



**LEBANON ZONING BOARD OF ADJUSTMENT
NOVEMBER 18, 2024 - 7:00 PM
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

1. Call to Order

- A. To participate in this meeting, please [join live via Microsoft Teams](#) or call 1-929-229-5356 (access code: 647 132 031#). If you have trouble accessing this meeting, please [email nathan.reichert@lebanonnh.gov](mailto:nathan.reichert@lebanonnh.gov).

2. Approval of Minutes

- A. October 7, 2024

3. Public Hearing Items

- A. **Casey & Catharine Boardman, 0 Farnum Hill Rd (Tax map 134, Lot 4), zoned RL-2:** The applicants request a Variance from Section 313.3, pursuant to Section 801.2 of the Zoning Ordinance, to allow the demolition of an existing barn and construction of a 1-family dwelling with attached 4-car garage +/- 28 ft from the rear property line where 30 ft is required. The proposed new building will be built utilizing the existing front setback of the barn. **ZB2024-21-VAR**
- B. **William & Deborah Rafter, 12 Union St, (Tax map 92, Lot 194), zoned R-2:** The applicants request 4 Variances from Section 309.3, pursuant to Section 801.2 of the Zoning Ordinance, to allow the construction of 1) a 160 sq ft shed +/- 5 ft from the right-side property line where 15 ft is required, 2) a 180 sq ft shed +/- 6 ft from the left-side property line where 15 ft is required, 3) both sheds will be located +/- 5 ft from the rear property line where 20 ft is required, 4) to allow 25.2% building coverage on the lot where 25% is the maximum. **ZB2024-22-VAR**
- C. **Lisa Dupont, 53 Cottage Cir (Tax Map 87, Lot 121), zoned R-3:** The applicant requests a Special Exception from Section 610.H, pursuant to Section 801.3 of the Zoning Ordinance, to locate an additional entrance door that will serve an ADU at the front of the building where only side or rear entrance doors are allowed. **ZB2024-23-SE**
- D. **Cicotte Holdings, LLC, 51 Evans Dr (Tax Map 78, Lot 40), zoned RO-1:** An appeal of the Zoning Official's Notice of Violation and Administrative Decision pursuant to section §801.1 Administrative Appeals, that the property is not in the flood zone, that the parking area is grandfathered, and deadlines demanded by the City are unreasonable. **ZB2023-11-AAD - Continued from the October 7, 2024 meeting per applicant request.**

4. Other Business

- A. Proposed Zoning Amendments Review
- 5. Staff Comments**
- 6. 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, October 7, 2024
7:00 PM**

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

MEMBERS ABSENT: Dave Newlove

STAFF PRESENT: Nathan Reichert – Zoning Administrator

1. CALL TO ORDER

Chair Koppenheffer 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. June 3, 2024

Vice Chair Katz MOVED to approve the June 3, 2024, Minutes as presented in the October 7, 2024, packet.

Seconded by Mr. McDonough.

**The Vote on the Motion was (4-0-1).
Ms. Barkley abstained.*

B. September 3, 2024

Vice Chair Katz MOVED to approve the September 3, 2024, Minutes as presented in the October 7, 2024, packet.

Seconded by Mr. McDonough.

**The Vote on the Motion was (3-0-2).
Chair Koppenheffer and Ms. Barkley abstained.*

3. PUBLIC HEARING ITEMS

- A. Mark Franklin, 18 Cottage Circle (Tax map 87, lot 134), zoned R3:** The applicant requests a Variance from Section 310.3, pursuant to Section 801.3 of the Zoning Ordinance, to allow the construction of a garage +/- 5 ft from the right-side property line where 15 ft is required. **ZB2024-19-VAR**

1 Mark and Laurie Franklin appeared on behalf of the application. When they purchased the house
2 there appeared to be plenty of room for a garage. When they surveyed the line, they discovered
3 the property line was not in the middle of the wild bush area. They need access to their vehicles
4 without the danger of ice in winter. The neighbors are satisfied that the new garage would not
5 encroach on their property, and it would look fine from the road. It is not a reasonable area for
6 building on the neighbor's property in the future.

7
8 The garage would be at the end of the property. There is no other place on the property to build
9 the garage. They currently park in the area where the garage would be built.

10
11 **Chair Koppenheffer Opened the Public Hearing and hearing no one, the Public Hearing**
12 **was closed.**

13
14 **The Board did not deliberate further.**

15
16 *Vice Chair Katz MOVED on October 7th, 2024, at a duly-noticed meeting of the Lebanon*
17 *Zoning Board of Adjustment, there appeared Mark and Laurie Franklin regarding 18 Cottage*
18 *Circle (Tax Map 87, Lot 134). The applicant requests a Variance from Section 310.3, pursuant*
19 *to Section 801.3 of the Zoning Ordinance, to allow the construction of a garage +/- 5 ft from*
20 *the right-side property line where 15 ft is required.*

21
22 **I. FINDINGS OF FACT**

23
24 Based on testimony given, application materials presented, and supporting documents submitted,
25 the Lebanon Zoning Board of Adjustment makes the following findings of fact:

- 26
27 1. The property is improved with a single-family home constructed in 1990. At 17,424 sq. ft., the lot
28 is conforming to the 10,000 sq. ft. minimum lot size required for Class 1 lots in the R-3 District.
29
30 2. The applicant proposes to construct a garage and breezeway addition to the existing single-family
31 dwelling to be located +/- 5 feet from the right-side lot line where 15-feet is required.
32
33 3. The applicant has submitted testimony addressing the section §801.2 Variance criteria in an
34 application received by the Planning and Development Department on August 21st, 2024.
35
36
37 4. To obtain the requested Variance from section §310.3, the applicant must demonstrate
38 compliance with each of the five variance criteria as set forth in Section 801.2 and NH RSA
39 674:33, I(b).
40
41 5. Nobody from the public testified either for or against the relief.
42

43 **II. CONCLUSIONS OF LAW**

44
45 As a result of the above findings of fact and based on testimony given, application materials
46 presented, and supporting documents submitted, the Board concludes the following with respect
47 to the Variance criteria set forth in section §801.2 of the Zoning Ordinance

1. The variance **will not** be contrary to the public interest.
2. The spirit of the ordinance **is** observed.
3. Substantial justice **is** done.
4. The values of surrounding properties **are not** diminished.
5. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area.
 - i. There is no other logical place to put the garage except where it has been suggested, due to the location of the residential structure, the existence of a woodland buffer, existing water and other obstacle locations.
6. There **is not** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property.
7. The proposed use **is** a reasonable one.

III. **DECISION**

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **7th day of October, 2024**, hereby **GRANTS** the Variance from Section 3010.3, pursuant to Section 801.2 of the Zoning Ordinance to construct a garage +/- 5 ft from the right-side property line where 15 ft is required., as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit.
2. The project shall be completed substantially as proposed in the submitted documents.

Seconded by Mr. McDonough.

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

B. Brooks-Jackson Rev. Family Trust, 71 Water Street (Tax map 106, lot 97), zoned R2: The applicant requests a Variance from Section 309.3, pursuant to Section 801.2 of the Zoning Ordinance, to allow the construction of an exterior staircase to be built +/- 7.5 ft from the side property line where 15 ft is required. **ZB2024-20-VAR**

David Brooks appeared on behalf of the application. When they purchased the house in 2004 there was an unfinished space above the kitchen and entryway. They have since finished that space and have recently rented that area to traveling nurses. They are proposing an exterior staircase for that second-floor area. The lot is less than half the size of the minimum lot size for

1 that zone. There is no conforming location where the staircase can be built. There are many
2 similar staircases in his neighborhood.

3
4 Currently the house and the space share access through the same lower door. The extra finished
5 area is never going to have a complete kitchen. It will never have a stove, or an oven and renters
6 may continue to have access to the shared kitchen. He believes the stairway is a secondary
7 means of egress and would be an added convenience. In the interior there is a single staircase up
8 to the area that splits to the extra finished area and to the owners' bedrooms.

9
10 **Chair Koppenheffer Opened the Public Hearing and hearing no one, the Public Hearing**
11 **was closed.**

12
13 **The Board did not deliberate further.**

14
15 *Mr. McDonough MOVED on October 7th 2024, at a duly-noticed meeting of the Lebanon Zoning*
16 *Board of Adjustment, there appeared David Brooks regarding 71 Water Street (Tax Map 106, Lot 97).*
17 *The Applicants request a Variance from Section 309.3, pursuant to Section 801.2 of the Zoning*
18 *Ordinance to allow the construction of an exterior staircase to be built +/- 7.5 ft from the side property*
19 *line where 15 ft is required.*

20
21 **I. FINDINGS OF FACT**

22
23 Based on testimony given, application materials presented, and supporting documents submitted, the
24 Lebanon Zoning Board of Adjustment makes the following findings of fact:

- 25
26 1. The property is improved with a single-family home constructed in 1900. At 4,791 sq. ft., the lot
27 is non-conforming to the 10,000 sq. ft. minimum lot size required for Class 1 lots in the R-2
28 District.
29
30 2. The applicants propose constructing an exterior staircase that will be used to access living space
31 within the 2nd story of the existing one-family dwelling. The staircase will be +/- 7.5 feet from the
32 side property line shared with 51 Spring Street (map/lot 106-98) where 15 feet is required.
33
34 3. The applicants have submitted testimony addressing the section §801.2 Variance criteria in an
35 application received by the Planning and Development Department on September 9th, 2024.
36
37 4. To obtain the requested Variance from section §309.3, the applicants must demonstrate
38 compliance with each of the five variance criteria as set forth in Section 801.2 and NH RSA
39 674:33, I(b).
40
41 5. No one spoke in favor of or against the testimony or provided testimony indicating they were
42 against it. Also, there was no testimony regarding the reduction of property values in the
43 neighborhood.
44

45 **II. CONCLUSIONS OF LAW**

46
47 As a result of the above findings of fact and based on testimony given, application materials presented,
48 and supporting documents submitted, the Board concludes the following with respect to the Variance
49 criteria set forth in section §801.2 of the Zoning Ordinance:

1. The variance **will not** be contrary to the public interest.
2. The spirit of the ordinance **is** observed.
3. Substantial justice **is** done.
4. The values of surrounding properties **are not** diminished.
5. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area.
 - i. The exterior access staircase can only be put in the location identified in the application.
6. There **is not** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property.
7. The proposed use **is** a reasonable one.

III. **DECISION**

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **7th day of October, 2024**, hereby **GRANTS** the Variance from Section 309.3, pursuant to Section 801.2 of the Zoning Ordinance to construct an exterior staircase +/- 7.5 ft from a side lot line where 15-feet is required, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit.

Seconded by Vice Chair Katz.

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

To preserve notice the Cicotte hearing needs to be opened tonight. The applicant's attorney is requesting to continue the hearing to the next Board meeting. The City is acting under a court order to put this hearing on the agenda of the next meeting. The appeal has been remanded back to the Board for further action. All of the proceedings and certified documents from previous hearings have been provided to the Board in the packet. The applicants will be staring over with this hearing. The Board is asking for additional direction from the City's attorney regarding the Board's next steps. Staff will be drafting a memo based on the appeals of the applicant.

If Attorney Decker is available, it could be useful for the Board to seek his advice during the hearing. That could speed things up in the process. The Board will make a final determination about how the attorney will be involved when all the briefs have been filed and are available to the Board. The Attorney would sit with the Board. In this situation, the Zoning Administrator is a party to the case and is being appealed. He will be going without legal counsel.

- C. **Cicotte Holdings, LLC, 51 Evans Dr (Tax Map 78, Lot 40), zoned RO-1:** An appeal of the Zoning Official's Notice of Violation and Administrative Decision pursuant to section §801.1

Administrative Appeals, that the property is not in the flood zone, that the parking area is grandfathered, and deadlines demanded by the City are unreasonable. **ZB2023-11-AAD - Continued to the November 18, 2024 meeting per applicant request**

In accordance with the applicant's request, Vice Chair Katz MOVED to continue this hearing until November 18, 2024.

Seconded by Mr. McDonough.

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

4. STAFF COMMENTS

The members discussed the new format of the monthly packet provided for the Board meetings. Staff are open to any recommendations that make the packet easier for the members to use.

5. OTHER BUSINESS

A. November meeting date reminder

Due to election day and holiday, the next meeting will be held on November 18 at the usual time and location.

B. XYZ Dairy Building Code Board of Appeals legal update

At this time the Board does not have any additional role in the case.

6. ADJOURNMENT

Vice Chair Katz MOVED to adjourn the meeting at 7:37 PM.

Seconded by Mr. McDonough.

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

Respectfully submitted,
Linda Billings, Recording Secretary



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT VARIANCE

STAFF NARRATIVE

Casey & Catharine Boardman – 0 Farnum Hill Road

To: Zoning Board of Adjustment

Prepared By: Nathan Reichert, *Director of Planning & Development* and Zoning Administrator

Date: November 18, 2024 – Regular Meeting

Application Number: ZB2024-21-VAR

HEARING NOTICE:

Casey & Catharine Boardman, 0 Farnum Hill Rd (Tax map 134, Lot 4), zoned RL-2: The applicants request a Variance from Section 313.3, pursuant to Section 801.2 of the Zoning Ordinance, to allow the demolition of an existing barn and construction of a 1-family dwelling with attached 4-car garage +/- 28 ft from the rear property line where 30 ft is required. The proposed new building will be built utilizing the existing front setback of the barn. ZB2024-21-VAR

SITE DESCRIPTION / BACKGROUND:

The subject property is improved with a 2,520 sq ft timber frame barn with attached 168 sq ft cinderblock milk shed and a 1,316 sq ft horse barn, per the City Assessor's records, and is non-conforming to the RL—2 zoning district, class 3 lot minimum size requirement of 3 acres with 0.7 acres and is not within any overlay district. There has been no previous ZBA action since 1995.

PROPOSAL:

The applicants propose to dismantle the 1,316 sq ft horse barn and relocate it to 20 Farnum Hill Rd, which they also own, and demolish the cinderblock milk shed. The timber frame barn will remain on the lot. They propose to build a new 928 sq ft 1-family dwelling with attached 1,376 sq ft 4-car garage where the horse barn is currently located. The new structure will be located +/- 28 ft from the rear property line shared with 0 Slayton Hill Road (map/lot 134-3) and +/- 20 ft from the edge of the roadway at the front; the same distance as the current barn.

ZONING ORDINANCE REQUIREMENTS - VARIANCE:

To obtain the requested Variance from Section §313.3, 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 state 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.

STAFF COMMENTS:

The applicant owns tax map/lot 134-4, which is the subject of this application, and tax map/lot 134-5 which is directly across Farnum Hill Road. It appears that this is actually a single tract of land that many years ago was incorrectly given separate tax map/lot numbers by the City's Assessing Dept. As such, a front property line, as it relates to Farnum Hill Road, does not exist. It is unclear to Planning staff where exactly the City's roadway right-of-way is located.

Given the concerns with the deed and the separate property cards staff has worked with the applicant to bring forward an application for an ADU at this time. Future steps will need to be taken to resolve the underlying concerns with the Deed and separate Assessor Card / Property tax bills describing the property. As this property and the road, formally a part of the "Kings Highway" that has a proscriptive easement rather than a deed simple form of ownership, likely pre-dates Statehood and Nationhood resolving the complex title and lot line concerns will take various steps. A Planning Board application for a subdivision of the property will need to be made based upon a survey and lot lay out being performed by a Land Surveyor.

It is within the Zoning Board's purview to require that the land subdivision and lot lines be defined prior to considering a variance application. Traditionally land surveys are not a pre-requisite of consideration by the Zoning Board. Given this tradition by the Zoning Board, the Board may wish to consider the requiring a survey or not as a need for their deliberations in this case.

The Board may also wish to consider a condition of approval that a Land survey and Planning Board subdivision approval is required.

Staff is comfortable with moving forward with the application as an ADU application at this time affording the Applicant time to resolve the contradiction between the Assessor's Records and the underlying deed. The examination of the underlying deeds in this neighborhood needs to be completed by a Professional Land Surveyor (PLS) and applicable Legal Counsel in creating a deed that reflects the actual ownership of the land. The Assessor and the Zoning Official briefly reviewed the deeds and found contradictions within the deeds. As such an unclear title needs to be rectified.

Should the applicant need additional relief after a clarification of title is made the Zoning Board would be able to grant an Equitable Waiver for the "Front Yard Setback" of the possible ADU. At this time, that relief is not necessary as the lot appears to be under one deed and therefore there is not "front yard" adjacent to the road.

The Board may wish to add a condition that prior to application for a building permit the Applicant obtain an E911 address from Mark Goodwin the City's E911 coordinator.

**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: **CASEY W BOARDMAN** TEL.#: **801-633-3413**
MAILING ADDRESS: **20 FARNUM Hill RD LEBANON NH 03766**
E-MAIL ADDRESS: **boardman.cw@gmail.com**

CO-APPLICANT, AGENT, OR LESSEE:

NAME: **CATHARINE. E BOARDMAN** TEL.#: **801-633-6254**
MAILING ADDRESS: **20 FARNUM Hill Rd. LEBANON NH 03766**
E-MAIL ADDRESS: **catharine.e.boardman@gmail.com**

PROJECT LOCATION:

TAX MAP #: **134** LOT#: **4** PLOT #: ZONE: **R6-2**
STREET ADDRESS OF PROJECT: **- Same as above - 20 Farnum Hill Rd**
IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

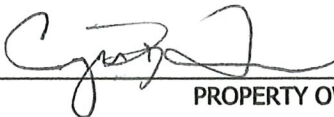
SEE ATTACHED

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: _____

SIGNATURE BLOCK:



PROPERTY OWNER

DATE: **9/18/2024**

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 #			
9-18-24	134-4	282024-21-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) 3
Section(s) 313.3 of the Lebanon Zoning Ordinance.

