

FINAL

**LEBANON ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE
MONDAY, February 3, 2025
7:00 PM**

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

MEMBERS ABSENT: Chair William Koppenheffer, Jennifer Barkley

STAFF PRESENT: Nathan Reichert – Zoning Administrator

1. CALL TO ORDER

Vice Chair Jeremy Katz called the meeting to order at 7:00 PM.

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

Mr. Morris was given voting privileges for this meeting.

2. APPROVAL OF MINUTES

A. January 6, 2025

Mr. McDonough MOVED to approve the January 6, 2025, Minutes as presented in the February 3, 2025.

Seconded by Mr. Newlove.

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

B. January 16, 2025

A vote was not taken because only two members who attended the meeting were present.

3. PUBLIC HEARING ITEMS

- A. Steven Bickford, 22 Wheatley St (Tax map 77, Lot 15), zoned R-3:** The applicant previously received a Special Exception to expand an existing dimensionally non-conforming garage with the addition of a 12 ft x 16 ft carport +/- 8 ft from the right-side property line (ZB2023-14-SE) and is now requesting further relief from Section 310.3, pursuant to Sections 703.1 and 801.3 of the Zoning Ordinance to increase the size of the carport to 12 ft x 20 ft, +/- 7 ft from the right-side property line. **ZB2024-24-SE – Continued from 1/6/2025 meeting**

Stephen Bickford appeared on behalf of the application. Originally, he had an estimate from a builder for the garage, but the cost was prohibitive. Instead, he is going to use a garage kit and there are only limited sizes of the kit. They are asking for additional footage to use a kit.

The Public Hearing was opened. No one from the Public commented and the Public Hearing was closed.

Mr. Morris MOVED on February 3, 2025, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Stephen Bickford regarding 22 Wheatley St (Tax Map 77, Lot 15), zoned R-3. The Applicant requests a Special Exception per Section §703.1 of the Zoning Ordinance to erect a 12 ft x 20 ft carport +/- 7 ft from the right-side property line where a 15 ft side-yard setback is required. ZB2024-24-SE

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 developed with a one-story single-family residence with a detached garage constructed in 1915.
2. In 2023 the applicant received a Special Exception to expand the dimensionally non-conforming garage with the addition of a 12ft x 16 ft attached carport.
3. The applicant was unable to obtain a 12 ft x 16ft carport.
4. The applicant seeks to amend the previously approved Special Exception to permit a carport that is an additional 4 feet in length, per Section §703.1 of the Zoning Ordinance.
5. In order to grant a Special Exception to expand a non-conforming structure, the applicant must demonstrate that the proposal meets the general Special Exception criteria, set forth in Section §801.3. The applicant has submitted testimony addressing the Section 801.3 criteria in an application received by the Planning & Development Department on November 12th, 2024.
6. No one from the public spoke for or against the application

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Special Exception criteria set forth in §703.1 and §801.3 of the Zoning Ordinance:

1. The Special Exception is specifically authorized by Section §703.1 and Section §801.3 of the Zoning Ordinance.
2. The following conditions/requirement of Section §703.1 **have been** met:
 - a. The reasonable use of abutting properties shall not be adversely affected by the proposed expansion.
 - b. The proposed expansion shall not render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently nonconforming cannot be made more non-conforming in the absence of a variance.

3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy.
4. The character of the area **will not** be adversely affected.
5. **No** hazard or nuisance will be created.
6. The capacity of existing or planned community facilities and services (including streets and highways) **will not** be adversely impacted.
7. The granting of the Special Exception **will not** result in undue municipal expense.
8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and intent of the ordinance.
9. The general welfare of the City **will** be protected.

III. **DECISION**

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 2nd day of December, 2024 hereby **GRANTS** the requested Special Exception pursuant to Section §703.1 and §801.3 of the Zoning Ordinance to erect a 12 ft x 20 ft carport +/- 7 ft from the right-side property line where a 15 ft side-yard setback 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 and a Certificate of Completion.

