



**LEBANON ZONING BOARD OF ADJUSTMENT
SEPTEMBER 3, 2024 - 7:00 PM
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

-
- 1. Call to Order**
 - 2. Approval of Minutes**
 - A. July 1, 2024
 - B. August 5, 2024
 - 3. Public Hearing Items**
 - A. **City of Lebanon & The Muse Lebanon, LLC, 20 Spencer Street (Tax map 92, lot 31), zoned LD:** The applicant requests a Variance from Section 607.8, pursuant to Section 801.2 of the Zoning Ordinance, to allow the elimination of required Electric Vehicle (EV) infrastructure requirements. The applicant proposes none of the planned 87 parking spaces to be equipped with EV charging infrastructure where 57 EV-capable; of which 18 EV-ready and 5 EVSE-installed parking spaces are required. **ZB2024-16-VAR**
 - B. **Paul McAuliffe, 71 Elm Street (Tax map 107, lot 137), zoned R3:** The applicant requests a Special Exception from Section 310.3, pursuant to Section 703.1 & 801.3 of the Zoning Ordinance, to allow the expansion of the existing non-conforming garage to be located +/- 2.5 feet from the right side lot line where 15 feet is required and 16 feet from the rear lot line where 20 feet is required and the expansion of non-conforming rear addition to be located +/- 10.5 feet from the left side lot line where 15 feet is required. **ZB2024-17-SE**
 - 4. Staff Comments**
 - A. New board packet format discussion
 - 5. Adjournment**

The order of agenda items is subject to change.

Meetings are open for in-person and remote attendance. Members of the public that wish to attend remotely may do so by going to [LebanonNH.gov/Live](https://lebanonnh.gov/Live) where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the City's virtual platform or by phone. Please note: Should technical difficulties occur during the meeting that disrupts virtual or phone connection(s), the meeting will continue without remote access capabilities.

If you have any questions or would like to view the files for the application identified above, please contact the Planning & Development Department by sending an e-mail to planning@lebanonnh.gov, or by calling 603-448-1457, or by visiting the Planning and Development Office located in City Hall during regular work hours, Monday through Thursday, 7AM to 5PM. The application materials will also be posted to the City's website at [LebanonNH.gov/Agendas](https://lebanonnh.gov/Agendas).

DRAFT

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

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

MEMBERS ABSENT: Chair William Koppenheffer, Paul McDonough,

STAFF PRESENT: Nathan Reichert – Zoning Administrator

1. CALL TO ORDER

Vice Chair Jeremy Katz called the meeting to order at 7:01 PM.

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

Michael Morris was given voting privileges for this meeting.

This meeting is being held to open two Public Hearing items for the purpose of allowing them to be continued to a special meeting to be held on July 8, 2024.

2. APPROVAL OF MINUTES

The Minutes were not reviewed during this meeting.

A. May 6, 2024, Building Code Board of Appeals

B. June 3, 2024, Zoning Board of Adjustment

3. PUBLIC HEARING ITEMS

A. Oakes Storage LLC & Oakes Real Estate SPE LLC, 92 Riverside Drive (Tax map 111, lot 16), zoned RL-1: The applicant requests 3 Variances from Sections 608.4.B.2, 608.4.B.1.b, and 608.4.B, pursuant to Section 801.2 of the Zoning Ordinance, to allow the installation of a single-sided sign that is 32 sq ft sign where 4 sq ft is allowed, 6 ft tall where 4 ft is allowed, and to be internally illuminated where illumination is not allowed. **ZB2024-14-VAR – Continued from 6/3/2024**

Vice Chair Katz opened the Public Hearing.

***Ms. Barkley MOVED to continue this hearing until the July 8, 2024, meeting.
Seconded by Mr. Newlove.***

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

1 **B. Lebanon Housing Authority, 31 Romano Circle (Tax map 101, lot 20), zoned R2:** The
2 applicant requests a Special Exception from Section 309.2, pursuant to Section 702.5 of the
3 Zoning Ordinance, and a Variance from section 702.5.D to allow the expansion of the existing
4 non-conforming use via construction of a new 2-story, 3,882 sq ft office building for use in
5 connection with the existing multi-family development. **ZB2024-15-SEVAR – Continued from**
6 **6/3/2024**

7
8 Vice Chair Katz opened the Public Hearing.

9
10 ***Mr. Newlove MOVED to continue this hearing until the July 8, 2024, meeting.***
11 ***Seconded by Mr. Morris.***

12
13 ****The Vote on the Motion was (4-0).***

14
15 **4. STAFF COMMENTS**

16
17 None

18
19 **5. ADJOURNMENT**

20
21 ***Ms. Barkley MOVED to adjourn the meeting at 7:06 PM.***
22 ***Seconded by Mr. Newlove.***

23
24 ****The Vote on the Motion was (4-0).***

25
26 Respectfully submitted,
27 Linda Billings, Recording Secretary

DRAFT

**LEBANON ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE
MONDAY, August 5, 2024
7:00 PM**

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

MEMBERS ABSENT: Chair William Koppenheffer, Jennifer Barkley

STAFF PRESENT: Nathan Reichert – Zoning Administrator

1. CALL TO ORDER

Vice Chair Jeremy Katz called the meeting to order at 7:15 PM.

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

Mr. Morris was given voting privileges for this meeting.

2. APPROVAL OF MINUTES

A. July 8, 2024

Mr. McDonough MOVED to approve the July 8, 2024, Minutes as presented in the August 5, 2024, with amendments.

Page 7, Line 35; Remove ‘August 2’ and Add ‘August 5’.

Seconded by Mr. Morris.

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

3. PUBLIC HEARING ITEMS

A. NONE

4. DELIBERATION

A. Lebanon Housing Authority, 31 Romano Circle (Tax map 101, lot 20), zoned R2: The applicant requests a Special Exception from Section 309.2, pursuant to Section 702.5 of the Zoning Ordinance, and a Variance from section 702.5.D to allow the expansion of the existing non-conforming use via construction of a new 2-story, 3,882 sq ft office building for use in connection with the existing multi-family development. **ZB2024-15-SEVAR – Continued from 7/8/2024**

1 The Board discussed the application. The Public Hearing was closed at the last meeting. The
2 intent at the end of the last meeting was to write a motion for the approval or denial of the
3 application.