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;

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)."

Support Statement for a Variance

City of Lebanon, New Hampshire

Variance Standards: RSA 674:33 Effective Jan. 1, 2010

Casey and Catharine Boardman

20 Farnum Hill Road, Lebanon NH 03766

801-633-3413

Boardman.cw@gmail.com

We hereby request a variance from the terms of Article 3 Section 313 of the Lebanon Zoning Ordinance.

Scope of Project: We own lots 134-4 and 134-5, described together on the same warranty deed. Our home and a second single family home are on 134-5 on the North side of Farnum Hill Road. Lot 134-4, an irregular shaped non-conforming 0.7 tract zoned RL-2 on the other side (South side) of Farnum Hill Road, is the subject of this variance request. Current structures on Lot 134-4, are a 2520 square foot circa 1800's timber frame barn with adjoining cinder block "milk shed" and a 1269 square foot mid-1900's post and beam horse barn. We are proposing to relocate the existing horse barn presently occupying the site, to a location more suitable for agricultural use on our other parcel (134-5), the proposed location being approximately 300 feet northwest of our primary residence. We also plan to tear down the unsightly and deteriorating milk shed. On the site where the horse barn once stood, we would like to build a 2304 square foot structure consisting of a 1376 square foot 4-car garage with a ground level 928 square foot residence in back. Please see attached site plan and sketches. The siding material and color, decorative barn lighting, and transom windows above the garage doors will preserve the "barn look" of the previous structure and agricultural aesthetic of the neighborhood while providing us much needed garage space.

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;

The essential character of the neighborhood is rural, agricultural. Farnum Hill Road forms the Northern boundary of the subject property. Its other 3 sides are bounded by the Poverty Lane Orchards. The few vehicles that drive on Farnum Hill each day are primarily farm

tractors, farm workers, our own family, and our neighbors at the end of the street (176 Farnum Hill Road). We believe this new structure, 5 feet closer to the road than the existing structure, does not alter the essential characteristic of the neighborhood or threaten the health, safety, or general welfare of the public.

2. That the variance will observe the spirit of the Ordinance. As stated in the City of Lebanon Zoning Ordinance, “The purpose of the RL-2 District is to provide land for low density, rural living.” We believe our proposed project, on an already non-conforming piece of land within the RL-2 Zoning District, observes the purpose of the RL-2 district as well as the overall zoning ordinance by helping:

- “Prevent the overcrowding of land by people and structures by avoiding undue concentration of population and preserving open space;”
- “Provide a range of housing choices and affordability”
- “Encourage the preservation of agricultural lands and buildings”

The lot is not big enough to build a home of the same size and style elsewhere in the neighborhood. However, combining the garage and a two bedroom dwelling within the same structure allows for efficient use of land and resources while providing additional living space for someone in the community.

3. That by granting of the variance, substantial justice will be done; Our home does not have a garage. We have examined the feasibility of a garage on either the West or East sides of our home. Unfortunately, each side has a functioning wellhead that is in the way. Building a garage on the other side of the street in the proposed location isn’t ideal, but becomes the preferred choice once we factor in our desire to relocate the horse and combine garage, storage, and living space in the same structure.

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

Building this structure will undoubtedly increase both the assessed and market values of this property thereby raising the average value of sales comparables in the vicinity.

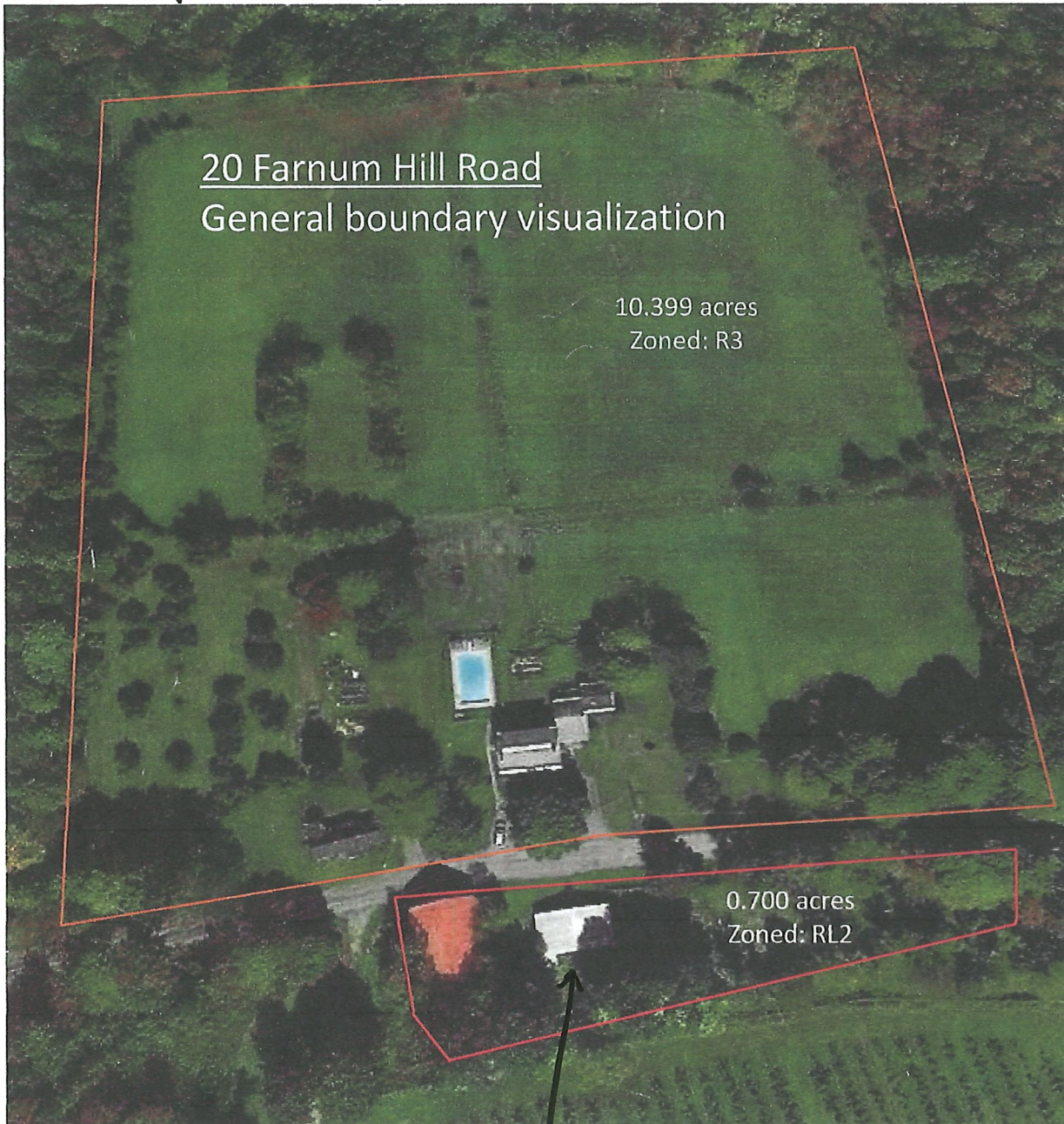
5. That denial of the variance would result in unnecessary hardship.

(b). The property in question, being an irregularly shaped, long, narrow, 0.7 acre tract, cannot reasonably be used in strict conformity with the ordinance. To build most any usable structure and maintain the RL-2 front setback of 40 feet would then violate the rear setback of 25 feet. Additionally, our desire to set the structure 20 feet from Farnum Hill road is to minimize the distance from our front door of our house to the garage while also

minimizing the area of driveway for snow removal. Of note, the adjacent 1800's barn is set back 10 feet from Farnum Hill Road.

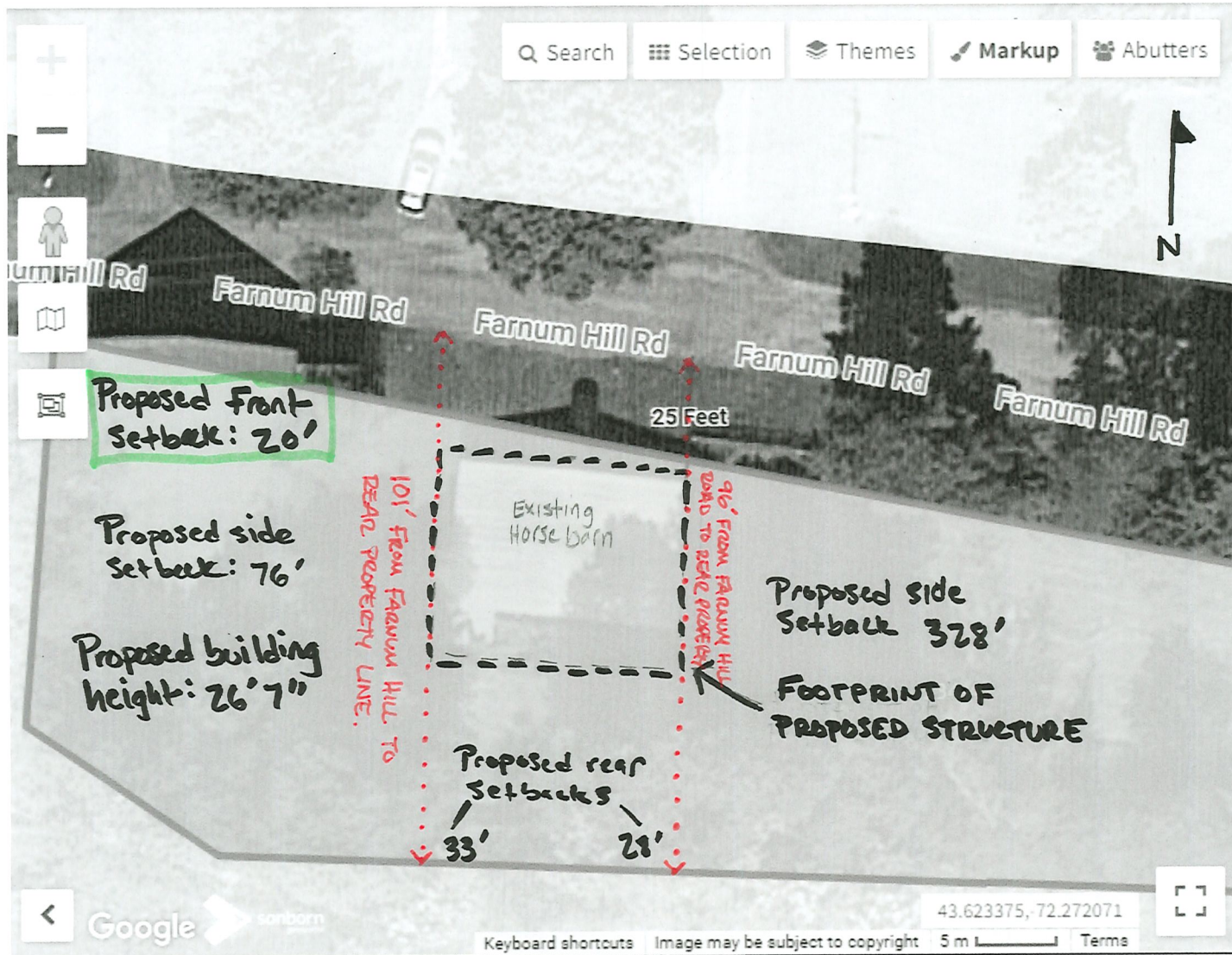
CASEY & CATHARINE BOARDMAN
20 FARNUM HILL RD.

PROPERTY ORIENTATION



134.4: Subject of this variance request

CASEY & CATHARINE BOARDMAN
20 FARNUM HILL RD
ZONING VARIANCE APPLICATION



SECTION 313 RURAL LANDS TWO DISTRICT (RL-2).

313.1 Purpose.

The purpose of the RL-2 District is to provide land for low density, rural living.

313.2 Table of Uses.

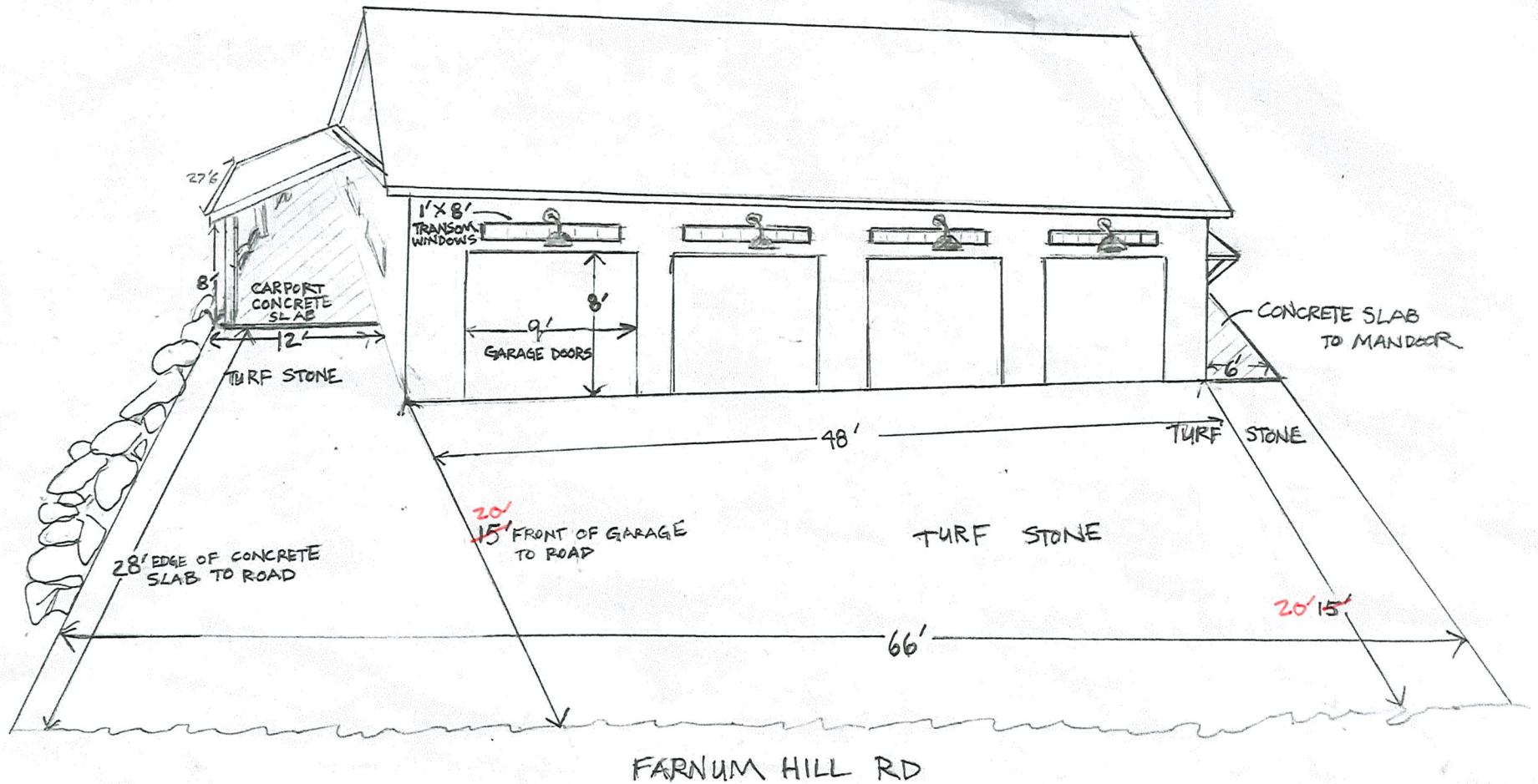
<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> One-family dwelling Accessory dwelling unit (ADU) per Section 610 <u>Commercial/Non-Residential</u> Agriculture Home business per Section 600 - House of worship Public recreation facility Renewable energy system per Section 612 <u>Planned Developments</u> Manufactured housing park per Section 503 Manufactured housing PURD per Section 504 - PRec per Section 501 - PURD per Section 501	<u>Commercial/Non-Residential</u> Care and treatment of animals - Cemetery Essential service Group day care facility per Section 604 Home-based contractor's yard per Section 600A Produce stand - Radio or TV tower or other communication equipment - Recreational camping park per Section 505 Recreational facility, indoor Recreational facility, outdoor Excavation of natural earth materials per Section 606