Seconded by Mr. Newlove.

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

- B. CWM All Waste, LLC & Choice Storage, LLC, 40 N. Labombard Rd (Tax map 51, Lot 10), zoned IND-L:** The applicants request a Variance from Article III, Section 303.3, pursuant to Section 801.3, of the Zoning Ordinance to allow a roadway right-of-way and scale to be located +/-16.5 ft away from the front property line of a newly created lot where 40 ft is required.
ZB2025-03-VAR - Continued to the March 3, 2025 meeting

There was a technical issue with getting a signature on the application for this hearing.

Mr. Newlove moved to continue the CWM All Waste, LLC & Choice Storage, LLC agenda item until March 3.

Seconded by Mr. Newlove.

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

- C. Eric & Irina Stacy, 108 School St (Tax map 107, Lot 6), zoned R-3:** The applicants request a Variance from Article III, Section 310.2, pursuant to Section 801.3, of the Zoning Ordinance to allow the conversion of a two-family dwelling into a four-family dwelling where a maximum of a one-family dwelling is allowed. **ZB2025-04-VAR**

Eric Stacy appeared on behalf of the application. He presented a drawing showing what he intends to do. It is a 4900 square foot house. It has an unfinished dirt walk out basement, with four windows, and the basement is adequate height. He would like to turn the basement into a two-bedroom apartment with an entrance to an expanded parking lot. The apartment would be about 850 square feet. It does not take up the entire basement. He showed a picture of the proposed changes to the first floor, which is configured like a duplex. It will be a 1200 square foot two-bedroom apartment. The Fire Marshall has already reviewed the remodel without issues. The next floor above would have the same floor plan for another 2-bedroom apartment. The top floor would have another 2-bedroom apartment of around 1000 square feet. He believes all the new areas are satisfactory with the fire department.

The applicant has met with his neighbors, but no one is attending the hearing. Some neighbors are concerned that the lighting would be an infringement and on the site plan he will use down lit lighting. Another neighbor was concerned that the existing asphalt needed to be widened to have more parking. The applicant would have 8 parking spaces. One neighbor was concerned that cars coming in and out would flood light in his bedroom. The applicant would use plants and a new fence to keep the light out of the neighbor's house. He believes he meets the density requirements because he has additional acreage. He believes this neighborhood has other buildings that are not single-family. His building is under utilized in the neighborhood and it needs to be updated.

If left as a two plex it is not economically viable to bring it up to code. If he goes up to four units, it would allow him to do a high-quality redevelopment. He believes this would attract residents to the area. The R2 area is only 300 feet away from the property and there are many other similar buildings in the area.

Vice Chair Katz clarified the hardship standard. It is due to the special attributes of the property. The applicant was asked for additional information to justify the hardship.

This is the last remaining building of this size in the area. It is underutilized. The lot is large but shaped like a dog leg, so it restricts most of the lot as unusable. This is one of two of the tallest and largest buildings in the area. It has a larger lot. This is basically larger by a factor of 2. Based upon the age of the building and the nonconforming property shape it bears discussion. The requirements for egress are met and sprinkling is not required.

Vice Chair Katz opened the Public Hearing.

No one from the public spoke.

The Public Hearing was closed.

Vice Chair Katz MOVED on February 3, 2025, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Eric Stacy regarding 108 School St (Tax map 107, Lot 6), zoned R-3: The applicants request a Variance from Article III, Section 310.2, pursuant to Section 801.2, of the Zoning Ordinance to allow the conversion of a two-family dwelling into a four-family dwelling where a maximum of a one-family dwelling is 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 property is improved with a two-family home constructed in 1860. At +/- 18,295 sq. ft., the lot is conforming to the 10,000 sq. ft. minimum lot size required for Class 1 lots in the R-3 District.
2. The applicant proposes to convert the existing two-family dwelling to a four-family dwelling.
3. The applicant has submitted testimony addressing section 801.3 Variance criteria in an application received by the Planning and Development Department on January 13th, 2025.
4. To obtain the requested Variance from section §310.2, the applicant 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. The Board finds that the subject property is, by a factor of nearly 2 times, larger than similarly situated one- and two-family dwellings within the vicinity.
6. No member of the public appeared to speak either for or against the application. _

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the 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.

