

FINAL

**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**

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

Vice Chair Katz MOVED at a duly-noticed regular meeting of the Lebanon Zoning Board of Adjustment on June 3rd 2024 a public hearing was opened, conducted then continued to the July 1st regular meeting, then continued again to the July 8th special meeting, then continued again to the August 5th regular meeting, there appeared, Attorney Megan Carrier, Attorney Courtney Herz and Director Ditha Alonso regarding 31 Romano Circle (Tax Map 101, Lot 20). 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.

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

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

Special Exception Criteria pursuant to Section §801.3:

1. The Special Exception is specifically authorized by Section §703.1 and Section §801.3 of the Zoning Ordinance.
2. Further pursuant to the criteria of Expansion of a Nonconforming use in section 703.1.A
 - a. The reasonable use of abutting properties **is not** adversely affected by the proposed expansion.
 - b. The proposed expansion **does not** render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently non-conforming cannot be made more non-conforming 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. (§801.3.C) *Staff is not aware of any Zoning Ordinance violations on the property.*
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 **5th day of August, 2024**, hereby **GRANTS** the requested special exception and variance as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

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

Seconded by Mr. McDonough.

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

5. STAFF COMMENTS

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

6. ADJOURNMENT

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

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

Respectfully submitted,
Linda Billings, Recording Secretary