313.3 Table of Area, Dimensions and Coverage.

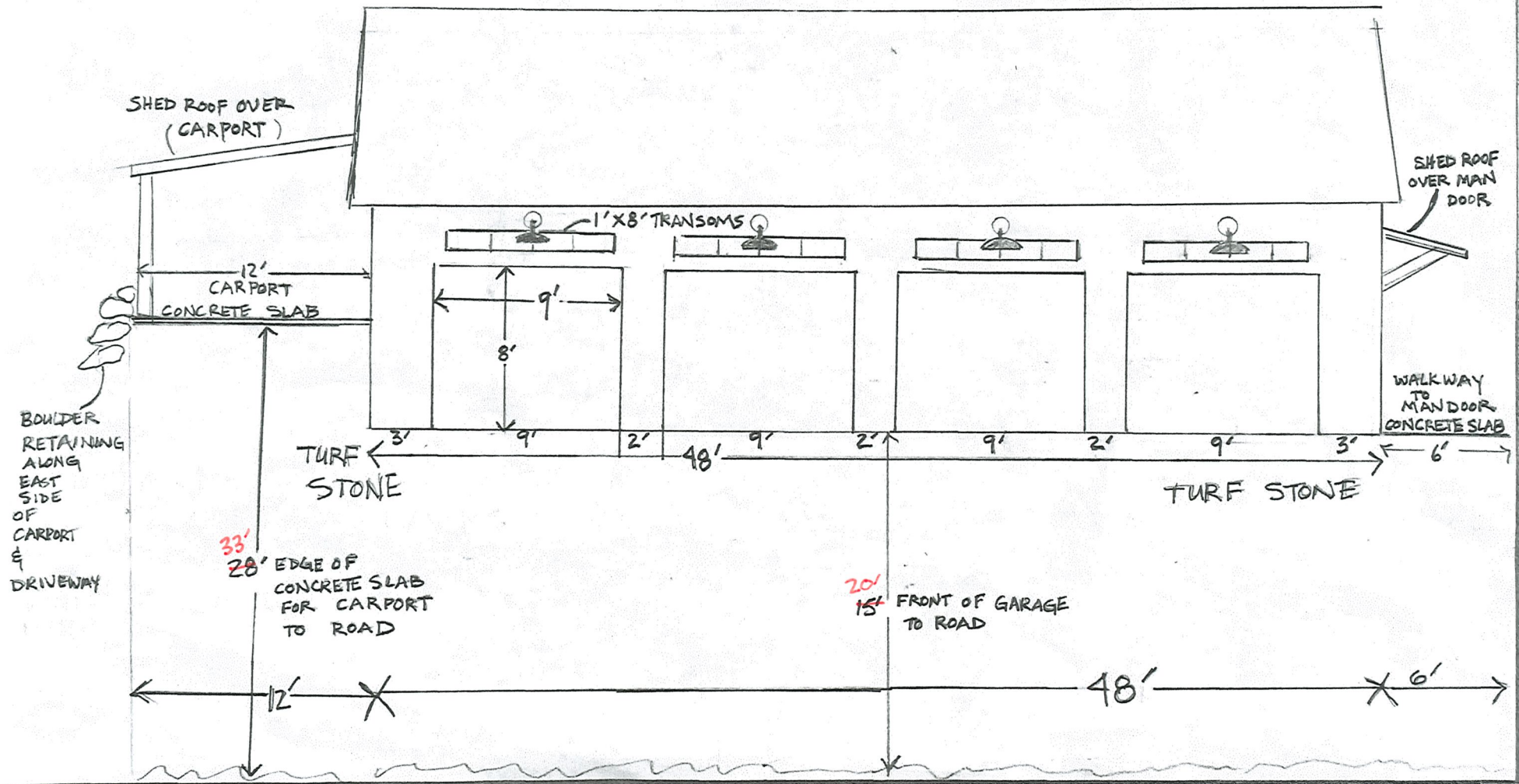
Minimum <i>Lot</i> Requirements						Maximum Limitations	
Class	Lot Area	Lot <i>Frontage</i>	Front Yard	Side Yard	Rear Yard	Height	Building Coverage
1 or 2	1 acre	150'	40' 25'	20'	25'	35'	20% 15.8%
3	3 acres (*)	200'	40'	35'	30'	35'	10%

*The minimum lot size may be reduced to an area not smaller than one (1) acres by application of the High Intensity Soils Mapping Standards (i.e. **HIS**) of Appendix B.

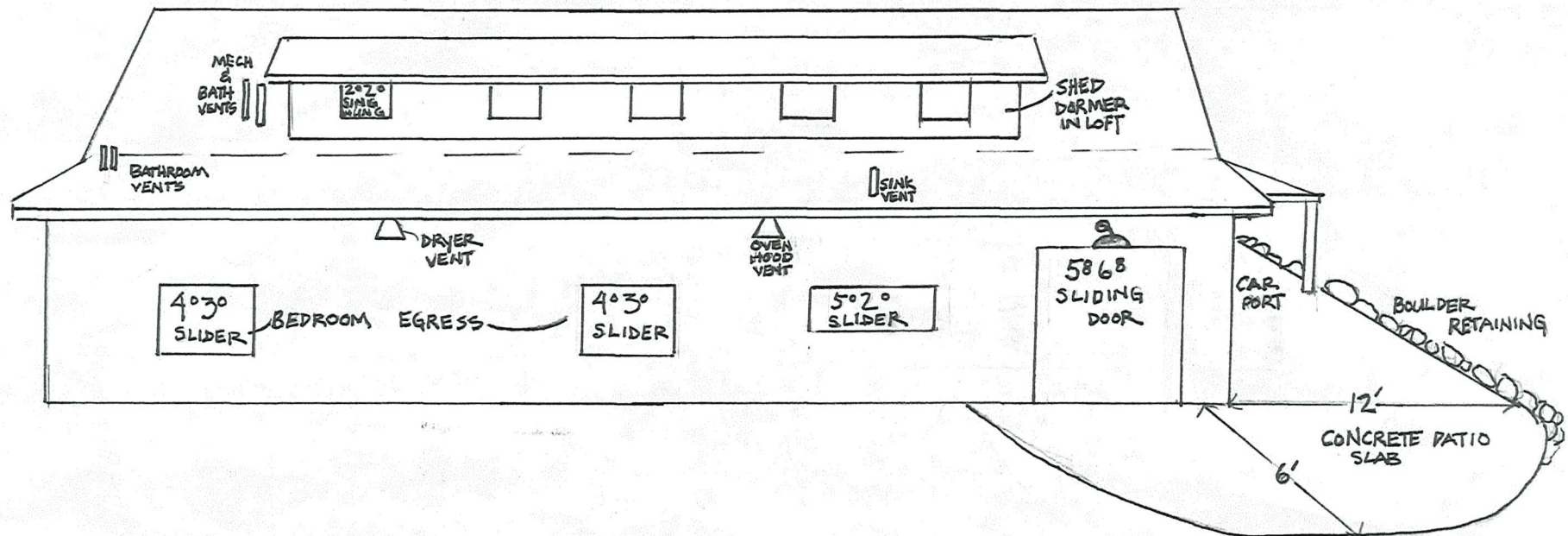
BOARDMAN GARAGE/APT. FOR 20 FARNUM HILL ROAD
FRONT ELEVATION (NORTH)



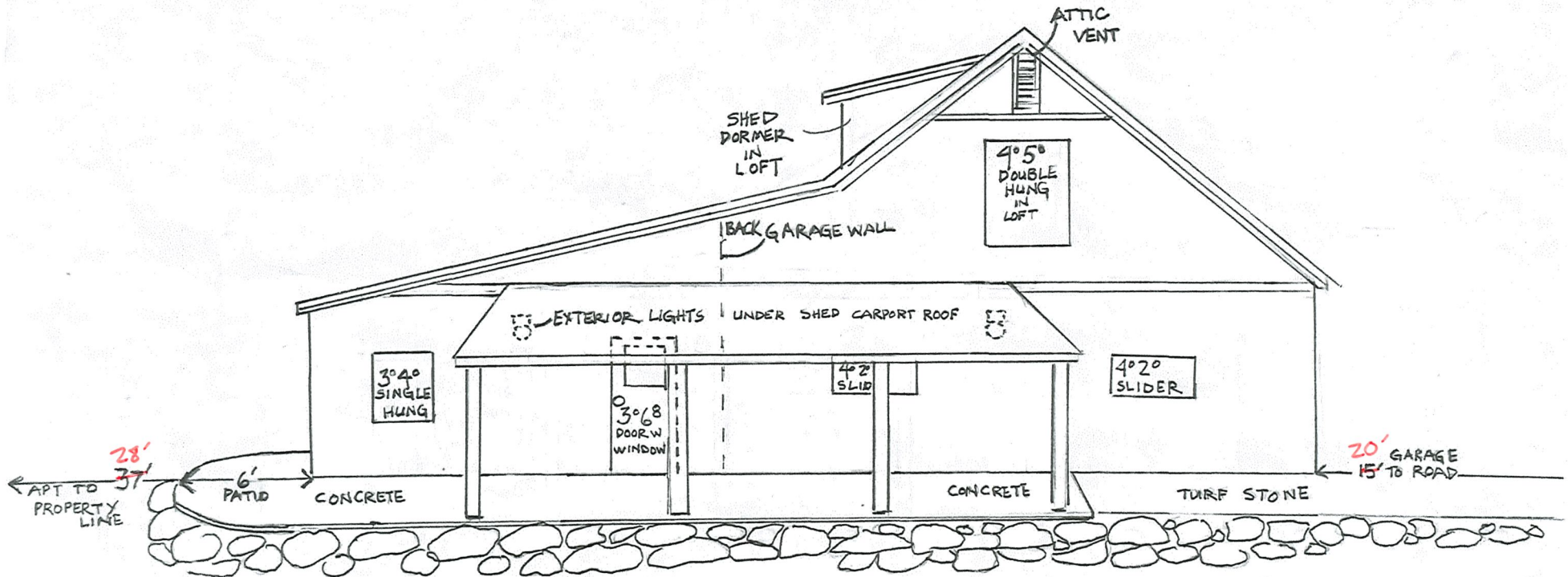
FRONT ELEVATION (NORTH) SCALE 1/4" = 1'



REAR ELEVATION (SOUTH) SCALE 1/4" = 1'

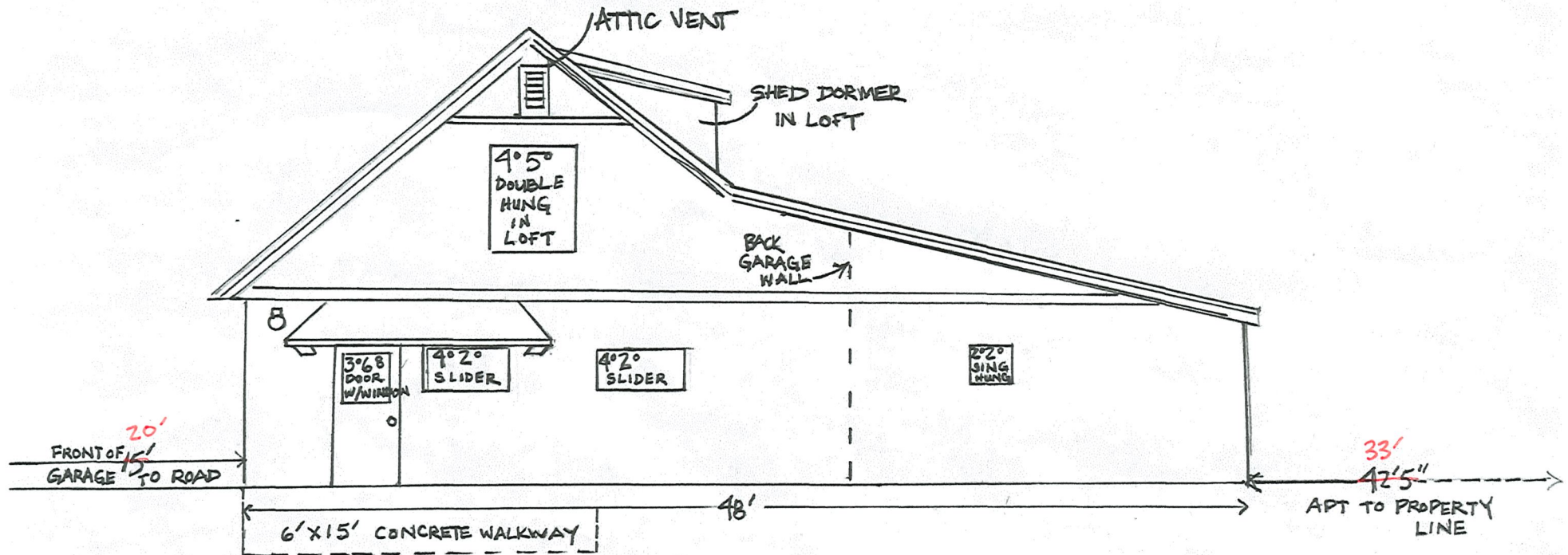


SIDE ELEVATION (EAST) SCALE 1/4" = 1'



SIDE ELEVATION (WEST)

SCALE $\frac{1}{4}" = 1'$



0 FARNUM HILL RD

Location	0 FARNUM HILL RD	Mblu	134/ 4/ / /
Acct#	4447	Owner	BOARDMAN, CASEY W & CATHARINE
PBN		Assessment	\$99,615
Appraisal	\$100,800	PID	3359
Building Count	1		

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$19,700	\$81,100	\$100,800
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$19,700	\$79,915	\$99,615

Owner of Record

Owner	BOARDMAN, CASEY W & CATHARINE	Sale Price	\$450,000
Co-Owner		Certificate	
Address	20 FARNUM HILL RD LEBANON, NH 03766	Book & Page	4324/0709
		Sale Date	10/13/2017
		Instrument	21

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
BOARDMAN, CASEY W & CATHARINE	\$450,000		4324/0709	21	10/13/2017
HENROTTE, BENEDICTE E	\$450,000		4324/0709	21	10/12/2017
BROWN, WILLIAM & JOANNE	\$0		01918/0594	99	07/09/1991
SMITH, DOROTHY R	\$241,000		1918/0596	99	06/25/1991

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	
3/4 Bath(s)	
Half Bath(s)	
Extra Fixture(s)	
Plumbing	
Kitchen(s)	
Kitchen Rating	
Total Rooms	
Frame	
Foundation	
Bsmt Garage	
Parking	
Fireplace(s)	

Building Photo



(https://images.vgsi.com/photos/lebanonnhPhotos//142_Sfy.JPG)

Building Layout

([ParcelSketch.ashx?pid=3359&bid=3359](#))

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

Fireplace Rating	
WS Flues	
WS Flue Rating	
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 Code 1060	Size (Acres) 0.7
Description OUT BLDS	Frontage
Zone RL2	Depth
Neighborhood R5	Assessed Value \$79,915
Alt Land Appr No	Appraised Value \$81,100
Category	

Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
02	SHED/FR			168.00 SF	\$700	1
31	BARN			1316.00 SF	\$8,900	1
31	BARN			2520.00 SF	\$10,100	1

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2023	\$19,700	\$81,100	\$100,800
2022	\$19,700	\$81,100	\$100,800
2021	\$28,800	\$2,206	\$31,006

Assessment			
Valuation Year	Improvements	Land	Total
2023	\$19,700	\$79,915	\$99,615
2022	\$19,700	\$79,915	\$99,615
2021	\$28,800	\$747	\$29,547

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20 FARNUM HILL RD

Location	20 FARNUM HILL RD	Mblu	134/ 5/ / /
Acct#	4448	Owner	BOARDMAN, CASEY W & CATHARINE
PBN		Assessment	\$571,840
Appraisal	\$595,100	PID	3360
Building Count	2		

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$424,700	\$170,400	\$595,100
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$424,700	\$147,140	\$571,840

Owner of Record

Owner	BOARDMAN, CASEY W & CATHARINE	Sale Price	\$450,000
Co-Owner		Certificate	
Address	20 FARNUM HILL RD LEBANON, NH 03766	Book & Page	4324/0709
		Sale Date	10/13/2017
		Instrument	21

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
BOARDMAN, CASEY W & CATHARINE	\$450,000		4324/0709	21	10/13/2017

Building Information

Building 1 : Section 1

Year Built:	1850
Living Area:	3,540
Replacement Cost:	\$500,721
Building Percent Good:	60

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Replacement Cost
Less Depreciation: \$300,400

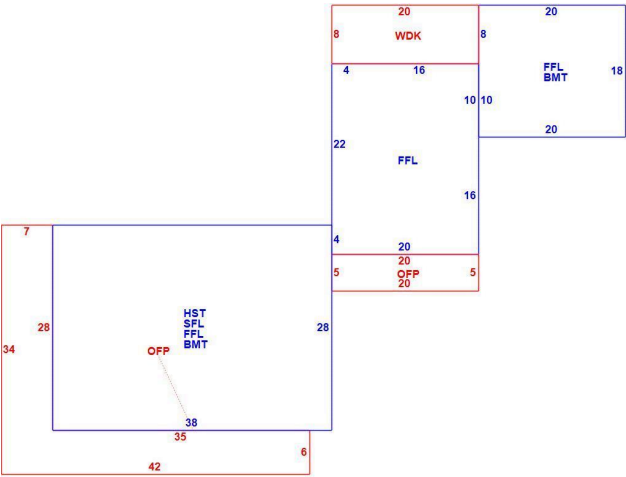
Building Attributes	
Field	Description
CNS_USRFLD_108	
Model	RESIDENTIAL
Style	COLONIAL
Grade	AVERAGE
Stories	2T
Comm Units	0
Exterior Wall 1	FIBER CMT
Exterior Wall 2	
Roof Structure	GABLE
Roof Cover	ASPHALT SH
Interior Wall 1	PLASTER
Interior Wall 2	
Interior Floor 1	SOFTWOOD
Interior Floor 2	
Basement Floor	CONCRETE
% Heated	100.00
Heat Fuel	OIL
Heat Type	FORCED H/W
# Heat Systems	1.00
AC Percent	0
Bedrooms	6
Full Bath(s)	1
Bath Rating	AVERAGE
3/4 Bath(s)	
Half Bath(s)	1
Extra Fixture(s)	0
Plumbing	TYPICAL
Kitchen(s)	1
Kitchen Rating	AVERAGE
Total Rooms	12
Frame	WOOD
Foundation	LOOSE MSRY
Bsmt Garage	0
Parking	
Fireplace(s)	3
Fireplace Rating	FAIR
WS Flues	0

Building Photo



(https://images.vgsi.com/photos/lebanonnhPhotos///0010/128_1158_10110)

Building Layout



([ParcelSketch.ashx?pid=3360&bid=3360](#))