The substantial difference in size of the structure as compared to one- and two-family dwellings in the area, as stated in finding effect #5 as well as the fact that the 2000 square feet of unfinished area has gone unutilized for decades. No economically viable plan for utilization exist without relief.

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 **3rd day of February, 2025**, hereby **GRANTS** the Variance from Section 310.2, pursuant to Section 801.2 of the Zoning Ordinance to allow the conversion of a two-family dwelling into a four-family dwelling where a maximum of a one-family dwelling is allowed, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The Applicant shall demonstrate adherence to section §201.7 by amending the site plan to demonstrate that the parking area's 5-foot minimum lot line setback is met. The clarified site plan shall be submitted to the Zoning Official for administrative approval prior to site plan application.
2. The Applicant shall demonstrate adherence to section §607.8 Electric Vehicles by amending the site plan to designate 1 parking space as EVSE-installed, 1 parking space as EV-ready and 2 parking spaces as EV-Capable. The clarified site plan shall be submitted to the Zoning Official for administrative approval prior to site plan application.
3. The Applicant shall obtain Site Plan approval from the Minor Site Plan Committee.
4. The Applicant shall obtain a Building Permit.
5. The Applicant shall pay all applicable Impact Fees as required by the Planning Board.
6. The Applicant shall obtain a Water & Sewer Allocation Permit from the Department of Public Works.
7. The applicant shall complete the project substantially in the manner that it had been presented to the Zoning Board in receiving this approval.
8. Appropriate barriers will be installed at the property line as proposed by the applicant in its presentation.

Seconded by Mr. Newlove.

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

4. OTHER BUSINESS

A. Zoning By-Laws Review

The impetus for this is because more members of the public have been attending City meetings. As a consequence, one of the suggestions is that the Boards are provided with the rules and procedures to make sure they align with how the Board wants to operate. Boards are asked if they are able to follow the rules. These are the same rules that were in place last year. The members will read the rules before the next meeting and the discussion will take place when the Chair is present.

One rule that has changed for other Boards is the 3-minute limit for each speaker. It is the discretion of the Board if that type of rule would be followed at this board. There have been some timing rules when it was necessary, and discussions go through the Chair person. This is a Board that is meant to hear from individuals with standing. The discussion was postponed.

B. Central Business District Zoning Amendment Request Review and Comment

In the court proceeding with the River Park building permit, the proposed use of the building they are intending to build, a research laboratory, does not fit within the Central Business Zoning District. The City Council is being asked for consideration of this amendment. Staff ask if this is an appropriate use and what the proposed use means. Research is already a core competency of use within the community. It is important to be clear and to be able to understand what pure research is, what does research and development mean, and what does manufacture related to research mean in the overall definition. There are detailed nuances of uses that are available and to be used in different districts. The Zoning Board needs to determine if they can fully understand, and rule based on what uses are permissible in what locations. It would impact the main downtown area of West Lebanon, and there is a proposal that the Central Business District would impact Centerra and other areas within the community. Staff will be looking at the definitions in the Planners dictionary, what is used in other communities, and how these questions are answered.

This definition is proposed to be placed in three different districts. The Zoning Administrator has the discretion to determine if it fits. The only time the Board would see this is if there was an appeal of the Zoning Administrator's decision.

5. STAFF COMMENTS

There has been discussion of a new member joining the Zoning Board. There will likely be a recommendation in February.

6. ADJOURNMENT

***Mr. McDonough MOVED to adjourn the meeting at 8:14 PM.
Seconded by Mr. Morris.***

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

Respectfully submitted,
Linda Billings, Recording Secretary