

FINAL

**LEBANON ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE
MONDAY, May 6, 2024
7:00 PM**

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

MEMBERS ABSENT: None

STAFF PRESENT: Nathan Reichert – Zoning Administrator

1. CALL TO ORDER

Chair William Koppenheffer called the meeting to order at 7:01 PM.

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

2. APPROVAL OF MINUTES

A. April 1, 2024

Mr. Katz MOVED to approve the April 1, 2024, Minutes as presented in the May 6, 2024, packet.

Seconded by Mr. Newlove.

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

3. PUBLIC HEARING ITEMS

- A. 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 Continued from 4/1/2024 Meeting***

The applicant has asked to withdraw the application.

Vice Chair Katz MOVED to approve the withdrawal of the application.

Seconded by Ms. Barkley.

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

- B. Patrick Kennelly & Jeanne Roningen, 60 Spencer Street (Tax Map 78, Lot 31), zoned R-3:** The applicants request a Special Exception from Sections 310.2 and Section 310.3, pursuant to Section 801.3 and 703.1 of the Zoning Ordinance, to allow a two-family dwelling by conversion of a one-family dwelling and the expansion of a non-conforming garage structure. ***ZB2024-11-SE***

Patrick Kennelly appeared on behalf of the application. He owns the property, a single-family dwelling with an existing garage that is on the lot line. The garage is too damaged to save. He would like to move the garage as far off the property line as possible and still build a second unit of reasonable size. He is in the flood zone, and he has lifted the house due to the flood plain. There are two driveways, and he proposes using one driveway for each dwelling.

Chari Koppenheffer opened the Public Hearing and hearing no one, closed the Public Hearing.

Vice Chair Katz MOVED on May 6th 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Patrick Kennelly regarding 60 Spencer Street (Tax Map 78, Lot 31). The applicants request a Special Exception from Sections 310.2 and Section 310.3, pursuant to Section 801.3 and 703.1 of the Zoning Ordinance, to allow a two-family dwelling by conversion of a one-family dwelling and the expansion of a non-conforming garage structure.

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 1880. 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 demolish the existing dimensionally non-conforming garage and construct in its place a slightly dimensionally non-conforming addition to the existing house. The addition will be located partially within the 20 ft. rear yard setback and the 15' left side-yard setback. The addition will convert the existing single-family home into a two-family home. The addition will be no closer to the rear yard lot line than the existing garage and will be approximately **5-feet** from the rear property line and approximately **1.5-feet** from the left side property line. The existing height of the garage / barn is approximately **19-feet** tall, where the proposed addition to the structure will be **29-feet**.
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. Nobody from the public spoke either for or against the application.

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 6th day of May, 2024, hereby **GRANTS** the requested Special Exception from Sections 310.2 and Section 310.3, pursuant to Section 801.3 and 703.1 of the Zoning Ordinance, to allow a two-family dwelling by conversion of a one-family dwelling and the expansion of a non-conforming garage structure 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. The proposed addition must comply with all necessary FEMA flood zone regulations. A Floodplain Development Permit is required.

Seconded by Mr. Newlove.

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

4. STAFF COMMENTS

There was a late item added to the agenda relative to City Council seeking advice about a proposed Zoning amendment. Mr. Reichert gave examples of two situations where the City incurred additional expense because the City is required to follow all Zoning Regulations. This amendment allows the City to be exempt from Zoning Ordinance for traditional City functions. Things are not automatically exempt. There is a distinction for traditional use compared to housing on a City property and a new bridge that would still require approval of the Zoning Board because they are not traditional governmental use. The City Council seeks the input of the Zoning Board. Is the code as proposed simple, usable, and interpretable by the Board. Is the amendment understandable and is there anything that is inconsistent. A response is requested this evening.

The Zoning Board of Adjustment was unanimous in recommending the change.

5. ADJOURNMENT

Mr. Katz MOVED to adjourn the meeting at 7:21 PM.

Seconded by Mr. Newlove.

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

Respectfully submitted,
Linda Billings, Recording Secretary