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
FLL	1ST FLOOR	1,944	1,944
SFL	2ND FLOOR	1,064	1,064
HST	HALFSTORY	1,064	532
BMT	BASEMENT	1,424	0
OFF	OPEN PORCH	548	0
WDK	WOOD DECK	160	0
		6,204	3,540

WS Flue Rating	
Interior/Exterior	
View	AVERAGE
Electric	ADEQUATE
Insulation	TYPICAL
Partition	TYPICAL
Solar Hot Water	No
Central Vac	No
Nbhd Modifier	
MH Make	

Building 2 : Section 1

Year Built:	1940
Living Area:	830
Replacement Cost:	\$154,984
Building Percent Good:	76
Replacement Cost	
Less Depreciation:	\$106,000

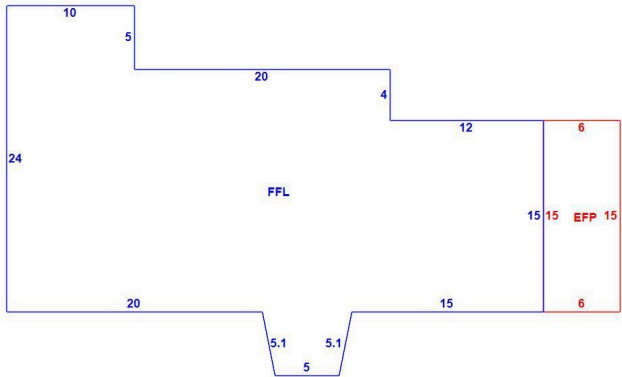
Building Attributes : Bldg 2 of 2	
Field	Description
CNS_USRFLD_108	
Model	RESIDENTIAL
Style	BUNGALOW
Grade	AVG. (-)
Stories	1
Comm Units	0
Exterior Wall 1	ALUMINUM
Exterior Wall 2	
Roof Structure	GABLE
Roof Cover	ASPHALT SH
Interior Wall 1	PLASTER
Interior Wall 2	DRYWALL
Interior Floor 1	SOFTWOOD
Interior Floor 2	
Basement Floor	CONCRETE
% Heated	100.00
Heat Fuel	GAS
Heat Type	FORCED H/A
# Heat Systems	1.00
AC Percent	100.00
Bedrooms	1
Full Bath(s)	1

Building Photo



(<https://images.vgsi.com/photos/lebanonnhPhotos//9081.JPG>)

Building Layout



([ParcelSketch.ashx?pid=3360&bid=106095](#))

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
FFL	1ST FLOOR	830	830
EFP	ENCL PORCH	90	0
		920	830

Bath Rating	AVERAGE
3/4 Bath(s)	
Half Bath(s)	0
Extra Fixture(s)	0
Plumbing	TYPICAL
Kitchen(s)	1
Kitchen Rating	AVERAGE
Total Rooms	3
Frame	WOOD
Foundation	CONCRETE
Bsmt Garage	0
Parking	
Fireplace(s)	0
Fireplace Rating	
WS Flues	0
WS Flue Rating	
Interior/Exterior	
View	AVERAGE
Electric	ADEQUATE
Insulation	TYPICAL
Partition	TYPICAL
Solar Hot Water	No
Central Vac	No
Nbhd Modifier	
MH Make	

Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
SOLX	SOL 72:62	7.33 KW	\$11,100	2

Land

Land Use		Land Line Valuation	
Use Code	1090	Size (Acres)	10.39
Description	MULT HS	Frontage	
Zone	R3	Depth	
Neighborhood	R5	Assessed Value	\$147,140
Alt Land Appr Category	No	Appraised Value	\$170,400

Outbuildings

Outbuildings						<u>Legend</u>
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
11	POOL I-V			800.00 SF	\$7,200	1

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2023	\$424,700	\$170,400	\$595,100
2022	\$394,900	\$170,500	\$565,400
2021	\$327,800	\$120,750	\$448,550

Assessment			
Valuation Year	Improvements	Land	Total
2023	\$424,700	\$147,140	\$571,840
2022	\$394,900	\$147,240	\$542,140
2021	\$327,800	\$99,865	\$427,665



Farnum 1



Farnum 2



Farnum 4



Farnum 3





CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

VARIANCE

Draft Motion

Casey & Catharine Boardman – 0 Farnum Hill Road

DRAFT MOTION for:

Agenda Item 3.A

Case ZB2024-21-VAR

Request for Variance from Section §313.3

Motion made by: _____

On November 18th 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared _____ regarding 0 Farnum Hill Road (Tax Map 134, Lot 4). The Applicants request a Variance from Section 313.3, pursuant to Section 801.2 of the Zoning Ordinance to allow the demolition of an existing barn and construction of a 1-family dwelling with attached 4-car garage +/- 28 ft from the rear property line where 30 ft is required. The proposed new building will be built utilizing the existing front setback of the barn.

I. FINDINGS OF FACT

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

1. The property is improved with a 2,520 sq ft timber frame barn with attached 168 sq ft cinderblock milk shed and a 1,316 sq ft horse barn, per the City Assessor's records, and is non-conforming to the RL—2 zoning district, class 3 lot minimum size requirement of 3 acres with 0.7 acres.
2. The applicants propose to dismantle the 1,316 sq ft horse barn and relocate it to 20 Farnum Hill Rd, which they also own, and demolish the cinderblock milk shed. The timber frame barn will remain on the lot. They propose to build a new 928 sq ft 1-family dwelling with attached 1,376 sq ft 4-car garage where the horse barn is currently located. The new structure will be located +/- 28 ft from the rear property line shared with 0 Slayton Hill Road (map/lot 134-3) and +/- 20 ft from the edge of the roadway at the front, the same distance as the current barn.
3. The applicants have submitted testimony addressing the section §801.2 Variance criteria in an application received by the Planning and Development Department on September 18th, 2024.
4. To obtain the requested Variance from section §313.3, the applicants must demonstrate compliance with each of the five variance criteria as set forth in Section 801.2 and NH RSA 674:33, I(b).
5. _____

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 **18th day of November, 2024**, hereby **GRANTS / DENIES** the Variance from Section 313.3, pursuant to Section 801.2 of the Zoning Ordinance to demolish an existing barn and construction of a 1-family dwelling with attached 4-car garage +/- 28 ft from the rear property line where 30 ft is required. The proposed new building will be built utilizing the existing front setback of the barn as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit.
2.

3.

Motion seconded by:

Vote:



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT VARIANCE

STAFF NARRATIVE

William & Deborah Rafter – 12 Union Street

To: Zoning Board of Adjustment

Prepared By: Nathan Reichert, *Director of Planning & Development* and Zoning Administrator

Date: November 18, 2024 – Regular Meeting

Application Number: ZB2024-22-VAR

HEARING NOTICE:

William & Deborah Rafter, 12 Union St, (Tax map 92, Lot 194), zoned R-2: The applicants request 4 Variances from Section 309.3, pursuant to Section 801.2 of the Zoning Ordinance, to allow the construction of 1) a 160 sq ft shed +/- 5 ft from the right-side property line where 15 ft is required, 2) a 180 sq ft shed +/- 6 ft from the left-side property line where 15 ft is required, 3) both sheds will be located +/- 5 ft from the rear property line where 20 ft is required, 4) to allow 25.2% building coverage on the lot where 25% is the maximum. ZB2024-22-VAR

SITE DESCRIPTION / BACKGROUND:

The subject property is improved with a dimensionally non-conforming one-family dwelling constructed in 1860, per the City Assessor's records, and is non-conforming to the R2 zoning district, Class 1 lot minimum size requirement of 10,000 sq ft with +/- 7,405 sq ft and is not within any overlay district. In 1998 a Special Exception was granted to expand non-conforming portions of the dwelling and in 2019 a Variance was granted to build a carport +/- 9 ft from the side lot line shared with 8 Union Street.

PROPOSAL:

The applicant proposes to construct two new sheds in the backyard; a 160 sq ft shed for use as a hobby shop space that will be placed +/- 5 ft from the right-side property line shared with 14 Union St. and a 180 sq ft shed for use as a storage, project, and hang-out space that will be placed +/- 6 ft from the left-side property line shared with 8 Union St. Both sheds will be placed +/- 5 ft from the rear property line shared with 37 Elm St. The addition of the 2 proposed sheds will increase the building coverage on the lot to 25.2%; 0.2% beyond the maximum allowed.

ZONING ORDINANCE REQUIREMENTS - VARIANCE:

To obtain the requested Variance from Section §309.3, 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 state 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.

STAFF COMMENTS:

The applicant states there were 2 existing sheds totaling 218.5 sq ft; both appear to have been placed on the property without receiving a permit. The applicant subsequently states that both sheds have been recently demolished; also, without receiving a permit. The Planning Dept. cannot confirm the exact size or placement of the sheds, other than the property record card's statement that a 96 sq ft shed exists on the property.

**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: WILLIAM & DEBORAH RAFTER TEL.#: 609-319-4643

MAILING ADDRESS: 12 UNION ST, LEBANON, NH

E-MAIL ADDRESS: KRAFTER4@COMCAST.NET

CO-APPLICANT, AGENT, OR LESSEE:

NAME: PETER SCOPPETTONE INC. TEL.#: 603-381-4545

MAILING ADDRESS: 7 UNION ST, LEBANON, NH

E-MAIL ADDRESS: PSCOPPETTONE@GMAIL.COM

PROJECT LOCATION:

TAX MAP #: 92 LOT#: 194 PLOT #: _____ ZONE: R2

STREET ADDRESS OF PROJECT: 12 Union St

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

SCOPE OF PROJECT:

REPLACE (2) FORMER ACCESSORY STRUCTURES (SHEDS) WITHIN THE REAR & SIDEYARD SETBACKS WITH (2) NEW SHEDS BUT IN EXCESS OF 130 SF EACH.

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**: _____

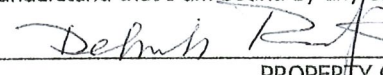
SIGNATURE BLOCK:



PROPERTY OWNER

DATE: 10.2.24

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: 10.2.24

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #			
<u>10/2/24</u>	<u>92-194</u>	<u>ZB2024-22-VAR</u>			

(12/07/07)

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) II
Section(s) R01.8 of the Lebanon Zoning Ordinance.

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;

SEE ATTACHED SUPPORT STATEMENT

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

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

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

_____ 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

_____; 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)."

GENERAL SUPPORT STATEMENT

The subject property was purchased by the applicants in 2009 which included the just demolished rotting 2 rear sheds that were located inside the rear yard setback.

The parcel is non-conforming in lot size and lot width. The lot size measured from the survey is 7,518 sqft. The house footprint including porches is 1155 sqft; the carport is 400 sqft; the 2 former rear sheds comprised 218.5 sqft – all together for a total of 1773.5 sqft or roughly 24% buildings coverage on the lot.

The house contains only 1504 sqft of living area. The basement contains 480 sqft of which the ceiling height is a head-banging height, not suitable for useful activity like shop or project work. The basement is only suitable for dead storage and utility equipment which is why there was always a need for additional storage which the rear yard sheds tried to accommodate.

The proposed application involves rebuilding the 2 rear sheds within the same rear yard setback but each with increased building square footage. The “hobby shop” in the right rear corner would comprise 160 sqft. The “storage, project, hang out” shed in the left rear corner would comprise 180 sqft. The total proposed sheds square footage is 340 sqft., a 56% increase. This would increase the total buildings footprint to 1895 sqft or to 25.2% +/- building coverage for the lot.

We are seeking two variances from Section 201.8 “Accessory Structures and Buildings of 130 sqft or Less”. The proposed 2 sheds would be within the 5ft rear and side yards setbacks. We are seeking a variance for the “hobby shop” shed which exceeds the 130 sqft size limit by 20 sqft. We are also seeking a variance for the “storage, project, hang out” shed which exceeds the 130 sqft size limit by 50 sqft.

SUPPORT STATEMENT:

A.1 *That the variance, if authorized, will not be contrary to the public interest:*

in that by granting the proposed additional ground area of the two sheds will not violate the basic zoning objectives nor alter the essential character of the neighborhood, nor impact the health, safety or general welfare of the public.

A.2 *That the variance will observe the spirit of the ordinance:*

that the small increase in ground area of the proposed Accessory Structures does not impact the spirit of the ordinance by maintaining the use of a 1 family occupancy and providing a more orderly and visually improved rear yard.

A.3 *That by granting the variances, substantial justice will be done:*

for the property owners by enhancing needed additional storage area and small project development area.

A.4 *That the variances, if authorized, will not diminish the values of the surrounding properties:*

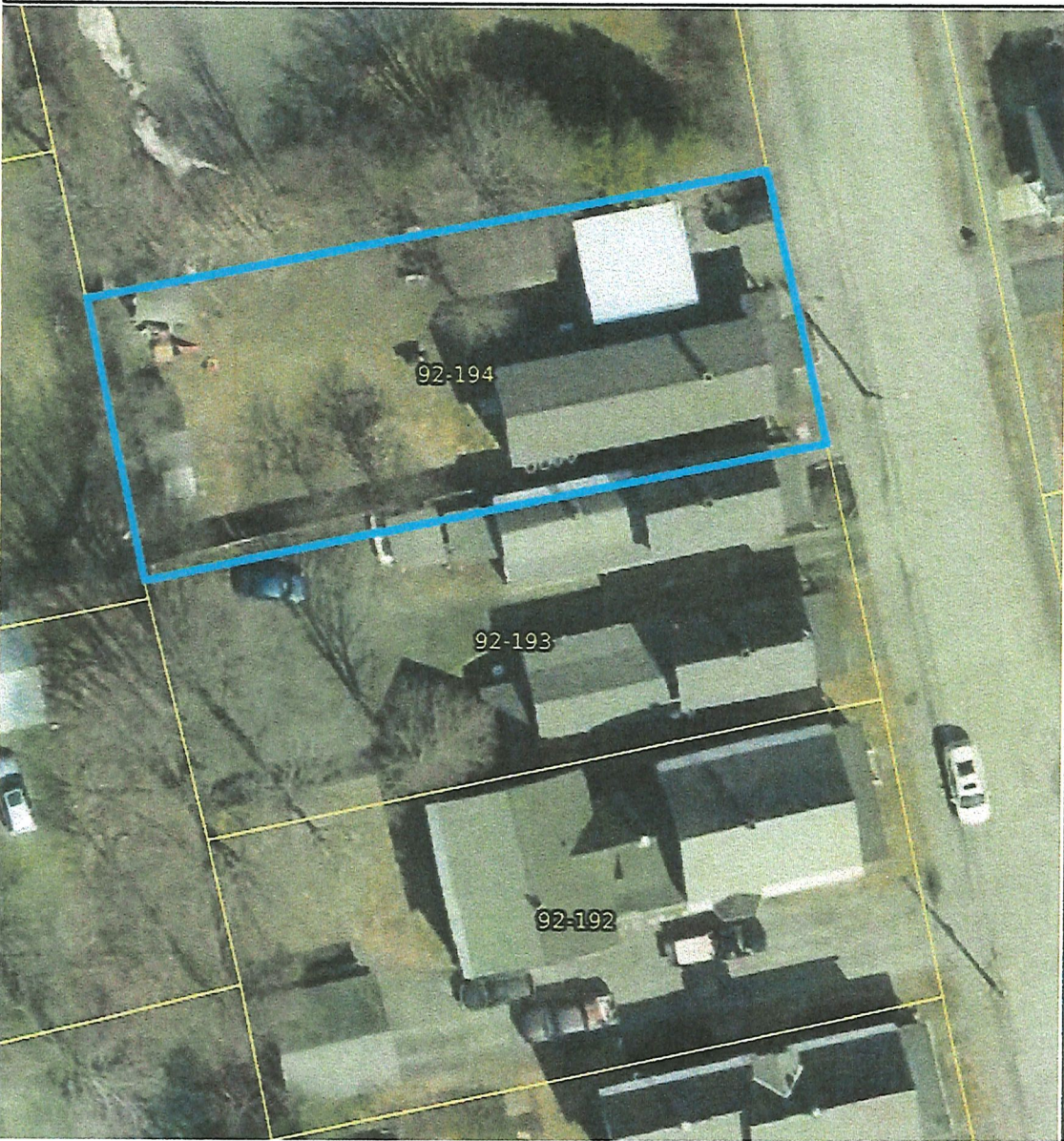
that the slightly enlarged rear sheds will enhance the visual organization of the site and enhance the value of this property thus contributing value to the neighborhood.

A.5.a(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:*

that by allowing a 1% increase in lot building coverage to the approximate 25% allowable limit will not frustrate the purpose of the ordinance.

A.5.a(ii) *The proposed use is a reasonable one:*

The proposed increase of area of the two rear sheds will assist in organizing the property and improving the property aesthetics.