4
5 ***Vice Chair Katz MOVED at a duly-noticed regular meeting of the Lebanon Zoning Board of***
6 ***Adjustment on June 3rd 2024 a public hearing was opened, conducted then continued to the July 1st***
7 ***regular meeting, then continued again to the July 8th special meeting, then continued again to the***
8 ***August 5th regular meeting, there appeared, Attorney Megan Carrier, Attorney Courtney Herz and***
9 ***Director Ditha Alonso regarding 31 Romano Circle (Tax Map 101, Lot 20). The applicant requests a***
10 ***Special Exception from Section 309.2, pursuant to Section 702.5 of the Zoning Ordinance, and a***
11 ***Variance from section 702.5.D to allow the expansion of the existing non-conforming use via***
12 ***construction of a new 2-story, 3,882 sq ft office building for use in connection with the existing multi-***
13 ***family development.***

14
15 **I. FINDINGS OF FACT**

16
17 Based on testimony given, application materials presented, and supporting documents submitted, the
18 Lebanon Zoning Board of Adjustment makes the following findings of fact:

- 19
20 1. The subject property is improved with 8 multifamily buildings, containing 46 residential dwelling
21 units. The residential dwelling units are all subsidized affordable housing units. The multi-
22 family use is legal nonconforming within the R-2 zoning district.
- 23
24 2. The subject property contains space used for an office within one of the existing multi-family
25 buildings. The existing office provides workspace for employees of the Lebanon Housing
26 Authority. These employees are charged with the management, leasing, tenant support,
27 inspections, site safety and maintenance of the Lebanon Housing Authority's residential portfolio.
28 This portfolio includes units at the subject property, as well as throughout the City of Lebanon.
29 The office use is also legal nonconforming within the R-2 zoning district.
- 30
31 3. Romano Circle exclusively serves the subject property.
- 32
33 4. The subject property measures nearly 8 acres. By way of comparison, the largest abutting
34 property to the subject property that is also within the R2 district is at 10 Waterman and measures
35 1.13 acres. The subject property is approximately 700% the size of the next largest abutter.
- 36
37 5. The subject property is located in a liminal region, either abutting or being across the street from
38 two other zoning districts, namely the Residential Office (RO) and General Commercial (GC)
39 districts.
- 40
41 6. To expand the current nonconforming use a special exception pursuant to §702.5 is required and
42 the applicant must demonstrate compliance with the criteria as required in §801.3 and §703.1.
- 43
44 7. To obtain the requested Variance from §702.5.D and allow for the expansion of the use into a
45 new building, the applicant must demonstrate compliance with each of the five variance criteria
46 as set forth in §801.2 of the Zoning Ordinance and NH RSA 674:33, I(b).
- 47
48 8. No member of the public spoke for or against the application.

49
50 **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 and the special exception criteria set forth in 801.3 and 703.1.A of the Zoning Ordinance:

Variance Criteria per 801.2:

1. The variance **will not** be contrary to the public interest.
The public interest is served through the adequate provision and maintenance of affordable workforce and subsidized housing that is safe and monitored.
2. The spirit of the ordinance **is** observed.
The health, safety and general welfare of the community is promoted by the granting of this relief.
3. Substantial justice **is** done.
No harm will befall the general public through the granting of this relief and the benefit to the applicant is substantial.
4. The values of surrounding properties **are not** diminished. No evidence has been presented that the value of surrounding properties will be diminished. The board believes that the continued investment in this property, along with the substantial investment by the applicant in the maintenance and improvement of the safety and condition of public housing throughout the City has a likelihood of enhancing surrounding values.
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 property is readily differentiated from other surrounding properties in the fact that it is larger, by a factor of many multiples, above the next largest abutting R-2 properties. The street, Romano Circle, exclusively exists to provide access to the existing uses. The Romano Circle affordable housing complex provides substantial community services in the promotion of affordable and workforce housing, and that (unlike other properties) it also directly abuts the RO and GC districts. A literal enforcement of the ordinance would deprive the landowner of the ability to continue to serve its public service mission, which would harm itself, its constituency, and the community at large.
6. There **is not** a fair and substantial relationship between the general public purposes of the R-2 zoning district and the restriction against expansion of a nonconforming use into a new building, whereas:
Due to the special conditions of this property, the specific application of the ordinance purpose would actually undo the ordinance's intended purpose - in that it would inhibit the preservation and maintenance of existing residential facilities. In most cases, the limitations of the ordinance would serve to limit undesirable expansions - but in this case the requested relief is to allow for the better maintenance and operation of existing facilities.
7. The proposed use **is** a reasonable one.
Residential use is allowed in the district, and it is normal and reasonable in large residential complexes for leasing, management and maintenance facilities to be on site. The fact that LHA office staff will also manage and administer LHA's other properties from this site does not result

1 in a different impact on the neighborhood than management exclusively of the Romano Circle
2 development. This Board also notes that new senior housing complexes are explicitly permitted
3 by right in the R-2 district, which is a similar type of potential use.
4

5 Special Exception Criteria pursuant to Section §801.3:
6

- 7 1. The Special Exception is specifically authorized by Section §703.1 and Section §801.3 of the
8 Zoning Ordinance.
9
- 10 2. Further pursuant to the criteria of Expansion of a Nonconforming use in section 703.1.A
11
 - 12 a. The reasonable use of abutting properties **is not** adversely affected by the proposed
13 expansion.
14
 - 15 b. The proposed expansion **does not** render the lot size proportionately less adequate, i.e.
16 any aspect of the building or structure that is currently non-conforming cannot be made
17 more non-conforming in the absence of a variance.
18
- 19 3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of the
20 Special Exception would not remedy. (§801.3.C) *Staff is not aware of any Zoning Ordinance*
21 *violations on the property.*
22
- 23 4. The character of the area **will not** be adversely affected.
24
- 25 5. **No** hazard or nuisance will be created.
26
- 27 6. The capacity of existing or planned community facilities and services (including streets and
28 highways) **will not** be adversely impacted.
29
- 30 7. The granting of the Special Exception **will not** result in undue municipal expense.
31
- 32 8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and
33 intent of the ordinance.
34
- 35 9. The general welfare of the City **will** be protected.
36

37 **III. DECISION**
38

39 Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **5th day of August, 2024**,
40 hereby **GRANTS** the requested special exception and variance as set forth above and per testimony,
41 plans, and materials submitted, and per the following conditions:
42

- 43 1. The applicant shall obtain site plan approval per the Lebanon Site Plan Review Regulations, a
44 building permit, and a certificate of occupancy, and shall pay impact fees pursuant to §213 of the
45 Zoning Ordinance.
46
- 47 2. The project will be sited and constructed at the location and with the specifications presented to
48 this Board in the Applicant's testimony, plans and materials.
49

50 **Seconded by Mr. McDonough.**

1
2 **The Vote on the Motion was (3-1).*
3 *Mr. Newlove voted nay.*

4
5 **5. STAFF COMMENTS**

6
7 There were two litigations and appeals that were pending. Staff will distribute formal decisions to the
8 Board.

9
10 **6. ADJOURNMENT**

11
12 *Mr. Morris MOVED to adjourn the meeting at 7:30 PM.*
13 *Seconded by Mr. Newlove.*

14
15 **The Vote on the Motion was (4-0).*

16
17 Respectfully submitted,
18 Linda Billings, Recording Secretary



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

September 3, 2024 - Regular Meeting

Staff Memorandum – ZB2024-16-VAR

APPLICATION INFORMATION

Agenda Item: 3.A

Application Type: Variance from §607.8 to eliminate required electric vehicle infrastructure.

Location:
20 Spencer Street
(Tax Map 92, Lot 31)

Applicant/Property Owner:
City of Lebanon & The Muse
Lebanon, LLC

Zoning District:
Lebanon Downtown (LD) District,
Class 1

Property Size:
+/-1.92 acres (+/-40,075 sq. ft.)

Existing Improvements and Use:
Vacant lot- Former City DPW Location

Proposed Improvements and Use:
80-unit residential multi-family
development with 87 off-street parking
spaces.

