



LEBANON ZONING BOARD OF ADJUSTMENT
MAY 5, 2025 - 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: 974 344 711#). If you have trouble accessing this meeting, please [email Nathan Reichert](#).

2. Approval of Minutes

- A. April 7, 2025

3. Public Hearing Items

- A. **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 Continued from the November 18, 2024 meeting**
- B. **Perry T. Moorman & Meredith Steinfels , 12 Kendrick St (Tax map 78, Lot 10), zoned R3:** The applicant requests a Special Exception from Article IV, Section 410.5, pursuant to Section 703.1 and 801.3 of the Zoning Ordinance to allow the expansion of a non-conforming structure within the Riverbank Protection District. **ZB2025-09-SE**
- C. **Michael Davidson, 3 Campbell St (Tax Map 92, Lot 65), zoned LD:** An appeal of the Zoning Official's Notice of Violation and Administrative Decision, pursuant to Section §801.1 of the Zoning Ordinance, that the conversion of office space to dwelling units violates Sections 103, 307.2, 307.5, 408, and 607.8. **ZB2025-10-AAD**
- D. **Brett Sowerby & Patricia Atchinson, 39 Spring St (Tax Map 107, Lot 62), zoned R2:** The applicant requests 2 variances to allow a carport to be build +/-6.5 ft from the left-side property line shared with 43 Spring St where 15 ft is required and to allow 44% building coverage on the lot where 25% is allowed. **ZB2025-11-VAR**

4. Other Business

- A. Zoning Amendment review and discussion- Environmental Overlay

5. Staff Comments

6. Adjournment

Lebanon Zoning Board of Adjustment Agenda
May 5, 2025

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, April 7, 2025
7:00 PM**

MEMBERS PRESENT: Chair William Koppenheffer, Vice Chair Jeremy Katz, Dave Newlove, Paul McDonough, Jennifer Barkley, Rupert Burtan (alternate)

MEMBERS ABSENT: Michael Morris

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.

2. APPROVAL OF MINUTES

A. January 16, 2025

There is not a quorum of member who were present at the meeting to vote on these minutes. The minutes will be moved to the May agenda.

B. March 3, 2025

Mr. Katz MOVED to approve the March 3, 2025, minutes as presented in the April 7, 2025 packet.

Seconded by Mr. Newlove.

**The Vote on the Motion was (4-0-2).*

Two abstentions due to members not being present.

3. PUBLIC HEARING ITEMS

A. 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 from the March 3, 2025 meeting**

The applicants are not ready to proceed. The City will waive the filing fees upon reapplying, but it will still need to be re-noticed.

Mr. Katz MOVED to continue ZB2025-03-VAR to the May 5, 2025 meeting.

1 **Seconded by Ms. Barkley.**

2
3 ***The Vote on the Motion was (5-0).**

4
5 **B. Headrest, Inc, 14 Church St (Tax map 91, Lot 252), zoned LD:** The applicant requests a
6 Special Exception from Article III, Section 307.2, pursuant to Sections 614 and 801.3 of the
7 Zoning Ordinance to allow the existing facility to be used as a recovery house. **ZB2025-06-**
8 **SE**
9

10 Matthew McKenney, Board Chair of Headrest, appeared on behalf of the application. Headrest
11 has been in this community for 53 years, managing a residency program at 14 Church Street
12 since 1987. It is known as a low intensity, 3.1 level residential treatment program. The City has
13 considered it a social service center by Zoning.
14

15 Headrest in its current program has become unsustainable. They believe operating a recovery
16 house is a better approach and better meets the needs of the community. As of March 7, 2025
17 they applied for certification as a recovery house. Residents would remain in a safe supervised
18 environment, would be employed, would pay rent, and would receive treatment services in the
19 community.
20

21 A house leader would live on the premises and would be at the facility 24 hours a day. During
22 business there would also be hotline staff for the crisis line on site. Mr. Newlove asked if
23 Lebanon taxpayers would have to cover the cost of ambulance services for anyone who is not
24 insured. The applicants were unable to answer the question.
25

26 In a 3.1 facility there are clinical groups and activities. Residents are usually directly out of
27 detox and staying for 90 days. A sober house, such as proposed, would have residents who are
28 employed and stay longer to access recovery services for a longer period of time. Residents
29 would not require clinical services, as provided in the current 3.1 facility. The services initially
30 provided by a 3.1 facility would no longer be available in the community. Based on staffing
31 availability Headrest is no longer able to sustain a 3.1 facility for recovery. Residents' rent
32 would fund the home rather than insurance, State, and Federal resources. It sounds like this is a
33 less intense use of the property.
34

35 The recovery certification process has requirements, a need for certification, and therefore it is
36 not considered a downgrade of the current activities on the property. Currently they are
37 approved of being a 14-bed facility. The recovery agency will determine the actual number of
38 beds, and the certification is the number of beds that prevails.
39

40 **Chair Koppenheffer opened the Public Hearing. No one spoke and the Public Hearing was closed.**
41

42 *Vice Chair Katz MOVED on April 7th, 2025, at a duly-noticed meeting of the Lebanon Zoning Board*
43 *of Adjustment, there appeared Matthew McKinney regarding 14 Church St (Tax map 91, Lot 252),*
44 *zoned LD. The applicant requests a Special Exception from Article III, Section 307.2, pursuant to*
45 *Sections 614 and 801.3 of the Zoning Ordinance to allow the existing facility to be used as a recovery*
46 *house.*
47

48 **I. FINDINGS OF FACT**

1
2 Based on testimony given, application materials presented, and supporting documents submitted, the
3 Lebanon Zoning Board of Adjustment makes the following findings of fact:
4

- 5 1. The subject property is improved with a dimensionally non-conforming building that was
6 constructed in 1945 and has been used by Headrest Inc. as a residential social service center for
7 adults experiencing substance use disorders since 1987.
8
- 9 2. The applicant proposes to transition away from their current 14-bed, 3.1 Low Intensity
10 Residential Program use.
11
- 12 3. The applicant is seeking a Special Exception pursuant to Article VI Additional Standards for
13 Specific Uses, Section 614 Recovery Houses, of the Zoning Ordinance to allow them to transition
14 their services to a 14-bed Recovery House as defined in RSA 153:10-d, II, as the same may be
15 amended: A residence that provides a safe, healthy, family-like, substance free living
16 environment that supports individuals in recovery from addiction and is centered on peer support
17 and a connection to services that promote long-term recovery; provided that “recovery housing”
18 shall not include a halfway house or any other facility requiring a license pursuant to RSA 151, in
19 the LD Zoning District.
20
- 21 4. In order to grant a Special Exception, the applicant must demonstrate that their proposal meets the
22 general Special Exception criteria, set forth in Section 801.3. The applicant has submitted
23 testimony addressing the Section 801.3 criteria in an application received by the Planning and
24 Development Department on March 10, 2025.
25
- 26 5. There are no known existing zoning violations on the property.
27
- 28 6. No member of the public appeared to speak either for or against the application.
29

30 **II. CONCLUSIONS OF LAW**

31
32 As a result of the above findings of fact and based on testimony given, application materials presented,
33 and supporting documents submitted, the Board concludes the following with respect to the Special
34 Exception criteria set forth in §801.3 of the Zoning Ordinance:
35

- 36 1. The Special Exception is specifically authorized by Section §801.3 of the Zoning Ordinance.
37
- 38 2. There are **NO** special conditions of the special exception required by **section 614** that will not
39 have been met.
40
- 41 3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of the
42 Special Exception would not remedy.
43
- 44 4. The character of the area **will not** be adversely affected.
45
- 46 5. **No** hazard or nuisance will be created.
47
- 48 6. The capacity of existing or planned community facilities and services (including streets and
49 highways) **will not** be adversely impacted.
50

- 1 7. The granting of the Special Exception **will not** result in undue municipal expense.
- 2
- 3 8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and
- 4 intent of the ordinance.
- 5
- 6 9. The general welfare of the City **will** be protected.
- 7

8 **III. DECISION**

9

10 Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 7th day of April, 2025

11 hereby **GRANTS** the requested Special Exception pursuant to Sections 614 and 801.3 of the Zoning

12 Ordinance to allow the existing facility to be used as a recovery house.

13

- 14 1. The property will be operated in accordance with the information and documentation provided to
- 15 the Zoning Board this evening.
- 16

17 ***Seconded by Ms. Barkley.***

18

19 ****The Vote on the Motion was (4-1).***

20 ***Mr. Newlove voted nay.***

21

- 22 **C. Execusuite, LLC, 75 Bank St (Tax Map 92, Lot 78), zoned RO:** The applicant requests a
- 23 Special Exception from Article III, Section 311.2, pursuant to Section 801.3, of the Zoning
- 24 Ordinance to allow a portion of the basement level to be used as an indoor gymnastics
- 25 recreation facility. **ZB2025-08-SE**
- 26

27 Tim Sidore appeared on behalf of Execusuite for the application. The building is formerly known as the

28 Lebanon Middle School. Eleven years ago, the building was converted into 43 apartments and

29 commercial space, so it is a mixed-use facility. For many years Execusuite rented this commercial space

30 to Spark and since they left the owners have not been able to find another lessor for this section of the

31 property. The Treehouse Gymnastic Organization has signed a lease for the space, and the applicants

32 believe an indoor recreational facility falls under the conditional use in this zone, allowed in the district

33 through a special exception. Because it is a former school, there is ample parking on site. The applicants

34 also own the two abutting properties and believe there would be no impact against abutters. There would

35 be shorter operating hours than the previous tenants.

36

37 **Mr. Katz recused himself and Mr. Burton was given voting privileges for this hearing.**

38

39 Staff discussed some concerns regarding previous zoning violations. There was an old classroom trailer

40 that had been stored on site that was required to be moved and has now been moved. There are also other

41 materials and appliances in the back that need to be cleaned up because. The applicants are in agreement

42 to clean up the areas.

43

44 The approved site plan seems to be in conflict of what was originally approved, such as the parking lots.

45 There are 3 LP tanks that are now on the site and staff do not see any permits to have the tanks on site. It

46 is important to ensure that all permitted requirements are met.

47

48 The rugby club occasionally uses the fields, but it is not a rental arrangement. They have allowed the

49 Rugby club to play on the fields. There is an unpermitted shed. The shed belongs to the City and is

50 believed to have been there for the last 6 years. The shed is used by Lebanon Parks and Recreation.

1 There are two offices rented, one is a violin instructor and one as an IT person. They applicants need to
2 seek a permitted use and a certificate of occupancy for both occupants. There are lot line adjustments that
3 need to be addressed.

4
5 **Chair Koppenheffer opened the Public Hearing.**

6
7 Annie Arrington, the owner of Treehouse and the potential tenant spoke. She feels there would be more
8 traffic and parking lot marks need to be improved and put into compliance with the Planning Board
9 approval. Hopefully that would improve the parking lot striping. She believes this gym would be an
10 asset to the community.

11
12 **Hearing no one else from the public, the Public Hearing was closed.**

13
14 *Chair Koppenheffer MOVED on April 7th, 2025, at a duly-noticed meeting of the Lebanon Zoning*
15 *Board of Adjustment, there appeared Tim Sidore regarding 75 Bank St (Tax Map 92, Lot 78), zoned*
16 *RO: The applicant requests a Special Exception from Article III, Section 311.2, pursuant to Section*
17 *801.3, of the Zoning Ordinance to allow a portion of the basement level to be used as an indoor*
18 *gymnastics recreation facility.*

19
20 **I. FINDINGS OF FACT**

21
22 Based on testimony given, application materials presented, and supporting documents submitted, the
23 Lebanon Zoning Board of Adjustment makes the following findings of fact:

- 24
- 25 1. The subject property is improved with a dimensionally non-conforming building that was
26 constructed in 1927 and was previously the Lebanon Jr. Highschool. The current owner
27 purchased the property in 2013 and has since converted it to 43 dwelling units, a gym/fitness
28 club, a private education facility, and office space.
 - 29
 - 30 2. The applicant proposes to convert a portion of the previous private education facility space into
31 an indoor gymnastics facility – Treehouse Gymnastics.
 - 32
 - 33 3. In order to grant a Special Exception, the applicant must demonstrate that their proposal meets the
34 general Special Exception criteria, set forth in Section 801.3. The applicant has submitted
35 testimony addressing the Section 801.3 criteria in an application received by the Planning and
36 Development Department on March 10, 2025.
 - 37
 - 38 4. There are a number of issues with the condition of the property as laid out and stated in a
39 memorandum from the Zoning Administrator and Director of Planning to the Zoning Board.
40 There are 8 individual categories of potential zoning violations of the property.
 - 41
 - 42 5. Annie Arrington testified in favor of the proposal, being the tenant of the space in question.

43
44 **II. CONCLUSIONS OF LAW**

45
46 As a result of the above findings of fact and based on testimony given, application materials presented,
47 and supporting documents submitted, the Board concludes the following with respect to the Special
48 Exception criteria set forth in §801.3 of the Zoning Ordinance:

- 49
- 50 1. The Special Exception is specifically authorized by Section §801.3 of the Zoning Ordinance.

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

III. **DECISION**

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 7th day of April, 2025 hereby **GRANTS** the requested Special Exception pursuant to Section 801.3 of the Zoning Ordinance to allow a portion of the basement level to be used as an indoor gymnastics recreation facility.

1. The applicant shall obtain a Planning Board, Building and Fire Permits for all uses and construction.
2. Any future Change of Use of this facility shall be permitted by amendment of this Special Exception of the Zoning Board.
3. A change of commercial occupancy requires a Change of Occupancy permit approved by the Zoning Official and possibly the Planning Board, Minor Site Plan Committee and Zoning Board of Review, depending upon the use and a certificate of occupancy to be issued by the Building Official prior to Occupancy pursuant to the Zoning, Planning, Fire Code and Building Codes in force at the time of the change.
4. Pursuant to the memo previously referenced in Finding of Fact #4, dated 7/25, the applicant shall within 60 days correct and address all of the issues raised in that memo. To the extent that review must be sought either by the Zoning Board or the Planning Board or any other boards in the City of Lebanon, application shall be made to the applicable board within 60 days.

Seconded by Mr. McDonough.

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

Mr. Katz returned to the meeting.

4. **OTHER BUSINESS**

The task is not to rule or discuss whether each is a good amendment. The question is, if it is added to the ordinance, does the Board have the ability to interpret the amendment.

A. Zoning Amendment review and discussion: Care & Treatment of Animals

The members did not have issue with the amendment.

B. Zoning Amendment review and discussion: Mobile Food Service

Chair Koppenheffer said in section 614 D, the number of mobile food service trucks is determined by lot size and available space. If used in parking areas, no more than 10% of the parking space can be used. For example regarding the food trucks around Colburn Park, is the parking just on South Park Street or is it all the streets around the green? The City has a specific ordinance regarding food trucks on City land. This section of the ordinance only applies to uses on private land, and those on City land are governed by the City ordinance addressing mobile food trucks.

The members would like the amendment to be clarified stating it only pertains to private property.

C. Zoning Amendment review and discussion: Hotels in the GC-1 district

No comments from the Board.

5. STAFF COMMENTS

All this discussion regarding zoning amendments will come to City Council on June 18. There will not be a zoning amendments session next year.

6. ADJOURNMENT

Mr. Katz MOVED to adjourn the meeting at 8:32 PM.

Seconded by Mr. Burtan.

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

Respectfully submitted,
Linda Billings, Recording Secretary



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

STAFF MEMORANDUM

Perry T. Moorman & Meredith Steinfels
12 Kendrick Street

To: Zoning Board of Adjustment

Prepared By: Nathan Reichert, *Director of Planning & Development* and *Zoning Administrator*
& Tiffany Adams, *Zoning Executive Assistant*

Date: May 5, 2025 – Regular Meeting

Application Number: ZB2025-09-SE

HEARING NOTICE:

Perry T. Moorman & Meredith Steinfels, 12 Kendrick St (Tax map 78, Lot 10), zoned R3: The applicant requests a Special Exception from Article IV, Section 410.5, pursuant to Section 703.1 and 801.3 of the Zoning Ordinance to allow the expansion of a non-conforming structure within the Riverbank Protection District. ZB2025-09-SE

SITE DESCRIPTION / BACKGROUND:

The subject property is improved with a dimensionally non-conforming 1-family dwelling constructed in 1880, per the City Assessor's records and is conforming to the R3 zoning district, Class 1, minimum lot size requirement of 10,000 sq ft with +/- 15,246 sq ft and is the riverbank protection, NH shoreland protection, and FEMA flood zone overlay district. There has been no previous ZBA action since 1995.

PROPOSAL:

The applicant proposes to build an addition on the front side of the existing home, within the 50 ft Riverbank Protection buffer. The addition will be no closer to the riverbank than the existing house structure.

ZONING ORDINANCE REQUIREMENTS – 410.5 RIVERBANK PROTECTION DISTRICT

410.5 PERMITTED USES:

*The following uses are permissible within the Riverbank Protection District, provided such use does not involve a **structure** (except as expressly referenced) and does not alter the surface configuration of the land by the addition of fill, by excavation or by dredging:*

410.5.K. *The expansion of non-conforming buildings and Structures, located within the Riverbank Protection District, is regulated under Article VII, Non-Conformities, of this Ordinance...*

ZONING ORDINANCE REQUIREMENTS – 703.1 EXPANSION:

Expansion of non-conforming parts of buildings or structures, may be allowed only by special exception as set forth herein. For purposes of this section, the term "expansion" shall include any increase in the footprint and/or volume of the non-conforming part of the building or structure.

A. *The Board shall make each of the following findings:*

- 1. The reasonable use of abutting properties shall not be adversely affected by the proposed expansion.*
- 2. The proposed expansion shall not render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently non-conforming cannot be made more non-conforming in the absence of a variance.*

3. *These special exception standards shall apply in addition to the standards in Section 801.3 of the Zoning Ordinance.*

B. *Those parts of any non-conforming building or structure which are conforming may be expanded provided the expansion is conforming and the use is not changed.*

ZONING ORDINANCE REQUIREMENTS – 801.3 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:

There are several layers to the permitting process for this effort. As the project is within the Riverbank Protection overlay, the Flood Zone and the State Shoreland area additional permit care is required. All elements of the permit have been met by the applicant. There appears to be little if any disturbance of the shoreland area as this is a modest expansion of the existing non-conforming house. The Conservation Commission has waived its review for this project having concluded that the impact is negligible.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT SPECIAL EXCEPTION

Draft Motion

Perry T. Moorman & Meredith Steinfels
12 Kendrick Street

DRAFT MOTION for:

Agenda Item: 3.B

Case: ZB2025-09-SE

Request for Special Exception per Sections §410.5, §703.1 & §801.3

Motion made by: _____

On May 5th, 2025, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared _____ regarding 12 Kendrick St (Tax map 78, Lot 10), zoned R3: The applicant requests a Special Exception from Article IV, Section §410.5, Section §703.1 pursuant to §801.3 of the Zoning Ordinance to allow the expansion of a non-conforming structure within the Riverbank Protection District.

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 dimensionally non-conforming 1-family dwelling constructed in 1880, per the City Assessor's records and is conforming to the R3 zoning district, Class 1, minimum lot size requirement of 10,000 sq ft with +/- 15,246 sq ft and is the riverbank protection, NH shoreland protection, and FEMA flood zone overlay district.
2. The applicant proposes to build an addition on the front side of the existing home, within the 50 ft buffer zone. The addition will be no closer to the riverbank than the existing house structure.
3. The applicant has applied for and received a NH DES shoreland permit for approx. 1,200 sq ft of impact within the shoreland protection zone.
4. In order to grant a Special Exception, the applicant must demonstrate that their 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 and Development Department on March 26, 2025.
5. There are no known existing zoning violations on the property.
6. _____

7. _____

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 §801.3 of the Zoning Ordinance:

1. The Special Exception is specifically authorized by Section §401.5, and §703.1 pursuant to §801.3 of the Zoning Ordinance.
2. There are **NO** special conditions of the special exception required by **Section §401.5 or §703.1** that must be met.
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 5th day of May, 2025 hereby **GRANTS / DENIES** the requested Special Exception pursuant to Sections §410.5, §703.1 and §801.3 of the Zoning Ordinance to allow the expansion of a non-conforming structure within the Riverbank Protection District, 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 applicant shall apply for a Floodplain Development permit.
3. The applicant shall apply for any necessary water or sewer user permits.

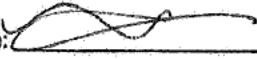
4. _____

5. _____

Motion seconded by: _____

Vote: _____

SPECIAL EXCEPTION	☒	BUILDING CODE BOARD OF APPEALS	☐
WETLANDS SPECIAL EXCEPTION	☐	APPEAL OF AN ADMIN DECISION	☐
VARIANCE	☐	REHEARING REQUEST	☐
EQUITABLE WAIVER	☐		☐

PROPERTY OWNER (APPLICANT)			
NAME: <u>Treuer Meadman</u>		TEL.#:	
MAILING ADDRESS: <u>12 Kendrick Lebanon NH 03766</u>			
E-MAIL ADDRESS: [REDACTED]			
CO-APPLICANT, AGENT, OR LESSEE			
NAME: <u>High Meadow Builders</u>		TEL.#: [REDACTED]	
MAILING ADDRESS: <u>79 Hanover St. Lebanon NH 03766</u>			
E-MAIL ADDRESS: [REDACTED]			
PROJECT LOCATION			
TAX MAP #: <u>780</u>	LOT#: <u>10</u>	PLOT #:	ZONE:
STREET ADDRESS: <u>12 Kendrick Lebanon NH 03766</u>			
IS THIS PROPERTY LOCATED IN THE: WETLANDS ☒ YES ☐ NO HISTORIC DISTRICT ☐ YES ☒ NO			
FLOOD PLAIN ☒ YES ☐ NO			
REQUEST DESCRIPTION:			
<u>for adding small addition on front of house</u>			
USE TYPE:			
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			
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 _____, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.			
Owner Signature: 		DATE: <u>2/16/2025</u>	
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.			
Owner Signature: _____		DATE: _____	

Received: 3-26-25

ZB2025-09-SE

For this special exception we were asked to answer the three following questions.

- 1) Does this structure/addition affect the neighboring properties.

No in this case the small addition is on the front of the house and will block no views of any of the neighbors. Also the addition doesn't get any closer to any of the neighboring properties, the addition comes closer to the owners own driveway.

- 2) Does this structure/addition change the overall character of the neighborhood.

No this is a small addition on a house at the end of a cul-de-sac and will be built with matching style of house. This will in no way will change the character to the neighborhood.

- 3) Does this structure/addition greatly change the amount of water entering the watershed.

No this small addition to the roof line on this generally flat lot will not add significant increase in water shed. Furthermore the addition is on the front of house and most of the water sheading off new roof will shed towards driveway and not watershed.

Residential Building Permit

PLN-24-307

Your Submission

Attachments

Guests (0)

✔ Intake Administrative Review

⏸ **Zoning Administrator Intake Review**

▶ Floodplain Review

Building Official Technical Review

Fire Department Technical Review

Building Official Approval

Building Permit Fee

Permit Issued

Building Inspection(s)

Fire Inspections

City Engineer Final Approval

Building Official Final Review

Certificate of Completion

Zoning Administrator Intake Review

⏸ **On Hold.** This step is on hold.

The Zoning Administrator Completeness Review is an initial assessment by the zoning administrator to ensure all necessary documentation and information are present in the permit application before moving forward with a technical review. Please be aware that any missing information will be requested, and the technical review cannot begin until it is received.



