

FINAL

**LEBANON ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE
MONDAY, September 3, 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 7:00 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 1, 2024

Mr. Newlove MOVED to approve the July 1, 2024, Minutes as presented in the September 3, 2024, packet.

Seconded by Mr. Morris.

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

B. August 5, 2024

Mr. Newlove MOVED to approve the August 5, 2024, Minutes as presented in the September 3, 2024, packet.

Seconded by Mr. Morris.

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

3. PUBLIC HEARING ITEMS

The order of the meeting was changed.

The applicants were given the option to postpone their application until there is a full Board.

- A. 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**

Mr. Mcauliffe appeared on behalf of the application. The house and garage were built in 1913. At this time the old garage is sinking and is in disrepair.

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

Mr. Newlove MOVED On September 3rd 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Paul Mcauliffe 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. No one from the public objected.

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 3rd day of September, 2024, hereby **GRANTS** 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.

Seconded by Mr. Morris.

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

- B. 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**

Nick Golon, engineer from TF Moran, appeared on behalf of the application. The City entered into an agreement for the development of Spencer Street property. There have been some recent changes to tax code requirements however timing is important. They would like to withdraw this application without prejudice. They understand the importance of affordable housing and intend to get it done soon and get it done right. The application was allowed to be withdrawn.

4. STAFF COMMENTS

A. New Board packet format discussion

Staff believe they are doing duplicate efforts and putting duplicate information into the packets. They are wondering if the packet sufficiently organized, is there any additional information that the Board would like as a standard offering, and lastly, can the format be modified and the way it is laid out to make it easier to put multiple types of documents together.

The Board feels the materials are adequate and the cover page is not as important to the members. The narratives are the most important. The general components that were in the packet will remain. The Board is supportive of efficiency in the process. The logical components are what the applicants are requesting in their own words, an evaluation of why they are coming before the Zoning Board, and what the Board should consider. It is fine for Staff to express an opinion, but it is important that Staff have a neutral position during a hearing. It is important that people believe they have a fair opportunity to be considered in a contentious situation. All the materials in a packet become public record.

Staff will try a new format and the Board will weigh in to help establish a uniform style for the packet.

5. ADJOURNMENT

Mr. McDonough MOVED to adjourn the meeting at 7:39 PM.

Seconded by Mr. Morris.

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

Respectfully submitted,
Linda Billings, Recording Secretary