Overlay District:
FEMA Flood Zone

Previous ZBA Action (since 1995):
None

Other Approvals Required:
Building Permit

Attachments:
Application

HEARING NOTICE

City of Lebanon & The Muse Lebanon, LLC, 20 Spencer Street (Tax map 92, lot 31), zoned LD: The applicant requests a Variance from Section 607.8, pursuant to Section 801.2 of the Zoning Ordinance, to allow the elimination of required Electric Vehicle (EV) infrastructure requirements. The applicant proposes that none of the planned 87 parking spaces be equipped with EV charging infrastructure where 57 EV-capable; of which 18 EV-ready and 5 EVSE-installed parking spaces are required. **ZB2024-16-VAR**

BACKGROUND

The subject property is currently vacant. Per the City Assessor's records, the property is conforming to the LD Class 1 District minimum lot size of 3,000 sq ft, with a minimum of 40 ft of lot frontage. There are 12 existing on-street parking spaces. The property is the former site of the City of Lebanon Department of Public Works and has undergone remediation and monitoring for environmental contamination.

PROPOSAL

The applicant proposes to build an 80-unit residential multi-family development with 87 proposed off-street parking spaces. The Applicant seeks a variance to eliminate all of the required on-site electric vehicle (EV) infrastructure. The variance request equates to 57 EV-capable; of which 18 are EV-ready and 5 EVSE-installed parking spaces are required.

ZONING ORDINANCE REQUIREMENTS

To obtain the requested Variance 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 set forth in the bold text 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.

APPLICABLE ORDINANCE

Section 607.8 of the Zoning Ordinance requires 65% of the proposed off-street parking spaces to be EV-capable, 20% to be EV-ready, and 5% to be EVSE-installed.

The applicant proposes to have 87 off-street parking spaces. 57 parking spaces would be required to be EV-capable; of the 57 EV-capable parking spaces, 18 would be required to be EV-ready, and 5 parking spaces would be required to be EVSE-installed.

Appendix A Definitions

EV-Capable spaces are defined as: an off-street parking space with electrical panel capacity and space for a branch circuit dedicated to the parking space that is not less than 40-ampere and 208/240-volt and equipped with raceways, both underground and surface mounted, to enable the future installation of electric vehicle supply equipment (EVSE). For two adjacent EV-capable spaces, a single branch circuit is permitted.

EV-ready spaces are defined as: An off-street parking space provided with a full dedicated branch circuit that includes not less than 40-ampere and 208/240-volt panel capacity, conduit, wiring, receptacle, and overprotection devices terminating in an outlet, receptacle or junction box that will support an installed EVSE and which is located in close proximity to the location of the parking space. For two adjacent EV-ready spaces, a single branch circuit is permitted. These spaces are “ready to go” with the addition of an EV charging station (EVSE).

EVSE-installed spaces are defined as: An off-street parking space with a dedicated branch circuit and EVSE for Level 2 EV charging stations, at minimum.

Entire 607.8 Electric Vehicles section is attached.

APPLICATION AND SUPPORT STATEMENT

The applicant has submitted testimony addressing the §801.2 criteria in an application received by the Planning and Development Department on August 12, 2024. The Application is attached.

STAFF COMMENTS

The project proposes affordable housing, unfortunately, pursuant to the current configuration of the Zoning Ordinance and New Hampshire state law affordable housing projects do not elicit special treatment nor does it provide a unique hardship required for a variance. Simply put, financial concerns do not constitute hardship, rather, the unique characteristics of the land and existing buildings should be looked upon for the justification of hardship.

Should the applicant seek a policy change, the most efficient pathway forward for exempting “affordable housing” projects from EV regulations, or for that matter any other Zoning Ordinance Requirement, is not to seek relief from the Zoning Board, but rather, to seek an amendment to the Zoning Ordinance from the City’s legislative body the City Council who is empowered to establish regulation and policy.

The Applicant may provide further justification in their oral testimony, however, based upon the application as submitted, the justification for the relief being sought falls short of meeting the necessary criteria for relief.

ATTACHEMENTS

Street View of Subject Property.
Eagleview and GIS views of Subject Property
Assessor's Property Record Card

Respectfully submitted,



Nathan Reichert, Director
Planning and Development Department
Zoning Administrator

607.8 Electric Vehicles.

A. Purpose. The purpose of this section is to facilitate the transition to electric vehicle use and to expedite the establishment of convenient, cost-effective electric vehicle infrastructure that such a transition necessitates.

B. Applicability. EV charging stations are allowed as an accessory use in all zoning districts. When the retail charging of electric vehicles is proposed to be the principal use of a lot, then the proposed EV charging station shall be considered a service station for zoning purposes.

C. EV Infrastructure Requirements / Off-Street EV Parking Requirements. EVSE-installed spaces, EV-ready spaces, and EV-capable spaces shall be provided as follows:

1. One- and Two-Family Dwellings. All new one- and two-family dwellings shall provide at least one (1) EV-ready space per dwelling unit.
2. Multi-Family Dwellings. Parking for multi-family dwellings shall include:
 - a. EVSE-installed spaces for a minimum of 5% of proposed off-street parking spaces.
 - b. EV-ready spaces for a minimum of 20% of proposed off-street parking spaces.
 - c. EV-capable spaces for a minimum of 65% of proposed off-street parking spaces.
3. Non-Residential Uses. Parking for uses requiring or proposing to provide 30 or more off-street parking spaces shall include:
 - a. EVSE-installed spaces for a minimum of 2% of proposed off-street parking spaces, with a minimum of two EVSE-installed spaces.
 - b. EV-ready spaces for a minimum of 10% of proposed off-street parking spaces.
 - c. EV-capable spaces for a minimum of 50% of proposed off-street parking spaces.
4. Where the calculations above result in a fractional parking space, it shall round up to the next whole number.
5. Where the number of EVSE-installed spaces provided exceeds the minimum required, the excess spaces shall be deducted from the total number of required EV-ready spaces.
6. Where the number of EV-ready spaces provided exceeds the minimum required, the excess EV-ready spaces shall be deducted from the total number of required EV-capable spaces.
7. Up to five (5) Level 2 EV-installed spaces may be substituted with one (1) Level 3 EV-installed space (minimum 50kW).

STAFF MEMORANDUM

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8. EVSE-installed spaces, EV-ready spaces, and EV-capable spaces are to be included in the calculation for both the number of minimum required and maximum permitted off-street parking spaces.

- a. Every two (2) EVSE-installed spaces provided in addition to the required minimum may be counted as four (4) off-street parking spaces as relates to Section 607.1 (Minimum Off-Street Parking Requirements), for reduction of total required parking not greater than 10 percent of the total amount of required parking.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT VARIANCE

Decision Template - ZB2024-16-VAR
City of Lebanon & The Muse Lebanon LLC
20 Spencer Street (Tax Map 92, Lot 31), zoned LD

DRAFT MOTION for:
Agenda Item 3.A
Case ZB2024-16-VAR
Request for Variance from Section §607.8

Motion made by: _____

On September 3rd 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared _____ regarding **20 Spencer Street (Tax Map 92, Lot 31)**. The Applicant requests a Variance from Section §607.8, pursuant to Section §801.2 of the Zoning Ordinance to allow the elimination of required Electric Vehicle (EV) infrastructure requirements. The applicant proposes that none of the planned 87 parking spaces be equipped with EV charging infrastructure where 57 EV-capable; of which 18 EV-ready and 5 EVSE-installed parking spaces are 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 currently vacant. The lot is +/- 40,075 sq. ft., the lot conforms to the 3,000 sq. ft. minimum lot size required for Class 1 lots in the LD District.
2. The applicants propose to build an 80-unit residential multi-family development with 87 off-street parking spaces.
3. To obtain the requested Variance from section §607.8, 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 August 12th 2024.

