property. It is improving the existing space on the second floor that created the requirement for the 3 extra parking spaces. It is a very different type of office use, as staff are not onsite at the same time and are not required to be in the office.

Mr. Katz stated that granting of the variance requires something unique about the property that meets the need for a hardship, something that makes this property different from other properties. Mr. Barrett discussed how zoning has evolved, and the language that comes out of the courts. There is a balancing act, and the laws allow making some exceptions. He said they could put some parking spaces on the front lawn but that would mar the historical appearance of Bank Street. There would not be any benefit to the community. The nature of the use of WISE is unique. The applicants are trying to improve the existing building, by tearing it down because it is not safe. They are not trying to increase the footprint or the amount of space that currently exists. The existing space is not being used because it is not structurally safe. They would not be opposed to stating at any given time only a portion of staff would be present, because they usually are not in the office.

Vice Chair Katz opened the Public Hearing,

Mr. Katz asked, if it is correct to say that there is a portion of the building that they are not able to make useful without a variance. That is correct.

Hearing no one else from the Public, the Public Hearing was closed.

There was no additional discussion.

Mr. McDonough MOVED On April 1st 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Peggy O'Neil and Frank J. Barrett Jr. regarding 38 Bank Street (Tax Map 92, Lot 116). The Applicant requests a Variance from Section §607.1, pursuant to Section §801.2 of the Zoning Ordinance to allow the elimination of 3 required parking spaces for the tear down and rebuild of an attached garage with the addition of office space.

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 office space and an attached garage. The space has been redeveloped over time and has been converted from a house into office space that houses the WISE operation. The lot is 15,681 sq. ft., the lot is conforming to the 10,000 sq. ft. minimum lot size required for Class 1 lots in the R-O District.
2. The applicants propose demolishing an attached garage and reconstructing it to include a full second-story office.
3. To obtain the requested Variance from section §308.3, 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).
4. The applicants have submitted testimony addressing the section §801.2 Variance criteria in an application received by the Planning and Development Department on March 11th 2024.

5. No one from the public appeared to testify in favor or against and there was no one online to testify in favor or against.

II. CONCLUSIONS OF LAW

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

1. The variance **will not** be contrary to the public interest. (Section 801.2.A.1)
2. The spirit of the ordinance **is** observed. (Section 801.2.A.2)
3. Substantial justice **is** done. (Section 801.2.A.3)
4. The values of surrounding properties **are not** diminished. (Section 801.2.A.4)
5. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area (Section 801.2.A.5.a):

Absent the variance relief, a portion of the structure will be stranded and unable to be enjoyed by the landowner.

6. There **is not** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. (Section 801.2.A.5.a.i)
7. The proposed use **is** a reasonable one. (Section 801.2.A.5.a.ii)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 1st **day of April 2024**, hereby **GRANTS** the requested Variances from Section §607.1, pursuant to Section §801.2 of the Zoning Ordinance to allow the elimination of 3 required parking spaces for the tear down and rebuild of an attached garage with the addition of office space as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit.

Seconded by Mr. Morris.

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

C. Sean Lacey & Thomas Lacey, 7 Summer Street (Tax Map 77, Lot 153), zoned R3: Applicants request a Special Exception from Section 310.3, pursuant to Sections 703.1 & 801.3 of the Zoning Ordinance to allow the expansion of a non-conforming attached garage. ZB2024-07-SE

Sean Lacey appeared on behalf of the application. He would like to add an ADU within his garage. His house was built around 1860 and part of the garage is in the setback. The setback was not in place when the house was built. He needs room for an aging parent or for a way to increase income. He is unhappy with the current roof structure as it is a hazard to the building.

He is asking to expand the current garage. The footprint would remain the same. He is just adding a space above it and wants to repair the roofline structure. Putting a living space on top of the garage would help with his income. He is not asking to add an ADU, but the space above the garage would be used as an ADU.

Vice Chair Katz opened the Public Hearing. Hearing no one, the Public Hearing was closed.