Dec 16, 2024 at 10:49 am

1. This application will require NH Shoreland Protection approval from NH DES as it is within the 50 ft & 150 ft setback zones. 2. This property is also located within the riverbank protection district and may require Zoning Board approval, please call the Planning Dept. to schedule a time to meet with the Zoning Administrator to discuss requirements.



Tiffany Adams

Dec 10, 2024 at 10:19 am

Bob - what will the new addition space be used for? Livingroom, bedroom, entry, etc.?

Message the reviewer

Send Message

City of Lebanon, NH

Your Profile

Your Records (</dashboard/records>)

Resources

Search for Records (</search>)

Claim a Record (</claimRecord>)

Employee Login (<https://lebanonnh.workflow.opengov.com>)

Portal powered by **OpenGov**

From: City of Lebanon, NH <noreply@opengov.com>
Sent: Tuesday, December 10, 2024 10:39 AM
To: Bob Wyand
Subject: Message received about 12 KENDRICK ST



City of Lebanon, NH

Rod Finley commented on Floodplain Review:

Message: "The project lies within the 100-year floodplain. The Base Flood Elevation is 581.5'. A Floodplain Permit Application needs to be submitted for review and approval."

Where: 12 KENDRICK ST

Type: Residential Building Permit

Number: PLN-24-307

[View Details](#)



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Bob Wyand

From: [REDACTED]
Sent: Wednesday, December 18, 2024 5:09 PM
To: Bob Wyand
Cc: Tiffany Adams
Subject: RE: [EXTERNAL] 12 Kendrick St
Attachments: 12 Kendrick - Site Map.pdf

Thank you Bob. It [appears](#) that a small portion of the proposed reconstruction/addition will be located within the City's [Riverbank Protection District](#), which would ordinarily require you to apply to the Zoning Board of Adjustment for a Variance. However, because it appears that the addition will be located no closer to the riverbank than the existing structure, you may be able to apply for a Special Exception per [Section 703.1 of the Zoning Ordinance](#) to expand a non-conforming structure. Applying for a Special Exception would be in lieu of applying for a Variance (the difference being that the criteria to obtain a Variance are more difficult to meet than the criteria for a Special Exception).

I would recommend making an appointment with the Planning Director, Nate Reichert, who serves as the Zoning Administrator. Nate can confirm if the project can be approved by Special Exception (as opposed to a Variance). I've cc'd Tiffany Adams in our Department who can help you schedule a time to meet with Nate.

Thanks again, Tim

From: [REDACTED]
Sent: Wednesday, December 18, 2024 12:12 PM
To: [REDACTED]
Subject: RE: [EXTERNAL] 12 Kendrick St

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

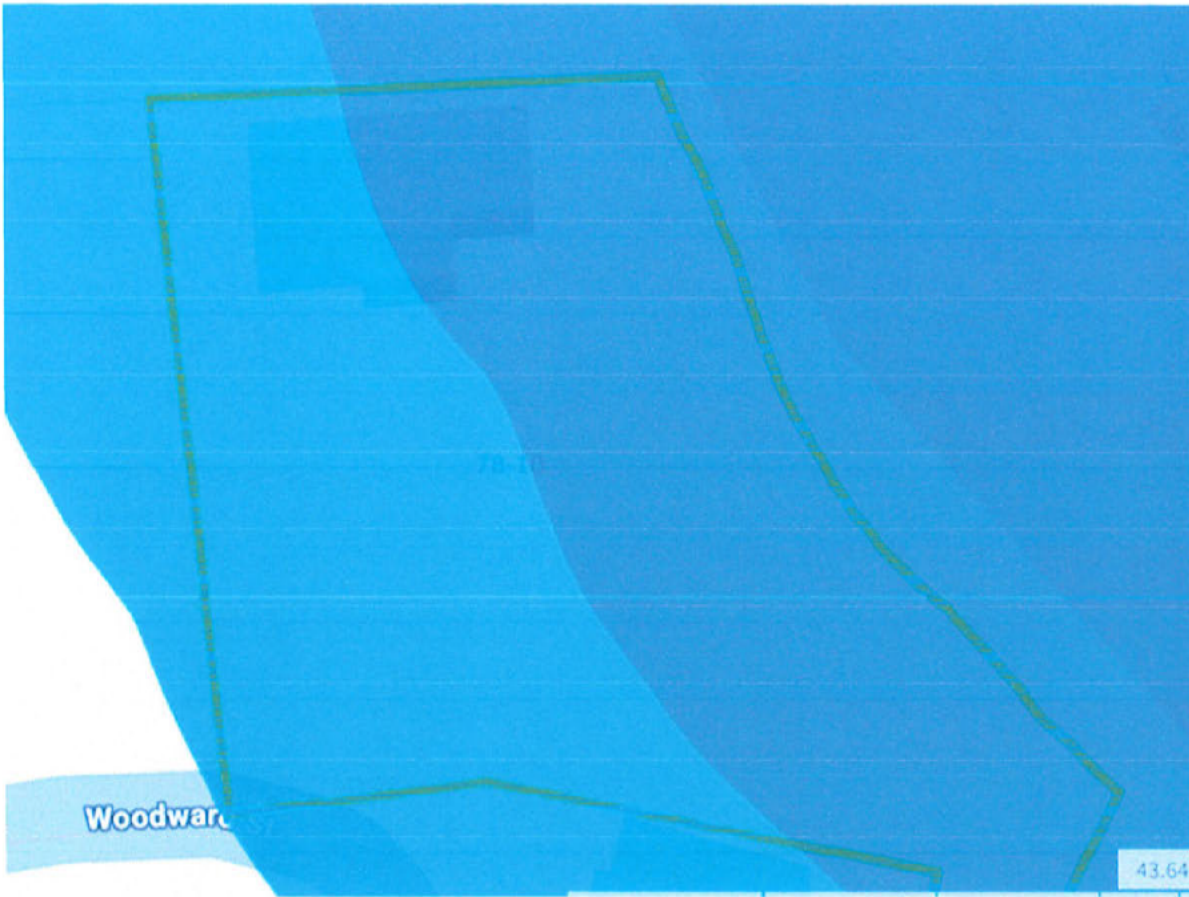
Hi Tim,

See attached.

Bob

From: Tim Corwin <[REDACTED]>
Sent: Monday, December 16, 2024 3:18 PM
To: Bob Wyand <[REDACTED]>
Subject: RE: [EXTERNAL] 12 Kendrick St

Bob – can you roughly outline where the addition will be located?



From: [REDACTED]
Sent: Thursday, December 12, 2024 2:55 PM
To: [REDACTED]
Subject: Re: [EXTERNAL] 12 Kendrick St

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Tim,

Monday is fine. Owners are looking to add a single floor addition (251 square) in the place of a small front room (98 square).

Thanks you,

Bob

Bob Wyand
High Meadow Builders
79 Hanover St - Suite 7
Lebanon, NH. 03766

PLEASE NOTE THE NEW ADDRESS.

On Thu, Dec 12, 2024, 2:35 PM Tim Corwin [REDACTED] wrote:

Hi Bob – I'm out of the office until Monday if it can wait until then. In the meantime, can you tell me what it is that you're looking to do?

Thanks, Tim

From: [REDACTED]
Sent: Thursday, December 12, 2024 11:39 AM
To: [REDACTED]
Subject: [EXTERNAL] 12 Kendrick St

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good afternoon Tim,

I'm contacting you because Rod Finley intimated that we the owners of [12 Kendrick St](#) would need a Riverbank Protection Permit. What needs to be done to receive one?

Thank you,

Bob

ATTENTION: Offices have moved. Mailing and physical address below.

Bob Wyand

Office Manager

High Meadow Builders

[79 Hanover Street – STE 7](#)

[Lebanon, NH 03766](#)



This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

Bob Wyand

From: [REDACTED]
Sent: Wednesday, October 2, 2024 2:28 PM
To: [REDACTED]
Subject: 12 Kendrick St., Map 78, Lot 10

Hi Bob:

Base Flood Elevation (BFD) = 582.0'
FIRM Panel # 33009C0913E
Date: February 20, 2008

Thank you,

Rod

Rodrick J. Finley, P.E.
City Engineer
City Of Lebanon
Department of Public Works
193 Dartmouth College Highway
Lebanon, New Hampshire 03766



High Meadow Builders
79 Hanover Street Suite 7
Lebanon, NH 03766
603-448-5626

Rebecca Valentine
32 Follensbee Rd.
Enfield NH 03748

February 24, 2025

Contract: General Conditions and Payment

This contract is between Rebecca Valentine (owner) and High Meadow Builders, ("HMB" "we", "us"). It is an agreement regarding the work at the address of 32 Follensbee Road, Enfield, NH 03748, as specified in the Quote 3212, dated 2/24/2025.

Conditions that may change cost:

1) Conditions are found that are unknown because they are unseen, or 2) Conditions are found that do not meet code and require upgrades and 3) Work is requested that falls outside of the scope of the contract.

Changes and the cost of labor and materials (T&M):

High Meadow Builders will not schedule project or order materials for until the 30% deposit is paid. Changes to this contract can be made after it is signed without a charge as long as the original material has not been ordered and there would be no additional labor to implement the change. If material is ordered and must be returned because of changes, there would be a 20% restocking charge. If material has been ordered that can't be returned, then the owner will have to purchase the material. Usually changes made after work starts will involve additional charges.

Additions and changes to the contract will be priced as they come up and will be confirmed by email. The emails will be kept and remain as addendum to this contract. Quoted extras will require a 30% deposit. When we aren't sure of how long it will take to perform additional work then we will charge it on a time and material basis (T&M). T&M costs are \$85 per worker per hour and material is charged at retail cost plus 15%. Electrical subcontractor is charged with a markup of 10% total electrical invoice. The plumbing subcontractors is charged with a markup of 10% total plumbing invoice. If an agreed upon extra requires another kind of sub-contractor, which is neither electrical or plumbing, they will be charged with a markup of 10%. Estimates for time and materials are just estimates and T&M costs may vary from the estimate, but both time and material will be tracked closely. Again, any costs over contract prices under the conditions noted above and any other additions to the scope of work must be approved by you. Email confirmation for these changes will be sufficient for the purposes of this contract.

Between the time this contract is ratified, and construction begins, High Meadow Builders works to make sure project is planned, material and appropriate skilled workers are available for the job. For these reasons, should the owner decide to cancel this project before May 1, 2025, High Meadow

Builders may withhold administrative fees of \$750 from the deposit; After May 1, 2025, High Meadow Builders may withhold \$750 plus 5% of the total contract; If there are materials that have been ordered that can't be returned without cost, the deposit can also be used to pay for those items plus the 15% mark-up. Restocking fees from vendors may apply for items that can be returned.

- While High Meadow Builder workers are on the job they would like access to a bathroom facility. If none is available, we will charge the rate charged to us to have a portable toilet placed on your property (at this time it is \$185 per 4 weeks)

Warranty:

Labor and materials are guaranteed to be free of defects for one year from the date of completion. This warranty includes any deficiency in either our work or in the replacement of defective materials that you purchased from us. Underlying structural issues may cause failure of new work. If we are unaware of the issue before we start, our warranty for this work is void. Additional, longer warranties are available from the manufacturers of materials that we may be using or you are supplying. Ask us about specifics. We do not warranty material supplied by the owner, nor for the cost of replacing it should it fail, unless due to our negligence or failure to follow manufacturers specifications at installation.

In some instances, material may not arrive on time and there may be a delay in installation. We may substantially complete the project except for the late arriving material. You may hold back payment on the cost of late arriving material and the cost of its installation.

If High Meadow Builders is forced to move off the job for a period longer than one day, for any reason imposed by the owner, a remobilization fee of \$300 may be charged.

Customer agrees not to subcontract employees and subcontractors of High Meadow Builders for any additional work while they work for High Meadow Builder and for one year after they are no longer in their employment.

Allowances:

Most projects are a set price. However, your project might have an allowance designated, which is for material (ie tile) that is hard to price due to various choices or layouts. These allowances are outlined in your quote. Should the retail price of the material be higher than the allowance, the customer will be charged the difference plus 15% mark-up. Also, if the price is less than the allowance, the customer will be credited the difference. Please note that these allowance prices are for a standard layout pattern (ie brick or stack) and the square footage is figured at the space plus 10%. Special layouts will involve either more material or more labor, which will incur additional pricing before we complete the job. All credits and charges regarding allowances will be invoiced on the final bill.

We carry liability insurance. Our workers are covered by Worker Compensation policies. Copies of these policies are available upon request. We are EPA certified renovators. Our certificate number is # NAT-F214936-1.

Payment Schedule:

1. A deposit of 30% of Invoice 3212 with signed contract will firm up your placement in our work queue for 2025.
2. After beginning the project, every two weeks, we will issue a progress invoice based on the percentage of work that we have completed. We are conservative in our progress estimate, but if you have a concern, please let us know as soon as possible. Payment will be mailed or given to us by you within 3 business days of receiving the invoice.
3. A final invoice will be sent upon substantial completion. We will ask you to hold back payment on this invoice for any items that need to be completed because of late arriving material or other delays. Payment for this invoice, less the hold back, will be mailed or given to us within 3 business days of the date of the invoice.
4. Holdbacks, if any, will be paid within 3 days of completion.
5. An interest charge of 18% per year will be added to any invoice over 30 past due. If collection is required, then attorney fees and court costs will be charged.

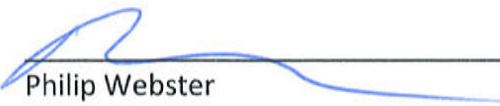
NOTE: We accept VISA, Mastercard & Discover for an additional charge of 3.5% the invoice total

In the unlikely event that disagreements arise they will be handled by both parties in a civil and responsible manner.



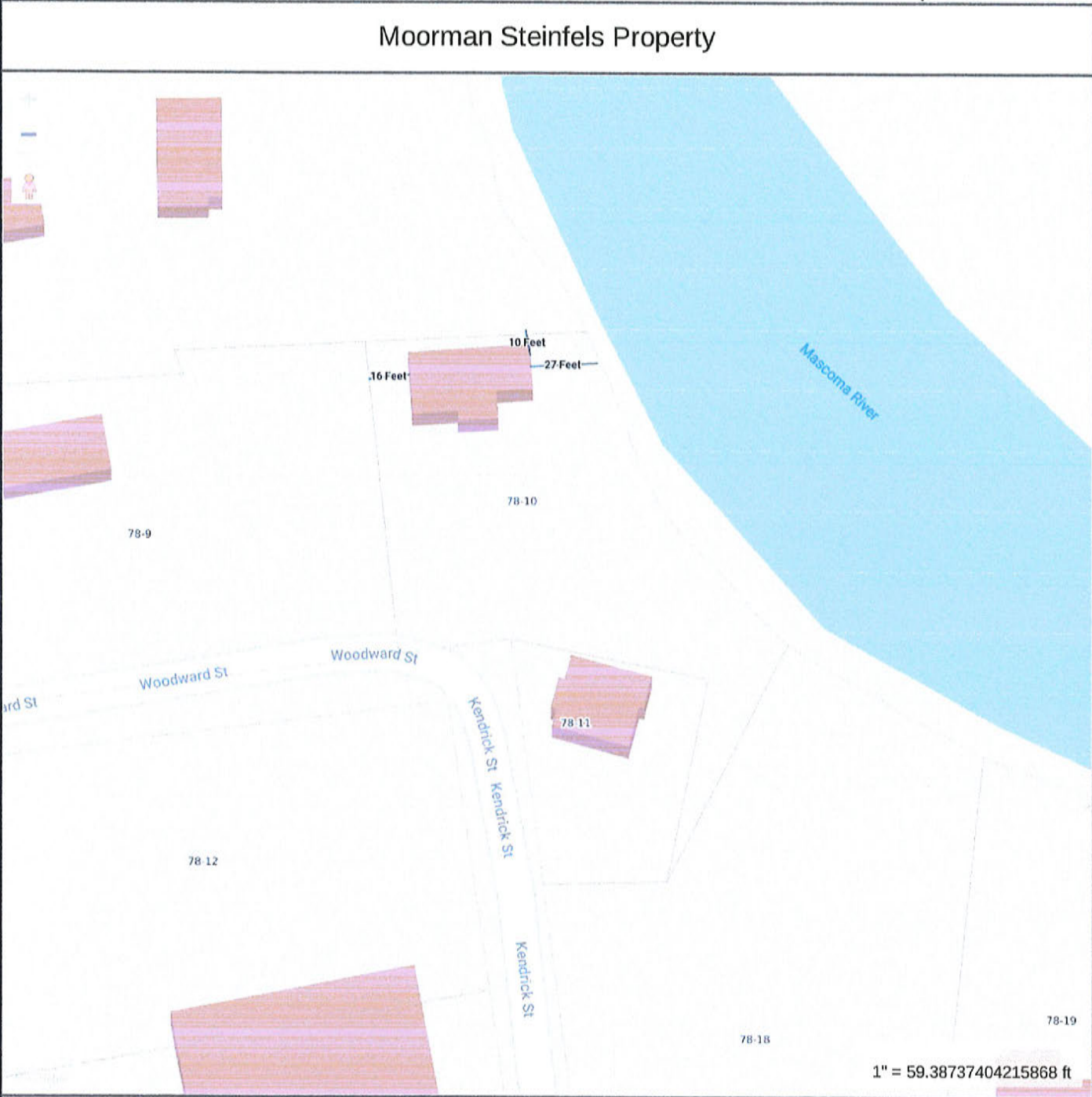
Rebecca Valentine

date 2.28.25



Philip Webster
for High Meadow Builders

date 2/28/25



MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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

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

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

The undersigned hereby makes application for a permit to develop in a Local Regulatory Floodplain or in a Local Regulatory Conveyance Zone. The work to be performed is as described below and in attachments hereto. The undersigned agrees that all such work shall be done in accordance with the requirements of all local, state, and federal regulations.

Date October 2, 2024

Contact Telephone [REDACTED]

Builder/Contractor
High Meadow Builders

Address
79 Hanover St, Lebanon, NH

Telephone _____

Architect	License Number
-----------	----------------

Address _____

Telephone _____

☒ Other—Please describe: Riverbank Protection Permit

CITY OF LEBANON - APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

ELEVATIONS

1. Elevation of 100-Year Base Flood Elevation (BFE) at development site: 581.5 feet
2. Elevation of lowest floor of structure (at or above BFE): 582 feet
3. Elevation of all attendant utilities, including all heating and electrical equipment, servicing the structure for floodproofing (minimum one foot above BFE): 578.1 feet
4. Type of flood protection method? no Flood Proofing Elevating the development
5. Elevation Datum used for determination of BFE: X NGVD 1929 NAVD 1988

I certify that the information on this form is true and correct. I understand that false or inaccurate information submitted to the City of Lebanon on which a permit for proceeding with construction work is issued by the City of Lebanon may be the basis for revocation of the permit or assessment of a civil fine or other penalties. I also understand that construction plans submitted to and approved by the City of Lebanon in the form of a permit issued must be followed and adhered to and any deviance there from not approved by the City of Lebanon may also be the basis for a notice of violation, notice of citation and revocation of the of the permit or assessment of a penalty by the City of Lebanon.

Signature of Owner or Developer

Date

Printed Name of Owner or Developer

OFFICIAL USE ONLY

PERMIT APPLICATION IS HEREBY:

 APPROVED DENIED

Comments: _____

Signature of Authorizing City Official

Date

Printed Name of Authorizing City Official

Title of Authorizing City Official

FLOODPLAIN PERMIT CHECKLIST

Project Name _____

Date _____

- ☐ 1. A Completed and Signed Permit Form.
- ☐ 2. The Permit Fee (\$250.00)
- ☐ 3. Current survey certified by a land surveyor licensed in NH that shows the following information:
 - ☐ A. North Arrow
 - ☐ B. Scale of the plan
 - ☐ C. Date of the plan and any revisions
 - ☐ D. Perimeter boundaries of the lot(s), including compass bearings, distances, and lot areas
 - ☐ E. Location of existing improvements on the property
 - ☐ F. Location of existing natural features such as streams, marshes, lakes, ponds, wetlands, rock outcrops, or wooded areas, and existing man-made features such as roads and structures.
 - ☐ G. Width and location of rights-of-way and/or easements on property
 - ☐ H. Existing grades, including topographic contours with spot elevations, prepared by a professional engineer or land surveyor licensed in NH. (Contours shall be at 2 ft. intervals)
- ☐ 4. Proposed development plans showing the following information:
 - ☐ A. Vicinity Sketch (suggested scale: 1"=500')
 - ☐ B. Names and mailing addresses of Owner of record of site, holders of any easements, rights-of-way, or other restrictions
 - ☐ C. Names and business addresses of preparer(s) of the plan, and every surveyor, engineer, architect, soil scientist, or wetlands scientist whose professional seal appears on any plan or document submitted.
 - ☐ D. North Arrow
 - ☐ E. Scale of the plan
 - ☐ F. Date of the plan and any revisions
 - ☐ G. Zoning designation
 - ☐ H. Tax Map and Lot number(s) for the subject property
 - ☐ I. Area of the lot
 - ☐ J. Gross floor area of existing and proposed buildings/additions
 - ☐ K. A legend that clearly indicates all symbols, line types, and shading
 - ☐ L. Perimeter boundaries of the lot(s), including compass bearings, distances, and lot areas
 - ☐ M. Location of existing and proposed improvements on the property
 - ☐ N. Location of existing natural features such as streams, marshes, lakes, ponds, wetlands, rock outcrops, or wooded areas, and existing man-made features such as roads and structures. Indicate those natural and man-made features that are to be removed, retained, or altered
 - ☐ O. Width and location of rights-of-way and/or easements on property
 - ☐ P. Existing and proposed grades, including topographic contours with spot elevations, prepared by a professional engineer or land surveyor licensed in NH. (Contours shall be at 2 ft. intervals)
 - ☐ Q. Wetlands on the property, if any, shall be delineated by a NH Certified Wetlands Scientist, whose seal and signature shall appear on the plan
 - ☐ R. The 100-year flood elevation, floodway, and floodplain limits
 - ☐ S. The NHDES Shoreland setback lines, if applicable
 - ☐ T. Size and location of all existing and proposed public and private utilities
- ☐ 5. Completed Floodplain Permit Checklist

U.S. DEPARTMENT OF HOMELAND SECURITY
Federal Emergency Management Agency
National Flood Insurance Program

OMB Control No. 1660-0008
Expiration Date: 06/30/2026

ELEVATION CERTIFICATE

IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON INSTRUCTION PAGES 1-11

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

SECTION A – PROPERTY INFORMATION	FOR INSURANCE COMPANY USE
A1. Building Owner's Name: <u>Perry T. Moorman & Meredith L. Steinfelds</u>	Policy Number: _____
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.: <u>12 Kendrick St.</u>	Company NAIC Number: _____
City: <u>Lebanon</u> State: <u>NH</u> ZIP Code: <u>03766</u>	
A3. Property Description (e.g., Lot and Block Numbers or Legal Description) and/or Tax Parcel Number: <u>Parcel 78-10 Book 4377, Page 656 in the GCRD</u>	
A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.): <u>Residential</u>	
A5. Latitude/Longitude: Lat. <u>43°38'48.847"</u> Long. <u>-72°14'42.120"</u> Horiz. Datum: ☐ NAD 1927 ☒ NAD 1983 ☐ WGS 84	
A6. Attach at least two and when possible four clear color photographs (one for each side) of the building (see Form pages 7 and 8).	
A7. Building Diagram Number: <u>9</u>	
A8. For a building with a crawlspace or enclosure(s):	
a) Square footage of crawlspace or enclosure(s): <u>821</u> sq. ft.	
b) Is there at least one permanent flood opening on two different sides of each enclosed area? ☐ Yes ☒ No ☐ N/A	
c) Enter number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade: Non-engineered flood openings: <u>2</u> Engineered flood openings: <u>0</u>	
d) Total net open area of non-engineered flood openings in A8.c: <u>234</u> sq. in.	
e) Total rated area of engineered flood openings in A8.c (attach documentation – see Instructions): <u>N/A</u> sq. ft.	
f) Sum of A8.d and A8.e rated area (if applicable – see Instructions): <u>N/A</u> sq. ft.	
A9. For a building with an attached garage:	
a) Square footage of attached garage: _____ sq. ft.	
b) Is there at least one permanent flood opening on two different sides of the attached garage? ☐ Yes ☐ No ☐ N/A	
c) Enter number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade: Non-engineered flood openings: _____ Engineered flood openings: _____	
d) Total net open area of non-engineered flood openings in A9.c: _____ sq. in.	
e) Total rated area of engineered flood openings in A9.c (attach documentation – see Instructions): _____ sq. ft.	
f) Sum of A9.d and A9.e rated area (if applicable – see Instructions): _____ sq. ft.	
SECTION B – FLOOD INSURANCE RATE MAP (FIRM) INFORMATION	
B1.a. NFIP Community Name: <u>City of Lebanon</u>	B1.b. NFIP Community Identification Number: <u>330061</u>
B2. County Name: <u>Grafton</u>	B3. State: <u>NH</u> B4. Map/Panel No.: <u>330061 0913</u> B5. Suffix: <u>E</u>
B6. FIRM Index Date: <u>02-28-2008</u>	B7. FIRM Panel Effective/Revised Date: <u>02-28-2008</u>
B8. Flood Zone(s): <u>AE</u>	B9. Base Flood Elevation(s) (BFE) (Zone AO, use Base Flood Depth): <u>581.3'</u>
B10. Indicate the source of the BFE data or Base Flood Depth entered in Item B9: ☐ FIS ☒ FIRM ☐ Community Determined ☐ Other: _____	
B11. Indicate elevation datum used for BFE in Item B9: ☒ NGVD 1929 ☐ NAVD 1988 ☐ Other/Source: _____	
B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? ☐ Yes ☒ No Designation Date: _____ ☐ CBRS ☐ OPA	
B13. Is the building located seaward of the Limit of Moderate Wave Action (LiMWA)? ☐ Yes ☒ No	

ELEVATION CERTIFICATE

IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON INSTRUCTION PAGES 1-11

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:

12 Kendrick St.

City: Lebanon

State: NH

ZIP Code: 03766

FOR INSURANCE COMPANY USE

Policy Number: _____

Company NAIC Number: _____

SECTION C – BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: ☐ Construction Drawings* ☐ Building Under Construction* ☒ Finished Construction

*A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations – Zones A1–A30, AE, AH, AO, A (with BFE), VE, V1–V30, V (with BFE), AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO, A99. Complete Items C2.a–h below according to the Building Diagram specified in Item A7. In Puerto Rico only, enter meters.