5. _____

6. _____

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.

2. The spirit of the ordinance **is / is not** observed:

3. Substantial justice **is / is not** done:

4. The values of surrounding properties **are not / are** diminished:

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:

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:

7. The proposed use **is / is not** a reasonable one.

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **3rd day of September 2024**, hereby **GRANTS / DENIES** the requested Variances from Section §607.8, pursuant to Section §801.2 of the Zoning Ordinance to allow the suspension of required Electric Vehicle (EV) infrastructure requirements including 57 EV-capable; of which 18 EV-ready and 5 EVSE-installed parking spaces as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain Planning Board approval and all applicable building permits.

2. _____

3. _____

Motion seconded by: _____

Vote: _____

20 Spencer - Eagleview



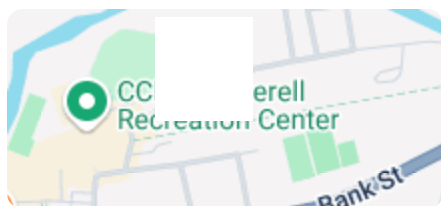


19 Spencer St

Streetview



Image capture: Jul 2024 © 2024 Google



20 SPENCER ST

Location 20 SPENCER ST

Mblu 92/ 31/ / /

Acct# 2829

Owner CITY OF LEBANON

PBN

Assessment \$704,500

Appraisal \$704,500

PID 1999

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$0	\$704,500	\$704,500
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$0	\$704,500	\$704,500

Owner of Record

Owner CITY OF LEBANON
Co-Owner
Address 51 NORTH PARK ST
LEBANON, NH 03766

Sale Price \$0
Certificate
Book & Page 2945/0225
Sale Date 12/12/2003
Instrument 99

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
CITY OF LEBANON	\$0		2945/0225	99	12/12/2003
CITY OF LEBANON	\$0		1725/0936	99	02/23/1988

Building Information

Building 1 : Section 1

Year Built:
Living Area: 0
Replacement Cost: \$0

Building Percent Good:

Replacement Cost

Less Depreciation: \$0

Building Attributes	
Field	Description
CNS_USRFLD_108	
Model	
Style	Vacant
Grade	
Stories	
Comm Units	
Exterior Wall 1	
Exterior Wall 2	
Roof Structure	
Roof Cover	
Interior Wall 1	
Interior Wall 2	
Interior Floor 1	
Interior Floor 2	
Basement Floor	
% Heated	
Heat Fuel	
Heat Type	
# Heat Systems	
AC Percent	
Bedrooms	
Full Bath(s)	
Bath Rating	
Half Bath(s)	
Extra Fixture(s)	
Plumbing	
Kitchen(s)	
Kitchen Rating	
Total Rooms	
Frame	
Foundation	
Bsmt Garage	
Parking	
Fireplace(s)	
Fireplace Rating	
WS Flues	
WS Flue Rating	

Building Photo



(<https://images.vgsi.com/photos/lebanonnhPhotos//1947.JPG>)

Building Layout

([ParcelSketch.ashx?pid=1999&bid=1999](#))

Building Sub-Areas (sq ft)	Legend
No Data for Building Sub-Areas	

Interior/Exterior	
View	
Electric	
Insulation	
Partition	
Solar Hot Water	
Central Vac	
Nbhd Modifier	
MH Make	

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use	Land Line Valuation
Use Code9030 DescriptionMUNICIPAL ZoneLD NeighborhoodC3 Alt Land ApprNo Category	Size (Acres)1.92 Frontage Depth Assessed Value\$704,500 Appraised Value\$704,500

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2023	\$0	\$704,500	\$704,500
2022	\$0	\$704,500	\$704,500
2021	\$0	\$569,300	\$569,300

Assessment			
Valuation Year	Improvements	Land	Total
2023	\$0	\$704,500	\$704,500
2022	\$0	\$704,500	\$704,500
2021	\$0	\$569,300	\$569,300

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: City of Lebanon TEL.#:

MAILING ADDRESS: 51 North Park Street, Lebanon, NH

E-MAIL ADDRESS:

CO-APPLICANT, AGENT, OR LESSEE:

NAME: The Muse Lebanon, LLC TEL.#: 978-419-1699

MAILING ADDRESS: PO Box 847 Hollis, NH 03049

E-MAIL ADDRESS: jake.tamposi@gmail.com

PROJECT LOCATION:

TAX MAP #: 92 LOT#: 31 PLOT #: ZONE: LD

STREET ADDRESS OF PROJECT: 20 Spencer Street

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

SCOPE OF PROJECT:

Affordable 80 unit residential multi-family development.

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: Affordable Housing

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 September 9, 2024, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY

OWNER: _____ DATE: _____

NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

PROPERTY

OWNER: _____ DATE: _____

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #			
8/12/24	92-31	ZB2024-16-VAR			

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) VI
Section(s) 607.8 Electric Vehicles of the Lebanon Zoning Ordinance.

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;

See attached.

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

See attached.

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

See attached.

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

See attached. 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

See attached.

; and

(ii) The proposed use is a reasonable one.

(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.

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)."

I (we) hereby request a variance from the terms of Article(s) VI Section(s) 607.8 Electric Vehicles of the Lebanon Zoning Ordinance.

The subject property is being redeveloped in accordance with the 20 Spencer Street RFP as proposed by the City of Lebanon. As identified by the developer in the RFP, they seek to redevelop the site at 20 Spencer Street into a vibrant, privately-owned, 100% affordable housing community (the Muse Apartments) that enriches the social fabric and physical landscape of Lebanon's downtown area. The redevelopment follows four key principles as our lodestars:

- Provide high-quality affordable housing for a diverse range of households
- Create spaces that inspire artists and add to the community's cultural vitality
- Develop a site that is connected and integrated with the broader community and streetscape
- Construct a building and physical infrastructure that is energy efficient and lasting

Based on dialogues with the New Hampshire State Council on the Arts' Director of Creative Communities, a lack of affordable housing and studio space—especially a lack live-work spaces for artists—is inextricably connected with the major challenges that creative workers experience in New England. The Muse Apartments responds to this need by dedicating units as live-work studios for artists, providing street-level gallery and exhibition space for resident-artists, and offering flexible workspaces and makerspaces throughout the building.

Although the applicant seeks relief from the EV Infrastructure/Off-Street Parking Requirements, the proposed redevelopment is in keeping with the City Master Plan and Downtown Visioning Study, drastically improving the conditions of an otherwise underutilized property and providing affordable housing consistent with the City's RFP. Existing physical constraints specific to the site consist of a portion of the site being located within a flood plain, which burdens the property as it dictates building location and layout of the site amenities to minimize and mitigate impacts to the flood zone.