Property Information
Property ID 92-194
Location 12 UNION ST
Owner RAFTER, WILLIAM & DEBORAH


MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

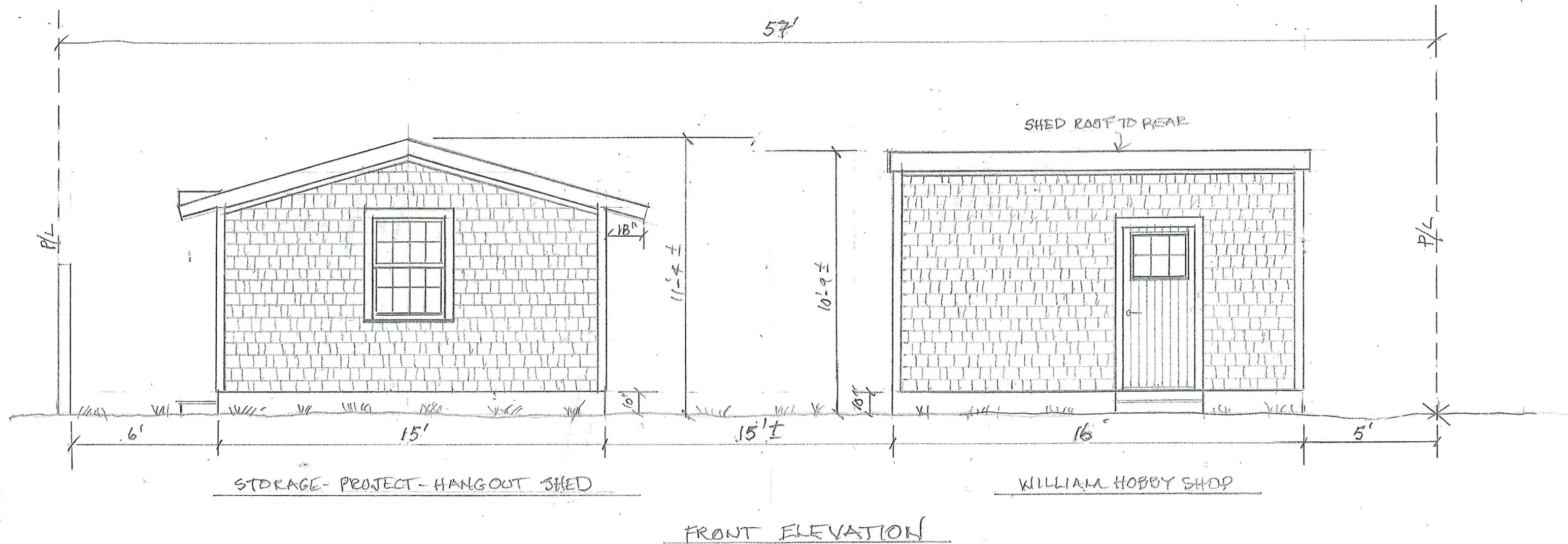
City of Lebanon, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

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









RAFTER PROPERTY PROPOSED BACK SHED REBUILDS

Owner: Deborah & William Rafter
 12 Union Street, Lebanon, NH 03766
 609-319-4643 w.rafter4@comcast.net

Peter Scoppettone Inc.
 Design & Construction Management
 7 Union St, Lebanon, NH 603-381-4545
pscoppettone@gmail.com

9/24/24
 REVISED 10/02/24
 $\frac{1}{4}" = 1'0"$

12 UNION ST

Location

12 UNION ST

Mblu

92/ 194/ / /

Acct#

2997

Owner

RAFTER, WILLIAM & DEBORAH

PBN

Assessment

\$289,100

Appraisal

\$289,100

PID

2162

Building Count

1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$201,000	\$88,100	\$289,100
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$201,000	\$88,100	\$289,100

Owner of Record

Owner	RAFTER, WILLIAM & DEBORAH	Sale Price	\$195,000
Co-Owner		Certificate	
Address	12 UNION ST	Book & Page	3624/0585
	LEBANON, NH 03766	Sale Date	06/30/2009
		Instrument	33

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
RAFTER, WILLIAM & DEBORAH	\$195,000		3624/0585	33	06/30/2009
RAFTER, WILLIAM	\$43,900		2019/0466	99	04/08/1993
CASTELLINI, JAMES S	\$43,900		02019/0466	99	04/08/1993

Building Information

Building 1 : Section 1

Year Built:

1860

Living Area:

1,504

Replacement Cost: \$280,783

Building Percent Good: 67

Replacement Cost

Less Depreciation: \$188,100

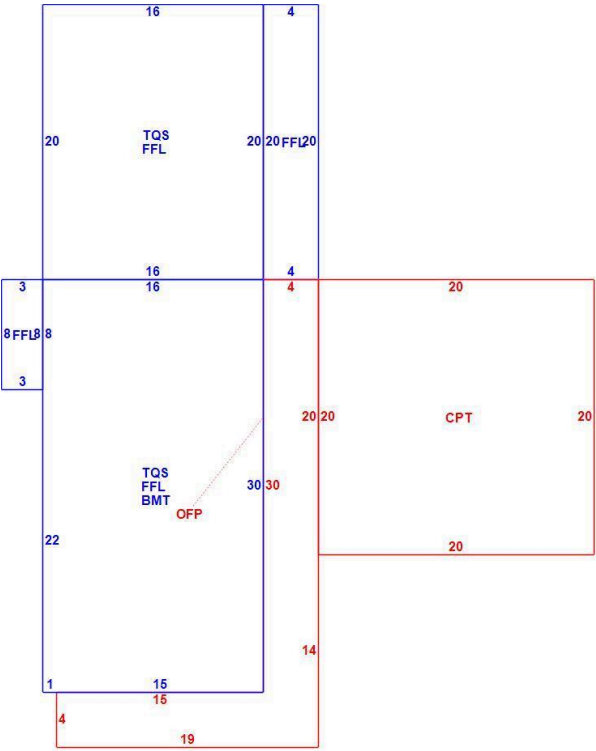
Building Attributes	
Field	Description
CNS_USRFLD_108	
Model	RESIDENTIAL
Style	CONVENT'NL
Grade	AVERAGE
Stories	1T
Comm Units	0
Exterior Wall 1	CLAPBOARD
Exterior Wall 2	
Roof Structure	GABLE
Roof Cover	ASPHALT SH
Interior Wall 1	PLASTER
Interior Wall 2	
Interior Floor 1	CARPET
Interior Floor 2	
Basement Floor	CONCRETE
% Heated	100.00
Heat Fuel	GAS
Heat Type	FORCED H/A
# Heat Systems	1.00
AC Percent	0.00
Bedrooms	2
Full Bath(s)	1
Bath Rating	FAIR
3/4 Bath(s)	
Half Bath(s)	1
Extra Fixture(s)	0
Plumbing	TYPICAL
Kitchen(s)	1
Kitchen Rating	AVERAGE
Total Rooms	6
Frame	WOOD
Foundation	LOOSE MSRY
Bsmt Garage	0
Parking	
Fireplace(s)	0
Fireplace Rating	

Building Photo



(https://images.vgsi.com/photos/lebanonnhPhotos///0010/129_0484_10404)

Building Layout



([ParcelSketch.ashx?pid=2162&bid=2162](#))

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
FFL	1ST FLOOR	904	904
TQS	3/4 STORY	800	600
BMT	BASEMENT	480	0
CPT	CARPORT	400	0
OFF	OPEN PORCH	196	0
		2,780	1,504

WS Flues	0
WS Flue Rating	
Interior/Exterior	
View	AVERAGE
Electric	ADEQUATE
Insulation	TYPICAL
Partition	TYPICAL
Solar Hot Water	No
Central Vac	No
Nbhd Modifier	
MH Make	

Extra Features

Extra Features				<u>Legend</u>
Code	Description	Size	Value	Bldg #
SOLX	SOL 72:62	8.00 KW	\$10,700	1

Land

Land Use		Land Line Valuation	
Use Code	1010	Size (Acres)	0.17
Description	ONE FAM	Frontage	
Zone	R2	Depth	
Neighborhood	R4	Assessed Value	\$88,100
Alt Land Appr	No	Appraised Value	\$88,100
Category			

Outbuildings

Outbuildings						<u>Legend</u>
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
02	SHED/FR			96.00 SF	\$400	1
85	PAVING			1000.00 SF	\$1,800	1

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2023	\$188,500	\$88,100	\$276,600
2022	\$188,500	\$88,100	\$276,600
2021	\$145,400	\$71,700	\$217,100

Assessment			
Valuation Year	Improvements	Land	Total

2023	\$188,500	\$88,100	\$276,600
2022	\$188,500	\$88,100	\$276,600
2021	\$145,400	\$71,700	\$217,100

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12 Union Rear View



Eagle 2





CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

VARIANCE

Draft Motion

William & Deborah Rafter – 12 Union Street

DRAFT MOTION for:

Agenda Item 3.B

Case ZB2024-22-VAR

Request for 4 Variances from Section §309.3

Motion made by: _____

On November 18th 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared _____ regarding 12 Union Street (Tax Map 92, Lot 194). The Applicants request a Variance from Section 309.3, pursuant to Section 801.2 of the Zoning Ordinance to allow the construction of 1) a 160 sq ft shed +/- 5 ft from the right-side property line where 15 ft is required, 2) a 180 sq ft shed +/- 6 ft from the left-side property line where 15 ft is required, 3) both sheds will be located +/- 5 ft from the rear property line where 20 ft is required, 4) to allow 25.2% building coverage on the lot where 25% is the maximum.

I. FINDINGS OF FACT

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

1. The property is improved with a dimensionally non-conforming one-family dwelling constructed in 1860, per the City Assessor's records, and is non-conforming to the R2 zoning district, Class 1 lot minimum size requirement of 10,000 sq ft with +/- 7,405 sq ft.
2. A Special Exception was granted in 1998 to expand non-conforming portions of the dwelling.
3. A Variance was granted in 2019 to build a carport +/- 9 ft from the side lot line shared with 8 Union Street.
4. The applicants propose to construct two new sheds in the backyard; a 160 sq ft shed for use as a hobby shop space that will be placed +/- 5 ft from the right-side property line shared with 14 Union St. and a 180 sq ft shed for use as a storage, project, and hang-out space that will be placed +/- 6 ft from the left-side property line shared with 8 Union St. Both sheds will be placed +/- 5 ft from the rear property line shared with 37 Elm St. The addition of the 2 proposed sheds will increase the building coverage on the lot to 25.2%; 0.2% beyond the maximum allowed.
5. The property currently has 24% building coverage, the addition of the 2 proposed shed would increase building coverage to +/- 25.2%.
6. The applicants have submitted testimony addressing the section §801.2 Variance criteria in an application received by the Planning and Development Department on October 2nd, 2024.

7. To obtain the requested Variances from section §309.3, the applicants must demonstrate compliance with each of the five variance criteria as set forth in Section 801.2 and NH RSA 674:33, I(b).

8. _____

9. _____

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 **18th day of November, 2024**, hereby **GRANTS / DENIES** the Variance from Section 309.3, pursuant to Section 801.2 of the Zoning Ordinance to construct 1) a 160 sq ft shed +/- 5 ft from the right-side property line where 15 ft is required, 2) a 180 sq ft shed +/- 6 ft from the left-side property line where 15 ft is required, 3) both sheds will be located +/- 5 ft from the rear property line where 20 ft is required, 4) to allow 25.2% building coverage on the lot where 25% is the maximum, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit.

2.

3.

Motion seconded by:

Vote:



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

SPECIAL EXCEPTION

STAFF NARRATIVE

Lisa Dupont– 53 Cottage Circle

To: Zoning Board of Adjustment

Prepared By: Nathan Reichert, *Director of Planning & Development* and Zoning Administrator

Date: November 18, 2024 – Regular Meeting

Application Number: ZB2024-23-SE

HEARING NOTICE:

Lisa Dupont, 53 Cottage Cir (Tax Map 87, Lot 121), zoned R-3: The applicant requests a Special Exception from Section 610.H, pursuant to Section 801.3 of the Zoning Ordinance, to locate an additional entrance door that will serve an ADU at the front of the building where only side or rear entrance doors are allowed. ZB2024-23-SE

SITE DESCRIPTION / BACKGROUND:

The subject property is improved with a dimensionally conforming one-family dwelling constructed in 1997, per the City Assessor's records, and is conforming to the R3 zoning district, Class 1 lot minimum size requirement of 10,000 sq ft with +/- 21,344 sq ft and is not within any overlay district. There has been no previous ZBA action since 1995.

PROPOSAL:

The applicant proposes to construct a new 24 ft x 30 ft (720 sq ft) 2-car garage with an ADU above, at the left side of the existing home. The ADU entrance will be located at the front of the building in order to accommodate an interior stairway and access to the garage from within both the ADU and primary dwelling.

ZONING ORDINANCE REQUIREMENTS – SECTION 610 ADUs:

Accessory dwelling units are intended as an option for homeowners to offer separate and independent living space for their extended families, or to offer small dwelling units as rentals to offset the expense of maintaining the dwelling.

An accessory dwelling unit shall comply with the following criteria:

H: Any necessary additional entrances or exits to the principal building, to serve the ADU, shall be located to the side or rear of the building. All new or altered structures, intended to be used as an ADU, must be located behind the front building line of the existing principal building except by special exception if the Zoning Board finds that the placement of the ADU on the lot will not adversely affect the character of the neighborhood; traffic on roads and highways; safety of pedestrians, and will not create a hazard or nuisance to abutting property owners.

ZONING ORDINANCE REQUIREMENTS – SPECIAL EXCEPTION:

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:

1. That the special exception is specifically authorized by a provision of this Ordinance.

2. That all special conditions required of the special exception have been met.
3. That there are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy.
4. That the character of the area shall not be adversely affected.
5. That no hazard or nuisance will be created.
6. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.
7. That granting the special exception will not result in undue municipal expense.
8. That the proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance.
9. That the general welfare of the City will be protected.

STAFF COMMENTS:

The orientation of the existing home coupled with the sloping nature of the lot make it nearly impossible to orient the ADU's principal entrance in a location other than as the applicant has proposed. It is likely that if the applicant were adding only a garage that the door would be placed in the same location as it's proposed placement is logical when the existing entrance(s) to the home are considered.

**CITY OF LEBANON
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: LISA M. DUPONT

TEL. #: 603-359-1285

MAILING ADDRESS: 53 COTTAGE CIRCLE, WEST LEBANON, NH 03784

E-MAIL ADDRESS: Dartman95@aol.com

CO-APPLICANT, AGENT, OR LESSEE:

NAME:

TEL. #:

MAILING ADDRESS:

E-MAIL ADDRESS:

PROJECT LOCATION:

TAX MAP #: 87-121

LOT #:

PLOT #:

ZONE: R3

STREET ADDRESS OF PROJECT: 53 COTTAGE CIRCLE

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

SCOPE OF PROJECT: ADDITION OF A TWO CAR GARAGE
AND ADU ABOVE GARAGE

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: _____

SIGNATURE BLOCK: Lisa M. Dupont

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 _____, 20____, 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 #			
<u>10-11-24</u>	<u>87-121</u>	<u>282024-23-SE</u>			

(1 art Revised 4/04/18)

**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) _____, Section(s) _____, 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.)

Project is a two car garage with an ADU above the garage, attached to an existing residence. Expand a one family ranch style home, 24'x40', to become a two family home - attached "mother-in-law" apartment above the two car garage. Additional dwelling unit to be 24'x30'.

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.)

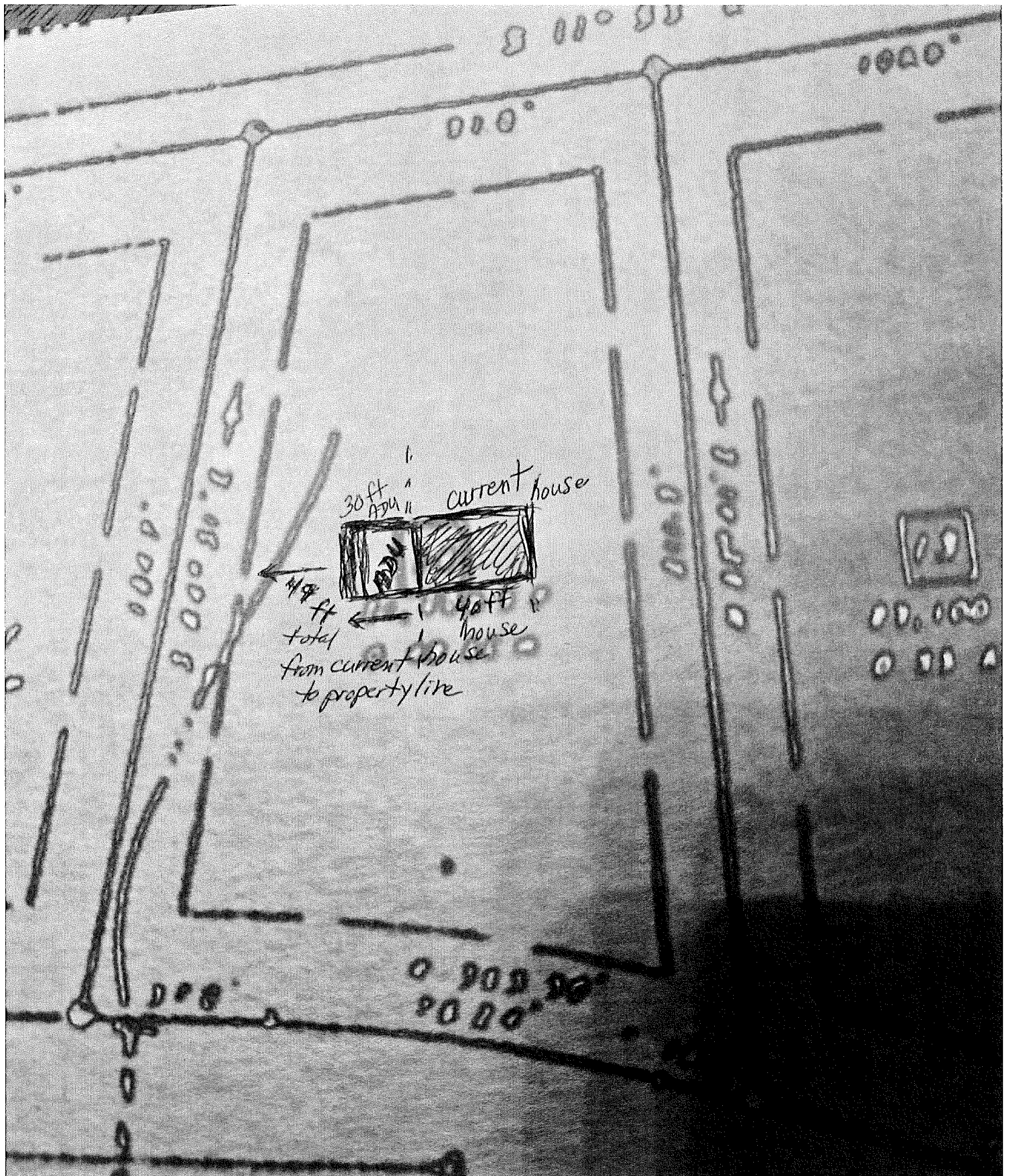
SECTION 801.3 Special Exceptions - To hear and decide special exceptions to the terms of this ordinance upon matters which the Board is required to pass under this ordinance. In passing upon any application for a special exception, the Board shall make each of the following findings:

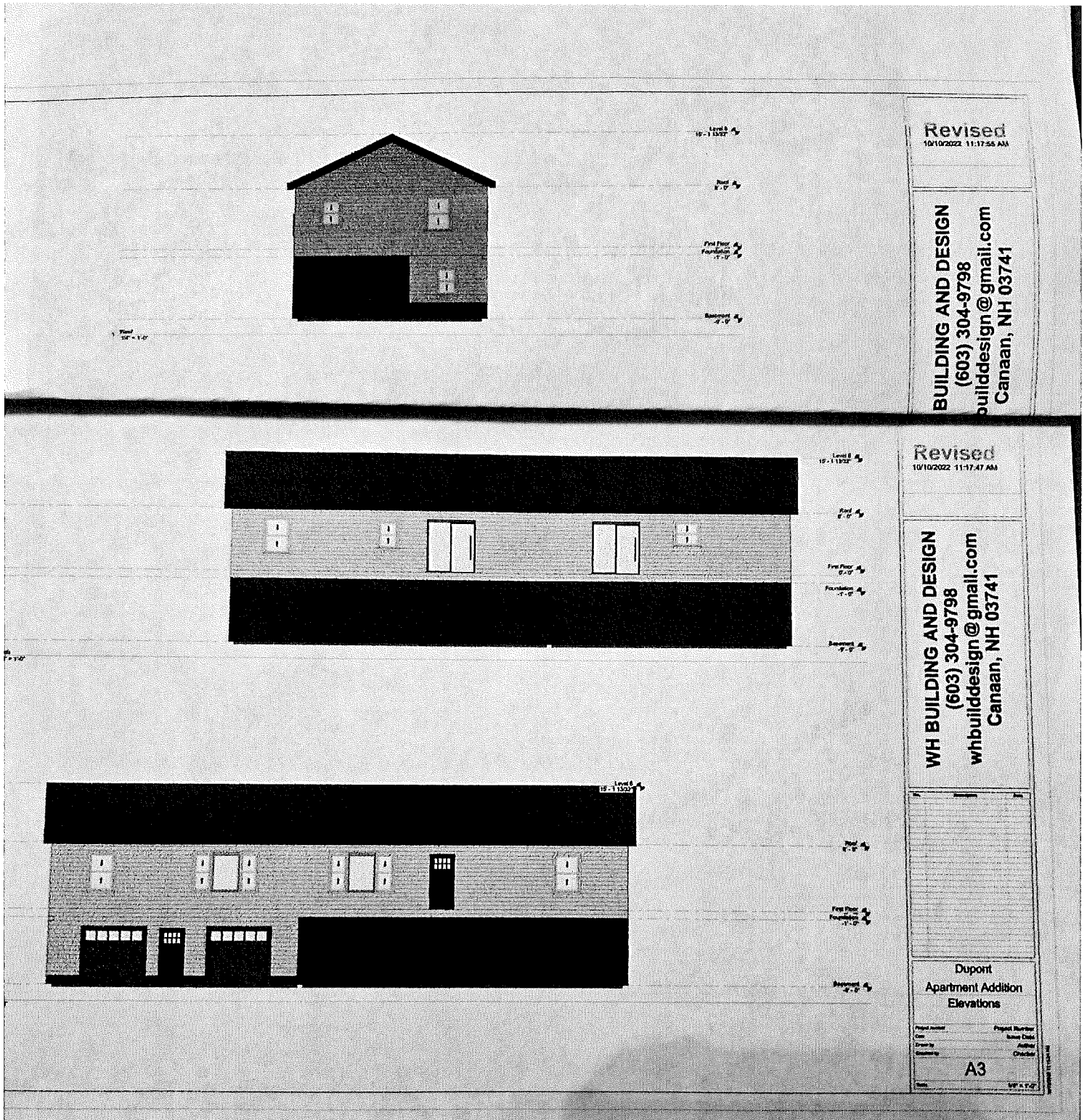
- A. That the special exception is specifically authorized by a provision of this ordinance:

special exception to ADU Regulations, Section 612, paragraph G, amending ADU plans to include 3 doors at the garage entrance level (drawing attached)

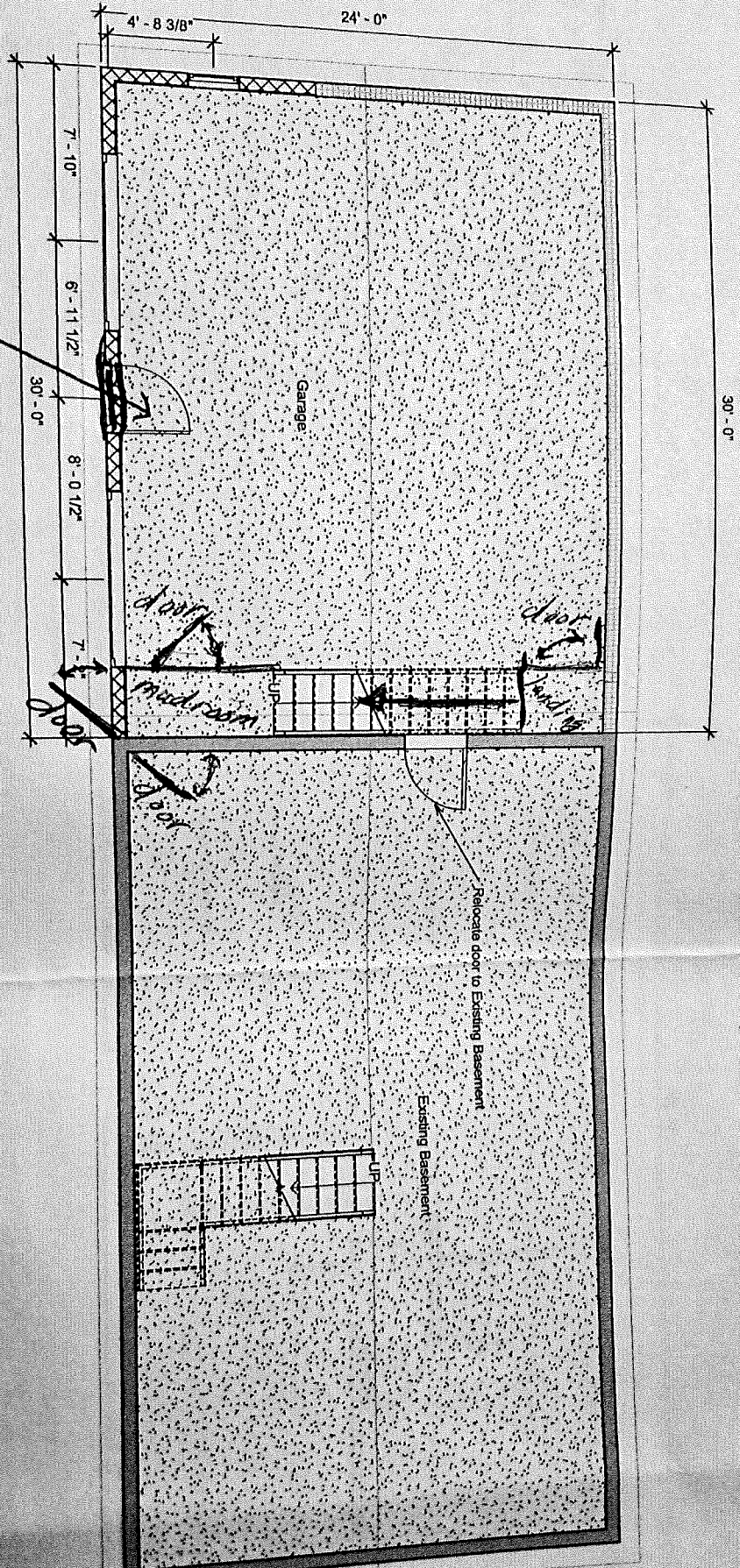
- B. That all special conditions required of the special exception have been met:

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





move
add mudroom/vestibule
and doors



53 COTTAGE CIR

Location 53 COTTAGE CIR

Mblu 87/ 121/ / /

Acct# 2176

Owner DUPONT, LISA M

PBN

Assessment \$286,400

Appraisal \$286,400

PID 1362

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$192,200	\$94,200	\$286,400
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$192,200	\$94,200	\$286,400

Owner of Record

Owner	DUPONT, LISA M	Sale Price	\$35,000
Co-Owner		Certificate	
Address	53 COTTAGE CIR	Book & Page	2289/0140
	WEST LEBANON, NH 03784	Sale Date	12/16/1997
		Instrument	99

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
DUPONT, LISA M	\$35,000		2289/0140	99	12/16/1997
CHIASSON, PAUL & BETH	\$23,000		01980/0687	99	07/31/1992
DARTMOUTH BANK	\$23,000		1980/0687	99	07/23/1992
MCLAUGHRY, ROBERT D &	\$337,000		01929/0643	99	09/23/1991

Building Information

Building 1 : Section 1

Year Built: 1997
Living Area: 960
Replacement Cost: \$213,506
Building Percent Good: 90
Replacement Cost
Less Depreciation: \$192,200

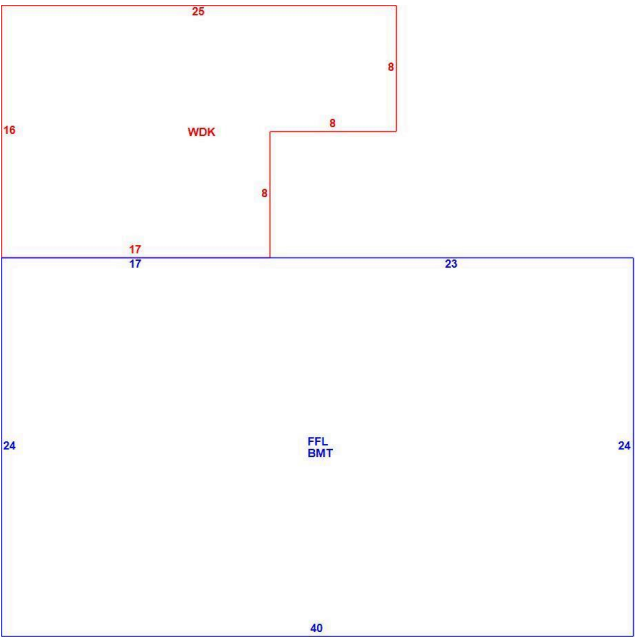
Building Attributes	
Field	Description
CNS_USRFLD_108	
Model	RESIDENTIAL
Style	RANCH
Grade	AVERAGE
Stories	1
Comm Units	0
Exterior Wall 1	VINYL
Exterior Wall 2	
Roof Structure	GABLE
Roof Cover	ASPHALT SH
Interior Wall 1	DRYWALL
Interior Wall 2	
Interior Floor 1	CARPET
Interior Floor 2	
Basement Floor	CONCRETE
% Heated	100.00
Heat Fuel	OIL
Heat Type	FORCED H/W
# Heat Systems	1.00
AC Percent	0.00
Bedrooms	2
Full Bath(s)	1
Bath Rating	AVERAGE
3/4 Bath(s)	
Half Bath(s)	0
Extra Fixture(s)	0
Plumbing	TYPICAL
Kitchen(s)	1
Kitchen Rating	AVERAGE
Total Rooms	4
Frame	WOOD
Foundation	CONCRETE
Bsmt Garage	0
Parking	
Fireplace(s)	0

Building Photo



(<https://images.vgsi.com/photos/lebanonnhPhotos//8866.JPG>)

Building Layout



([ParcelSketch.ashx?pid=1362&bid=1362](#))

Building Sub-Areas (sq ft)			<u>Legend</u>
Code	Description	Gross Area	Living Area
FFL	1ST FLOOR	960	960
BMT	BASEMENT	960	0
WDK	WOOD DECK	336	0
		2,256	960

Fireplace Rating	
WS Flues	0
WS Flue Rating	
Interior/Exterior	
View	AVERAGE
Electric	ADEQUATE
Insulation	TYPICAL
Partition	TYPICAL
Solar Hot Water	No
Central Vac	No
Nbhd Modifier	
MH Make	

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use	Land Line Valuation
Use Code1010	Size (Acres)0.49
DescriptionONE FAM	Frontage
ZoneR3	Depth
NeighborhoodR5	Assessed Value\$94,200
Alt Land ApprNo	Appraised Value\$94,200
Category	

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2023	\$192,200	\$94,200	\$286,400
2022	\$192,200	\$94,200	\$286,400
2021	\$166,900	\$63,500	\$230,400

Assessment			
Valuation Year	Improvements	Land	Total

2023	\$192,200	\$94,200	\$286,400
2022	\$192,200	\$94,200	\$286,400
2021	\$166,900	\$63,500	\$230,400

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Cottage 3



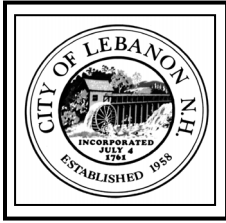
Cottage 2



Cottage 3







CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT SPECIAL EXCEPTION

Draft Motion

Lisa Dupont - 53 Cottage Circle

DRAFT MOTION for:

Agenda Item: 3.C

Case: ZB2024-23-SE

Request for Special Exception per Section §801.3

Motion made by: _____

On November 18th 2024, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared _____ regarding 53 Cottage Circle (Tax Map 87, Lot 121). The Applicant requests a Special Exception per Section §801.3 of the Zoning Ordinance to locate an additional entrance door that will serve an ADU at the front of the building where only side or rear entrance doors are allowed.

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 1997. The lot contains a dimensionally conforming primary residence.
2. As described in the application by the applicant, the applicant proposes to add a garage and construct an ADU. The addition will be oriented in such a way that the proposed principal entrance to the ADU must be located at the front of the building.
3. Any necessary additional entrances or exits to the principal building, to serve the ADU, shall be located to the side or rear of the building Pursuant to section §610.H of the Zoning Ordinance.
4. In order to grant a Special Exception for the proposed additional front-side entrance, the Board must determine that the placement of the ADU on the lot will not adversely affect the character of the neighborhood; traffic on roads and highways; safety of pedestrians, and will not create a hazard or nuisance to abutting property owners, as set forth in Section §610.H of the Zoning Ordinance.
5. The applicant has submitted testimony addressing Section §801.3 criteria in an application received by the Planning and Development Department on October 11, 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 §610.H and §801.3 of the Zoning Ordinance:

1. The Special Exception is specifically authorized by Section §610.H and Section §801.3 of the Zoning Ordinance.
2. The following criteria of Section §803.1 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

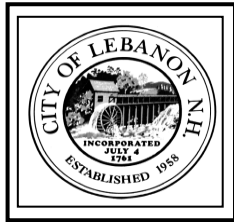
Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 18th day of November, 2024, hereby **GRANTS / DENIES** the requested Special Exception pursuant to Section §610.H and §801.3 of the Zoning Ordinance to permit to an additional entrance door that will serve an ADU at the front of the building where only side or rear entrance doors are allowed at 53 Cottage Circle, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit, and shall comply with all applicable local, state, and federal regulations in the construction of the proposed addition.
2. Prior to the issuance of a Building Permit, the Applicant shall obtain applicable City of Lebanon Sewer Use Permit and Water Service Permits from the Lebanon Department of Public Works.
3.

4.

Motion seconded by:

Vote:



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon Zoning Board of Adjustment

FROM: Planning and Development Department Staff

RE: 2024-2025 Proposed Zoning Amendments

DATE: November 12, 2024

Honorable Chair and ZBA Members,

The Planning and Development Department has prepared draft amendments to the Zoning Ordinance for consideration by the Zoning Board of Adjustment.

It is staff's practice to present a set of proposed zoning amendments to the ZBA each fall for review and consideration. Presenting in the fall allows the amendments to move through the required review process in time for placement on the ballot the following March, when necessary.

The current set of proposed amendments are summarized below and are highlighted in the attached redlined excerpt of the Zoning Ordinance. The new or revised text is blue and underlined. The text to be deleted is shown as ~~red with a strike-out~~.

The draft amendments will be sent to the City's legal counsel and land use boards for further review. Once the review process is complete, the amendments will be scheduled for a public hearing before the City Council in early January 2025. Given the complexity of the amendments, the planning staff intends to schedule several public meetings throughout the fall dedicated to public education and engagement. Events will be held at the City Hall, DHMC, and Kilton Library.