There was no further discussion regarding the application,

Mr. Newlove MOVED on April 1st 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Sean Lacey regarding 7 Summer Street (Tax Map 77, Lot 153). The Applicant requests a Special Exception per Section §703.1 and Section §801.3 of the Zoning Ordinance to allow the vertical expansion of a non-conforming attached garage by adding second story Accessory Dwelling Unit +/- 1-foot, from the rear property line where a 20-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 1860. The lot contains a primary residence and a dimensionally non-conforming attached garage.
2. As described in the application by the applicant, the applicant proposes to add a second story to the garage and construct an ADU. The addition will be located partially within the 20 ft. rear yard setback, it will be no closer to the rear yard lot line than then existing garage and will be approximately +/- 1-foot, 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 rear yard (i.e. a space unobstructed by buildings and structures) of 20-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 March 5th 2024.
6. There are no known existing zoning violations on the property.
7. No one spoke up from the public.

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.
2. The following criteria of Section §703.1 **have been** met:
 - 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** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy.
4. The character of the area **will not** be adversely affected.
5. **No** hazard or nuisance will be created.
6. The capacity of existing or planned community facilities and services (including streets and highways) **will not** be adversely impacted.
7. The granting of the Special Exception **will not** result in undue municipal expense.
8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and intent of the ordinance.
9. The general welfare of the City **will** be protected.

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 1st day of April, 2024, hereby **GRANTS** the requested Special Exception pursuant to Section §703.1 and §801.3 of the Zoning Ordinance to permit vertical expansion of a non-conforming attached garage by adding second story Accessory Dwelling Unit +/- 1-foott. from the rear property line where a 20-foot setback is required at 7 Summer Street, 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.

Seconded by Ms. Barkley.

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

D. Dallas & Savannah Hammond, 16 Peabody Street (Tax Map 90, Lot 48), zoned R1: Applicants request a Variance from Section 308.3, pursuant to Section 801.2 of the Zoning Ordinance to construct an addition to the existing single-family dwelling to be located +/- 9 feet from the left side lot line where 15 feet is required. ZB2024-08-VAR

Savannah and Dallas Hammond appeared on behalf of the application. They provided the reasons they want to add the addition to the existing property on the left side of the house. That placement would be the least intrusive to the nature and aspects of the neighborhood. They would add an extra bedroom, bathroom and closet. Building it on a different side of the building would alter the entire layout of the house as it exists.

The Board asked for clarification of the hardship of the land and why it needs to be constructed as proposed. The placement of the house on the lot is the reason they need to build as requested. Otherwise, they would be interfering with other setbacks.

Vice Chair Katz opened the Public Hearing. Hearing no one, the Public Hearing was closed.

There was no additional discussion.

Mr. Morris MOVED on April 1st 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Dallas and Hammond regarding 16 Peabody Street (Tax Map 90, Lot 48). The Applicants request a Variance from Section 308.3, pursuant to Section 801.2 of the Zoning Ordinance to construct an addition to the existing single-family dwelling to be located +/- 9 feet from the left side lot line where 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 property is improved with a single-family home constructed in 1931. At 6,098 sq. ft., the lot is non-conforming to the 10,000 sq. ft. minimum lot size required for Class 1 lots in the R-1 District.
2. The applicants propose constructing an addition to the existing single-family dwelling to be located +/- 9 feet from the left side lot line where 15-feet is required.

3. 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 this information was supplemented with additional information submitted on March 15th 2024.
4. To obtain the requested Variance from section §308.3, 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. No public comment.

II. CONCLUSIONS OF LAW

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

1. The variance **will not** be contrary to the public interest.
2. The spirit of the ordinance **is** observed.
3. Substantial justice **is** done.
4. The values of surrounding properties **are not** diminished.
5. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area.

The unique characteristics of the lot require in considering the age of the property, that this is the only practical place to have that addition.

6. There **is not** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property.
7. The proposed use **is** a reasonable one.

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **1st day of April, 2024**, hereby **GRANTS** the Variance from Section 308.3, pursuant to Section 801.2 of the Zoning Ordinance to construct an addition to the existing single-family dwelling to be located +/- 9 feet from the left side lot line where 15-feet 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.

Seconded by Mr. Newlove.

There was a request to add the hardship to the Conclusions of Law. The Board dispensed with rereading the Motion.