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;

To be contrary to the public interest the request must unduly and to a marked degree violate the basic zoning objectives of the zoning ordinance. The Lebanon zoning ordinance was enacted for the purpose of promoting the health, safety and general welfare of the community; for the purposes listed in RSA 674:16; and for the purposes stated in the City of Lebanon Master Plan. These elements include support of smart growth principles, development of a comprehensive multi-modal transportation plan, improvement of bikeways, and public transit systems, providing a sense of place, environmental responsibility and energy efficiency and intelligent/coordinated development and transportation (infill development and adaptive reuse that is walkable and bikeable).

The proposal for the Muse Lebanon Apartments described herein would not threaten the public health, safety or welfare and is consistent with the applicable components of the City Master Plan to redevelop the site into a vibrant, 100% affordable housing community (the Muse Apartments) that enriches the social fabric and physical landscape of Lebanon's downtown area. This conformity with the Master Plan demonstrates the proposed development would not alter the essential character of the locality nor be contrary to the public interest.

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

The overall purpose and intent of the Zoning Ordinance is to promote the health, safety, and general welfare of the community, which relief from the EV Infrastructure/Off-Street Parking Requirements will not frustrate. Because

the project anticipates financing through Low-Income Housing Tax Credits (LIHTCs) and other public sources, it is critical to control costs and realize economies-of-scale in order to stay within programmatic cost thresholds.

The Muse Apartments, providing high-quality, affordable housing for a diverse range of households observes the spirit of the ordinance and mirrors the expectations of the Master Plan and the City of Lebanon RFP for the redevelopment of the subject parcel. In that the intent of the ordinance is to follow the guiding principles of the Master Plan, of which providing affordable housing is identified as a benefit to the public, relief may be granted without frustrating the purpose of the ordinance and the spirit of the ordinance is observed as the character of the neighborhood will not change.

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

The guiding factor for substantial justice is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. Under the specific design of the site as proposed, the gain to the public will not outweigh the harm to the applicant as the public is protected equally in either case.

The loss to the applicant if the variance is denied will be an unproductive parcel of land that will not be developed to its highest and best use and provide for the well documented need for affordable housing in Grafton County and the State of New Hampshire. The community will also suffer if the variance is not granted in the loss of a vibrant, 100% affordable housing community (the Muse Apartments) that enriches the social fabric and physical landscape of Lebanon's downtown area. There will be no benefit to the public if the variance is not granted.

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

We anticipate no diminished property values as a result of the proposed live-work development and the exclusion of EV Infrastructure/Off-Street Parking. The development embodies the principles of the Master Plan, a document created to enable economic prosperity for the Town.

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

The zoning restriction burdens the property in a manner that is distinct from other similarly situated properties due to budgetary restrictions associated with this being a 100% affordable housing community. Because the project anticipates financing through Low-Income Housing Tax Credits (LIHTCs) and other public sources, it is critical to control costs and realize economies-of-scale in order to stay within programmatic cost thresholds, which the provision for electric vehicles departs from.

As adequate protection is provided to ensure the development is in keeping with the spirit of the ordinance, no fair and substantial relationship exists between the general public purposes of this specific ordinance provision, requiring EV Infrastructure/Off-Street Parking, and the specific application of that provision to the property.

In this specific case, full application of the requirement for EV Infrastructure/Off-Street Parking is not necessary to promote a valid public purpose, as the overriding criterion to protect the public health, safety and welfare, and to promote the values of the Master Plan, is upheld.

ii. The proposed use is a reasonable one

The Muse Apartments 100% affordable housing community includes dedicated units as live-work studios for artists, providing street-level gallery and exhibition space for resident-artists, and offering

flexible workspaces and makerspaces throughout the building. Such a development provides a sense of community and promotes a sense of place, while creating much needed affordable housing.

The proposed development reflects the hallmarks of the Master Plan with connectivity and walkability, while promoting recreational opportunities, maximizing green space, and minimizing environmental impacts. Such a development provides a sense of community and promotes a sense of place, without undue impact to abutting properties. The exclusion of EV Infrastructure/Off-Street Parking to achieve such a development is a reasonable use of the property.

Pairing the above with the physical limitations that otherwise burden the property, we would deem no fair and substantial relationship between the general public purposes of the ordinance and the specific application of that provision to the property exist, and that relief may be granted without frustrating the purpose of the ordinance.

- 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 conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.**



Civil Engineers
Structural Engineers
Traffic Engineers
Land Surveyors
Landscape Architects
Scientists

August 19, 2024

To: Nathan Reichert, Planning & Development Director
Tiffany Adams, Executive Assistant
City of Lebanon Planning & Development Department
51 N. Park Street, 5th Floor
Lebanon, NH 03766

RE: **ZBA Application Narrative**
The Muse Apartments
20 Spencer Street, Lebanon, NH 03766
Tax Map 92, Lot 31

Dear Nathan and Tiffany,

On behalf of our client, The Muse Lebanon, LLC, and owner, The City of Lebanon, we are respectfully submitting additional narrative to quantify the number of parking spaces we are referring to in our variance application dated August 12th. Attached to this transmittal is a copy of the site plan depicting the parking plan and calculation for the site.

To summarize:

Lebanon Site Plan Regulations Section 6.07.4 states there is no minimum off-street parking requirement, we are proposing 87 off-street parking spaces. There are 12 existing on-street parking spaces. The zoning ordinance requires the following percentages and classification for EV status to be provided:

2. Multi-Family Dwellings. Parking for **multi-family dwellings** shall include:
 - a. **EVSE-installed spaces** for a minimum of 5% of proposed **off-street parking spaces**.
 - b. **EV-ready spaces** for a minimum of 20% of proposed **off-street parking spaces**.
 - c. **EV-capable spaces** for a minimum of 65% of proposed **off-street parking spaces**.

For our application these rates yield:

- a) $.05 \times 87 = 4.35$ spaces or 5 spaces EVSE-installed
- b) $.20 \times 87 = 17.4$ spaces or 18 spaces EV-ready spaces
- c) $.65 \times 87 = 56.55$ spaces or 57 spaces EV-ready spaces

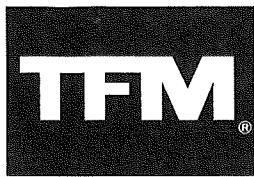
Please use this information in consideration of the application. If you have any questions or comments, please do not hesitate to contact the undersigned at (603) 472-4488 or email ngolon@tfmoran.com.

Sincerely,

TFMoran, Inc.

Nicholas Golon, PE
Civil Department Manager/Principal

48 Constitution Drive
Bedford, NH 03110
Phone (603) 472-4488
Fax (603) 472-9747
www.tfmoran.com



Civil Engineers
Structural Engineers
Traffic Engineers
Land Surveyors
Landscape Architects
Scientists

August 12, 2024

Tim Corwin, AICP, Deputy Planning and Development Manager
City of Lebanon
51 North Park Street
Lebanon, NH 03766

**RE: The Muse Apartments
20 Spencer Street
Lebanon, NH
Tax Map 92 Lot 31**

Dear Tim,

On behalf of The Muse Lebanon, LLC. (applicant), and the City of Lebanon (owner) please find attached plans, reports and applications associated with the redevelopment of the subject parcel for an affordable multifamily housing development.