The amendments that are proposed this year originate from four sources:

1. Zoning Amendments generated by the Pattern Zones Study.
2. Staff proposed technical amendments.

OVERVIEW OF AMENDMENTS

A. Pattern Zones Study

The Pattern Zones Study which utilized InvestNH Planning Grant funding was commissioned to analyze the possibility of architecturally designed, pre-approved, infill housing development within downtown West Lebanon and Lebanon. The Consultant reported recommendations to the City Council in September. The reporting meeting was conducted with the majority of the Planning Board members present. Following the City Council discussion, the Planning Board reviewed and discussed the recommendations of the Pattern Zones Study at two subsequent meetings. Based upon feedback generated at both the September City Council meeting and the Planning Board discussions, staff has provided a written draft for the Council's

consideration. The overlay district map and text amendment can be found beginning on page 7 of this memo.

The Pattern Zones Study includes three primary areas of focus:

1. Creation of a Pattern Zones Overlay District to promote infill housing development within the study area.
2. A Preapproved Architecturally Designed Pattern Book, consisting of 15-25 house designs that can be accessed free of charge to those seeking to build a new house in the study area. The Pattern Book will be contracted for three years with Pattern Zones Co. and will be accessible online. The final stages of its approval are currently under development.
3. A sensitivity analysis, provided at the City Council meeting in September, analyzed housing market trends, zoning codes and the current neighborhood configuration to match housing opportunity with regulatory structure. The Zoning recommendations are based upon the sensitivity analysis.

B. Staff Technical Amendments

1. Recovery Houses

- Lebanon currently lacks a use code and definition for a recovery house. Staff is working with Lynn Goodwin – Lebanon Human Services Director, the [New Hampshire Coalition of Recovery Houses](#), and Leigh Hays – Chief Building Official and Health Officer to cooperatively regulate the use. Creating the recovery house definition and use code will help protect the City and its neighborhoods and allow a much-needed service to be established under appropriate regulation.
- The State Legislature along with the State Fire Marshal, NHCORR and NH Building Officials have established a process to define a recovery house within the State Fire and Building Codes. The same definition from state law is proposed to be used as the definition for the Lebanon Zoning Ordinance. By employing the state definition, we synchronize with the state permitting requirements. The applicable RSA is attached for reference.
- There have been incidents of illicit non-accredited and unpermitted “sober house” or “recovery house” operations adversely impacting neighborhoods and putting people at risk. Cities that do not define a recovery house use have been the subject of litigation, with false claims about discrimination leading to damages. The City of Lebanon currently does not have a definition, nor a use code. Thus, the City is vulnerable to unfounded litigation and disrupted neighborhoods at the hands of unscrupulous operators preying on those in need of recovery and support.

2. Medical Center Two (MC2)

- It is proposed to create a Medical Center 2 (MC2) zoning district and corresponding map amendment including the following properties:
 - Tax Map 90 Lot 59 – 10 Alice Peck Day Drive
 - Tax Map 76 Lot 4 – 23 Alice Peck Day Drive
 - Tax Map 76 Lot 6 - 0 Young Street

- Tax Map 76 Lot 7 – 0 Hough Street
- The campus of Alice Peck Day Memorial Hospital is currently zoned Residential-Three (R-3). The R-3 zoning district greatly limits the ability for the campus to maintain a thriving modern day medical campus with all the amenities and services needed to serve the Lebanon community.
- Like the Medical Center (MC) zoning district that covers the DHMC neighborhood, it is recommended that the Medical Center 2 (MC2) zoning district be created, and the zoning map changed to rezone the APD campus. Establishing the proposed zoning district will allow for an orderly development of the campus that better serves the needs of the community.
- Currently, a housing project on campus that will serve APD employees is being contemplated. Establishing the MC2 district will streamline APD's permitting process as they potentially develop much needed housing on campus to serve their employees.

3. Miscellaneous minor amendments:

- **Section 201 (“Yard Requirements”)** – to allow stairs and stairwells in additional to architectural details to project up to 2 ft. into minimum required yards. *See p. 1 of redline.*
- **Section 212 (“Anti-Nuisance Standards”)** – in connection with the development of a proposed nuisance ordinance to be proposed to the City Council at a later date, remove anti-nuisance standards from the Zoning Ordinance which, historically, have been challenging to enforce. *See p. 1 of redline.*
- **Section 213 (“Impact Fees”)** – to clarify procedures for requesting a waiver of impact fees from the Planning Board. *See p. 2 of redline.*
- **Section 215 (“Location of Accessory Use”)** - to (a) require applicants for a shared driveway to produce an easement with maintenance provisions and (b) allow off-site utility improvements by conditional use permit. *See pp. 2-3 of redline.*
- **Section 507 (“Density Bonuses”)** - to allow density bonuses for multi-family developments in the R-1 and R-2 Districts that provide for workforce housing, are energy efficient, and/or incorporate renewable energy systems. *See pp. 3-4 of redline.*
- **Section 509 (“Cottage Developments”)** - to (a) clarify that building sites of no less than 1,500 sq. ft. shall be provided for both attached and detached cottages and (b) to provide a minimum parking requirement of 1.5 spaces per cottage. *See pp. 4-5 of redline.*
- **Section 604 (“Group Day Care Facilities”) & Appendix A (“Definitions”)** - pursuant to the recently enacted HB 1567, clarify that family day care homes and family group day care homes are allowed as an accessory use to any primary residential use. *See pp. 5 and 10 of the redline.*
- **Section 607.1 (“Minimum Off-Street Parking Requirements”)** - pursuant to the recently enacted HB 1400, permit Planning Board to authorize alternative parking solutions for residential uses. *See p. 6 of the redline.*

- **Section 607.8 (“Electric Vehicles”)** - to clarify that the minimum percentage of EVSE-installed, EV-ready, and EV-capable spaces for multi-family dwelling and non-residential uses. *See p. 6 of the redline.*
- **Section 608 (“Signs”)** - to add new Section 608.4.A.7 permitting freestanding non-static signs (i.e. digital message boards) on certain streets within the GC District, and related changes to the illumination standards set forth in Section 608.4.A.6 and the enforcement provisions set forth in Section 608.2. *See pp. 7-8 of the redline.*
- **Section 610 (“Accessory Dwelling Unit (ADU)”)** - to remove the requirement that an interior door is provided between the principal dwelling unit and an attached accessory dwelling unit (ADU). *See p. 9 of the redline.*
- **Section 801 (“Powers and Duties”) & Appendix A (“Definitions”)** - pursuant to the recently enacted HB 1359, clarify who has standing to appeal an administrative decision to the Zoning Board of Adjustment, and who has standing to request a rehearing, and to clarify that the term “abutter” shall have the same meaning as provided by statute (i.e. NH RSA 672:3). *See pp. 9-10 of the redline.*

DRAFT MISCELLANEOUS MINOR AMENDMENTS TO THE CITY OF LEBANON ZONING ORDINANCE

[...]

ARTICLE II GENERAL PROVISIONS

[...]

SECTION 201 YARD REQUIREMENTS.

Except as otherwise provided herein, no **building** or **structure** other than accessory structures and buildings of 130 sq. ft. or less per Section 201.8 below shall occupy any part of any yard required by ARTICLE III, except that stairs, stairwells, and **architectural details** may extend not more than two (2) feet into any required yard.

[...]

SECTION 212 ANTI-NUISANCE STANDARDS(reserved).

~~212.1 General.~~

~~No use shall emit noise, odors, dust and smoke that is obnoxious, harmful or a nuisance to abutting properties or the neighborhood. Noise, odors and dust emitted by farming uses, including the keeping of livestock and poultry, that were existent as of the date of enactment of this Ordinance are exempt from this provision.~~

~~212.2 Noxious Gases.~~

~~No use shall emit any noxious gases which endanger the health, comfort, safety or welfare of any person, or which may have a tendency to cause injury or damage property, business or vegetation.~~

~~212.3 Vibration.~~

~~No use shall cause, as a result of normal operations, a vibration which creates displacement of 0.002 of one inch.~~

~~212.4 Vision Impairment.~~

~~No use shall have lighting or signs which create glare which would impair or obstruct the vision of a driver of any motor vehicle.~~

~~212.5 Fire, Explosion or Safety Hazard.~~

~~No use shall be such so as to potentially cause a fire, explosion or safety hazard.~~

SECTION 213 IMPACT FEES.

[...]

213.8 Waivers.

[...]

B. The Planning Board may grant full or partial waivers of impact fees to an assessed property where the Board based on credible evidence presented by the applicant finds that one or more of the following criteria are met with respect to the particular public capital facilities for which impact fees are normally assessed:

1. An assessed property may apply to the Planning Board for a full or partial waiver of impact fee assessments imposed by this Ordinance on the basis of other contributions toward public capital facilities. The amount of such a waiver shall not exceed the value of land, facilities construction, or other contributions for public capital facilities. The value of on-site and off-site improvements which are required by the Planning Board as a result of subdivision or site plan review, and which would have to be completed by the developer, regardless of the impact fee provisions, shall not be considered eligible for waiver under this Ordinance. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. All costs incurred by the City for the review of a proposed waiver, including consultant and counsel fees, shall be paid by the applicant.
2. The Planning Board may waive an impact fee, in whole or in part where, in the opinion of the Board, [in consultation with the Board's legal counsel](#), such fee would, due to interference with constitutionally-vested rights, pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of this Ordinance.

[A waiver request made pursuant to this subsection shall be considered at a public meeting of the Planning Board but shall not require a public hearing or notice to abutters. Notwithstanding the foregoing, notice of the Board's consideration of the waiver request shall be posted in at least two \(2\) public places and shall be published in a newspaper of general circulation in Lebanon not less than ten \(10\) nor more than thirty \(30\) days before the date of the meeting at which the request will be considered.](#)

[...]

SECTION 215 LOCATION OF ACCESSORY USE.

215.1 General.

[An accessory use shall be permitted only upon the same lot where its respective primary use lawfully exists. In the case of lots in two or more zoning districts, an accessory use](#)

shall be permitted only on that portion of the **lot** where its respective primary use is permitted.

215.2 Exceptions.

Notwithstanding Section 215.1:

- A. ~~An **accessory use** shall be permitted only upon the same **lot** where its respective primary use lawfully exists, except that (i) a **driveway** may cross over an adjacent **lot** provided that the use the **driveway** serves is a permitted use on the **lot** over which the **driveway** crosses, provided the affected property owners jointly apply for a zoning permit. In the case of a driveway providing sole access to the lot, the zoning permit application shall include a copy of an easement securing the perpetual right to utilize the driveway and identifying maintenance responsibilities. and (ii) a~~
- B. ~~A common **driveway** serving not more than two adjacent **lots** is also permissible provided that the use(s) the common **driveway** serves is (are) permitted use(s) on the **lot(s)** over which the common **driveway** crosses, and provided the affected property owners jointly apply for a zoning permit, the application for which shall include a copy of an easement securing the perpetual right to utilize the driveway and identifying maintenance responsibilities. In the case of lots in two or more zoning districts, an **accessory use** shall be permitted only on that portion of the **lot** where its respective primary use is permitted.~~
- C. Utility improvements including but not limited to stormwater management facilities located on an abutting lot may be approved by **conditional use permit** provided that, in addition to the findings required by Section 302.4.D, the Planning Board finds that (a) a lot line adjustment between the two properties is impractical and (b) such arrangements are either permanently deeded and recorded or conveyed by an irrevocable 99-year lease or some other legal instrument, acceptable to an attorney representing the City, and submitted with the Conditional Use Permit application for approval by the Planning Board.

[...]

ARTICLE V SUBDIVISIONS AND PLANNED DEVELOPMENTS

[...]

SECTION 507 DENSITY BONUSES ~~FOR CERTAIN PLANNED DEVELOPMENT.~~

PURD's, PRecs, ~~and~~ **manufactured housing parks** ~~PURDs~~, and multi-family developments in the R-1 District and R-2 District may receive an increased density bonus pursuant to Table 507.1 and the provisions of this section.

507.1 Increased Density Bonuses.

Maximum Amount of Bonus Available

<u>Type of Development</u>	<u>For Use of Technique</u>	<u>For Workforce Housing</u>	<u>For Energy Efficient Design</u>	<u>For Renewable Energy Systems</u>
PURD or PRec	12%	10%	10%	10%
Manufactured housing PURD	12%	----	10%	10%
<u>Multi-family development in the R-1 and R-2</u>	<u>----</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>

507.2 Criteria for Award of Bonus.

The Planning Board may allow a gross density of development greater than allowed under Article III of this Ordinance for PURDs, PRecs, **manufactured housing PURDs**, ~~or and~~ multi-family developments in the R-1 District and R-2 District ~~PRec's~~ up to a maximum bonus allowed by Table 507.1. The Planning Board may approve a density bonus for any one or more of the categories identified in Section 507.1. Density bonuses granted pursuant to this section shall be cumulative. The following guidelines shall be used in determining whether a bonus shall be awarded.

[...]

SECTION 509 COTTAGE DEVELOPMENTS.

[...]

509.6 Design Standards. The following design standards are intended to define design parameters to create a small community of cottages oriented around open space and to achieve compatibility with adjacent uses.

- A. Individual Cottage Spaces. ~~For each detached cottage, the~~ The site plan approved by the Planning Board shall delineate a regularly-shaped building site for each ~~detached cottage~~ of no less than 1,500 sq. ft. Each such building site shall be usable and may not include wetlands and/or steep slopes.

[...]

- F. Parking ~~Location~~ and Screening Requirements.

1. 1.5 parking spaces shall be provided per cottage. The total number of parking spaces for the development shall be rounded up to the nearest whole.

2. Parking areas and driveways shall comply with applicable minimum yard requirements for the underlying zone.

23. Parking areas shall be screened from public streets and adjacent residential uses by landscaping or architectural screening.

34. Parking areas shall be prohibited in the minimum required front yard.

45. Parking areas shall be separated from the common open space by landscaping or an architectural screen.

[...]

I. Site Plan Review. **Cottage developments** shall demonstrate compliance with all applicable design requirements of the Site Plan Review Regulations. Consequently, applicants are required to apply for Site Plan Review contemporaneously with applying for a Conditional Use Permit.

[...]

ARTICLE VI ADDITIONAL STANDARDS FOR SPECIFIC USES

[...]

SECTION 604 GROUP DAY CARE FACILITIES.

604.3 ~~Family Day~~Home-Based Care Home.

Home-based care (**family day care home** and **family group day care home**) ~~The care in the home of six (6) or fewer children (inclusive of children under 6 years old who live in the home)~~ is allowed as an accessory use to any primary residential use ~~permitted in any residential use district~~ as long as all requirements for such programs adopted in rules of the New Hampshire Department of Health and Human Services (He-C 4002) are met, and no zoning permit is required, provided that persons living off the premises are not employed. If persons living off the premises are employed, such child care is a home business subject to the requirements of Section 600 (home business permits).

The care in the home of more than six (6) children (inclusive of any children under 6 years old who live in the home) is a **group day care facility** under this Ordinance.

[...]

SECTION 607 PARKING.

607.1 ~~Table of~~ Minimum Off-Street Parking Requirements.

[...]

D. For residential uses as defined in RSA 676:16-a, I, an alternative parking solution as that term is defined in RSA 676:16-a, I, may be authorized by the Planning Board notwithstanding the requirements of the Table of Minimum Off-Street Parking Requirements pursuant to RSA 676:16-a ("On-Site Parking Requirements).

[...]

607.8 Electric Vehicles.

[...]

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 and senior housing complexes** shall include a minimum of 65% of EVSE-installed, EV-ready, and EV-capable spaces as follows:
 - 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~~45% 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 minimum of 50% of EVSE-installed, EV-ready, and EV-capable spaces as follows:
 - 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~~38% of proposed **off-street parking spaces**.

[...]

SECTION 608 SIGNS.

[...]

608.2 General Provisions.

[...]

- C. Enforcement. Any **sign** displayed or erected which is not authorized by this Section and/or is not in compliance with all applicable regulations set forth herein shall be removed, and shall be subject to all available enforcement options pursuant to NH RSA Chapter 676.

In the course of investigating a brightness complaint, the Planning and Development Department may request a certification of the brightness (under measurement conditions) by an independent contractor. If the investigation and certification indicate that the sign exceeds the brightness levels specified in this chapter, the owner of the sign shall turn off the sign until the brightness of the sign is brought into compliance within twenty-four (24) hours of a request.

[...]

608.3 Prohibited Signs.

The following are prohibited:

[...]

- C. **Non-static signs**, except **digital signs** as may permitted according to Section 608.2.H.3 and Section 608.4.A.7 ("Freestanding Non-Static Signs").

[...]

608.4 Non-Residential Uses.

- A. Non-Residential Uses in Commercial and Industrial Districts. Signage for non-residential uses in the **commercial** and **industrial districts** shall be subject to the following requirements:

[...]

6. Illumination. **Signs** may have either **external illumination** or **internal illumination**, subject to the following:

[...]

- d. Maximum Luminance. ~~Luminance~~ An illuminated sign shall ~~measure~~ operate with no more than 0.3 fc ~~above ambient light conditions~~ at the

property line.

[...]

7. Freestanding Non-Static Signs. A freestanding sign allowed per Section 608.4.A.4 may incorporate a non-static sign subject to the following:
 - a. Freestanding non-static signs are only allowed in the General Commercial (GC) on properties with frontage on the following streets:
 - Mechanic Street
 - Miracle Mile
 - Plainfield Road
 - South Main Street
 - b. No more than one (1) display per hour shall be allowed.
 - c. Displays shall contain static messages only.
 - d. Freestanding non-static signs shall be programmed to automatically freeze in a single display in the event of a malfunction or computer/system error.
 - e. The Planning and Development Department shall be provided with an on-call contact person and phone number for each freestanding non-static sign. The contact person must have the ability and authority to make immediate modifications to the displays and lighting levels should the need arise.
 - f. A freestanding non-static sign shall be no larger than 50% of the sign area of the freestanding sign.
 - g. No freestanding non-static sign may be located within one hundred (100) feet of a residential dwelling.
 - h. The sign shall operate with no more than 0.3 foot candles at the property line.
 - i. If the freestanding non-static sign is located in the line of sight of a residential dwelling, such sign shall not operate at brightness levels of more than one-tenth (0.1) foot candles above ambient light levels (at measurement conditions) as measured to the nearest property line of the residential dwelling from the electronic sign.