Benchmark Utilized: OPUS Vertical Datum: NAVD 1988 (convert to NGVD 1929 by Corpson)

Indicate elevation datum used for the elevations in items a) through h) below.

☒ NGVD 1929 ☐ NAVD 1988 ☐ Other: _____

Datum used for building elevations must be the same as that used for the BFE. Conversion factor used?

☒ Yes ☐ No

If Yes, describe the source of the conversion factor in the Section D Comments area.

Check the measurement used:

a) Top of bottom floor (including basement, crawlspace, or enclosure floor):

574.0

☒ feet ☐ meters

b) Top of the next higher floor (see Instructions):

577.8

☒ feet ☐ meters

c) Bottom of the lowest horizontal structural member (see Instructions):

☐ feet ☐ meters

d) Attached garage (top of slab):

☐ feet ☐ meters

e) Lowest elevation of Machinery and Equipment (M&E) servicing the building (describe type of M&E and location in Section D Comments area):

578.1

☒ feet ☐ metersf) Lowest Adjacent Grade (LAG) next to building: ☐ Natural ☒ Finished

576.3

☒ feet ☐ metersg) Highest Adjacent Grade (HAG) next to building: ☐ Natural ☒ Finished

576.8

☒ feet ☐ meters

h) Finished LAG at lowest elevation of attached deck or stairs, including structural support:

577.5

☒ feet ☐ meters

SECTION D – SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by state law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Were latitude and longitude in Section A provided by a licensed land surveyor? ☒ Yes ☐ No☒ Check here if attachments and describe in the Comments area.

Certifier's Name: Ronald D. Taber License Number: NH 943

Title: Owner

Company Name: Vive Libre Geomatics

Address: PO Box 943

City: Lebanon State: NH ZIP Code: 03766

Telephone: (603) 443-2592 Ext.: _____ Email: _____

Signature: Ronald D. Taber Date: October 29, 2024

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments (including source of conversion factor in C2; type of equipment and location per C2.e; and description of any attachments):

C2e.1=Electrical Panel

C2e.2=Furnance

C2e.3=Always On water heater

Exhibit A (Scale: 1" = 20')

OPUS

ELEVATION CERTIFICATE**IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON INSTRUCTION PAGES 1-11**

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:

FOR INSURANCE COMPANY USE

City: _____ State: _____ ZIP Code: _____

Policy Number: _____

Company NAIC Number: _____

**SECTION E – BUILDING MEASUREMENT INFORMATION (SURVEY NOT REQUIRED)
FOR ZONE AO, ZONE AR/AO, AND ZONE A (WITHOUT BFE)**

For Zones AO, AR/AO, and A (without BFE), complete Items E1–E5. For Items E1–E4, use natural grade, if available. If the Certificate is intended to support a Letter of Map Change request, complete Sections A, B, and C. Check the measurement used. In Puerto Rico only, enter meters.

Building measurements are based on: ☐ Construction Drawings* ☐ Building Under Construction* ☐ Finished Construction

*A new Elevation Certificate will be required when construction of the building is complete.

E1. Provide measurements (C.2.a in applicable Building Diagram) for the following and check the appropriate boxes to show whether the measurement is above or below the natural HAG and the LAG.

a) Top of bottom floor (including basement, crawlspace, or enclosure) is: _____ ☐ feet ☐ meters ☐ above or ☐ below the HAG.

b) Top of bottom floor (including basement, crawlspace, or enclosure) is: _____ ☐ feet ☐ meters ☐ above or ☐ below the LAG.

E2. For Building Diagrams 6–9 with permanent flood openings provided in Section A Items 8 and/or 9 (see pages 1–2 of Instructions), the next higher floor (C2.b in applicable Building Diagram) of the building is: _____ ☐ feet ☐ meters ☐ above or ☐ below the HAG.

E3. Attached garage (top of slab) is: _____ ☐ feet ☐ meters ☐ above or ☐ below the HAG.

E4. Top of platform of machinery and/or equipment servicing the building is: _____ ☐ feet ☐ meters ☐ above or ☐ below the HAG.

E5. Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance? ☐ Yes ☐ No ☐ Unknown The local official must certify this information in Section G.

SECTION F – PROPERTY OWNER (OR OWNER'S AUTHORIZED REPRESENTATIVE) CERTIFICATION

The property owner or owner's authorized representative who completes Sections A, B, and E for Zone A (without BFE) or Zone AO must sign here. *The statements in Sections A, B, and E are correct to the best of my knowledge*

☐ Check here if attachments and describe in the Comments area.

Property Owner or Owner's Authorized Representative Name: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Telephone: _____ Ext.: _____ Email: _____

Signature: _____ Date: _____

Comments: _____

ELEVATION CERTIFICATE**IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON INSTRUCTION PAGES 1-11**

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:	FOR INSURANCE COMPANY USE
City: _____ State: _____ ZIP Code: _____	Policy Number: _____
	Company NAIC Number: _____

SECTION G – COMMUNITY INFORMATION (RECOMMENDED FOR COMMUNITY OFFICIAL COMPLETION)

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Section A, B, C, E, G, or H of this Elevation Certificate. Complete the applicable item(s) and sign below when:

- G1. ☐ The information in Section C was taken from other documentation that has been signed and sealed by a licensed surveyor, engineer, or architect who is authorized by state law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)
- G2.a. ☐ A local official completed Section E for a building located in Zone A (without a BFE), Zone AO, or Zone AR/AO, or when item E5 is completed for a building located in Zone AO.
- G2.b. ☐ A local official completed Section H for insurance purposes.
- G3. ☐ In the Comments area of Section G, the local official describes specific corrections to the information in Sections A, B, E and H.
- G4. ☐ The following information (Items G5–G11) is provided for community floodplain management purposes.
- G5. Permit Number: _____ G6. Date Permit Issued: _____
- G7. Date Certificate of Compliance/Occupancy Issued: _____
- G8. This permit has been issued for: ☐ New Construction ☐ Substantial Improvement
- G9.a. Elevation of as-built lowest floor (including basement) of the building: _____ ☐ feet ☐ meters Datum: _____
- G9.b. Elevation of bottom of as-built lowest horizontal structural member: _____ ☐ feet ☐ meters Datum: _____
- G10.a. BFE (or depth in Zone AO) of flooding at the building site: _____ ☐ feet ☐ meters Datum: _____
- G10.b. Community's minimum elevation (or depth in Zone AO) requirement for the lowest floor or lowest horizontal structural member: _____ ☐ feet ☐ meters Datum: _____
- G11. Variance issued? ☐ Yes ☐ No If yes, attach documentation and describe in the Comments area.

The local official who provides information in Section G must sign here. *I have completed the information in Section G and certify that it is correct to the best of my knowledge. If applicable, I have also provided specific corrections in the Comments area of this section.*

Local Official's Name: _____ Title: _____

NFIP Community Name: _____

Telephone: _____ Ext.: _____ Email: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Signature: _____ Date: _____

Comments (including type of equipment and location, per C2.e; description of any attachments; and corrections to specific information in Sections A, B, D, E, or H):

ELEVATION CERTIFICATE**IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON INSTRUCTION PAGES 1-11**

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:

FOR INSURANCE COMPANY USE

City: _____ State: _____ ZIP Code: _____

Policy Number: _____

Company NAIC Number: _____

**SECTION H – BUILDING'S FIRST FLOOR HEIGHT INFORMATION FOR ALL ZONES
(SURVEY NOT REQUIRED) (FOR INSURANCE PURPOSES ONLY)**

The property owner, owner's authorized representative, or local floodplain management official may complete Section H for all flood zones to determine the building's first floor height for insurance purposes. Sections A, B, and I must also be completed. Enter heights to the nearest tenth of a foot (nearest tenth of a meter in Puerto Rico). **Reference the Foundation Type Diagrams (at the end of Section H Instructions) and the appropriate Building Diagrams (at the end of Section I Instructions) to complete this section.**

H1. Provide the height of the top of the floor (as indicated in Foundation Type Diagrams) above the Lowest Adjacent Grade (LAG):

a) **For Building Diagrams 1A, 1B, 3, and 5–8.** Top of bottom _____ ☐ feet ☐ meters ☐ above the LAG floor (include above-grade floors only for buildings with crawlspaces or enclosure floors) is:

b) **For Building Diagrams 2A, 2B, 4, and 6–9.** Top of next _____ ☐ feet ☐ meters ☐ above the LAG higher floor (i.e., the floor above basement, crawlspace, or enclosure floor) is:

H2. Is **all** Machinery and Equipment servicing the building (as listed in Item H2 instructions) elevated to or above the floor indicated by the H2 arrow (shown in the Foundation Type Diagrams at end of Section H instructions) for the appropriate Building Diagram?

☐ Yes ☐ No

SECTION I – PROPERTY OWNER (OR OWNER'S AUTHORIZED REPRESENTATIVE) CERTIFICATION

The property owner or owner's authorized representative who completes Sections A, B, and H must sign here. *The statements in Sections A, B, and H are correct to the best of my knowledge.* **Note:** If the local floodplain management official completed Section H, they should indicate in Item G2.b and sign Section G.

☐ Check here if attachments are provided (including required photos) and describe each attachment in the Comments area.

Property Owner or Owner's Authorized Representative Name: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Telephone: _____ Ext.: _____ Email: _____

Signature: _____ Date: _____

Comments: _____

ELEVATION CERTIFICATE
IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON INSTRUCTION PAGES 1-11
BUILDING PHOTOGRAPHS
 See Instructions for Item A6.

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:
 12 Kendrick St.

City: Lebanon, NH State: NH ZIP Code: 03766

FOR INSURANCE COMPANY USE

Policy Number: _____

Company NAIC Number: _____

Instructions: Insert below at least two and when possible four photographs showing each side of the building (for example, may only be able to take front and back pictures of townhouses/rowhouses). Identify all photographs with the date taken and "Front View," "Rear View," "Right Side View," or "Left Side View." Photographs must show the foundation. When flood openings are present, include at least one close-up photograph of representative flood openings or vents, as indicated in Sections A8 and A9.



Photo One

Photo One Caption: View from the southeast - October 24, 2024

Clear Photo One



Photo Two

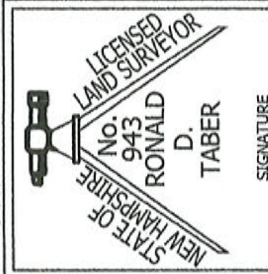
Photo Two Caption: View from the northwest - October 24, 2024

Clear Photo Two

Mascoma River

Floodway
Zone AE

Horizontal Datum: NAD 83
Vertical Datum: NGVD 29



Perry T. Moorman
Meredith L. Steinfelds
12 Kendrick St.
Lebanon, NH 03766

Exhibit A - Elevation Certificate

Vive Libre Geomatics
PO Box 1093
Lebanon, NH 03766
(603) 443-2592

Drawing: 24033-ec
Scale: 1"=20'
Date: 10/29/24

Flood openings

Porch

BFE = 581.3'
12 Kendrick St.

C2f=576.3
C2e.3=579.8
C2e.2=578.1

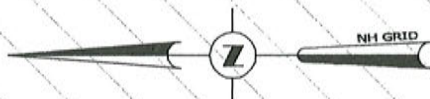
C2b=577.8

C2h=577.5

C2g=576.8

C2e.1=580.3

C2a=574.0



43°38'48.8474"
-72°14'42.1196"



FILE: JB0911a.jps OP1699790944089

NGS OPUS SOLUTION REPORT

=====

All computed coordinate accuracies are listed as peak-to-peak values.
For additional information: <https://www.ngs.noaa.gov/OPUS/about.jsp#accuracy>

USER: vt_geomatics@comcast.net DATE: November 12, 2023
RINEX FILE: jb09254p.23o TIME: 12:22:46 UTC

SOFTWARE: page5 2008.25 master295.pl 160321 START: 2023/09/11
15:21:00
EPHEMERIS: igs22791.eph [precise] STOP: 2023/09/11
18:14:00
NAV FILE: brdc2540.23n OBS USED: 5714 / 6323 :
90%
ANT NAME: JAVTRIUMPH_1M NONE # FIXED AMB: 36 / 43 :
84%
ARP HEIGHT: 1.603 OVERALL RMS: 0.018 (m)

REF FRAME: NAD_83(2011) (EPOCH:2010.0000) ITRF2014
(EPOCH:2023.6951)

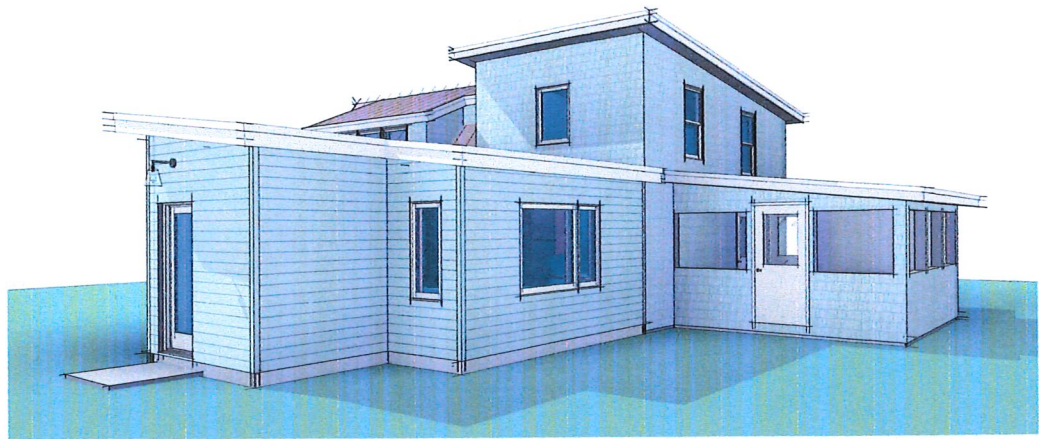
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Y:	-4402614.367 (m)	0.025 (m)	-4402612.972 (m)	0.025 (m)
Z:	4379800.188 (m)	0.025 (m)	4379800.205 (m)	0.025 (m)
LAT:	43 38 44.88421	0.004 (m)	43 38 44.92111	0.004 (m)
E LON:	287 45 22.41554	0.002 (m)	287 45 22.39214	0.002 (m)
W LON:	72 14 37.58446	0.002 (m)	72 14 37.60786	0.002 (m)
EL HGT:	148.112 (m)	0.036 (m)	146.942 (m)	0.036 (m)
ORTHO HGT:	175.758 (m)	0.072 (m)	[NAVD88 (Computed using GEOID18)]	

	UTM COORDINATES	STATE PLANE COORDINATES
	UTM (Zone 18)	SPC (2800 NH)
Northing (Y) [meters]	4836225.742	127449.421
Easting (X) [meters]	722292.551	253439.498
Convergence [degrees]	1.90311944	-0.39832500
Point Scale	1.00020784	0.99999332
Combined Factor	1.00018461	0.99997010

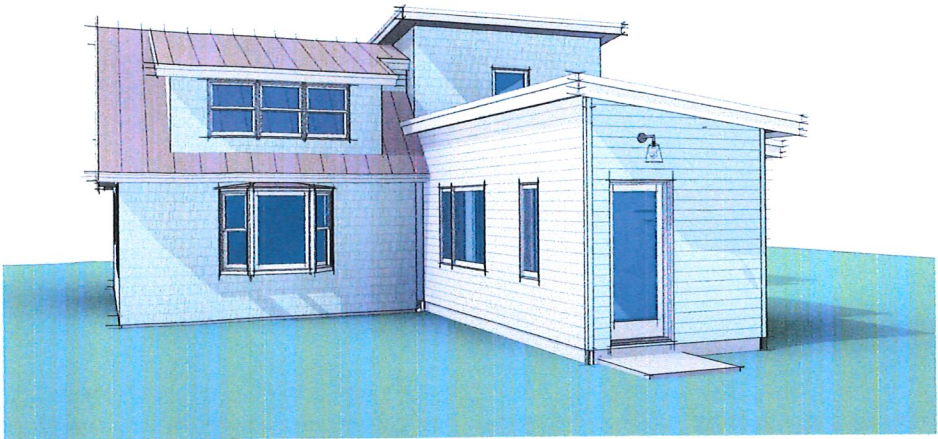
US NATIONAL GRID DESIGNATOR: 18TYP2229336226(NAD 83)

BASE STATIONS USED			
PID	DESIGNATION	LATITUDE	LONGITUDE DISTANCE (m)
DJ8961	VTSP SPRINGFIELD VT CORS ARP	N431653.241	W0722839.238 44683.6
DL7766	P776 GUNSTOCKMRNH2008 CORS GRP	N433235.720	W0712242.789 70793.3
DJ8951	VTC1 RANDOLPH CORS ARP	N435621.217	W0723612.565 43604.1

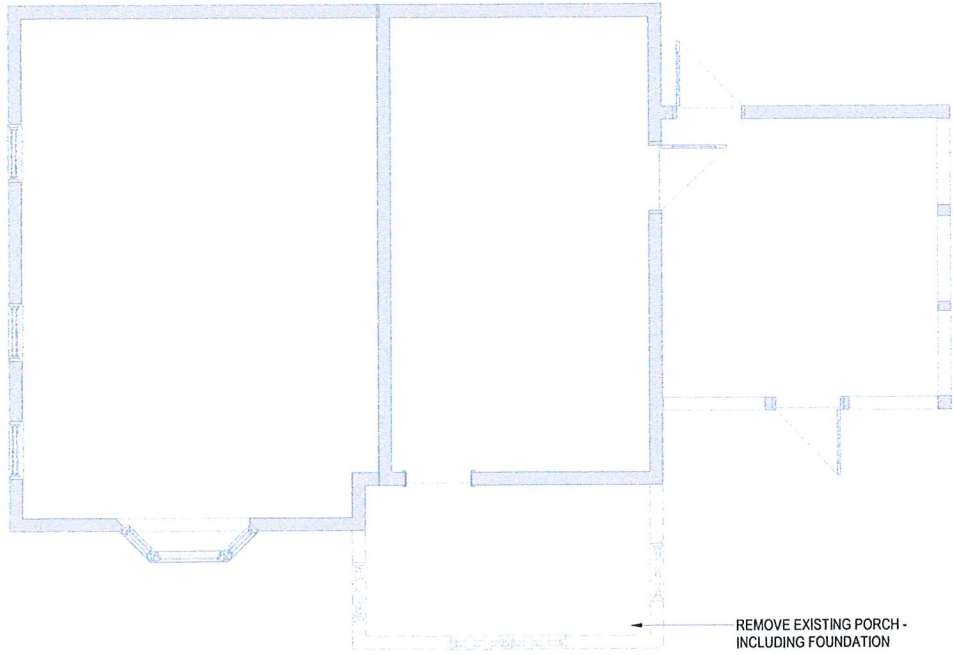
NEAREST NGS PUBLISHED CONTROL POINT



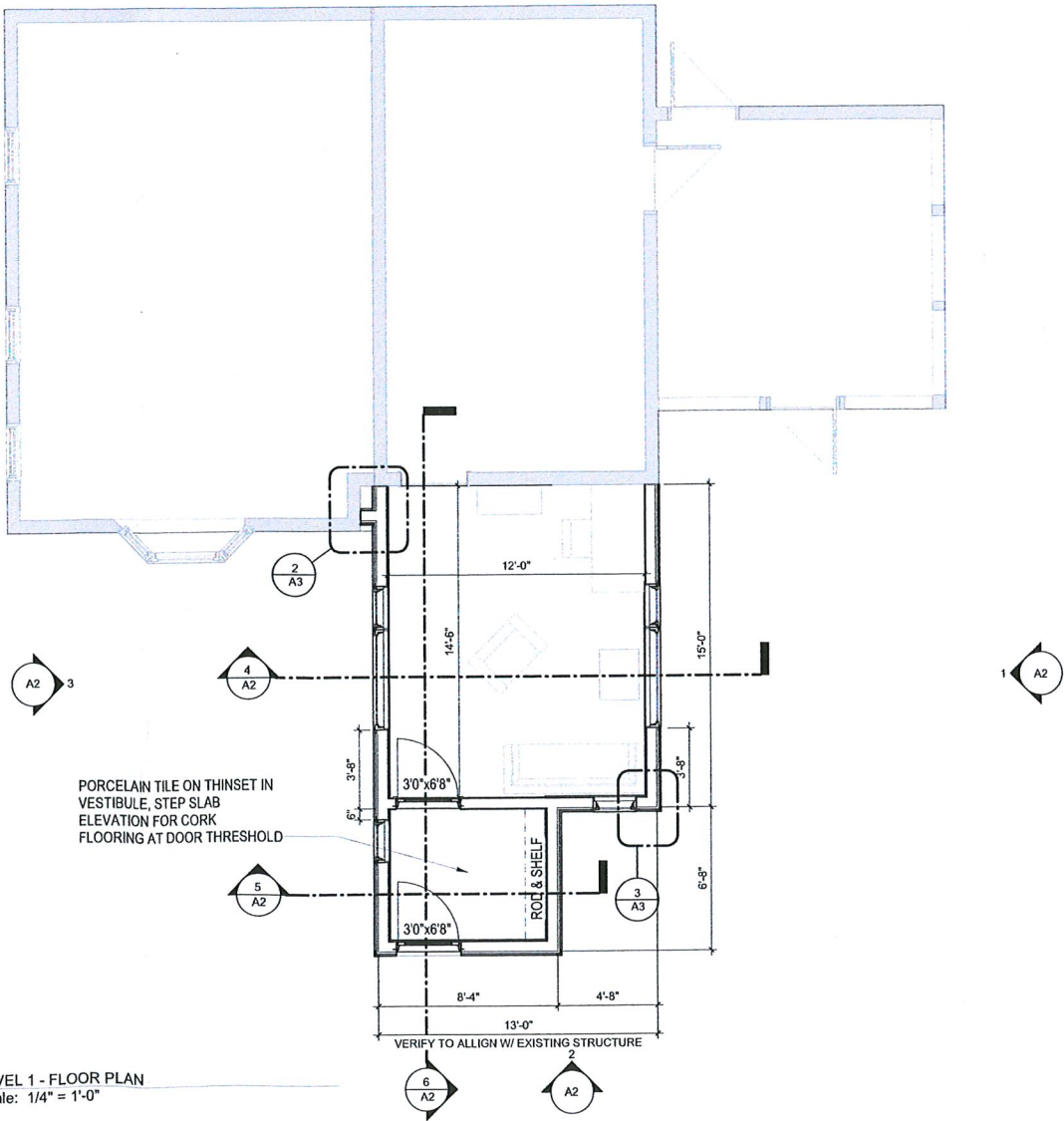
4 3D View 2
Scale:



3 3D View 1
Scale:



2 LEVEL 1 - DEMOLITION PLAN
Scale: 1/4" = 1'-0"



1 LEVEL 1 - FLOOR PLAN
Scale: 1/4" = 1'-0"

- GENERAL PLAN NOTES:
1. ALL DIMENSIONS ARE TO FACE OF STUD OR FACE OF MASONRY, U.O.N. OPENINGS IN WALLS WITHOUT FRAMES ARE TO FACE OF STUD OR MASONRY, U.O.N. DIMENSIONS AT EXISTING WALLS ARE TO EXISTING FINISH FACE, U.O.N.
 2. ALL ANGLED WALLS ARE 45°, U.O.N.
 3. REFER TO CODE PLAN FOR EXTENT OF RATED ENCLOSURES AND FIRE/SMOKEPROOFING.
 4. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING ALL DIMENSIONS PRIOR TO COMMENCEMENT OF CONSTRUCTION. ANY DISCREPANCY BETWEEN CONSTRUCTION DOCUMENTS AND FIELD CONDITIONS IS TO BE PROMPTLY COMMUNICATED TO ARCHITECT FOR CLARIFICATION.
 5. ALL RATED ASSEMBLIES ARE TO BE CONSTRUCTED PER REFERENCED UL LISTINGS

Jeremiah R. Goulet
Architect
PO BOX 266
MERIDEN, NH 03770
T: 802 291 3065
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CONSULTANTS / DESIGN TEAM:
OWNER:
MEREDITH STEINFELS, TREVOR MOORMAN
12 KENDRICK ST
LEBANON, NH 03766

CONSTRUCTION MANAGER:

CIVIL:

STRUCTURAL:

ARCHITECT:
JEREMIAH R. GOULET ARCHITECT, PLLC
PO BOX 266
MERIDEN, NH 03770
T: (802) 291-3065

MEP/FP:

REVISION	DATE	COMMENTS

KEY PLAN & NORTH ARROW:

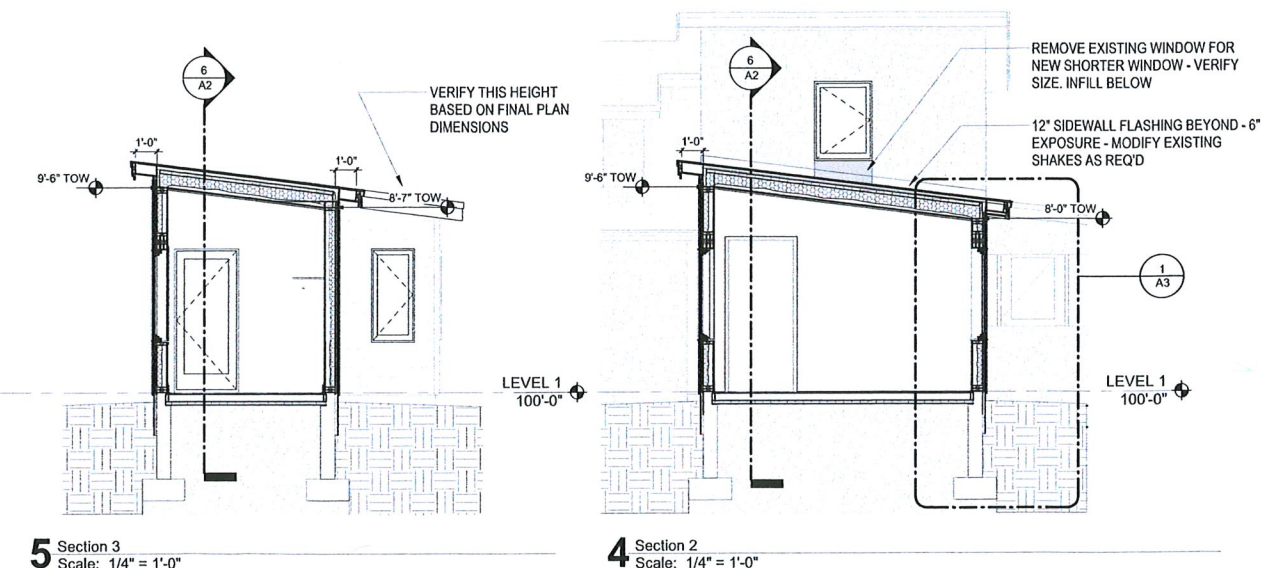
PROJECT:
12 KENDRICK ST
LEBANON, NH 03766

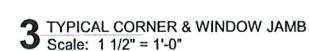
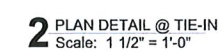
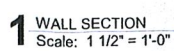
ISSUED:
PERMIT

DRAWING TITLE:
LEVEL 1 FLOOR PLAN

PROJECT NO: 23-05 DATE: 10-1-23
SHEET NUMBER:

A1



A3



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

SHORELAND PERMIT-BY-NOTIFICATION 2024-02761

NOTE CONDITIONS

PERMITTEE: PERRY T MOORMAN
12 KERNDRICK ST
LEBANON NH 03766

PROJECT LOCATION: 12 KENDRICK ST, LEBANON
TAX MAP #78, LOT #10

WATERBODY: MASCOMA RIVER

APPROVAL DATE: SEPTEMBER 18, 2024

EXPIRATION DATE: SEPTEMBER 18, 2029

Shoreland Permit by Notification 2024-02761 has been accepted as complete in accordance with RSA 483-B:5-b, I, (a). The New Hampshire Department of Environmental Services (NHDES) hereby issues this Shoreland Permit by Notification, with conditions pursuant to RSA 483-B:6, II that work may proceed pursuant to RSA 483-B:5-b, I, (a). The conduct of regulated activities other than those shown in the accepted Permit by Notification will invalidate this notice.

DESCRIPTION OF APPROVED IMPACT:

Impact 1,200 square feet of protected shoreland in order to construct an addition to an existing dwelling.

THE FOLLOWING STANDARD PROJECT CONDITIONS SHALL BE MET PURSUANT TO ENV-WQ 1406.20:

1. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
2. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
3. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Wq 1700, and the requirements in Env-Wq 1404.01(a) and(b).
4. Any fill used shall be clean sand, gravel, rock, or other suitable material.
5. For any project where mechanized equipment will be used, orange construction fence shall be installed prior to the start of work at the limits of the temporary impact area as shown on the accepted plans; be maintained throughout the project; and remain in place until all mechanized equipment has been removed from the site.

ANY INDIVIDUAL CONDUCTING WORK UNDER THIS PERMIT IS ADVISED OF THE FOLLOWING:

1. During construction, a copy of this permit should be posted on site in a prominent location visible to inspecting personnel.
2. This permit does not convey a property right, nor authorize any injury to property of others, nor invasion of rights of others.
3. Pursuant to Env-Wq 1406.21, transfer of this permit to a new owner requires notification to, and approval of, NHDES.
4. This project has been screened for potential impact to known occurrences of protected species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or only cursory surveys have been performed, unidentified sensitive species or communities may be present. This permit does not absolve the permittee from due diligence in regard to state, local or federal laws regarding such communities or species. This

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095

NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588

TDD Access: Relay NH 1 (800) 735-2964

permit does not authorize in any way the take of threatened or endangered species, as defined by RSA 212-A:2, or of any protected species or exemplary natural communities, as defined in RSA 217-A:3.

APPROVED:



Salvatore Ferragine
Shoreland Permitting, Shoreland Program
Wetlands Bureau, Land Resources Management
Water Division

THIS PERMIT IS NOT VALID UNTIL SIGNED BY THE PARTIES BELOW (Env-Wq 1406.21(c))



PERMITTEE SIGNATURE (required)



PRINCIPAL CONTRACTOR SIGNATURE (required, if any)



Property Information Property ID 78-23 Location 0 SPENCER ST Owner CITY OF LEBANON	 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 01/30/2025 Data updated 11/18/2018	Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.
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CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

STAFF MEMORANDUM

Michael Davidson
3 Campbell Street

To: Zoning Board of Adjustment

Prepared By: Nathan Reichert, *Director of Planning & Development* and *Zoning Administrator*
& Tiffany Adams, *Zoning Executive Assistant*

Date: May 5, 2025 – Regular Meeting

Application Number: ZB2025-10-AAD

HEARING NOTICE:

Michael Davidson, 3 Campbell St (Tax Map 92, Lot 65), zoned LD: An appeal of the Zoning Official's Notice of Violation and Administrative Decision, pursuant to Section §801.1 of the Zoning Ordinance, that the conversion of office space to dwelling units violates Sections §103, §307.2, §307.5, §408, and §607.8. ZB2025-10-AAD

SITE DESCRIPTION / BACKGROUND:

The subject property is improved with a dimensionally non-conforming building constructed in 1880 per the City Assessor's records and is conforming to the LD zoning district, Class 1, minimum lot size requirement of 3,000 sq ft with +/- 12,196 sq ft and is not within any overlay district. There has been no previous ZBA action since 1995.

The most recent permits record indicates that in 1992 and 1994 the Applicant sought permits to convert for: "...a change in use by converting two apartments in an 11-unit apartment building to office consisting of 1,700 square feet. Nine 1-bedroom apartments will remain. The property is located on Campbell Street in the CBD district."

The application was approved in 1992 then amended in 1994 to seek a "waiver of site plan" which was granted by the Board to convert an additional 600 square feet of apartment into office space.

No other Zoning or Planning Permits have been sought or approved at this location since the 1994 action. Therefor the site plan and floor plans as approved in 1992 and 1994 prevail as the existing condition permits of record.

PROPOSAL:

The Zoning Board is set to stand in the shoes of the Zoning Official and make a determination concerning the question posed that the Notice of Violation dated March 3rd 2025 was in error in part or in full.

PROCEDURE - STATE STATUTE AND ZONING ORDINANCE REQUIREMENTS:

1. During an appeal of the Zoning Official the Applicant has the burden of proof to demonstrate that the Administrative Officer has made an "error in any order, requirement, decision or determination." RSA 674:33.I.a.1 Powers of Zoning Board of Adjustment
"(1) Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16;..."

2. 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 taken by the applicant, an abutter as defined by RSA 672:3, 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.

For the purposes of this section:

(a) The "administrative officer" shall mean the Zoning Administrator.

(b) As set forth in RSA 676:5, II, a "decision of the administrative officer" includes any decision involving construction, interpretation or application of the terms of the Zoning Ordinance. It does not include a discretionary decision to commence formal or informal enforcement proceedings, but does include any construction, interpretation or application of the terms of the Zoning Ordinance which is implicated in such enforcement proceedings.

An appeal under this section shall be made within 30 days of the date of the administrative decision being appealed, or within 30 days of the time that the person filing the appeal knew or had reason to know that the administrative decision had been made. The effect of an appeal shall be as set forth in RSA 676:6.

802.4.A MAJORITY VOTE:

The concurring vote of 3 members of the Board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant or any matter on which it is required to pass.

Evidence:

Page 01 = 2025-03-03_3 Campbell St_Violation Notice

Page 12 = 2025-03-03_3 Campbell St_Certified Ltr

Page 15 = Building Official: Campbell St 3 2025-3-12 NOV

Page 20 = Building Official: Campbell St 3 2025-3-11 Administrative Inspection Warrant Signed

Page 29 = Building Official: Campbell St 3 2025-3-17 – Stop Work Order

Page 32 = Building Official: 2025-03-17-Notice-of-violation-Hays-to-Davidson

Page 37 = 1992 PB Site Plan Approval

Page 67 = 1994 PB Site Plan Approval

Page 72 = Zoning Ordinance Last Amended

Page 74 = The Supreme Court of New Hampshire: Douglas R. Guy, Jr. v. Town of Temple Argued June 18, 2008 Opinion Issued: August 21, 2008

Observations

The Planning and Development Office received a no heat complaint at 3 Campbell in February 2025. The Chief Building Official and Health Officer Leigh Hays was dispatched to investigate the complaint from the tenant. Upon his initial inspection he discovered an apartment that lacked a Certificate of Occupancy, applicable permits or heat.

Tiffany Adams, the Executive Assistant for Zoning, began researching the permit history for the property. It was discovered that the most recent Planning and Zoning approvals for the property was a series of actions from 1992 and 1994 which permitted the conversion of a portion of the property's use from dwelling units to an office space. (Please review attached Notice of action and supporting documents page 37 and page 67). There has been no action taken to permit the addition of or conversion of office space into dwelling units since the 1994 action. Further online research with real estate listing sites provided by the owner's real estate management company, Zillow, the Multiple Listing Service site and realtor.com, pictures of the converted space were discovered as a listing for an apartment for rent.

The research and observations were submitted to Nathan Reichert – Planning and Development Director

and Zoning Official. Upon review of the data available in the form of the previously approved site plan, the observations of the Chief Building Official and the available photos the Zoning Official determined that unpermitted change of use had taken place. A Notice of Violation was sent on March 3rd 2025. (A copy of the NOV is attached page 15)

The Zoning Violations were further confirmed upon receipt of the observations made by the Building Official during the subsequent inspection of the entire property. The Building Official's report to the Court is attached. (Document attached 2025-03-17-Notice-of-Violation-Hays_to-Davidson page 32) Also attached are the documents leading up to Mr. Hay's inspection. (pages 15-31)

The Appellant has retained Legal Counsel and has filed appeals with the Planning Board and the Zoning Board. In the interests of finding an amenable solution to this 3 Campbell matter and several other matters relative to the 3 Campbell Street property owners and manager a meeting was held at City Hall. Unfortunately, no agreement has been made and the matter remains unresolved, no approvals or permits have been granted.

TO date no Planning, Zoning, Building, DPW – Water, DPW – Sewer, or Fire permit approval has been obtained. The applicant continues to argue about what is required to obtain necessary permits and approvals and has not filed a complete application for any of the needed approvals. No Planning and Zoning fees (with the exception of the filing fee for an appeal), Building Permit Fee, Impact Fee, Sewer, and Water Impact Fee have been paid to the City for the change of use of the previously permitted Office space use into two new dwelling units. Unit #6 was ordered to remain vacated until appropriate permits are obtained, and the health and safety requirements of the Building and Fire Codes are complete.

The fiscal impact on the city is significant as permit and impact fees for the change of use will likely amount to over ten-thousand dollars. Staff time to bring enforcement action and manage appeals is also a large direct cost and opportunity cost to the City in addition to Legal Counsel. By not paying applicable fees and impacts the Appellant has gained an unfair advantage in the marketplace. Most importantly the health and safety of the tenants in unpermitted, uninspected, and noncompliant housing has been brought into question in this case.

Response to the Appeal to of the Appellant:

Item I. Appeal Background:

The appellant admits that "Importantly, this recent change did not expand the building's footprint or alter the exterior." – There were no permits sought nor issued in advance of the changes. Nor was the City contacted about any necessary permits prior to the unpermitted work being completed and tenants allowed to occupy a dwelling unit without a Certificate of Occupancy issued by the Building Official.

Within the next sentence they allege: "the City has refused to issue building permits for some of the work because of alleged planning and zoning concern." The issuance of a Building Permit is the jurisdictional prerogative of the Building Official. No appeal has been made of the Building Official in this matter. Further the Building Code clearly states that a Building Permit may not be issued in the furtherance of a Zoning nor Planning violation. Simply put, the Building Official cannot issue a Building Permit unless the Zoning and Planning approvals are complete and approved, neither of which is currently the case.

SECTION 307 LEBANON DOWNTOWN DISTRICT (LD).

307.1 Purpose. The purpose of the Lebanon Downtown District is to provide in-town areas for retail and service businesses, banks, offices, and government facilities in downtown Lebanon, and to encourage other related commercial activities and higher density residential uses. The district regulations are intended to promote an active pedestrian environment consistent with the mixed-use character of the district by providing for continuity of building setbacks and limiting parking in front yards to promote an environment that is safe for walking and biking.

307.2 Table of Uses. Dwelling unit(s) above or below the street level story.

Rebuttal to Appellate Arguments:

1. Section 103 – Applicability of the Zoning Ordinance

SECTION 103 APPLICABILITY.

No land in the City of Lebanon shall hereafter be used for building, development or otherwise and no structure shall be erected, enlarged, materially altered, moved or used, except in conformance with this Ordinance.

Section 103 clearly establishes that a Zoning Approval is required in this case. In this case there has been a use change, a material alteration of the property, the enlargement of the multifamily use by two dwelling units and the abandonment of the office use. All of the changes have been made without the benefit of permits, the least of which in this case is the Zoning Ordinance.

Case law citation *Guy v. Town of Temple*. Included in the packet is a copy of the entire decision for the Board's reference. (Page 74) Upon reading the entire case the Board will clearly conclude that the case is not relevant to the facts of this case. *Guy v. Temple* concerns the abandonment of a non-conforming use. In this case there is a permitted conforming use that was in place pursuant to the 1992-1994 decisions. The permitted mixed use of the property as office and as a multi-family dwelling was the legally permitted use of the property following the 1992-1994 decisions.

The area used as dwelling space prior to the 1992-94 conversion was terminated by an overt act of abandonment when the 92-94 conversion was completed thereby eliminating any "legal non-conformity" or for that matter any "conforming use" of the area as a dwelling area use. The dwelling use was overtly changed to Office use. With the Office use change the dwelling use was abandoned. The conversion of the office to a dwelling is permissible only by obtaining applicable permits to allow the conversion.

There is a true fallacy in the Appellant's argument that seems to say; if a use has ever existed on a property, then it can be reestablished without compliance with the zoning ordinance or for that matter any form of permit be it Planning, Zoning, Building, Fire or other. This is clearly a misinterpretation of the facts and law by the Appellant.

If the logic of the Appellant's argument is to be followed, then the following scenario would flow:

A property owner converts an abandoned Woolen Mill into apartments with the benefit of permits.
After occupying my new apartment, I decide that I no longer wish to live there, rather I am going to install a wool processing machine and start a woolen business.
If one believes the argument of the Appellant, then I would not need any permits to convert my apartment back into a woolen mill and begin production.

The "It was once a dwelling unit" therefor I can convert it from its permitted office use to a dwelling unit without the benefit of permits does not hold water either legally or logically.

The use of the area prior to 1992 as a dwelling unit use was abandoned on multiple occasions:

- 1st and foremost the act of pulling permits, acting upon them and establishing in office is an overt act of abandonment of the dwelling use.
- 2nd The dwelling use of the office area stopped being used as a dwelling unit from 1994 forward.
- 3rd Pursuant to 703.2 the use was abandoned and further it is established that in order to re-establish the use a permit is required.

703.2 Abandonment, Discontinuance, Destruction.

Any non-conforming building or non-conforming structure which is partially or wholly destroyed by reason of any cause whatsoever, including obsolescence, fire, explosion, storm, floods, or other acts of God, may be resumed or restored and operated in its former non-conformity if same is done within two (2) years;

thereafter, any non-conforming building or structure shall not be re-established if such building or structure has been discontinued for a period of two (2) years or more; provided, however, that the Zoning Board of Adjustment, upon an appeal from the Zoning Administrator's decision concerning such resumption or restoration, may permit the resumption or restoration of the same building or structure if it finds: (a) that no action incorporating an intent to abandon the non-conforming building or structure has been taken by the owner or occupant, including but not limited to a change in non-conforming use to razing or remodeling the building or structure; and (b) that the failure to resume or restore the use during the two-year period was due to economic, regulatory, or other forces beyond the control of the owner or occupant.

To conclude, Guy vs. Temple does not apply to this case as the pre-1992 dwelling-unit use was legally conforming, it was clearly abandoned by an overt act of the Appellant when permits were sought, and the space was converted to an office. Further the Zoning Ordinance is exceptionally clear that converting the area from Office to Dwelling unit(s) requires permits.

2. Section 307.2 – Dwelling Units and Street-Level Restrictions

The Zoning Official concedes that this section does not apply as the building is below 20,000 square feet. As such this Violation is withdrawn.

3. Section 307.5

The zoning ordinance requires:

307.5 Dwelling Unit Density.

Density determinations for multi-family dwellings and mixed use buildings 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.

No evidence of a Planning Board approval has been demonstrated. The Appellant failed to obtain Planning Board Approval for the conversion of the Office into Dwelling Units. Failure to obtain a Planning Board approval to increase the number of units is within the Zoning Ordinance. The number of units increased, no Planning Board approval was obtained permitting the additional units, therefore it is clearly a zoning violation.

4. Section 408 – Historic District Certificate of Approval.

The applicant argues that only if they alter the exterior of the building without the Heritage Commission's approval is there a violation. Interesting argument, however, in this case Heritage Commission approval is required on multiple levels. Site Plan regulations must be met, EV regulations must be met, Fire Code regulations must be met, and building code requirements must be met etc.

Most notably the inspection of apartment 6 concluded that the apartment lacked adequate fire egress. The Building Official posted the apartment as uninhabitable due to a lack of fire egress because the window provided was too small. Correcting this Fire code deficiency requires a larger window to be installed. The Appellant filed an application to the Heritage Commission to permit the addition of a larger window.

The argument being made by the Appellant seems to be while this is required, we have not had to do it yet, so it is not a violation. However, had the Appellant followed the requirements of the applicable codes they would have had to have obtained the Heritage Commission's approval on multiple levels. Simply put, they argue that we did not follow the rules, so we have not broken this one yet.

Heritage Commission has jurisdiction in this case.

5. Section 607 – Electric Vehicle (EV) Parking Requirements

1st the Appellant provides an ad hominem attack on the Legislative Body's policy making in the area of parking and EV regulation. Such attacks are irrelevant to the proceedings and do not justify building unpermitted, uninspected, and noncompliant dwelling units then allowing tenants to occupy said unit

without a Certificate of Occupancy. The Zoning ordinance is agnostic as to the possible cost vs. rate of return for a project. Compliance with the regulations is required irrespective of the personal wishes or preferred internal rate of return of a developer.