The parcel is identified as Tax Map 93, Lot 31 and is approximately 1.92 acres, zoned Lebanon Downtown. The site is mostly a compacted gravel surface with two site driveways on Spencer Street. This project seeks to reoccupy the site and match the residential character of the surrounding neighborhood with the proposed development. The site is currently vacant/used for storage by the municipality. Historically it has been an outdoor storage/facility for the NHDOT and Public works. The site has gone through remediation practices and is currently under groundwater management permit No. 198806030-L-001. The ground water monitoring and reporting has been ongoing for the City by Credere Associates, LLC. The project will incorporate/modify the ongoing monitoring and reporting as necessary.

Our proposed development plan is for 80 rental homes affordable to households earning an average income of 60% of the Grafton County Area Median Income, with several of the units being live-work units with a preference for artists. The development seeks to enrich the streetscape and cultural vibrancy of the downtown area. Funding is anticipated through a combination of public resources, including Low-Income Housing Tax Credits, allocated by the New Hampshire Housing Finance Authority.

The subject property is being developed in accordance with the 20 Spencer Street RFP as proposed by the City of Lebanon. As identified by the developer in the RFP, they seek to redevelop the site at 20 Spencer Street into a vibrant, privately-owned, 100% affordable housing community (the Muse Apartments) that enriches the social fabric and physical landscape of Lebanon's downtown area. The redevelopment follows four key principles as our lodestars:

- Provide high-quality affordable housing for a diverse range of households
- Create spaces that inspire artists and add to the community's cultural vitality
- Develop a site that is connected and integrated with the broader community and streetscape
- Construct a building and physical infrastructure that is energy efficient and lasting

Based on dialogues with the New Hampshire State Council on the Arts' Director of Creative Communities, a lack of affordable housing and studio space—especially a lack live-work spaces for artists—is inextricably connected with the major challenges that creative workers experience in New England. The Muse Apartments

48 Constitution Drive
Bedford, NH 03110
Phone (603) 472-4488
Fax (603) 472-9747
www.tfmoran.com

responds to this need by dedicating units as live-work studios for artists, providing street-level gallery and exhibition space for resident-artists, and offering flexible workspaces and makerspaces throughout the building.

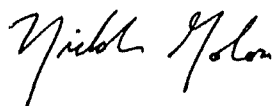
To create a rich, vibrant affordable housing community, we have consciously designed the Muse Apartments to connect with broader context of downtown Lebanon. Taking inspiration from Lebanon's Master Plan and Downtown Visioning Study, the Muse Apartments establishes an inviting and lively presence on Spencer Street. The saw-toothed articulation of the Spencer Street façade creates dynamic visual interest along the street. The color palette and material selections attempt to link the project to the New England vernacular, while still providing a modern look, durability, and cost-efficiency to meet funding requirements. At the same time, the prominent location of the community art gallery space and the dedicated window displays, and stoop spaces associated with the live-work unit establish a mixed-use atmosphere—notwithstanding the fact that the project is 100% affordable housing. Finally, thoughtful landscaping improvements along Spencer Street will help beautify the City's public roadway infrastructure.

The Northern Rail Trail facilitates alternative transportation options and important connections to the Mascoma River and its associated greenways. The design of the Muse Apartments seeks to activate the Rail Trail for its residents. In addition to providing a direct connection from Spencer Street to the trail, the Muse Apartments leans into biking as a viable means of commuting and travel. The ground floor lobby space includes an indoor bike storage and repair station for residents. 20 Spencer Street represents a rare opportunity in the State of New Hampshire to promote modes of transportation without carbon emissions. This rare opportunity justifies a relatively low car-parking ratio with a very high bike-parking ratio that far exceeds the standards of the City of Lebanon Planning Board

Our Project Team is excited to provide this safe, clean, high quality affordable rental housing to Lebanon to help address the City's housing shortage and housing affordability crises.

We look forward to reviewing this project with the Planning & Zoning Board, and should there be any questions or concerns regarding this submittal or the project in general please do not hesitate to contact the undersigned at 603.472.4488 or ngolon@tfmoran.com.

Sincerely,
TFMoran, Inc.



Nicholas Golon, P.E.
Civil Department Manager, Principal

CERTIFIED NOTIFICATION LIST

Notice shall be sent by certified mail to the Owner; Applicant, if different from Owner; Abutters; Holders of conservation, preservation, or agricultural preservation restrictions (as defined under RSA 477:45) on the subject property; the holders of easements, rights-of-way, and other restrictions; and every engineer, architect, land surveyor, or soil or wetlands scientist whose seal appears on any plan submitted to the Board; and any other persons required by RSA 676:4, I(d). The names and mailing addresses shall be furnished by the Applicant.

672:3 Abutter. – "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

Source. 1983, 447:1. 1986, 33:2. 2002, 216:1, eff. July 15, 2002.

PLEASE PROVIDE NAMES & MAILING ADDRESSES FOR ALL PERSONS LISTED ABOVE.

Map & Lot Number:	Map & Lot Number:
Property Owner: MAP 92 LOT 31 CITY OF LEBANON 51 NORTH PARK STREET LEBANON, NH	Applicant, Co-Applicant, Agent, or Lessee: THE MUSE LEBANON, LLC PO BOX 847 HOLLIS, NH 03049
Map & Lot Number:	Map & Lot Number:
TFMORAN, INC. C/O NICHOLAS GOLAN, PE & MICHAEL DAHLBERG, LLS 48 CONSTITUTION DRIVE BEDFORD, NH 03301	MAP 29 LOT 37 WALID NASRALLAH, T'EE NASRALLAHS ANDENWOOD TR. 11009 ANDENWOOD DRIVE AUSTIN, TX 78726
Map & Lot Number:	Map & Lot Number:
MAO 29 LOT 34 UPPER VALLEY SUPPORTIVE HOUSING LIMITED PARTNERSHIP 226 HOLIDAY DRIVE, SUITE 20 WHITE RIVER JUNCTION, VT 05001	MAP 92 LOT 33 SPENCER STREET STORAGE LLC PO BOX 317 17 MAPLE STREET ENFIELD, NH 03748

Map & Lot Number:	Map & Lot Number:
MAP 92 LOT 40 SCOTT PAULS LAURA FINEBERG 29 PARKHURST STREET LEBANON, NH 03766	MAP 92 LOT 28, 5-11.5 SPENCER STREET LLC JANE HILL C/O REAL PROPERTY MANAGEMENT 1 SCHOOL STREET, UNIT A LEBANON, NH 03766
Map & Lot Number:	Map & Lot Number:
MAP 92 LOT 30/EASEMENT CITY OF LEBANON 51 NORTH PARK STREET LEBANON, NH 03766	MAP 92 LOT 30/EASEMENT CITY OF LEBANON 51 NORTH PARK STREET LEBANON, NH 03766
Map & Lot Number:	Map & Lot Number:
MAP 78 LOT 4, 5 TACKLE PARTNERS LLC PO BOX 13 ETNA, NH 03750	MAP 92 LOT 41, 42 CENTRO STORICO LLC 7 SARGENT STREET HANOVER, NH 03755
Map & Lot Number:	Map & Lot Number:
MAP 92 LOT 78 EXECUSUITE LLC C/O MICHAEL DAVIDSON 31 ELM STREET LEBANON, NH 03766	MAP 78 LOT 39 MASON STORAGE, LLC 38 SPENCER STREET LEBANON, NH 03766
Map & Lot Number:	Map & Lot Number:
MAP 78 LOT 2 EMERSON PLACE APARTMENTS LLC C/O THE DOLBEN COMPANY, INC 150 PRESIDENTIAL WAY, SUITE 220 WOBURN, MA 01801	NORTHERN RAIL TRAIL STATE OF NH DEPT. OF TRANSPORTATION PO BOX 483 CONCORD, NH 03302-04863
Map & Lot Number:	Map & Lot Number:
MAP 92 LOT 36 TWIN PINES HOUSING TRUST 226 HOLIDAY DRIVE, SUITE 20 WHITE RIVER JUNCTION, VT 05001	MAP 92 LOT 39 KENNETH F. LACASSE, T'EE KENNETH F. LACASSE REVOCABLE TRUST PO BOX 921 QUECHEE, VT 05059
Map & Lot Number:	Map & Lot Number:

(Revised 2/8/2024)



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

September 3, 2024 - Regular Meeting

Staff Memorandum – ZB2024-17-SE

APPLICATION INFORMATION

Agenda Item: 3.B

Application Type:

Special Exception
pursuant to §703.1 and §801.3

Location:

71 Elm Street
Tax Map 107, Lot 137

Applicant/Property Owner:

Paul McAuliffe

Zoning District:

Residential Three (R-3) – Class 1

Property Size:

+/-0.16 acres (+/- 6,969 sq. ft.)

Overlay Districts:

None

Previous ZBA Action (since 1995):

None

Other Approvals Required:

Building Permit

Attachments:

Application
Eagleview and street view photos

HEARING NOTICE

Paul McAuliffe, 71 Elm Street (Tax map 107, lot 137), zoned R3:

The applicant requests a Special Exception from Section 310.3, pursuant to Section 703.1 & 801.3 of the Zoning Ordinance, to allow the expansion of the existing non-conforming garage to be located +/- 2.5 feet from the right side lot line where 15 feet is required and 16 feet from the rear lot line where 20 feet is required and the expansion of non-conforming rear addition to be located +/- 10.5 feet from the left side lot line where 15 feet is required. **ZB2024-17-SE**

BACKGROUND

The property is improved with a one-family dwelling constructed in 1923, per the City Assessor's records, and is non-conforming to the R-3 Class 1 District minimum lot size requirement of 10,000 sq. ft. as the lot is +/- 6,969 sq. ft., approx. 61 ft wide and 124 ft deep. The R-3 Class 1 standard is for a 75' wide lot frontage.

PROPOSAL

The applicant proposes to demolish an existing non-conforming 12 ft x 17 ft garage that is +/- 1 ft from the right side and 27 ft from the rear lot lines shared with 77 Elm Street (tax map 107, lot 138) and to construct a new non-conforming 16 x 28 ft garage 2.5 ft from the right side lot line where 15 ft is required, and 16 ft from the rear lot line where 20 ft is required. Additionally, the applicant proposes to demolish the existing 9 ft x 17 ft non-conforming addition at back of the house that is +/- 11.5 ft from the left side lot line shared with 69 Elm St (tax map 107, lot 136) and to rebuild an addition that is 18 ft x 24 ft that will be 10.5 ft from the left side lot line where 15 ft is required.

Section §703.1 permits the expansion of an existing dimensional non-conformity by Special Exception.

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 and a minimum front yard of 20 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 addition 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.*

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 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.

STAFF MEMORANDUM

ZB2024-17-SE

71 Elm St

(Tax Map 107, Lot 137)

September 3, 2024 ZBA Meeting

Agenda Item 3.B

Page **3** of **3**

ATTACHEMENTS

Photos: Google Street View of Subject Property.

Photos: Eagle Views of Subject Property

Respectfully submitted,



Nathan Reichert, Director
Planning and Development Department
Zoning Administrator