[...]

SECTION 610 ACCESSORY DWELLING UNIT (ADU).

[...]

An **accessory dwelling unit** shall comply with the following criteria:

[...]

~~E. If the **ADU** is located within or by an addition to the existing **principal building**, an interior door shall be provided between the **ADU** and the principal **dwelling unit** or between the ADU and one of the principal **dwelling units** if the principal building is a **two-family dwelling**.~~

[...]

ARTICLE VIII BOARD OF ADJUSTMENT

[...]

SECTION 801 POWERS AND DUTIES.

The powers and duties of the Board shall be as prescribed by NH RSA 674:33, as amended. The powers and duties are:

801.1 Administrative Appeals.

As set forth in RSA 676:5, I, appeals to the Board concerning any matter within the Board's powers as set forth in RSA 674:33 may be ~~made taken~~ by the applicant, an abutter as defined by RSA 672:3, ~~any person aggrieved~~ or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. In exercising this power, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken.

[...]

802.5 Rehearings and Appeals.

As provided by NH RSA 677:2, as amended, within 30 days after any order or decision of the Board, any party to the action or proceeding or any- abutter as defined by RSA 672:3 ~~person directly affected by it~~ may apply for a rehearing.

[...]

APPENDIX A DEFINITIONS

[...]

ABUTTER: This term shall have the meaning as set forth in RSA 672:3, as amended. ~~Abutter means the owner of record of a lot located in New Hampshire and which adjoins or is within two hundred (200) feet (including across the street or waterway) of the subject lot. In the case of an abutting lot 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. Additionally, the individual owners of condominium units which are located on a parcel within two hundred (200) feet of the subject lot shall be notified only by first class mail.~~ **any person whose property is located in New Hampshire and adjoins or is directly across the street or streams from the land under construction.**

[...]

FAMILY DAY CARE HOME: This term shall have the meaning as set forth in RSA 170-E:2, IV(a), as amended

FAMILY GROUP DAY CARE HOME: This term shall have the meaning as set forth in RSA 170-E:2, IV(b), as amended

[...]

ATTACHMENTS:
Medical Center

SECTION 31X **MEDICAL CENTER TWO DISTRICT (MC-2).**

31X.1 Purpose.

The purpose of this district is to provide for the establishment and maintenance of a use which has as its goal, the provision of inpatient and outpatient health care, and other related and complimentary uses, including housing for employees and staff.

31X.2 Table of Uses.

MC-2 DISTRICT

PERMITTED USES

1. Hospital
2. Hospice
3. Medical office
4. Nursing home
5. Senior housing complex
6. Essential service
7. Renewable energy system
per Section 612

CONDITIONAL USE PERMIT
(see Section 302.4)

1. Group day care facility
2. Group residence
3. Parking facility
4. Multi-family dwelling

31X.3 Table of Area, Dimensions and Coverage.

MC-2 DISTRICT

Minimum Lot Requirements					Maximum Limitations	
Lot Area	Lot Frontage	Front Yard	Side Yard	Rear Yard	Height	Building Coverage
30,000 sq.ft.	100'	20'	15'	20'	60' (See Section 31X.4)	40%

31X.4 Special Height Restriction.

On parcels adjacent to residential districts the height limitation of the adjacent residential district shall apply; but, on such parcels, building height may be increased above the residential limitation by one (1) foot for each two (2) feet that the building is set back from the required setback line(s) on sides of the lot adjacent to the residential district. However, in no case shall the height exceed 60 feet.

31x.5 Dwelling Unit Density.

Density determinations for multi-family dwellings shall be made by the Planning Board during the course of site plan review based on site specific conditions and factors such as the availability of parking and/or the ability to provide required parking, the availability of adequate water and sewer, and the ability to provide required site improvements and to meet all other requirements of the Site Plan Review Regulations and all other applicable City regulations.

ATTACHMENTS:
Pattern Zoning

Section 411 Pattern Zones Overlay District

Section 411.1 - Purpose

The purpose of the Pattern Zone Overlay District is to create additional housing that fits the character of the existing neighborhood in Downtown Lebanon and Downtown West Lebanon, to establish and preserve the characteristics of the historical downtown areas of Lebanon and West Lebanon, and to increase density and housing choices in the district.

Section 411.2 - Description of Pattern Zones Overlay District

The areas and boundaries of the Pattern Zone Overlay District are shown on the Pattern Zone Overlay District Map of the City of Lebanon and made a part of this Ordinance and the Official Zoning Map of the City of Lebanon. The Pattern Zone Overlay District Map is attached hereto as Appendix D.

Note: staff proposes to update to the overlay district map to also include properties along Prospect Street to the Reservoir Road intersection including 50, 58, 60, 62, 64, 59 and 75 Prospect Street.

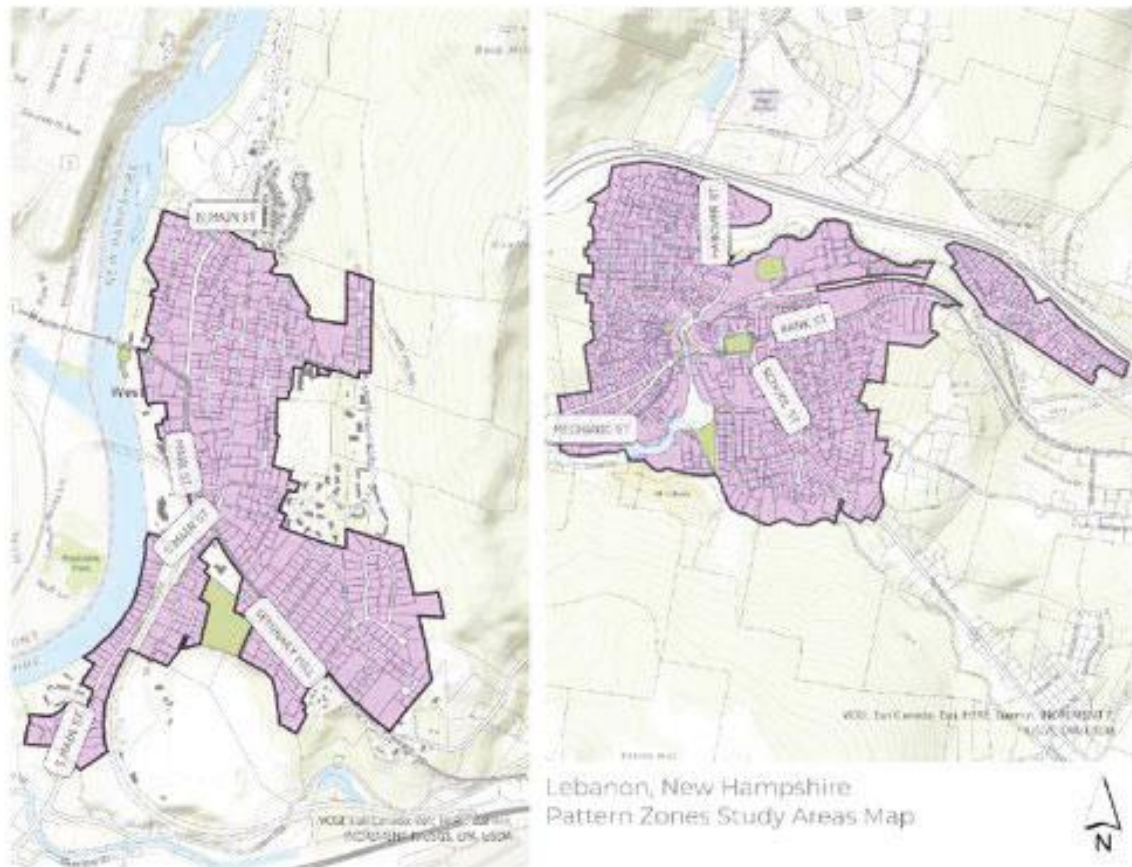


Figure 2: Pre-Approved Plans Program Study Areas Map.

Section 411.3 Permitted Uses

The Overlay District regulations are intended to only be used for uses allowed within the Pattern Zone Overlay District Table of Uses Table of Uses. Any nonresidential uses shall adhere to regulations set forth in Article III based on the underlying zoning district.

Pattern Zone Overlay District Table of Uses

Permitted Uses	Special Exception
Residential: 1. One-Family Dwelling 2. Two-Family Dwelling 3. Accessory Dwelling Unit per Section 610 4. Cottage Development per Section 509 with a minimum 20,000 sq. ft. lot Commercial/Non-Residential 1. Any listed in the Base Zoning District pursuant to Article III.	Residential: 1. Tri-Plex (3 units) 2. Quad-plex (4 units) 3. Townhouses / Rowhomes up to 3 units Commercial/Non-Residential: 1. Any listed in the Base Zoning District pursuant to Article III.

Section 411.4 Table of Areas, Dimensions, and Coverage

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Lot Coverage % of impervious cover	Height
4,000 sq. ft.	40' on lot that abuts a street* 15' on a flag shaped lot* 0' if on rear split lot* *Pursuant to 411.6	10' OR pursuant to 411.9 Front Yard	5'	10'	60% by right 60% - 80% by Special Exception pursuant to 411.8	45'

Section 411.5 - Parking

A minimum of one on-site parking space per dwelling unit is required.

Section 411.6 - Creating New Lots in the Overlay District

1. Notwithstanding underlying zoning districts, new lots within the overlay may be created utilizing the overlay lot dimensional requirements. Existing dimensional nonconformities

may not be made more nonconforming with the creation of a new lot. An existing lot with zoning violations not cured by the creation of the new lot shall not be permitted to be divided until all zoning violations are resolved.

2. Creating a flag lot split shall provide 15' of frontage and meet the minimum lot area requirements.
 - a. Front yard setback requirements shall begin at the point where the lot widens.
3. Creating a lot without frontage, per RSA 674:41, in the case of splitting a lot, in which the rear lot has no street frontage, the following must apply:
 - a. Planning Board Approval
 - b. A deeded driveway easement to pass and repass shall be recorded in the land record.
 - c. A deeded driveway maintenance agreement for the easement access shall be recorded in the land record.

Section 411.7 Shading and Buffers

1. Preservation of a property's existing trees is encouraged to maintain a natural shade canopy upon the property.
2. Properties shall be landscaped to achieve a minimum of 30% shade coverage.
3. New houses located with the minimum 5' side yard setback from a property line must have a vegetative buffer.

Section 411.8 Impervious Cover

1. Within the overlay district, a lot shall be limited by maximum impervious cover, as follows:
 - a. The maximum impervious cover shall be up to 60% by right.
 - b. Maximum impervious cover up to 80% may be permitted by Special Exception pursuant to Section 801.3.
 - c. For purposes of this overlay district impervious cover shall be defined as: A structure or land surface with a low capacity for infiltration, including but not limited to pavement, roofs, roadways, and compacted soils, that has a Curve Number of 98 or greater.
 - d. Impervious cover determinations when in question shall be made by the City Engineer.
2. An applicant for a Special Exception to allow impervious cover up to 80% shall meet the criteria of Section 801.3 in addition to the following:
 - a. A stormwater management plan shall be provided to the Board. The plan must demonstrate that all stormwater is managed and treated onsite with a preference for low impact development stormwater management methods. Applicants may tie into the City's stormwater drain system as may be permitted by the City Code.

Section 411.7 Snow, Garbage, Fuel Tanks

1. A snow storage plan shall be provided, approved, and followed.
2. Garbage/recycling receptacle storage plan shall be provided, approved, and followed.
 - a. Garbage/recycling shall not be stored in the front yard of the property.
 - b. Applicable screening shall be provided.
 - c. If a dumpster is used then it shall be enclosed, stored on hard surface and meet screening requirements. A dumpster shall meet setback requirements, not interfere with parking, be located in the rear or side yard, beyond the front line of the structure, and meet the setback requirements.

3. Exterior fuel storage within the overlay shall:
 - a. Meet all zoning setback requirements.
 - b. Fuel storage tanks shall be located within the rear yard.
 - c. Underground fuel storage may be located in the front, side or rear yard provided they meet the required yard setbacks.

*** Options for Section 411.8 ***

Option A

Section 411.8 Pattern Book Requirements

The architectural plan for a building within the overlay pursuant to these requirements shall be selected from the Pattern Zones Book as provided by the City of Lebanon Planning Office.

Option B

Section 411.8 Architecturally Designed Plans

The architectural plan for a building within the overlay pursuant to these requirements shall be designed by a licensed Architect.

Option C

Section 411.8 Design Guidelines

The following design guidelines shall apply to any design that is not preapproved within the Pattern Zones Book by using the following design guidelines:

1. A majority of these requirements shall be employed in the building's design:
 - a. Front porch, Wood appearing siding or brick exterior, a peaked roof, street facing entry, street facing windows, garage located behind the front building line, chimney, non-split-level design.
2. All designs shall demonstrate that the proposed design fits the architectural characteristics of the street block in which it will be located.

411.9 Front Yard

The required front yard may be reduced to the average front yard of the existing buildings on the same side of the street in the same block, provided that there are at least 2 such buildings and provided that all such buildings are within 300 feet of the premises. This reduction shall not be allowed for lots fronting on a state highway. [OBJ]

Appendix A – new definition

Flag lot - A lot that has access to a street by means of a narrow strip of land.

ATTACHMENTS:
Recovery House

Recovery House Definition, Use Code Additions, and Text:

Proposed Definition for Appendix A:

Recovery House. A primarily non-transient dwelling or dwelling unit that provides a substance-free living environment that supports individuals in recovery from addiction and living as a single household and as more aptly defined in RSA 153:10-d II. Recovery housing shall not include boarding house, rooming house, halfway house or any other facility requiring a license.

Proposed Article III Table of Use Amendments for City Council approval:

Allow “recovery house” by Special Exception per Section 614 in the following zoning districts:

- CB - Central Business
- LD – Lebanon Downtown
- GC – General Commercial
- RO- Residential Office
- MC- Medical Center
- MC2- Medical Center Two
- IND-L- Industrial Light

Proposed Article III Table of Use Amendments for voter approval:

Allow “recovery house” by Special Exception per Section 614 in the following zoning districts:

- R-1- Residential One
- R-2- Residential Two

Proposed amendment to Article VI of the Zoning Ordinance – new Section 614:

Section 614 Recovery Houses.

614.1 Purpose.

The purpose of this section is to institute reasonable regulations for the establishment of recovery houses in accordance with RSA 153:10-d Exemption for Recovery Houses and to protect the health, safety, and welfare of the patrons of such operations, and of the citizens of Lebanon, and to prevent the deleterious siting of recovery houses within the City.

614.2 Certification Required.

To establish and operate a recovery house use, the following standards shall be met:

1. The recovery house shall be certified and maintain certification by the New Hampshire Coalition of Recovery Residences. Documentation of this certification and recertification shall be provided to the Zoning Official, Fire Chief, Police Chief, and the City Clerk.
 - a. The establishment of a new recover house requires that a letter from the New Hampshire Coalition of Recovery Residences (NHCORR) confirming the recovery house certification process has commenced shall accompany the all city permit applications.

b. Upon final NHCORR certification of a new recover house the certification shall immediately be communicated to the Zoning Official, Fire Chief, Police Chief and City Clerk.

2. A 24-hour emergency contact person with contact information and the approved building occupant load shall be posted in the common area of the building, so it is readily visible to residents and emergency responders. A 24-hour emergency contact person with contact information shall be provided, kept updated and remain on file with the Police Chief and Fire Chief.

614.3 Special Exception Application Requirements.

An application for a Special Exception shall include the following documentation:

1. A recovery house shall maintain a residential home appearance from the street view.
2. A location map demonstrating adherence to the 1320 ft. (1/4 mile) bus stop radius requirement set forth in Section 614.3.
3. A site plan and floor plan demonstrating adherence to the requirements of RSA 153:10-d Exemption for Recovery Houses.
4. A letter from the New Hampshire Coalition of Recovery Residences (NHCORR) confirming the recovery house certification process has begun.
5. A proposed site plan depicting the following:
 - a. A garbage management plan with locations of exterior garbage receptacles and compliance with the applicable criteria set forth in Section 614.3. If a garbage dumpster is being used, the plan shall demonstrate compliance with the applicable location and screening requirements as set forth in the Site Plan Review Regulations.
 - b. A proposed smoking compliance plan that meets the standards of 153:10-d Exemption for Recovery Houses and the applicable criteria set forth in Section 614.3.
 - c. A parking plan sufficient to demonstrate that the recovery house has sufficient parking to meet the needs of its residents.

614.3 Special Exception Criteria.

In addition to the general Special Exception criteria set forth in Section 801.3 and the certification requirements set forth in Section 614.2, an applicant for a Special Exception shall demonstrate compliance with the following criteria:

1. The recovery house will be operated in a manner harmonious to the neighborhood.
2. The recovery house shall have walkable and bikeable access to and be located within ¼ mile (1320 ft.) of a bus stop.
3. Smoking areas are not permitted in the front yard of a recovery house.
4. A designated smoking area shall meet applicable setback for the zoning district and if abutting a residential use screening shall be provided.

5. All garbage receptacles shall be stored in a location on the side or rear of the house.
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