There are several concerns with the Appellant's argument that Parking nor EV does not apply. The Table of Minimum Off-Street Parking Requirements states that a "*Dwelling, Studio Apartment, requires 1 parking space per unit.*" Further the "*Dwelling, Apartment, One-Bedroom Apartment and up*" requires *1.5 parking spaces*.

Within the LD district apartment density and required parking is to be set by the Planning Board as required by the Zoning Ordinance.

The applicant neither added the required parking spaces nor appeared before the Planning Board to obtain an approval for their parking plan. The ability to approve a plan rests with the Planning Board not with the Appellant. Their intent to apply for no parking spaces may inform the application but is not the final approval. Either way, in the absence of a Zoning Ordinance compliant Planning Board Approval, the Appellant is in violation of the parking regulations.

The EV regulations are a major part of the current Parking Requirements.

1st They apply to all developments new or old. Adding dwelling units to an existing structure triggers the needs of the EV regulations. As it states, "*spaces shall be provided*". Further section C.3 requires:

2. *Multi-Family Dwellings. Parking for multi-family dwellings shall include:*

- a. *EVSE-installed spaces for a minimum of 5% of proposed off-street parking spaces.*
- b. *EV-ready spaces for a minimum of 20% of proposed off-street parking spaces.*
- c. *EV-capable spaces for a minimum of 65% of proposed off-street parking spaces.*

The requirement is triggered with the addition of dwelling units. The Board may seek to clarify for the Zoning Official and the Applicant to what extent to the regulations apply to the application: Only to the new parking spaces required by the addition of dwelling units? or to the entire site?

A tight reading of the regulations would require that if triggered the EV Parking regulations apply to the entire site, irrespective of new or old. The question is oft asked, and no Zoning Official determination has been made applicable to the facts in this case.

607.8 Electric Vehicles.

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

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

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

- 1. *One- and Two-Family Dwellings. All new one- and two-family dwellings shall provide at least one (1) EV-ready space per dwelling unit.*
- 2. *Multi-Family Dwellings. Parking for multi-family dwellings shall include:*
 - a. *EVSE-installed spaces for a minimum of 5% of proposed off-street parking spaces.*
 - b. *EV-ready spaces for a minimum of 20% of proposed off-street parking spaces.*
 - c. *EV-capable spaces for a minimum of 65% of proposed off-street parking spaces.*
- 3. *Non-Residential Uses. Parking for uses requiring or proposing to provide 30 or more off-street parking spaces shall include:*
 - a. *EVSE-installed spaces for a minimum of 2% of proposed off-street parking spaces, with a minimum of two EVSE-installed spaces.*

- b. EV-ready spaces for a minimum of 10% of proposed off-street parking spaces.*
 - c. EV-capable spaces for a minimum of 50% of proposed off-street parking spaces.*
- 4. Where the calculations above result in a fractional parking space, it shall round up to the next whole number.*
- 5. Where the number of EVSE-installed spaces provided exceeds the minimum required, the excess spaces shall be deducted from the total number of required EV-ready spaces.*
- 6. Where the number of EV-ready spaces provided exceeds the minimum required, the excess EV-ready spaces shall be deducted from the total number of required EV-capable spaces.*
- 7. Up to five (5) Level 2 EV-installed spaces may be substituted with one (1) Level 3 EV-installed space (minimum 50kW).*
- 8. EVSE-installed spaces, EV-ready spaces, and EV-capable spaces are to be included in the calculation for both the number of minimum required and maximum permitted off-street parking spaces.*
 - a. Every two (2) EVSE-installed spaces provided in addition to the required minimum may be counted as four (4) off-street parking spaces as relates to Section 607.1 (Minimum Off-Street Parking Requirements), for reduction of total required parking not greater than 10 percent of the total amount of required parking.*

Additional Violations:

Given the nature of this enforcement action the list of cited violations should not be seen as exhaustive. The Appellant may have violated additional requirements of the Zoning Ordinance. The City reserves the right to make a Notice of Violation for any additional violations that are discovered.

One such additional Violation that will be noticed is a violation of SECTION 213 IMPACT FEES. The addition of dwelling units triggers the Impact Fees section of the Zoning ordinance. To date no impact fees have been paid to the city for the unpermitted conversion from Office to Dwelling units.

As an aside, there are Water and Sewer impact fees that are likely triggered by the change of use that are deficient as well. The Water and Sewer impact fees are enforced by the Department of Public Works and the deficiency of the payment of these fees will be collected by that Department.

Conclusion:

The Zoning Official prays that the Zoning Board affirm wholly the Zoning Official's determinations made in the Notice of Violation dated March 3rd 2025. The Appellant's change of use prior to receiving final zoning approval constitutes a clear crossing of the Rubicon. Taking actions while fully aware of the regulatory process and requirements they chose to proceed at their own risk. Now they are being brought to account and must bring the property into full compliance with all applicable codes as required by law and in the interests of public health and safety.

SHEEHAN PHINNEY

Brian J. Bouchard, Esq.
[REDACTED]

75 Portsmouth Blvd., Suite 110
Portsmouth, NH 03801

April 1, 2025

VIA OVERNIGHT MAIL

Nathan Reichert
Planning & Development Director and Zoning Administrator
City of Lebanon
Zoning Board of Adjustment
51 North Park Street
Lebanon, NH 03766

RE: 3 Campbell Street – Appeal Application

Dear Mr. Reichert:

Enclosed please find the following:

1. Application for Appeal
2. Abutters List
3. Support Statement
4. Response Letter to Notice of Violation

We understand the City will follow-up to discuss filing fees after the application has been accepted and abutters served.

Thank you and please let me know if you have any questions.

Very truly yours,

/s/ Brian J. Bouchard

Brian J. Bouchard, Esq.

BJB/skr

Enclosures



**CITY OF LEBANON
ZONING BOARD OF APPEALS
APPLICATION**

SPECIAL EXCEPTION	☐	☐	BUILDING CODE BOARD OF APPEALS
WETLANDS SPECIAL EXCEPTION	☐	☒	APPEAL OF AN ADMIN DECISION
VARIANCE	☐	☐	REHEARING REQUEST
EQUITABLE WAIVER	☐	☐	

PROPERTY OWNER (APPLICANT):

NAME: Michael Davidson TEL.#:

MAILING ADDRESS: 31 Elm St., Lebanon, NH 03766

E-MAIL ADDRESS:

CO-APPLICANT, AGENT, OR LESSEE:

NAME: Brian J. Bouchard, Esq. TEL.#:

MAILING ADDRESS: 75 Portsmouth Blvd., Portsmouth, NH 03801

E-MAIL ADDRESS:

PROJECT LOCATION:

TAX MAP #: 92 LOT#: 65 PLOT #: ZONE: LD

STREET ADDRESS: 3 Campbell Street, Lebanon, NH 03766

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

REQUEST DESCRIPTION:

See Explanation

USE TYPE:

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:

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

Owner Signature: Jerry Bouchard DATE: 1 APR 2025

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.

Owner Signature: Jerry Bouchard DATE: 1 APR 2025

DATE RECEIVED:

APPLICATION #:

Abutters to Michael Davidson, 3 Campbell Street (Tax Map 92 Lot 65)

Map/Lot	Property address	Owner Name & Address
92-14	1 N. Park Street Lebanon, NH	One NorthPark, LLC 32 Elm Street Lebanon, NH 03766
92-15	2 Campbell Street Lebanon, NH	Teomor, LLC 2 Campbell Street Lebanon, NH 03766
92-22	0 Campbell Street Lebanon, NH	Teomor, LLC 2 Campbell Street Lebanon, NH 03766
92-63	10 Parkhurst Street Lebanon, NH	Parkhurst Community Housing, Inc. 226 Holiday Drive, Suite 20 White River Jct, VT 05001
92-64	1 Campbell Street Lebanon, NH	Carter Community Building Association 1 Taylor Street Lebanon, NH 03766
92-66	1 Bank Street Lebanon NH	Marion J. Carter Trust c/o Amber McGonis, Trustee 28 Timber Lane Lebanon, NH 03766
92-68	7 Bank Street Lebanon NH	Chorro, LLC 21 Water Street Lebanon, NH 03766

**CITY OF LEBANON, NEW HAMPSHIRE
SUPPORT STATEMENT FOR
AN APPEAL OF AN ADMINISTRATIVE DECISION**

A cover application, abutters list, filing fee and ten copies of the site plan (if applicable) must accompany this support statement.

City of Lebanon Zoning Ordinance:

APPEALS:

801.1 Administrative Appeals.

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by any administrative official in the enforcement of this ordinance, as set forth in RSA 676:5. 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.

An appeal under this section shall be taken within 30 days of the date of the administrative decision being appealed, or within 30 days of the time that the person filing the appeal know or had reason to know that the administrative decision had been made. The effect of an appeal shall be as set forth in RSA 676:6.

802.4 Decisions of the Board.

In exercising its powers the Board may reverse or affirm, wholly or in part, 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 the powers of the administrative official from whom the appeal is taken.

- A. Majority Vote: The concurring vote of 3 members of the Board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant or any matter on which it is required to pass.

I am appealing the decision of: Michael Davidson (Owner of 3 Campbell St.),
(Name/Title of Official)

made on this date: April 1, 2025.

(Please describe the decision you are aggrieved by in the space provided or attach a separate statement.)

Concerning: See Response Letter

In Relation to Article(s): See Response, Section(s): See Response of the City of Lebanon Zoning Ordinance.

SHEEHAN PHINNEY

Brian J. Bouchard, Esq.


Reply to: Portsmouth Office
75 Portsmouth Blvd.
Portsmouth, NH 03801

April 1, 2025

VIA OVERNIGHT MAIL

City of Lebanon
Zoning Board of Adjustment
51 North Park Street
Lebanon, NH 03766

Re: Response Letter to Notice of Zoning Violation – 3 Campbell Street (Tax Map 92, Lot 65)

Dear Mr. Reichert,

I write on behalf of Michael Davidson, owner of 3 Campbell Street, to appeal certain of the alleged zoning infractions raised in the City's March 3, 2025, Notice of Violation ("NOV"). Relevant to this appeal, the NOV alleges that the recent conversion of office space on the Property to apartments violates Sections 103, 307.2, 307.5, 408, and 607.8, of the Lebanon Zoning Ordinance ("Ordinance"). We respectfully disagree with the City's interpretation of these provisions. As detailed below, each cited section has been misapplied or is inapplicable.

I. APPEAL BACKGROUND.

3 Campbell Street is a long-established property in what is now the City's Lebanon Downtown ("LD") District. Mr. Davidson originally purchased the Property in 1985. Back then, the Property contained 11 residential apartment units and was used exclusively as a multi-family building. In 1994, Mr. Davidson expanded the office space in the building by adding area #1R to his existing office, which had originally been approved in 1992. This expansion resulted in some residential space becoming unused. That unused portion was later combined with a large room from the rear second-floor apartment (#2R) to create a new residential unit, designated as Apartment #6. In and around 2004, the front unit (#1F), previously converted to office use, reverted back to residential use as an apartment. Most recently, in 2024, after the retirement of the attorney occupying the office space (originally converted from residential apartments), those office areas in the middle of the building were returned to their original residential use and are now designated as Apartments #1M and #1R. This change eliminated any remaining non-residential use in the building, bringing the property further into conformity with the LD district's purpose of encouraging "higher density residential uses." Ordinance § 307.1.

Importantly, this recent change did not expand the building's footprint or alter the exterior. The change preserved the Property's historic use as a multi-family residential building—a use permitted by right in the LD District. Id. § 307.2.

The City inspected 3 Campbell in early 2025 in response to a tenant's complaint about the building's heating system. The City subsequently issued a NOV, identifying several code violations, planning violations, and zoning violations. Mr. Davidson promptly retained contractors to remedy the building code violations, but the City has refused to issue building permits for some of the work because of the alleged planning and zoning concerns. See RSA § 676:13.

The City issued the NOV on March 3, 2025. This Appeal is timely under RSA § 676:5 and the ZBA's By-Laws because it was filed within 30 days of the date of the NOV.

II. APPELLATE ARGUMENTS

1. Section 103 – Applicability of the Zoning Ordinance

New Hampshire law protects the right to continue lawful existing uses of property. The New Hampshire Supreme Court has interpreted RSA 674:19 to provide that a zoning ordinance “shall not apply to existing structures or uses, thereby creating a vested right to continue the prior lawful use of land.” Guy v. Town of Temple, 157 N.H. 642, 650 (2008). While this protection does not allow unlimited expansion of nonconforming uses, it does ensure that long-standing use of a property may continue. Indeed, only an “extension and enlargement that *substantially changes* the nature and purpose of the nonconforming use is impermissible.” Id. (emphasis added).

Here, the multi-family residential use of 3 Campbell Street has existed for decades. The recent reconfiguration of interior space did not substantially change or alter the building to require new zoning permission. In fact, the addition of the apartments brings the property into full conformity with the Zoning Ordinance.

2. Section 307.2 – Dwelling Units and Street-Level Restrictions

Section 307.2's reference to dwelling units above or below street level does not flatly ban all street-level apartments in every LD district building. When read in its entirety, Section 307.6.B.1 of the Ordinance states that if a building is greater than 20,000 gross square feet with frontage on a secondary street, then a portion of the street-level floor must be reserved for non-residential use. Put differently, only buildings *in excess of* 20,000 square feet on secondary frontage are required to have commercial or other non-residential space on the ground floor. If all street level dwellings were prohibited, Section 307.6.B.1 would be superfluous.

3 Campbell Street falls well below the 20,000 gross sq. ft. threshold. The property's main building has approximately 9,176 sq. ft. in gross area and its “carriage house” has approximately 3,616 sq. ft. in gross area. By the Ordinance's own terms, the requirement to

reserve street-level space for non-residential use does not apply. The City should not interpret Section 307.2 to override the specific size parameters outlined in Section 307.6.B.1.

Indeed, a “multi-family dwelling” is listed as a permitted use in the LD district under Section 307.2. A multi-family dwelling, by definition, is “a dwelling with three (3) or more dwelling units.” *Id.* Appendix A Definitions at 186. Unless specified otherwise, multi-family dwellings may include ground-floor units. It would be inconsistent to permit a multi-family dwelling use, yet effectively bar any dwelling from occupying the first floor of any building. The more sensible reading is that certain large, mixed-use developments are encouraged to have commercial storefronts but smaller or existing buildings can be entirely residential. It is for this reason that Section 307.6(B)(1) is under the section title “Non-Residential Uses.”

3. Section 307.5 – Dwelling Unit Density

This is not a zoning violation. The provision merely states that the Planning Board determines density in the LD District. Section 307.5 is not a traditional zoning “limit” that one can violate on its face; it is a procedural standard directing density review to the Planning Board. There is no density requirement with which Mr. Davidson failed to comply.

It bears emphasizing that the internal reconfiguration of 3 Campbell will not trigger density concerns. The Property has historically supported 11 apartments. Further, the transition from nine apartments to 12 is not a drastic increase in intensity. In fact, the removal of two commercial offices is likely to reduce peak traffic concerns or parking demand.

4. Section 408 – Historic District Certificate of Approval

Mr. Davidson understands that 3 Campbell Street lies within a local historic district and fully acknowledges the need to obtain Heritage Commission approval for exterior alterations in accordance with Section 408.4. Section 408.B mandates Heritage Commission approval for “the addition to, alteration, or repair of any existing building which would require the issuance of a building permit . . . unless such addition, alteration, or repair does not, in any way, alter the exterior of such building.” *Id.* § 408.4.B. Here, the exception applies because no exterior alterations were undertaken as part of the 2024 interior renovations that created the additional dwelling units. The work last summer was entirely internal to the building’s first floor. This places the project squarely under the exception that no historic approval was necessary for the 2024 project.

It appears the City’s concern under Section 408 may stem from a recent application by Mr. Davidson to change a window at the property to ensure secondary egress. Mr. Davidson fully intends to secure the Historic Commission’s approval before undertaking that work. To date, however, the Historic Commission has been unable to act on the application because of the alleged zoning violations hanging over the Property. It is improper for the City to characterize anticipated work as “violation” under its NOV when the process is ongoing and has been

obstructed by the City's heavy-handed NOV. There has been no past or present violation of Section 408.

5. Section 607 – Electric Vehicle (EV) Parking Requirements

Section 607.8.C.2 of the Ordinance sets forth requirements for electric vehicle charging infrastructure in parking areas for multi-family dwellings. These provisions, however, apply only to new developments. This is seen in a few instances.

First, Section 607(C)(1) requires an EV ready space for all “new” one-and-two-family dwellings. Given the state’s housing shortage, it would make little sense for all pre-existing multi-family dwellings to be subject to the EV mandates. Put differently, if adding an attic apartment to a duplex meant installing EV stations and electrical conduit for the entire building, the property owner would not do it.

Second, the Ordinance’s language for multi-family dwellings refers to the percentages being calculated based on “*proposed* off-street parking spaces.” *Id.* (emphasis added). The plain and ordinary meaning of the word “proposed”—as used in Section 607.8.C.2—is “to form or put forward a plan or intention.” MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/propose> (Mar. 30, 2025). Thus, the use of “proposed off-street parking spaces” indicates parking spaces being contemplated by a property owner as part of future plans or improvements—not existing parking spaces or uses. Because Mr. Davidson neither created nor “proposed” any additional off-street parking spaces during the recent renovations, the EV infrastructure mandate, by its explicit language, is not triggered here.

III. CONCLUSION

For the foregoing reasons, the City should grant this Appeal and reverse the alleged zoning infractions alleged in the NOV pertaining to Sections 103, 307.2, 307.5, 408 and 607.8 of the Ordinance.

Sincerely,

/s/ Brian J. Bouchard

Brian J. Bouchard

Page 01 = 2025-03-03_3 Campbell St_Violation Notice

Page 12 = 2025-03-03_3 Campbell St_ Certified Ltr

Page 15 = Building Official: Campbell St 3 2025-3-12 NOV

Page 20 = Building Official: Campbell St 3 2025-3-11 Administrative Inspection
Warrant Signed

Page 29 = Building Official: Campbell St 3 2025-3-17 – Stop Work Order

Page 32 = Building Official: 2025-03-17-Notice-of-violation-Hays-to-Davidson

Page 37 = 1992 PB Site Plan Approval

Page 67 = 1994 PB Site Plan Approval

Page 72 = Zoning Ordinance Last Amended

Page 74 = The Supreme Court of New Hampshire: Douglas R. Guy, Jr. v. Town
of Temple Argued June 18, 2008 Opinion Issued: August 21, 2008

2025-03-03_3 Campbell St_Violation Notice



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

March 3, 2025

Via Certified Mail and 1st Class Mail

Michael Davidson
31 Elm St.
Lebanon, NH 03766

NOTICE OF VIOLATION

Re: 3 Campbell Street (Tax Map 92, Lot 65), Michael Davidson (owner)
Violation of Zoning Ordinance Sections 103, 105, 307.2, 307.5, 408, 607.8, 901.1.B, and 901.1.D

To whom it may concern,

It has come to our attention that the above-referenced property is in violation of the City of Lebanon Zoning Ordinance. According to the City's records, you are the owner of 3 Campbell Street in Lebanon, NH. As the owner, you are responsible for the violations described below.

You are hereby ordered to bring all aspects of the property into compliance with the Zoning Ordinance. Please be advised that should you fail to take action within the timeframe outlined below, the City of Lebanon will commence legal action against you in court.

Background

The subject property is situated in the Lebanon Downtown (LD) zoning district and contains a +/- 5,134 sq ft building with 4 residential units and 1 commercial unit and a +/- 1,620 sq ft building with 2 residential units, per the City Assessor's records.

On February 13, 2025 the Zoning Administrator observed a residential apartment rental listing publicly posted on Zillow that contained imagery representing a 1st floor portion (described as Unit # 1F) of the 5,134 sq ft building that, according to City records, was approved in 1994 for commercial/office use (listing attached).

Violations of the Zoning Ordinance

The creation of a dwelling unit within the street level story at the subject property constitutes violations of the following Sections of the Zoning Ordinance:

- **Section 103:** *No land in the City of Lebanon shall hereafter be used for building, development or otherwise and no structure shall be erected, enlarged, materially altered, moved or used, except in conformance with this Ordinance.*

- **Section 105: Compliance with Site Plan Review Regulations:** *The regulations set forth in this Ordinance are not intended to and shall not be construed to relieve a proposed land development from compliance with any applicable requirement set forth in the Lebanon Site Plan Review Regulations or to relieve a proposed subdivision from compliance with any applicable requirement of the Lebanon Subdivision Regulations.*

Whenever the regulations set forth in this Ordinance conflict with any applicable requirements set forth in the Lebanon Site Plan Review Regulations or the Lebanon Subdivision Regulations, the provision which imposes the greater restriction or the higher standard shall apply; provided, however, that neither set of Regulations shall be construed as permitting anything prohibited by this Ordinance.