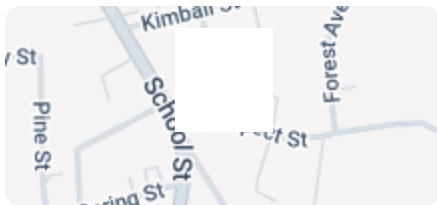
Lebanon, New Hampshire

Google Street View

Jul 2013



Image capture: Jul 2013 © 2024 Google



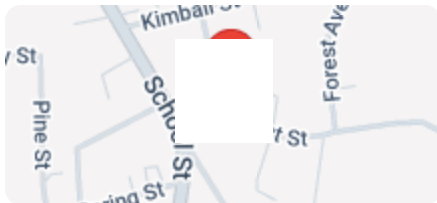


Lebanon, New Hampshire

Google Street View

Jul 2013

Image capture: Jul 2013 © 2024 Google



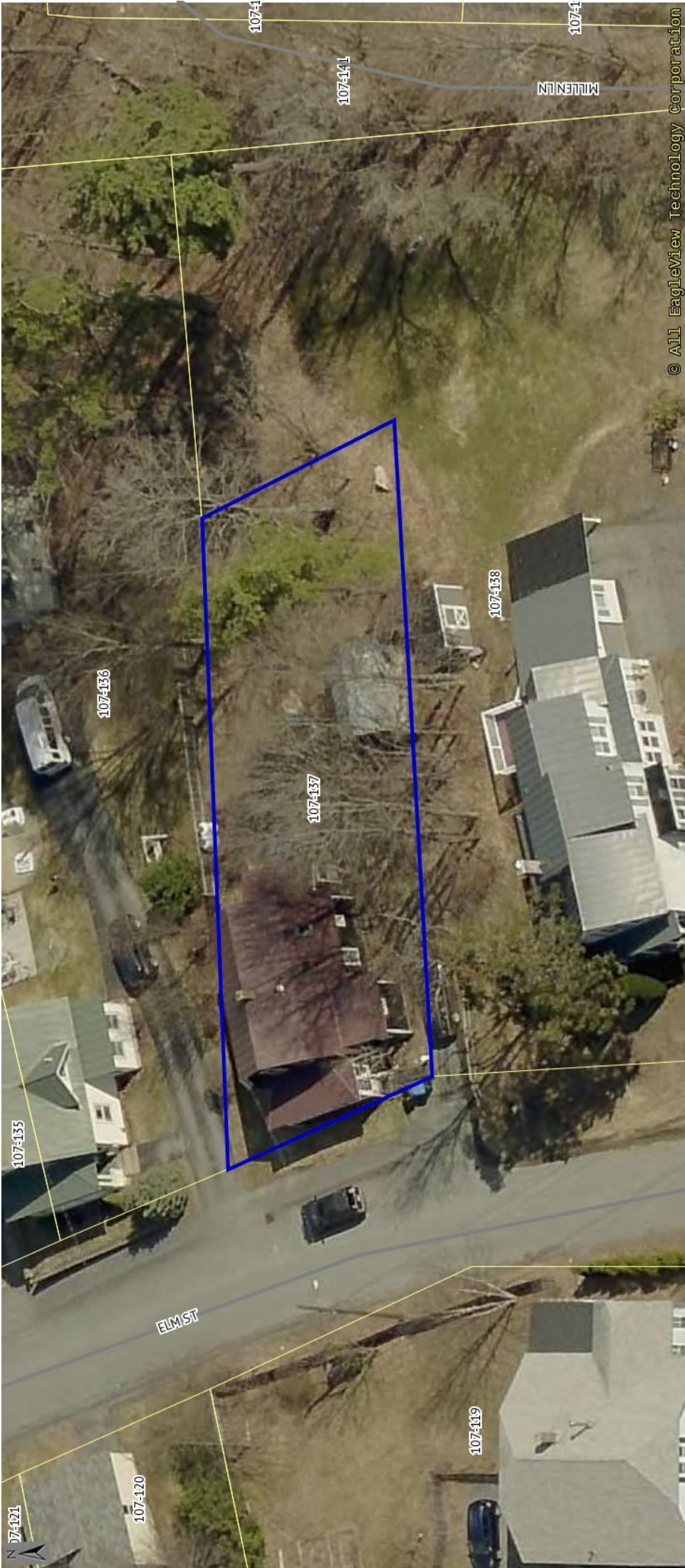
71 Elm Street Left Side View



71 Elm St Rear view



71 Elm Street Right Side View



71 Elm Top

**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 07/15/2024
Data updated 11/18/2018

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



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

DRAFT DECISION – ZB2024-17-SE

September 3, 2024 Regular Meeting

Paul McAuliffe

71 Elm Street (Tax Map 107, Lot 138), zoned R3

DRAFT MOTION for:

Agenda Item: 3.B

Case: ZB2024-17-SE

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

Motion made by: _____

On September 3rd 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared _____ regarding 71 Elm Street (Tax Map 1077, Lot 137). The applicant requests a Special Exception from Section 310.3, pursuant to Section 703.1 & 801.3 of the Zoning Ordinance, to allow the expansion of the existing non-conforming garage to be located +/- 2.5 feet from the right side lot line where 15 feet is required and 16 feet from the rear lot line where 20 feet is required and the expansion of non-conforming rear addition to be located +/- 10.5 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 subject property is improved with a one-family dwelling constructed in 1923. The lot contains a primary residence and a dimensionally non-conforming rear addition and detached garage.
2. As described in the application the applicant proposes to tear down and rebuild the garage and widen the rear home addition. The new garage will be partially located within the side-yard 15 ft setback and the 20 ft rear setback and will be located +/- 2.5 ft from the right-side lot line and 16 ft from the rear lot line. The expanded rear addition will be partially located within the 15 ft side setback and will be approximately +/- 10.5 ft from the left-side lot 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 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 August 12, 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.

2. The following criteria of Section §703.1 **have been / have not 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 / are** 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 / will** be adversely affected.

5. **No / A** hazard or nuisance will be created.

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

7. The granting of the Special Exception **will not / will** result in undue municipal expense.

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

9. The general welfare of the City **will / will not** be protected.

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 3rd day of September, 2024, hereby **GRANTS / DENIES** the requested Special Exception pursuant to Section §703.1 and §801.3 of the Zoning Ordinance to permit the teardown and expansion of the existing non-conforming garage to be replaced with a new 16 foot x 28 foot garage located +/-2.5 feet from the right-side lot line where 15 feet is required and +/- 16 feet from the rear lot line where 20' is required; along with the teardown and expansion of the non-conforming rear home addition to be replaced with a new 18 foot x 24 foot home addition located +/- 10.5 feet from the left lot line where 15 feet is required at 71 Elm Street pursuant to the attached plans and 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. _____

3. _____

DRAFT MOTION

ZB2024-17-SE

71 Elm St

(Tax Map 107, Lot 137)

September 3, 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	☐	☐ OTHER ()

PROPERTY OWNER (APPLICANT):			
NAME: <u>Paul McQuiliffe</u>		TEL.#: <u>508 367 1922</u>	
MAILING ADDRESS: <u>71 Elm St Lebanon NH 03766</u>			
E-MAIL ADDRESS: <u>PaulTMcQuiliffe3@Gmail.com</u>			
CO-APPLICANT, AGENT, OR LESSEE:			
NAME:		TEL.#:	
MAILING ADDRESS:			
E-MAIL ADDRESS:			
PROJECT LOCATION:			
TAX MAP #:	<u>107</u>	LOT#:	<u>137</u>
PLOT #:	<u>-</u>	ZONE:	<u>R3</u>
STREET ADDRESS OF PROJECT: <u>71 Elm St Lebanon NH</u>			
IS THIS PROPERTY LOCATED IN THE:			
WETLANDS		☐ YES	☒ NO
HISTORIC DISTRICT		☐ YES	☒ NO
FLOOD PLAIN		☐ YES	☒ NO
SCOPE OF PROJECT:			
<u>Addition to rear of Building replacing existing Delapidated Addition</u>			
<u>- Rebuild Garage</u>			
TYPE OF OCCUPANCY:			
EXISTING	☐ VACANT	☒ ONE FAMILY	☐ TWO FAMILY
PROPOSED	☐ VACANT	☐ ONE FAMILY	☐ TWO FAMILY
		☐ MULTI-FAMILY	☐ COMMERCIAL
		☐ INDUSTRIAL	
IF USE IS COMMERCIAL OR INDUSTRIAL , PLEASE NOTE SPECIFIC USE: _____			
SIGNATURE BLOCK:			
<u>Paul TMcQuiliffe</u>		DATE: <u>8-12-24</u>	
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 #			
8-12-24	107-137	ZB2024-17-SF			

(12/07/07)

**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) VII,
Section(s) 701.3, 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.)*

See Attached Copy

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:

Section 701.3 of the Zoning Ordinance allows for non conforming structures to be expanded by special exemption

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

the Garage will be further from the lot line. One foot now 2.5 feet Proposed.
Rear house rebuild will be further (10.5 at Closest Point) house now is 9.5'

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

the house was build Circa 1915 Pre dating Ordinances

CITY OF LEBANON, NEW HAMPSHIRE
SUPPORT STATEMENT FOR A SPECIAL EXCEPTION
Page 2

- D. That the character of the area shall not be adversely affected:
the Character will be Preserved matching existing house,
Non Conforming structures are in eye Sore and Delapidated
Currently
- E. That no hazard or nuisance will be created:
No hazards will be Created, structures are Rotten
and falling apart fixing and building to Current Code
will make them safe and Usable.
- F. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted:
Rebuilding structures will not Change anything
to the Community. It will Clean up the Old looking
Garage on the street views.
- G. That granting the special exception will not result in undue municipal expense:
No Undue municipal expense Other than Building
Permits and Special exception application wich will
Be all be paid in full
- H. That the proposed special exception will be developed in a manner compatible with the spirit and intent of the ordinance:
These Improvements will make this very small Lot more
functional and aesthetically Pleasing.
- I. That the general welfare of the City will be protected:
the proposed Changes will allow for family to safely
use the structures while giving More room to Grow

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.

71 Elm st - Paul McAuliffe

Currently in the rear of the house is a old Addition that is sinking into the Ground Due to improper foundation and rotten beyond repair. Instead of rebuilding in the existing footprint the proposed Plan is to expand towards the rear of the Property to acomidate a growing family and to make the house more functional.

this addition will be no closer to the lot line then the Current non Conforming house.

The Garage is Directly on the Property line Being 100 years old, falling in and rotten. the Proposed Plan is to move the New Garage slightly away from the Property line, as well as expanding it towards the rear and middle of the Property. to allow for larger more modern Vehicles while having storage in rear. This ~~ordinance~~ exception will allow for new 'safe' usable buildings ON my Property

ELM street

107-136

107-136