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

E. Eric Agterberg & Sarah Riley, 45 Eldridge Street (Tax Map 77, Lot 5), zoned

R3: Applicants request a Special Exception from Section 310.3, pursuant to Sections 703.1 & 801.3 of the Zoning Ordinance to allow the expansion of the existing non-conforming garage to be located +/- 5.5 feet from the left side lot line where 15 feet is required and the expansion of the non-conforming front porch to be located +/- 9.3 feet from the front lot line where 20 feet is required. **ZB2024-09-SE**

Sarah Riley and Eric Agterberg appeared on behalf of the application. They would like to rebuild their garage that is in disrepair. It is currently within the setback. They would like to slightly increase the garage from 12 foot wide to 14 foot wide. They would like to move it closer to the street which would shorten the driveway and would move it out of the rear setback. This would also increase the size of their backyard. The driveway would not be any closer to the side setback. The garage would be slightly taller as well, with a storage loft above it. Their front porch is a fully glassed extension of their living room, but it is uninsulated and not weatherized. They would like to redo the front porch to be a four-season porch and they would like to widen it slightly. It would not be any closer to the front line than the existing porch, which is already within the setback.

Mr. Katz clarified, with the special exception, the applicants are really removing a rear lot line non-conformity. Regarding the porch, it would be 3 feet wider, and the steps would be moved to the side, which would be further from the front setback.

Vice Chair Katz opened the Public Hearing. Hearing no one, the Public Hearing was closed.

There was no additional discussion,

Mr. McDonough MOVED On April 1st 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Sarah Riley and Eric Agterberg regarding 45 Eldridge Street (Tax Map 77, Lot 5). The Applicant requests a Special Exception from Section 310.3, pursuant to Sections 703.1 & 801.3 of the Zoning Ordinance to allow the expansion of the existing non-conforming garage to be located +/- 5.5 feet from the left side lot line where 15 feet is required and the expansion of the non-conforming front porch to be located +/- 9.3 feet from the front lot line where 20 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 1920. 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 tear down and rebuild a garage and widen the front porch. The new garage will be located partially within the 15-foot left-side yard setback, it will be no closer to the rear yard lot line than then existing garage and will be approximately +/- 5.5-feet from the left side property line. The expanded front porch will be located partially within the 20-foot front yard setback, it will be no closer to the front yard lot line than then existing porch and will be approximately +/- 9 ft. 4 in. from the front 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 front yard (i.e. a space unobstructed by buildings and structures) of 20-feet

and side yards 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 March 11th 2024.
6. There are no known existing zoning violations on the property.
7. No one from the public spoke for or against in public or online.

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.
2. The following criteria of Section §703.1 **have been** met:
 - 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** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy.
4. The character of the area **will not** be adversely affected.
5. **No** hazard or nuisance will be created.
6. The capacity of existing or planned community facilities and services (including streets and highways) **will not** be adversely impacted.
7. The granting of the Special Exception **will not** result in undue municipal expense.
8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and intent of the ordinance.

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

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 1st day of April, 2024, hereby **GRANTS** the requested Special Exception pursuant to Section §703.1 and §801.3 of the Zoning Ordinance to permit the expansion of the existing non-conforming garage to be located +/- 5.5 feet from the left side lot line where 15 feet is required and the expansion of the non-conforming front porch to be located +/- 9.3 feet from the front lot line where 20 feet is required at 45 Eldridge Street, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit, and shall comply with all applicable local, state, and federal regulations in the construction of the proposed addition.

Seconded by Ms. Barkley.

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

F. Lebanon Housing Authority, 31 Romano Circle (Tax Map 101, Lot 20), zoned R2: Applicant requests a Special Exception from Section 309.2, pursuant to Section 801.3 of the Zoning Ordinance to convert office space connected to an existing 5-unit dwelling into 2 additional dwelling units. ZB2024-10-SE

The hearing was opened. The applicant requested continuance to the May meeting.

Mr. Morris MOVED to continue this until the May meeting and honoring the applicant's request.

Seconded by Mr. Newlove.

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

4. STAFF COMMENTS

None

5. OTHER BUSINESS

A. Implicit Bias Training

All members are asked to attend one of three sessions on April 15th or 16th. Pre-registration is not required.

6. ADJOURNMENT

Mr. McDonough MOVED to adjourn the meeting at 8:36 PM.

Seconded by Mr. Newlove

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

Respectfully submitted,
Linda Billings, Recording Secretary