- **Section 307.2:** *Dwelling units are allowed above or below the street level story (see attached).*
- **Section 307.5 Dwelling Unit Density:** *Density determinations for multi-family dwellings and mixed use buildings 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.*
 - **307.6.B.1:** *If a building equal to or greater in size than 20,000 gross square feet is located on a lot with principal frontage on a secondary street, a minimum of 1,000 square feet or 1/3 of the gross floor area, whichever is less, of the street level story of the building, shall be reserved for a non-residential use or uses, and such combined uses shall have both a depth and width of not less than 20 feet along the secondary street. In the case of multiple buildings on a lot with principal frontage on a secondary street, the non-residential use shall be located in the building closest to the secondary street.*
 - **307.6.B.2:** *Notwithstanding the above requirements, the Planning Board may waive the requirement for non-residential uses on the street level story and permit residential uses on the entire street level story in these locations by conditional use permit pursuant to Section 302.4 provided the applicant demonstrates that:*
 - a. Non-residential uses on the street level story are inappropriate given the unique characteristics of the subject property.*
 - b. The proposed development provides improvements to streetscapes, public ways, or public spaces that implement recommendations for downtown Lebanon in current plans, policies, or programs adopted by the City of Lebanon including but not limited to the Master Plan, Downtown Visioning Study, and the Capital Improvement Program.*
 - c. The proposed development includes a high-quality design with attention to architectural quality and detail, universal accessibility, and/or environmental sustainability.*

- **Section 408.4 Historic District – Certificate of Approval Required:** A Certificate of Approval shall be obtained from the Heritage Commission in the manner set forth herein prior to the commencement of any of the following activities within any Historic District.
 - o **408.4.B:** *The addition to, alteration, or repair of any existing building which would require the issuance of a building permit pursuant to the provisions of the Lebanon Building Code, unless such addition, alteration, or repair does not, in any way, alter the exterior of such building.*
- **Section 607.8.C.2 Electric Vehicles: Multi-Family Dwellings.** Parking for *multi-family dwellings* shall include:
 - a. *EVSE-installed spaces for a minimum of 5% of proposed off-street parking spaces.*
 - b. *EV-ready spaces for a minimum of 20% of proposed off-street parking spaces.*
 - c. *EV-capable spaces for a minimum of 65% of proposed off-street parking spaces.*
- **Section 901.1:** *Written application for a zoning permit must be filed by the owner or his agent with the City of Lebanon for any of the following. Until such a permit has been received, none of the following shall be commenced.*
 - o **901.1.B:** *The alteration, renovation, restoration, or moving of any building, structure, exterior sign or part thereof, except that ordinary repairs to structures may be made without a zoning permit. Ordinary repairs shall include any renovation, upgrade, or repair to (i) a one-family or two-family dwelling that does not increase floor area or volume and where no additional dwelling unit is proposed; and (ii) a non-residential building that does not increase floor area or volume and where no change of use is proposed.*
- **Section 901.1.D:** *Any other use of premises, whether or not provided for in this Ordinance, including but not limited to a change in the nature of the use of any building or premises to a non-conforming use from any lawful prior use, the expansion of any existing lawful non-conforming use, or any change in lot size or shape.*

Remedies

YOU ARE HEREBY REQUIRED TO:

- (A) **CONTACT THE PLANNING & DEVELOPMENT DEPT. TO ARRANGE AN ON-SITE INSPECTION OF ALL BUILDINGS ON THE PROPERTY BY MARCH 15, 2025**
- (B) **CEASE AND DISIST THE UMPERMITTED USE ACTIVITY BY MARCH 15, 2025**
- (C) **SUBMIT A PLANNING BOARD APPLICATION FOR A CONDITIONAL USE PERMIT TO ALLOW STREET LEVEL DWELLING UNITS BY APRIL 14, 2025**
- (D) **SUBMIT A PLANNING BOARD SITE PLAN REVIEW APPLICATION BY APRIL 14, 2025; FOR PLANNING AND ZONING REVIEW**
- (E) **SUBMIT A COMPLETE HERRITAGE COMISSION APPLICATION**

Per Section 903.3 of the Zoning Ordinance *“The Zoning Administrator shall institute, in the name of the City, any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate any*

*violation of this Ordinance or to prevent in or about the premises any act, conduct, or use constituting a violation, and shall have all enforcement powers provided by statute including but not limited to RSA 676:15, 676:17, 676:17-a, and 676:17-b". Failure to comply with this order within the times stated herein may result in a civil penalty of **\$275 per violation** for the first offense, and **\$550 per violation** for subsequent offenses, for each day that such violations are found to continue after the date on which you receive this notice.*

Should you not voluntarily abate these violations, the City will seek (1) **injunctive relief** under RSA 676:15 to enforce this order, (2) **civil penalties** under RSA 676:17, I, **to the maximum extent allowed by law**, and (3) the recovery of its **attorney's fees and costs** under Section 903.5 of the Zoning Ordinance and RSA 676:17, II. Additionally, the City may be authorized under state law to enter upon your property and cause said violations to be remediated, removed or destroyed. If the City does undertake such action, state law also provides that you, as the property owner, will be liable for the expense of the removal and proper disposal of the items causing these violations. The City's costs shall constitute a lien against the real estate, enforceable in the same manner as real estate taxes, including the possible loss of the property if not paid.

This is a decision of the administrative officer, which you have the right to appeal to the Zoning Board of Adjustment. Should you wish to appeal my interpretation, application or construction of the Zoning Ordinance you have thirty (30) days from the date of this Notice of Violation to file an appeal. Forms to appeal an administrative decision pursuant to RSA 674:33, I(a) and Section 801.1 of the Zoning Ordinance can be obtained from the Planning and Development Department or online at www.lebanonnh.gov.

Respectfully,



Nathan Reichert
Planning & Development Director and Zoning Administrator
City of Lebanon New Hampshire

Cc: Property File, Map 92 Lot 65
Ledgeworks Inc. via 1st Class Mail

SECTION 307 LEBANON DOWNTOWN DISTRICT (LD).

307.1 Purpose. The purpose of the Lebanon Downtown District is to provide in-town areas for retail and service businesses, banks, **offices**, and government facilities in downtown Lebanon, and to encourage other related commercial activities and higher density residential uses. The district regulations are intended to promote an active pedestrian environment consistent with the mixed-use character of the district by providing for continuity of building setbacks and limiting parking in front yards to promote an environment that is safe for walking and biking.

307.2 Table of Uses.

<u>Permitted Uses</u>	<u>Uses by Conditional Use Permit (see Section 302.4)</u>
<u>Residential</u> 1. Multi-family dwelling (see Section 307.5) 2. Dwelling unit(s) above or below the street level story	<u>Commercial/Non-Residential</u> 1. Craftsman's shop, art studio 2. Dry cleaning pick up station 3. Educational facility, college/university 4. Essential service 5. Laundromat 6. Other uses per Section 307.4 7. Parking facility 8. Publishing/printing 9. Recreational facility, indoor 10. Recreational facility, outdoor
<u>Commercial/Non-Residential</u> 3. Amusements (indoor) 4. Community center 5. Financial institution 6. Group day care facility per Section 604 7. Health club 8. Hotel 9. House of worship 10. Library 11. Local government use 12. Membership club 13. Museum 14. Office 15. Personal service 16. Radio or TV studio 17. Renewable energy system per Section 612 18. Restaurant, sandwich shop 19. Retail store 20. Senior housing complex 21. Social service center 22. Theater, concert hall, movie theater	

\$1,980/mo

3 Campbell St #1F, Lebanon, NH 03766

What's special

HARDWOOD FLOORSLEBANON GREENLARGE DOUBLE HUNG WINDOWSFULL SIZE KITCHEN

Don't miss out on an amazing opportunity to live directly on the Lebanon Green. These apartment windows overlook the our Downtown Historic District and everything it has to offer. The local farmers market takes place every Thursday during the summer months, walking distance to the rail trail, local restaurants, coffee shops, and a quick drive to West Lebanon for some retail therapy and more! Minutes from Dartmouth Health, Dartmouth College, River Valley Community College, Hypertherm and more. This beautiful 1 bedroom units features hardwood floors, large double hung windows, full size kitchen, a decommissioned that acts as a stand out center piece. Give us a call to tour this apartment. Landlord pays for heat, water/sewer, and trash removal.

Tenant is responsible for electricity, internet/cable. Non smoking unit, 1 parking space available.

Hide

69 days

on Zillow

—

13

contacts

—

1

application

Listed by management company

- Ledgeworks, Inc
- Ledgeworks
-
-
- (603) 945-7986

Price history

Date	Event	Price
12/26/2024	Listed for rent	\$1,980\$3/sqft
Source: Zillow Rentals Report a problem		
12/11/2024	Listing removed	\$1,980\$3/sqft

Date **Event** **Price**

Source: Zillow Rentals Report a problem

12/5/2024 Listed for rent \$1,980+16.5%\$3/sqft
Source: Zillow Rentals Report a problem

12/27/2023 Listing removed --
Source: Zillow Rentals Report a problem

12/13/2023 Price change \$1,700-10.5%\$3/sqft
Source: Zillow Rentals Report a problem

11/1/2023 Listed for rent \$1,900\$3/sqft
Source: Zillow Rentals Report a problem







2025-03-03_3 Campbell St_ Certified Ltr

City of Lebanon

Planning and Development Department

51 North Park Street

Lebanon, New Hampshire 03766

CERTIFIED MAIL®



9589 0710 5270 1677 7163 52

Michael Davidson

31 Elm St.

Lebanon, NH 03766

9589 0710 5270 1677 7163 52

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$ _____
☐ Return Receipt (electronic) \$ _____
☐ Certified Mail Restricted Delivery \$ _____
☐ Adult Signature Required \$ _____
☐ Adult Signature Restricted Delivery \$ _____

Postage

\$

Total Postage and Fees

\$

Sent To:

Michael Davidson

Street and Apt. No., or PO Box No.

31 Elm St.

City, State, ZIP+4®

Lebanon, NH 03766

Postmark
Here

MAR -3 2016

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

Building Official: Campbell St 3 2025-3-12 NOV



March 12, 2025

Michael Davidson
31 Elm St
Lebanon NH 03766

Re: Notice of Violations
3 Campbell St
Lebanon, New Hampshire
a/k/a Map 92 Lot 65

Mr. Davidson,

The City has conducted a full building inspection of your property located at 3 Campbell St Lebanon, New Hampshire Map 92 Lot 65 after having received an administrative inspection warrant. During the inspection multiple violations to the New Hampshire State Building Code, NH RSA 155-A were observed and are listed below. Please contact the City's Building & Code Enforcement Office at your earliest convenience to discuss a plan and timeline for remediation of these violations.

Notice of Code Violations

The following violations are to be abated before a certificate of occupancy is issued for the above-captioned property:

				Date:		
				Inspector:		
Number*	Location	Description	Code Section**	Abate by	U/A	U/A
1.	Interior / First Floor	A change in use of the building from a mixed-use building containing 4 apartments and 1 office space to a 7-unit apartment building without permits. Action: A building permit is to be applied for with submittal documents prepared by a NH licensed architect to show in detail how the work will comply with the NH State Building Code.	NH RSA 155-A 155-A:2 I 155-A:4 676:11 2021 IBC 105.1	Abate by Immediately after receipt of this notice		
2.	Interior / Apartment 1F 1M 1R 6	The newly created or reconfigured apartments have been occupied prior to the issuance of a certificate of occupancy. Action: No apartment is to be occupied prior to the issuance of a certificate of occupancy.	NH RSA 155-A 2021 IBC 111.1	Abate by 10 Days after receipt of this notice		

3.	Interior / Apartment 1R bedroom	Lack of emergency escape and rescue opening, or secondary means of escape Action: Every sleeping room and living area to be provided with an emergency escape and rescue opening, or secondary means of egress.	NH RSA 155-A 2021 IBC 1031.2	Abate by 10 Days after receipt of this notice		
4.	Interior / Apartment 1R	Smoke detector was not provided in the bedroom. Action: NH Licensed electrician to install an interconnected smoke detector.	2021 IBC 907.2.11.2 907.2.11.5	Abate by Immediately after receipt of this notice		
5.	Interior / Apartment 1R	Items placed in front of the electrical panel. Action: Electrical panel to be provide with clear working space.	2020 NEC 110.26	Abate by 10 Days after receipt of this notice		
6.	Interior / Apartment 1R	Window in the bathroom is considered a hazardous location, safety glazing was not provided. Action: Safety glazing to be provided in hazardous location, bathroom window.	2021 IBC 2406.4.5	Abate by 10 Days after receipt of this notice		
7.	Interior / Apartment 1R	Open electrical junction box, covered by a wall. Action: Junction box to relocated so that it is accessible and covered.	2020 NEC 314.25 314.29	Abate by 10 Days after receipt of this notice		
8.	Interior / Apartment 1R	No electrical receptacle provided at bathroom sink. Action: NH licensed electrician to pull a permit and install a receptacle as required at the bathroom sink.	2020 NEC 210.52(D)	Abate by 10 Days after receipt of this notice		
9.	Interior / Basement	No separation is provided between the basement and the apartments above. Action: A horizontal separation shall be provided between the basement and the apartments above.	2021 IBC 420.3	Abate by 10 Days after receipt of this notice		
10.	Interior / Basement	Open electrical junction boxes throughout. Action: Electrical junction boxes to be covered.	2020 NEC 314.25	Abate by 10 Days after receipt of this notice		
11.	Interior / Basement	Unsupported electrical wires throughout the basement. Action: NH licensed electrician to properly support electrical wire installed, provided with running boards.	2020 NEC 334.15(C)	Abate by 10 Days after receipt of this notice		
12.	Interior / Basement	Propane fire furnaces have their covers removed. Action: All mechanical equipment shall be properly installed and maintained in proper working condition.	2021 IMC 304.1 1004.2	Abate by Immediately after receipt of this notice		
13.	Interior / Apartment 1F	Prohibited plumbing "S" trap at kitchen sink and bathroom sink. Action: NH licensed plumber to pull a permit and correct the installation to meet NH State Plumbing Code	2021 IPC 1002.3	Abate by 10 Days after receipt of this notice		



14.	Interior / Apartment 1F	Insufficient electrical receptacles, kitchen counter outlet spacing, and bedroom. Action: NH licensed electrician to evaluate and install electrical receptacles as required by NH electrical code.	2020 NEC 210.52	Abate by 10 Days after receipt of this notice		
15.	Interior / Apartment 1M	Improper electrical installation at kitchen counter. Action: NH licensed electrician to evaluate and install electrical receptacles as required by NH electrical code.	2020 NEC	Abate by 10 Days after receipt of this notice		
16.	Interior Apartment 1M	Kitchen electrical receptacles not provided with GFCI protection. Action: NH licensed electrician to install GFCI protection at kitchen counter.	2020 NEC 210.8	Abate by 10 Days after receipt of this notice		
17.	Interior / Apartment 1M & 1F	Separation not provided between units. Action: NH licensed architect to provided separation plan with UL listed assemblies.	2021 IBC 420.2	Abate by 10 Days after receipt of this notice		
18.	Interior Apartment 2F	Clear working space of 30x36 inches not provided in front of electrical panel. Action: Electrical panel to be provide with clear working space.	2020 NEC 110.26	Abate by 10 Days after receipt of this notice		
19.	Interior Apartment 2R	Kitchen electrical receptacles not provided with GFCI protection. Action: NH licensed electrician to install GFCI protection at kitchen counter.	2020 NEC 210.8	Abate by 10 Days after receipt of this notice		
20.	Interior / Apartment 6	No electrical receptacle provided at bathroom sink. Action: NH licensed electrician to pull a permit and install a receptacle as required at the bathroom sink.	2020 NEC 210.52(D)	Abate by 10 Days after receipt of this notice		
21.	Interior Apartment 6	Exposed NM electrical wire near front door. Action: NH licensed electrician to evaluate and run wires as required by NH electrical code.	2020 NEC 334.10	Abate by 10 Days after receipt of this notice		

* The numbering of violations is for identification purposes only and shall not be construed as bearing in any way on the seriousness of any violation.

** All citations to provisions of NH RSA Chapter 155-A incorporate by reference applicable provisions of Lebanon City Code.

“U” Unabated - violation not corrected

“A” Abated - violation corrected

You are hereby notified that the above conditions are deemed to be in violation of the Lebanon City Code and New Hampshire State Law and you are ordered to abate these violations by the repair, replacement, removal and lawful disposition of the above

described items and materials within not more than the aforementioned times of receipt of this notice.

Failure to comply with this order within the stated time may result in fines not to exceed \$275.00 for the first offense and \$550.00 for subsequent offenses for each violation for each day during or on which such nuisance or other violation continues to exist beyond the date specified in this notice to abate. Also, a person failing to comply with the provisions of RSA Chapter 155-A and RSA 676:17 may be found guilty of a violation and subject to additional civil penalties.

You have the right to appeal this Notice of Code Violations within 30 days of the date of this letter to the Lebanon Building Code Board of Appeals pursuant to RSA 674:33 I (a), as may be appropriate.

Respectfully,



Leigh Hays
Chief Building Official & Health Officer
City of Lebanon New Hampshire

C: Property File, Map 92 Lot 65

First Class Mail

Certified Mail Return Receipt: 9589 0710 5270 1677 7198 89

Building Official: Campbell St 3 2025-3-11 Administrative
Inspection Warrant Signed

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH

<http://www.courts.state.nh.us>

2ND CIRCUIT COURT
2ND CIRCUIT LEBANON

05 APR 2012 P 1:12

Court Name: 2nd Circuit – District Division – Lebanon

Case Name: City of Lebanon v. Michael Davidson
(Administrative Inspection Warrant for
Map 92/65, a/k/a 3 Campbell St, Lebanon NH 03766)

Case Number:

ADMINISTRATIVE INSPECTION WARRANT

TO: Leigh Hays, Chief Building Official and Health Officer

Proof of affidavit having been made this day before 3/11/25, Judge of the 2nd
Circuit – District Division – Lebanon Court, by Leigh Hays, Chief Building Official and
Health Officer for the City of Lebanon, that there is probable cause for believing that
statutory authority for the issuance of an inspection warrant exists (a condition of
nonconformity exists) for the premises described in the Affidavit of Leigh Hays located at
Map 92, Lot 65, a/k/a 3 Campbell Street in the City of Lebanon.

We therefore command you, in the daytime, to make an immediate inspection, testing, or
sampling of the mixed use commercial building containing 4 residential units and 1 office
space, and a second building containing 2 apartments, located at Map 92, Lot 65, a/k/a 3
Campbell St in the City of Lebanon, for the following purpose(s):

- **To catalogue full list of violations of building, plumbing, electrical, fire and life-safety codes at a mixed use commercial building containing 4 residential units and 1 office space, and a second building containing 2 apartments that have had work done without permits, where such unpermitted work is known to have created multiple additional apartments one of which was observed to have clear and imminent**

Case Name: City of Claremont v. Venture Residential LLC

Case Number: _____

ADMINISTRATIVE INSPECTION WARRANT

dangers to occupant resulting in the health officer's issuance of an Order to Vacate under RSA 147:16a.

- **To determine the full scope of work that had been conducted without permits and whether the entire premises contain additional conditions constituting clear and imminent dangers to the life or health of occupants such that protection of life or health requires vacating the premises pursuant to RSA 147:16-a.**

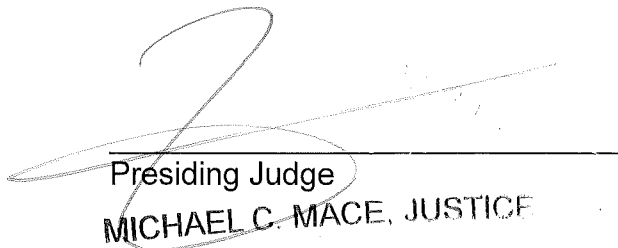
This warrant to inspect, test or sample is limited as follows: (list all applicable limitations under RSA 595-B, or, if none, so indicate) NONE

Pursuant to RSA 595-B:5, during execution of this warrant, you may be accompanied by the City of Lebanon Fire Inspector and other suitable assistants, including a sheriff or his deputy, any state police officer, or any constable or police officer of the City of Lebanon.

If any violation of state law, or municipal ordinance is found, to bring the responsible person before the 2nd Circuit – District Division – Lebanon Court, or take such other action as is required and permitted under applicable law.

[Court Seal]

3/11/25
Date



Presiding Judge
MICHAEL C. MACE, JUSTICE

Case Name: City of Claremont v. Venture Residential LLC

Case Number: _____

ADMINISTRATIVE INSPECTION WARRANT

RETURN

I received the attached Administrative Inspection Warrant on _____.

And have executed it as follows: On _____, at _____ o'clock ☐am ☐pm

I conducted an inspection, including testing and sampling, at

_____ described in the warrant and I left a copy of the

warrant with _____, or in his/her absence, I attached a

copy of this return together with a receipt for the items seized.

The following is an inventory of property, including samples, taken pursuant to the

warrant:

This inventory was made in the presence of _____

and _____

I swear that this inventory is a true and detailed account of all the property taken by me pursuant to the warrant.

Signature

Subscribed and sworn to and returned before me,

Date

Presiding Judge

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

2ND CIRCUIT COURT
2ND CIRCUIT - LEBANON

SEP 21 11:12

Court Name: **2nd Circuit – District Division – Lebanon**

Case Name: **City of Lebanon v. Michael Davidson**
(Administrative Inspection Warrant for
Map 92/65, a/k/a 3 Campbell St, Lebanon NH 03766)

Case Number: _____

APPLICATION AND AFFIDAVIT

1. The undersigned hereby requests an **Administrative Inspection Warrant** pursuant to RSA 595-B. The purpose of the Inspection is:
 - To catalogue full list of violations of building, plumbing, electrical, fire and life-safety codes at a mixed use commercial building containing 4 residential units and 1 office space, and a second building containing 2 apartments that have had work done without permits, where such unpermitted work is known to have created multiple additional apartments one of which was observed to have clear and imminent dangers to occupant resulting in the health officer's issuance of an Order to Vacate under RSA 147:16a.
 - To determine the full scope of work that had been conducted without permits and whether the entire premises contain additional conditions constituting clear and imminent dangers to the life or health of occupants such that protection of life or health requires vacating the premises pursuant to RSA 147:16-a.
2. I am an employee or official of the City of Lebanon.
I am the Chief Building Official and Health Officer.
3. The place, dwelling, structure, premises, vehicle, or records to be inspected is:
The mixed use commercial building containing 4 residential units and 1 office space, and a second building containing 2 apartments, located at Map 92, Lot 65, a/k/a 3 Campbell St in the City of Lebanon.
4. *(If applicable)* The time and manner of testing or sampling requested to be ordered is as follows:
Not applicable.

APPLICATION AND AFFIDAVIT

5. The following statute, administrative rule, administrative order, or municipal ordinance, code, or regulation authorizes me to seek an administrative warrant and to undertake the inspection, testing, or sampling requested.

Lebanon City Code Section 36-1 ("Declaration of purpose; existing structure; Building Inspector"), NH RSA 155-A:7 (Enforcement Authority)

6. Choose one of the following:

☐ Legislative or administrative standards for conducting a routine or area inspection, testing, or sampling are satisfied by the following facts and circumstances

OR

☒ There is probable cause to believe that a condition of nonconformity exists.

Facts and circumstances:

See accompanying Affidavit.

Choose one of the following:

☒ Consent to inspect has been sought and refused. **OR**

☐ The following facts and circumstances reasonably justify failure to seek or obtain consent:

Not applicable.

7. *(If applicable)* For the following reasons, it is reasonably necessary for inspection, testing, and sampling to be conducted between the hours of 6:00 p.m. and 8:00 a.m.:

Not applicable.

8. *(If applicable)* For the following reasons, forcible entry is necessary. Facts that suggest a probable violation of state law or rule, or municipal ordinance, code, or regulation, which if such violation existed would present an immediate threat to public health or safety, or which establish that reasonable attempts to serve a previous warrant have been unsuccessful are as follows:

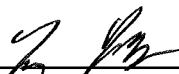
Not applicable

The Applicant hereby specifically requests that the Administrative Inspection Warrant authorize entry of the premises by the Building Inspector, Health Officer and Fire Inspector, as well as accompanying law enforcement for the protection of the inspectors, for the inspection of all common areas, all residential dwelling units, and basements of the premises, and the photography of any code violations observed during such inspection.

Case Name: City of Lebanon v. Michael Davidson

Case Number: _____

APPLICATION AND AFFIDAVIT

 3/11/25
Signature of Applicant

Leigh Hays, Chief Building Official & Health Officer

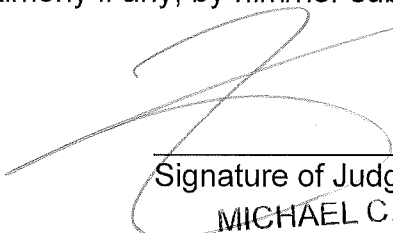
Typewritten Name and Title of Applicant

9. Upon further examination the applicant testified under oath as follows (if none, so state):

Then personally appeared the above-named **Leigh Hays** and made oath that the foregoing affidavit and additional testimony if any, by him/her subscribed is true.

[Court Seal]

3/11/25
Date


Signature of Judge
MICHAEL C. MACE, JUSTICE

Printed Name of Judge

AFFIDAVIT IN SUPPORT OF
APPLICATION FOR ADMINISTRATIVE INSPECTION WARRANT
PURSUANT TO RSA 595-b

I, Leigh Hays, being duly sworn, depose and say:

1. I am the Chief Building Official & Health Officer for the City of Lebanon, Department of Planning and Development, 51 N Park St, Lebanon, NH 03766.

2. I make this affidavit for the purpose of establishing that probable cause exists under RSA 595-B for the issuance of an administrative inspection warrant to inspect the following premises: all common areas, all residential dwelling units, and basements of the a mixed use commercial building containing 4 residential units and 1 office space, and a second building containing 2 apartments at Map 92, Lot 65, a/k/a 3 Campbell St in the City of Lebanon(the "Premises"). The facts in this affidavit are based upon my personal knowledge or upon a review of relevant City records.

3. I believe that conditions of nonconformity with the NH State Building Code (NH RSA 155-A), NH State Fire Code (NH RSA 153), NH minimum housing standards (NH RSA 48-A), and the City of Lebanon Codes (Chapter 36) exist within the Premises. A Tenants of the Premises have previously granted me and other City inspectors' access to unit 6 after complaining to the City regarding unsafe conditions. On these occasions, I and other inspectors witnessed that the apartment was not compliant with building code, fire code and minimum housing standards.

4. For example, on January 4, 2025, I inspected apartment 6 with tenant permission and observed a lack of functional heat unable to maintain a minimum temperature of 65 degrees Fahrenheit, and a lack of an emergency escape and rescue opening resulting in an order to vacate of the apartment.

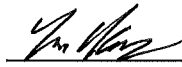
5. In review of the property file the last building permit noting any change of use from 1992 for the change from 6 apartments units to 4 apartment units and office area notes the area in which the apartment 6 bedroom is located as "no apartment here this level".

6. In an email dated February 28, 2025 to the city Deputy Director of Planning and Development Mr. Davidson's property manager stated "*When Mike bought the property, it was entirely multifamily. He sought and obtained approval in 1992 to use part of the main house as an office. When Nick retired last summer, we reverted to entirely residential use*". No building permits were applied for or issued for the conversion of the space from office use to residential use as required by NH RSA 155-A:4.

7. Multiple requests for a full building inspection have been sent to Mr. Davidson's property manager Tim Sidore via email on February 18th, 2025, February 19th, 2025, and an agreed upon inspection was scheduled on March 3rd, 2025. The agreed upon inspection was postponed on February 28th, 2025 via email, and no reschedule date has been provided after requesting for a full building inspection again on March 3rd, 2025.

8. With regard to all of the foregoing, I would testify to the same at trial.

DATED this 10 day of March 2025.

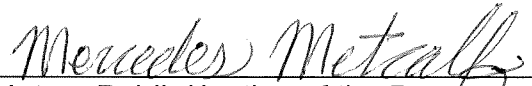


Leigh Hays
Chief Building Official & Health Officer
Planning and Development Department
51 N Park St
Lebanon, NH 03766
603-448-1524

STATE OF NEW HAMPSHIRE

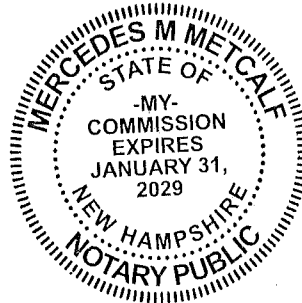
Sullivan County, ss.

On this 10 day of March 2025, before me, the undersigned officer, personally appeared Leigh Hays, who swore that the foregoing affidavit was true to the best of his recollection, knowledge and belief.



Notary Public/Justice of the Peace

My commission expires: Jan 31, 2029



Building Official: Campbell St 3 2025-3-17 - Stop Work Order



Stop Work Order Working Without an Approved Permit Second Offense

March 17, 2025

Michael Davidson
31 Elm St
Lebanon NH 03766

Re: Notice of Violation of NH RSA's 155-A:4, 676:11, and Lebanon City Code Section 36-2 for 3 Campbell St, Lebanon, New Hampshire, Map 92, Lot 65.

Mr. Davidson,

The City has become aware that work has been performed at your above reference property prior to an approved building being issued. On March 12, 2025, I observed a change in use and reconfiguration of space, plumbing work, and electrical work that had installed at your above reference property. The New Hampshire State Building Code and its adoption by the City of Lebanon requires a permit for Building, Demolition, Electrical, Plumbing and Mechanical work, as well as change of use unless specifically exempted by the Building Code. No work can be performed or change of use of the building until the appropriate building permits have been applied for, review, and issued.

Pursuant to the Lebanon City Code Section 36-3 E, if work is commenced or completed prior to the issuance of such permit(s), the applicable building permit fee shall be increased by 25% for a company's or individual's first such occurrence, by 50% for the second occurrence, and by 100% for any subsequent occurrence.

Prior to any continuance of work or occupancy of a building a permit must be applied for and approved. Inspections of all work are required and any work that is not readily available for inspection may require it to be exposed.

Failure to comply with this notice may result in fines of up to \$275 a day for the first offense and \$550 a day for all subsequent offenses. You have the right to appeal this Notice of Violation within 30 days of the date of this letter to the Lebanon Building Code Board of Appeals pursuant to RSA 674:34, as may be appropriate.

Respectfully,



Leigh Hays
Chief Building Official & Health Officer
City of Lebanon New Hampshire

C: Property File, Map 92 Lot 78
First Class Mail & Certified Mail Return Receipt# 9589 0710 5270 1677 7198 89

Building Official: 2025-03-17-Notice-of-violation-Hays-to-
Davidson



March 12, 2025

Michael Davidson
31 Elm St
Lebanon NH 03766

Re: Notice of Violations
3 Campbell St
Lebanon, New Hampshire
a/k/a Map 92 Lot 65

Mr. Davidson,

The City has conducted a full building inspection of your property located at 3 Campbell St Lebanon, New Hampshire Map 92 Lot 65 after having received an administrative inspection warrant. During the inspection multiple violations to the New Hampshire State Building Code, NH RSA 155-A were observed and are listed below. Please contact the City's Building & Code Enforcement Office at your earliest convenience to discuss a plan and timeline for remediation of these violations.

Notice of Code Violations

The following violations are to be abated before a certificate of occupancy is issued for the above-captioned property:

				Date:		
				Inspector:		
Number*	Location	Description	Code Section**	Abate by	U/A	U/A
1.	Interior / First Floor	A change in use of the building from a mixed-use building containing 4 apartments and 1 office space to a 7-unit apartment building without permits. <i>Action:</i> A building permit is to be applied for with submittal documents prepared by a NH licensed architect to show in detail how the work will comply with the NH State Building Code.	NH RSA 155-A 155-A:2 I 155-A:4 676:11 2021 IBC 105.1	Abate by Immediately after receipt of this notice		
2.	Interior / Apartment 1F 1M 1R 6	The newly created or reconfigured apartments have been occupied prior to the issuance of a certificate of occupancy. <i>Action:</i> No apartment is to be occupied prior to the issuance of a certificate of occupancy.	NH RSA 155-A 2021 IBC 111.1	Abate by 10 Days after receipt of this notice		

3.	Interior / Apartment 1R bedroom	Lack of emergency escape and rescue opening, or secondary means of escape Action: Every sleeping room and living area to be provided with an emergency escape and rescue opening, or secondary means of egress.	NH RSA 155-A 2021 IBC 1031.2	Abate by 10 Days after receipt of this notice		
4.	Interior / Apartment 1R	Smoke detector was not provided in the bedroom. Action: NH Licensed electrician to install an interconnected smoke detector.	2021 IBC 907.2.11.2 907.2.11.5	Abate by Immediately after receipt of this notice		
5.	Interior / Apartment 1R	Items placed in front of the electrical panel. Action: Electrical panel to be provide with clear working space.	2020 NEC 110.26	Abate by 10 Days after receipt of this notice		
6.	Interior / Apartment 1R	Window in the bathroom is considered a hazardous location, safety glazing was not provided. Action: Safety glazing to be provided in hazardous location, bathroom window.	2021 IBC 2406.4.5	Abate by 10 Days after receipt of this notice		
7.	Interior / Apartment 1R	Open electrical junction box, covered by a wall. Action: Junction box to relocated so that it is accessible and covered.	2020 NEC 314.25 314.29	Abate by 10 Days after receipt of this notice		
8.	Interior / Apartment 1R	No electrical receptacle provided at bathroom sink. Action: NH licensed electrician to pull a permit and install a receptacle as required at the bathroom sink.	2020 NEC 210.52(D)	Abate by 10 Days after receipt of this notice		
9.	Interior / Basement	No separation is provided between the basement and the apartments above. Action: A horizontal separation shall be provided between the basement and the apartments above.	2021 IBC 420.3	Abate by 10 Days after receipt of this notice		
10.	Interior / Basement	Open electrical junction boxes throughout. Action: Electrical junction boxes to be covered.	2020 NEC 314.25	Abate by 10 Days after receipt of this notice		
11.	Interior / Basement	Unsupported electrical wires throughout the basement. Action: NH licensed electrician to properly support electrical wire installed, provided with running boards.	2020 NEC 334.15(C)	Abate by 10 Days after receipt of this notice		
12.	Interior / Basement	Propane fire furnaces have their covers removed. Action: All mechanical equipment shall be properly installed and maintained in proper working condition.	2021 IMC 304.1 1004.2	Abate by Immediately after receipt of this notice		
13.	Interior / Apartment 1F	Prohibited plumbing "S" trap at kitchen sink and bathroom sink. Action: NH licensed plumber to pull a permit and correct the installation to meet NH State Plumbing Code	2021 IPC 1002.3	Abate by 10 Days after receipt of this notice		



LEBANON NEW HAMPSHIRE

PLANNING AND DEVELOPMENT
51 NORTH PARK STREET
LEBANON, NH 03766
PH: (603) 448-1524
Email: leigh.hays@lebanonnh.gov

14.	Interior / Apartment 1F	Insufficient electrical receptacles, kitchen counter outlet spacing, and bedroom. Action: NH licensed electrician to evaluate and install electrical receptacles as required by NH electrical code.	2020 NEC 210.52	Abate by 10 Days after receipt of this notice		
15.	Interior / Apartment 1M	Improper electrical installation at kitchen counter. Action: NH licensed electrician to evaluate and install electrical receptacles as required by NH electrical code.	2020 NEC	Abate by 10 Days after receipt of this notice		
16.	Interior Apartment 1M	Kitchen electrical receptacles not provided with GFCI protection. Action: NH licensed electrician to install GFCI protection at kitchen counter.	2020 NEC 210.8	Abate by 10 Days after receipt of this notice		
17.	Interior / Apartment 1M & 1F	Separation not provided between units. Action: NH licensed architect to provided separation plan with UL listed assemblies.	2021 IBC 420.2	Abate by 10 Days after receipt of this notice		
18.	Interior Apartment 2F	Clear working space of 30x36 inches not provided in front of electrical panel. Action: Electrical panel to be provide with clear working space.	2020 NEC 110.26	Abate by 10 Days after receipt of this notice		
19.	Interior Apartment 2R	Kitchen electrical receptacles not provided with GFCI protection. Action: NH licensed electrician to install GFCI protection at kitchen counter.	2020 NEC 210.8	Abate by 10 Days after receipt of this notice		
20.	Interior / Apartment 6	No electrical receptacle provided at bathroom sink. Action: NH licensed electrician to pull a permit and install a receptacle as required at the bathroom sink.	2020 NEC 210.52(D)	Abate by 10 Days after receipt of this notice		
21.	Interior Apartment 6	Exposed NM electrical wire near front door. Action: NH licensed electrician to evaluate and run wires as required by NH electrical code.	2020 NEC 334.10	Abate by 10 Days after receipt of this notice		

* The numbering of violations is for identification purposes only and shall not be construed as bearing in any way on the seriousness of any violation.

** All citations to provisions of NH RSA Chapter 155-A incorporate by reference applicable provisions of Lebanon City Code.

"U" Unabated - violation not corrected

"A" Abated - violation corrected

You are hereby notified that the above conditions are deemed to be in violation of the Lebanon City Code and New Hampshire State Law and you are ordered to abate these violations by the repair, replacement, removal and lawful disposition of the above

described items and materials within not more than the aforementioned times of receipt of this notice.

Failure to comply with this order within the stated time may result in fines not to exceed \$275.00 for the first offense and \$550.00 for subsequent offenses for each violation for each day during or on which such nuisance or other violation continues to exist beyond the date specified in this notice to abate. Also, a person failing to comply with the provisions of RSA Chapter 155-A and RSA 676:17 may be found guilty of a violation and subject to additional civil penalties.

You have the right to appeal this Notice of Code Violations within 30 days of the date of this letter to the Lebanon Building Code Board of Appeals pursuant to RSA 674:33 I (a), as may be appropriate.

Respectfully,



Leigh Hays
Chief Building Official & Health Officer
City of Lebanon New Hampshire

C: Property File, Map 92 Lot 65

First Class Mail
Certified Mail Return Receipt: 9589 0710 5270 1677 7198 89

1992 PB Site Plan Approval



MAP

City of Lebanon

NOTICE OF DECISION FOR MICHAEL DAVIDSON BY THE CITY OF LEBANON, NEW HAMPSHIRE PLANNING BOARD

Notice is hereby given that the request of Michael Davidson for site plan review for a change in use as reviewed by the Planning Board in accordance with the City of Lebanon Site Plan Review Regulations on February 10, 1992 has been approved after the following motions were passed by a majority members of the Planning Board:

Ann Schneider moved to accept the application of Michael Davidson for site plan review as being complete.

The motion was seconded by Feno Truax and the vote on the motion passed 9-0 in favor.

Frederick Baker moved to approve the request of Michael Davidson for site plan review for a change in use to convert two apartment units to offices on Campbell Street, Lebanon, NH, in the CBD zone, plan drawn by Bruno Associates and dated January 10, 1992.

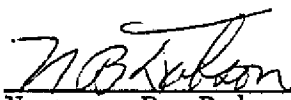
The following conditions are a part of this approval:

1. That all of the spotlights be replaced with down lighting.
2. That the dumpster location be shown on the plan, moving it northerly of the 2 1/2 story house.
3. That all applicable impact fees shall apply.
4. That a copy of the revised plan be submitted to the Planning Office.

The motion was seconded by Treat Arnold.

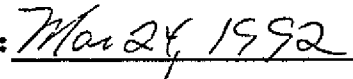
The vote on the motion passed 5-3 in favor with Norman Dobson, Ralph Akins and Feno Truax opposed.

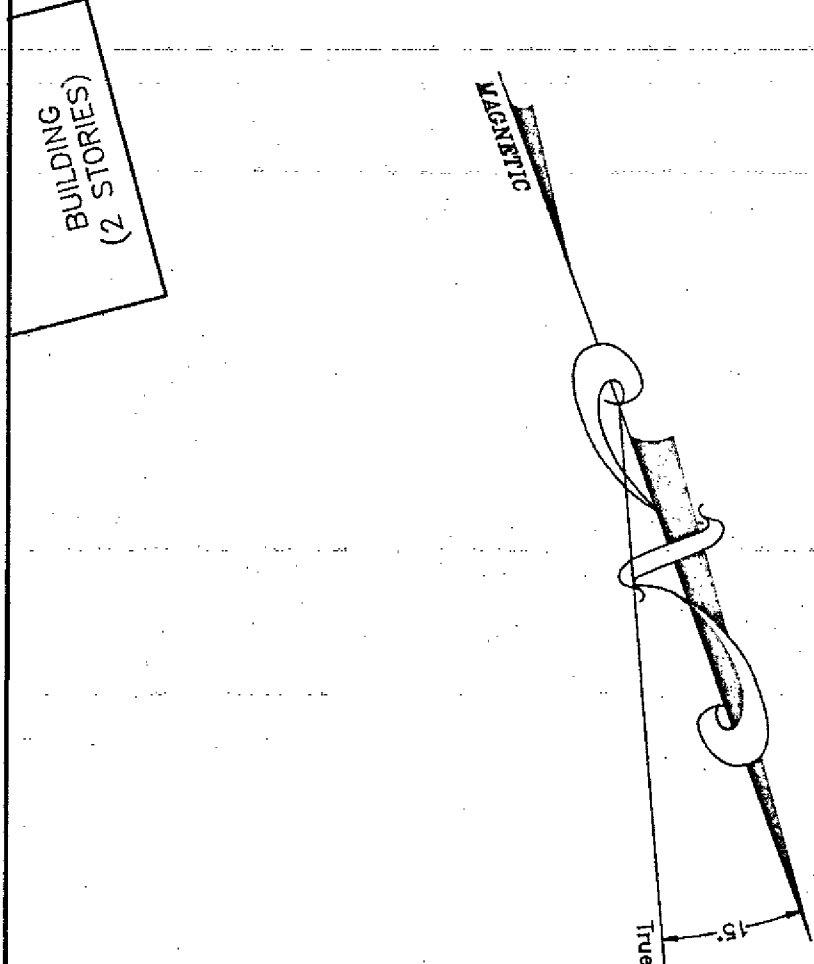
SIGNED:



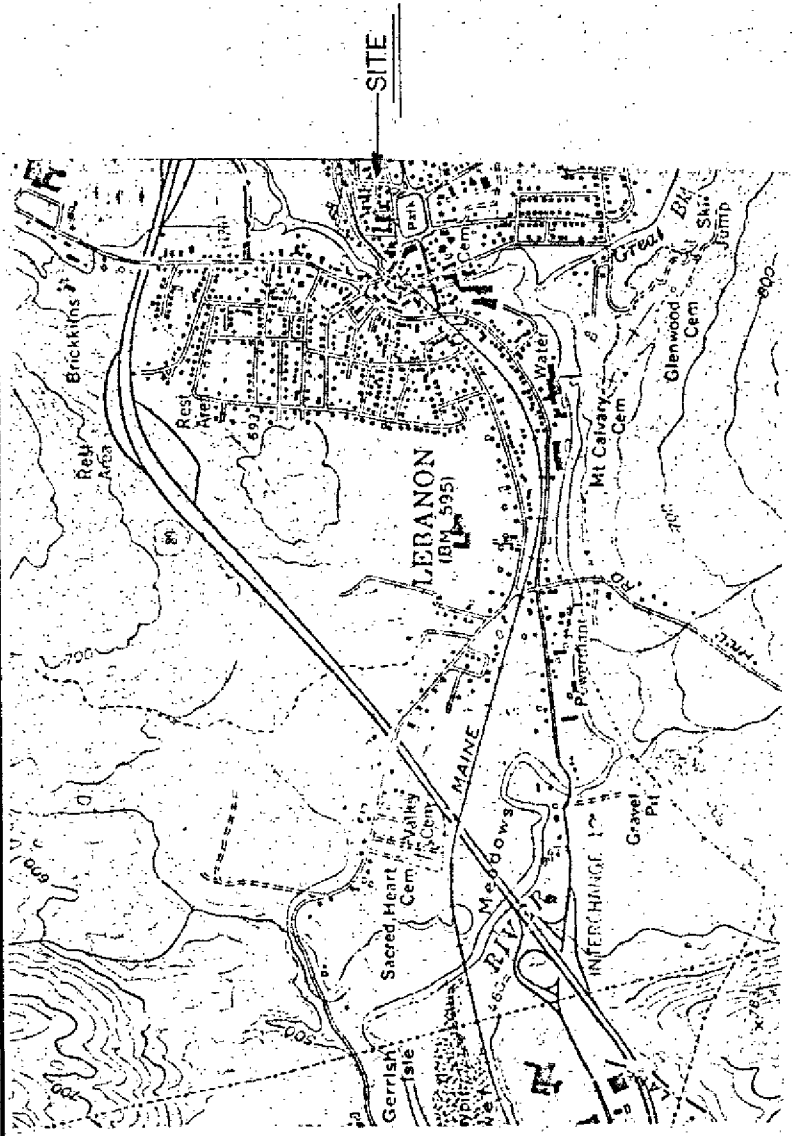
Norman B. Dobson, Chairman

DATED:





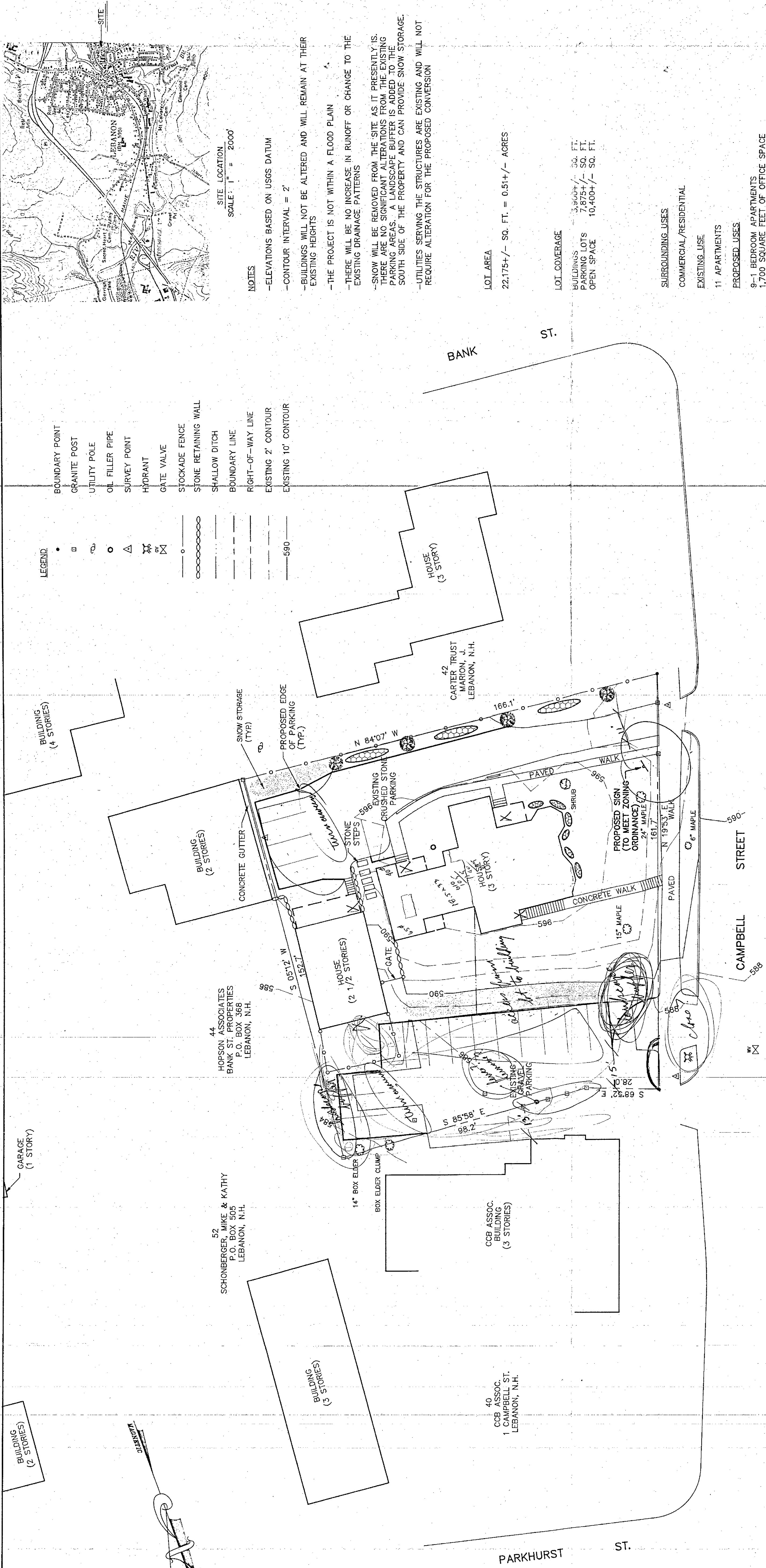
- LEGEND
- BOUNDARY POINT
 - GRANITE POST
 - UTILITY POLE
 - OIL FILLER PIPE
 - SURVEY POINT
 - HYDRANT
 - GATE VALVE
 - STOCKADE FENCE
 - STONE RETAINING WALL
 - SHALLOW DITCH
 - BOUNDARY LINE
 - RIGHT-OF-WAY LINE
 - EXISTING 2' CONTOUR
 - EXISTING 10' CONTOUR



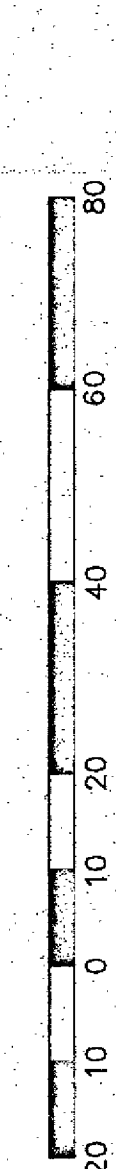
SITE LOCATION
SCALE: 1" = 2000'

NOTES

- ELEVATIONS BASED ON USGS DATUM
- CONTOUR INTERVAL = 2'
- BUILDINGS WILL NOT BE ALTERED AND WILL REMAIN AT THEIR EXISTING HEIGHTS
- THE PROJECT IS NOT WITHIN A FLOOD PLAIN
- THERE WILL BE NO INCREASE IN RUNOFF OR CHANGE TO THE EXISTING DRAINAGE PATTERNS
- SNOW WILL BE REMOVED FROM THE SITE AS IT PRESENTLY IS. THERE ARE NO SIGNIFICANT ALTERATIONS FROM THE EXISTING PARKING AREAS. A LANDSCAPE BUFFER IS ADDED TO THE SOUTH SIDE OF THE PROPERTY AND CAN PROVIDE SNOW STORAGE.
- UTILITIES SERVING THE STRUCTURES ARE EXISTING AND WILL NOT REQUIRE ALTERATION FOR THE PROPOSED CONVERSION



- LANDSCAPING LEGEND
- 6"-7" HIGH X 3/4" ELM
 - FLOWER GARDEN
 - FOUNDATION FLOWERS
- gravel buffer?*



17m

BRUNO ASSOCIATES INC. P.C.
ENGINEERS, PLANNERS, SURVEYORS
WOODSTOCK, VERMONT

TITLE: SITE PLAN
FOR: MICHAEL DAVIDSON
IN: LEBANON, N.H.
DATE: 1/10/92
DESIGNED: JB
CHECKED: JB
DRAWN: CF, KH

ZONING DISTRICT - CBD
TAX MAP No.29-Lot No. 41
OWNER/APPLICANT
MICHAEL DAVIDSON
CN 9005
LEBANON, N.H. 03766

- BOUNDARY NOTES
- BEARINGS ARE WITH RESPECT TO MAGNETIC NORTH
 - PROPERTY IS SUBJECT TO ALL EXISTING EASEMENTS AND RIGHTS-OF-WAY OF RECORD
 - BOUNDARIES COMPUTED FROM A THEODOLITE & E.D.M. FIELD SURVEY
 - BOUNDARIES BASED ON PHYSICAL EVIDENCE AND THE DEED OF CHARLES N. BARCHARD TO MICHAEL DAVIDSON, 3/28/85
 - THE BEARINGS SHOWN ON THIS PLAN REFER TO OBSERVED MAGNETIC NORTH 1991 AND SERVE ONLY TO DEFINE ANGULAR RELATIONSHIPS BETWEEN THE COURSES SHOWN
 - THE STONE WALLS AND/OR FENCES SHOWN ON THIS PLAN MAY HAVE MINOR IRREGULARITIES BETWEEN THE PRINCIPAL COURSES SHOWN

FILE COPY

MEMORANDUM

TO: Lebanon Planning Board
FROM: Kenneth L. Niemczyk, City Planner *HNK*
DATE: February 6, 1992
RE: Application #92010 by Michael Davidson

REQUEST

The applicant is requesting site plan approval for a change in use by converting two apartments in an 11-unit apartment building to office consisting of 1,700 square feet. Nine 1-bedroom apartments will remain. The property is located on Campbell Street in the CBD district.

OTHER APPROVALS

No other approvals are needed at this time.

DRAWINGS & OTHER SUBMITTALS

1. Site Plan for Michael Davidson, dated 1-10-92.
2. Untitled copy of portion of site plan.
3. Letter to Lebanon Planning Board from Bruno Associates, dated January 9, 1992.
4. Letter to City Planner from Bruno Associates, dated January 30, 1992.

STAFF COMMENTS

A checklist is enclosed for your use. The applicant is requesting a number of waivers.

This application is a change in use of property requiring additional parking. Section 5.1 of the Site Plan Review Regulations requires approval by the Planning Board. The Zoning Regulations (Section 607.3) exempts uses in the CBD from parking requirements because of the availability of public parking, however, this Section authorizes the Planning Board to require on-site parking through its site plan review. This proposed use would require 25 on-site parking spaces in another zoning district. The applicant is providing 17 spaces by count.

The Fire Department recommends that the applicant modify the access points to the parking lots. The current configuration has a turning radii of less than 50'. This will restrict the operation of Fire Department apparatus to Campbell Street. This restriction to Campbell Street is serious because:

1. Other buildings are located behind the building being considered for a change in use.
2. Residential use presents one of the highest life hazard

threats for the City.

3. The fire flow for this building based upon ISO guidelines will be minimally 4200 gallons per minute. Although more than sufficient water exits, it will take numerous pieces of fire apparatus to develop this high flow.
4. Surrounding exposures (buildings) are located very close to this building. they are 9', 42', 65', 90', and 95' away. A large fire in this building would require significant numbers of manpower and equipment to protect these buildings.

Therefore, in addition to fixing the turning radii, the Fire Department recommends the widening of the north side parking lot so that the area becomes usable for either the ladder truck, or additional pumpers. A minimum of 18' would be required.

The Police Department expressed concern about the parking since public parking is very limited in the vicinity. The Department is of the opinion that without knowing what the specific business is, it cannot determine the specific impact. There will be increased building checks and security alarm responses.

The Director of Public Works notes that the plan does not show handicap parking, walks, and ramps.

The City Engineer reports that the city road impact fee for this use is \$630.11

The Zoning Administrator reports that the office is a permitted use. Pursuant to the parking requirements the 9 units require 18 spaces and the office area requires 7 spaces for a total of 25.

A landscape buffer should be provided in the north east corner and around the southwest corner of the large parking area.

During a meeting with the applicant's agent it was discovered that a large underground oil tank is buried along the northernmost property line labeled S85 58'E. This tank may be a problem if the ladder truck enters this parking lot. Access is by way of the CCB lot.

There is no direct access from the parking lot to the building, especially for the handicapped. The applicant should be made aware of the new Federal regulations on accessibility which could impact the design of this site.

There are no other comments.

KLN:tc
cc: Michael Davidson

PLAN REVIEW

Date:

1/14/92

TO: ☐ Fire Dept. - Fire Inspection Bureau
☐ Police Dept. - Crime Prevention Officer
☐ Department of Public Works/Engineering
☐ Recreation Department
☒ Building Department
☐ Building Office
☐ Other

FROM: Department of City Planning

RE: Application:

Michael Davidson
Change of Use - Site Plan Review

REPLY:

☒ Written comments by

1/27

☒ Your presence is requested at staff meeting with developer on

Monday, January 27, 1992 at 2:00 PM

Kindly review the enclosed drawings and provide any comments relative to your department's review. DO NOT write on the drawings.

COMMENTS

CBD office permitted

* CBD parking per P.B. during SPR
(see Section 607.3 & 20)

Apts = 2 PS each unit = 18 PS

office = (1700 sq ft) = 7

25 min. required

(If more space is needed, please use back of sheet)



City of Lebanon

NOTICE OF PUBLIC HEARING
LEBANON PLANNING BOARD
MONDAY, FEBRUARY 10, 1992
7:30PM

Notice is hereby given that a public hearing will be held on Monday, February 10, 1992, Lobby Level Meeting Room, 7:30PM, City Hall 51 N. Park Street, Lebanon, NH, for the following applications:

1. MARY HITCHCOCK MEMORIAL HOSPITAL - requesting a two lot minor subdivision of property located on Mount Support Road, in the MC zone.
2. MICHAEL DAVIDSON - requesting site plan review for a change in use to convert two apartment units to offices in an eleven unit apartment building on Campbell St. in the CBD zone.

Plans are available for review in the office of the City Planner, 51 N. Park Street, Lebanon, NH.

The public may appear in person or by agent or counsel and provide testimony stating reasons why the request should or should not be granted.

Tracey Colburn
Planning Secretary

Bruno Associates

POST OFFICE BOX 387 • WOODSTOCK • VERMONT 05091
802-457-3560 FAX NO. 802-457-4853

Chester Office: 875-4338

January 30, 1992

Ken Niemczek
City Planner
City of Lebanon
51 North Park Street
Lebanon, NH 03766

RE: Michael Davidson Application
Campbell Street
Lebanon, NH

Dear Ken:

The following and attached information is in response to our meeting last Monday:

1. I have enclosed a copy of a portion of the original plan showing these items discussed:
 - a) Existing lighting is shown.
 - b) Proposed lighting consisting of spotlights mounted on the building pointed downward.
 - c) Drives and sidewalks have been dimensioned.
 - d) Landscaping along the northeasterly corner of the parking area has been shown.
 - e) The parking northerly of the building has been shifted five feet southerly to provide a 20 foot lane between the property line and the parking. Also, there is a 50 foot turning radius from Campbell Street into the parking area.
 - f) Two handicap parking spaces have been provided and identified.
 - g) A walk has been shown from the lower portion of the rear structure.
 - h) A typical cross-section has been included for the new parking areas.

In addition to the above, we would also request a waiver of the 15 foot setback requirement for the three parking spaces at the northeast corner of the parcel. We are providing a 4 foot setback which will be planted with a hemlock hedge.

JOHN BRUNO

Registered Engineer • Vermont, Connecticut, New Hampshire, New York, Massachusetts
Registered Land Surveyor • Vermont and New Hampshire

BRUCE BOEDTKER

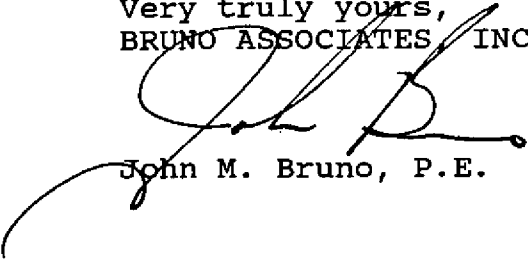
Page 44

Page 105 of 182. 15

Ken Niemczek
January 30, 1992
Page Two

I believe that I have addressed those items raised at the meeting. If you have any further questions or comments, please call.

Very truly yours,
BRUNO ASSOCIATES, INC., P.C.



John M. Bruno, P.E.

JMB:lr

C:DAVIDSON

MEMO

TO: City Planner Ken Niemczyk
FROM: Deputy Chief *Gees* George E. Sykes III
DATE: January 28, 1992
SUBJECT: Davidson Site Plan

The Lebanon Fire Department, Fire Prevention Bureau has completed a review of the site plan submitted by Michael Davidson, and offers the following comments:

The Fire Department requests the modification of the access points to the parking lots. The current configuration has a turning radii of less than 50'. This will restrict the operation of fire department apparatus to Campbell Street. This restriction to Campbell Street is serious because:

1. Other buildings are located behind the building being considered for a change in use.
2. Residential use presents one of the highest life hazard threats for the city.
3. The fire flow for this building based upon ISO guidelines will be minimally 4200 gallons per minute. Although more than sufficient water exits, it will take numerous pieces of fire apparatus to develop this high flow.
4. Surrounding exposures (buildings) are located very close to this building. They are 9', 42', 65', 90', and 95 away. A large fire in this building would require significant numbers of manpower and equipment to protect these buildings.

Therefore, in addition to fixing the turning radii, the fire department would request the widening of the north side parking lot so that the area becomes usable for either the ladder truck, or additional pumpers. A minimum of 18' would be required.

If you have any questions or concerns, please don't hesitate to contact me.

received
1/18/92
JMB

C I V I L E N G I N E E R S • L A N D S U R V E Y O R S

Bruno Associates

POST OFFICE BOX 387 • WOODSTOCK • VERMONT 05091
802-457-3560 FAX NO. 802-457-4853

Chester Office: 875-4338

January 9, 1992

Lebanon Planning Board
City of Lebanon
51 North Park Street
Lebanon, NH 03766

ATTN: Ken Niemczek

RE: Application for Site Plan Review

Dear Ken:

Attached is an application for site plan review for the proposed conversion of two of eleven existing apartment units to 1700+/- square feet of office space and 13 copies of the proposed site plan.

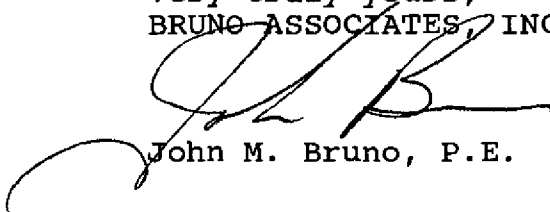
The proposed change will not alter the exterior of the existing building or significantly change the existing drive or parking configuration. All existing utilities will be utilized with no alterations for the proposed conversion of the two apartments to office space.

Since we are not changing the existing building or site, we would request a waiver to the following site plan requirements:

- Building heights & elevations
- All existing utilities
- Existing stormwater facilities

If you have any questions or would like to discuss any aspect of the enclosed material, please call myself or Michael Davidson.

Very truly yours,
BRUNO ASSOCIATES, INC., P.C.


John M. Bruno, P.E.

JMB:lr
Attachments
C:CAMPB

JOHN BRUNO

Registered Engineer • Vermont, Connecticut, New Hampshire, New York, Massachusetts
Registered Land Surveyor • Vermont and New Hampshire

BRUCE BOEDTKER

Page 47

Page 108 of 182

Building/Zoning Permit
Appeal of an Administrative Decision
Special Exception
Variance
Motion for Rehearing

Site Plan Review
Subdivision
P.U.D. & Cluster
Other

APPLICANT:

Owner Michael Davidson Tel.No. (603) 448-2999
Address CN 9005, Lebanon, NH 03766
Signature _____

ALL APPLICANTS MUST BE OWNERS OF THE PROPERTY DESCRIBED HEREIN. IF YOU, AS OWNER, ARE INTENDING TO HAVE AN AGENT SPEAK IN YOUR BEHALF, COMPLETE THE FOLLOWING:

I hereby designate the person listed below as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

Date _____ Signature _____

Agent _____ Tel.No. _____
Address _____

PROJECT LOCATION:

Assessor's Parcel Number - Map No. 29 Lot No. 41 Plot No. _____
Road or Street Address Campbell Street
Zoning District CBD

PROPOSED PROJECT:

Present Use of Property 11 Apartment Unit House
Describe the Proposed Use and Construction
9 Apartments & 1700 +/- square feet of office space (conversion of 2
Apartments)

THE UNDERSIGNED HEREBY REQUESTS A ZONING AND BUILDING PERMIT FOR THE ABOVE USE, TO BE ISSUED ON THE BASIS OF THE REPRESENTATIONS CONTAINED HEREIN, INCLUDING ALL NECESSARY SUPPORT STATEMENTS. PERMIT IS VOID IN THE EVENT OF MISREPRESENTATION AND/OR NOT BEING IN COMPLIANCE WITH THE BUILDING CODE, ZONING ORDINANCE, SITE PLAN REVIEW REGULATIONS (IF APPLICABLE) AND OTHER APPLICABLE STATE AND CITY LAWS AND REGULATIONS. CONSTRUCTION IS NOT AUTHORIZED UNTIL PERMIT IS ISSUED.

Signature  Date 11/13/91

FOR OFFICE USE ONLY:

Signed: Zoning Administrator _____ Date _____

Signed: Building Inspector _____ Date _____

Date Received _____ By _____ File# _____ Permit# _____

Voucher# _____ Value _____ Fee _____ Fee Paid () Date _____

WHITE COPY-FILE

YELLOW COPY-ASSESSORS

PINK COPY-APPLICANT

#92110
Page 48

CITY OF LEBANON, NEW HAMPSHIRE Support Statement for Site Plan Review

In addition to the drawing required by the Site Plan Review Regulations, you are also required to submit certain supplementary information listed below:

1. List name and phone number of persons of firm preparing other data and information different from the preparer of the plan:

2. List and attach letters stating agreement by the public utilities and cable television company to service the site:
Existing services; no additional services required.

3. List total number of parking spaces: 18
4. State the number of stories in existing/proposed building: _____
5. State whether or not the property is in a wetlands, conservatin district, or flood plain district:
The property is not in a wetland, Conservation District or a Flood Plain District.
6. State whether or not Section 407, Airport Protection District, of the Zoning Ordinance applies:
This does not apply.

7. Provide a timetable for construction: As soon as permits are granted.
8. Describe fire protection (sprinklers, direct alarms, ect.) system:
The building is existing with 11 Apartments. Two will be converted to office space.
A fire hydrant is located in the front of the property.

9. Attach a set of calculations and a drainage area plan supporting the drainage plan:

Form A-6

There will be no increase in runoff from the project as all parking areas and buildings exist.

HY

44
HOPSON ASSOCIATES
BANK ST. PROPERTIES
P.O. BOX 368
LEBANON, N.H.

BUILDING
(2 STORIES)

CONCRETE GUTTER

SNOW STORAGE
(TYP.)

PROPOSED EDGE
OF PARKING
(TYP.)

HOUSE
(2 1/2 STORIES)

STONE
STEPS

GATE

SPOTLIGHTS
MOUNTED ON
HOUSE
DIRECTED
DOWN

EXISTING
CRUSHED STONE
PARKING

HOUSE
(3 STORY)

42
CARTER TRUST
MARION, J.
LEBANON, N.H.

FLUSH
EXISTING
GRAVEL
PARKING

PROPOSED SIGN
(TO MEET ZONING
ORDINANCE)
24" MAPLE

PAVED

N 19°53' E
WALK

6" MAPLE

CAMPBELL

STREET

38
KNUDSON, ROLF O. &
KNIGHTS

PARKING LOT SECTION

TRICIA H.

FINISH GRADE

CRUSHED GRAVEL
MAX STONE SIZE 2"

ORIGINAL
GROUND

NORTH

MIKE DAVIDSON

PETER M. EDSON
BOX 351 PH. 603-632-7002
ENFIELD NH 03748

BASEMENT + FIRST FLOOR
JOISTS + STRUCTURE

15" MAPLE

CONCRETE W

PROPOSED
NEW FIRE WALLS
+ 36" DOOR
5/8" ROCK
BOTH SIDES
W/ 1HR
BURN
TIME

SE
STORIES) 7
PG. 7

GATE 590

STONE
STEPS

LEGEND
DOUBLE 2x12
8x12
BEAM
2x12 JOISTS
ALL 16 O.C.
ON TOP
OF BEAMS

EXISTING
CRUSHED STONE
PARKING

SPRINKLERS
OVER FURNACE
AND HOT WATER
HEATER

LEGEND CONT.

■ - LOCATION OF 1'x1'
BRICK COLUMN
○ - METAL LOU-COLUMN
⊕ - PROPOSE SPRINKLER
LOCATION
= LOCATION OF 5/8"
TYPE X SHEETROCK UNDER FOYER

CHIMNEY
LOCATIONS

SHRUB

PAVED

3/32" = 1'

SCALE

PROPOSED SIGN

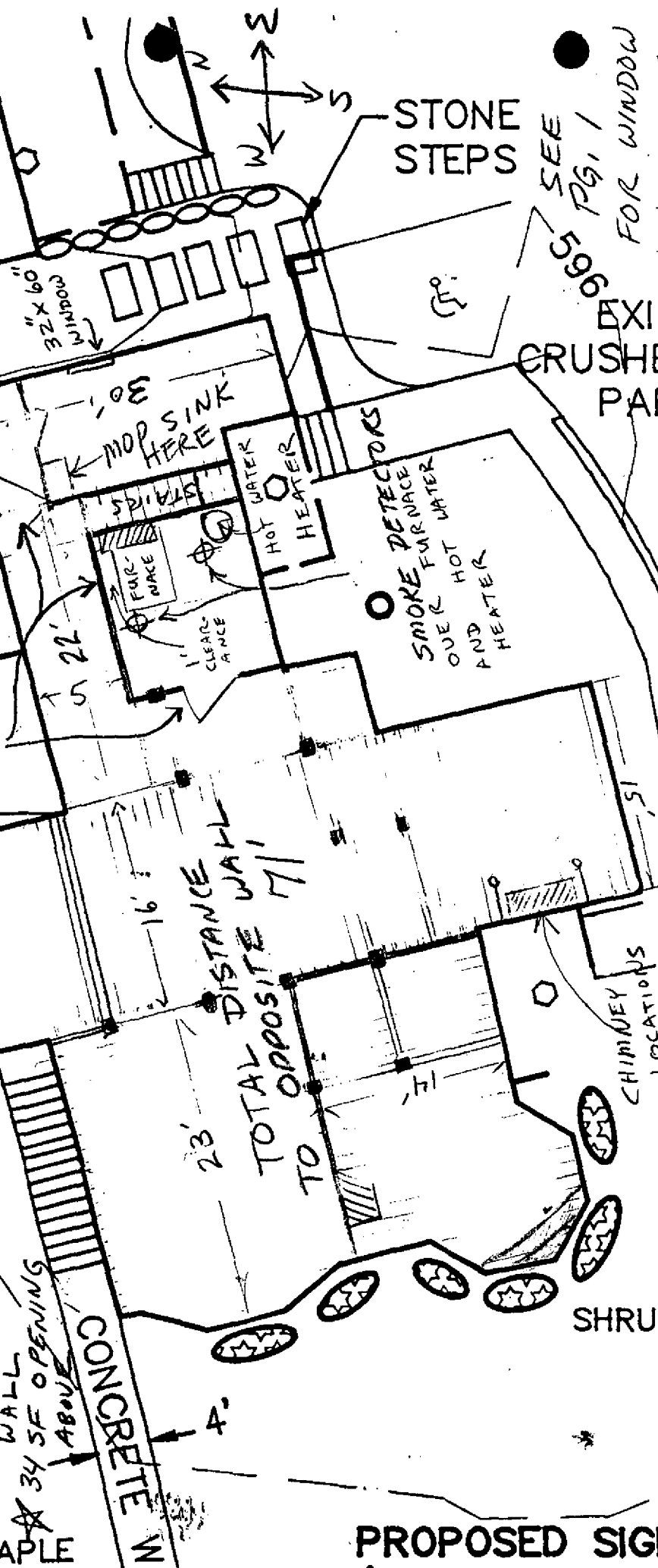
3 LIGHT
 (5 STORIES)
 39'x81'
 EX'D
 PG. 7

GATE 590
 FURNACE
 BURN
 TIME
 1/HR
 BOTH SIDES
 5/8" ROCK
 + 36" DOOR
 NEW FIRE WALL
 PROPOSED

PG. 5
 PETER M. EDSON
 BOX 351 PH. 603-632-7002
 ENFIELD NH 03748

NON-BASEMENT "WALK-IN CELLAR"
 BOCA 1002.15
 71' TO OPPOSITE 965
 WALL
 34 SF OPENING
 ABOVE
 CONCRETE W/

15' MAPLE



LEGEND CONT.

- - LOCATION OF 1'x1' BRICK COLUMN
- - METAL LOUVER COLUMN
- ⊕ - PROPOSE DETECTOR LOCATION

3/32" = 1'
 SCALE

PROPOSED SIGN

3 LIGHT

SE
STORIES)

STONE
STEPS



EXISTING
CRUSHED STONE
PARKING

PG. 1

GATE 590

39x81
(21 SF)

32x66
(13.3 SF)

28x34

NON-BASEMENT
"WALK-IN
BASEMENT"
WINDOW
AND DOOR
LOCATIONS
W/SIZE

18x34 1/2

18x37

596

36x18

37x18

34 1/2 x 18

SHRUB

PAVED

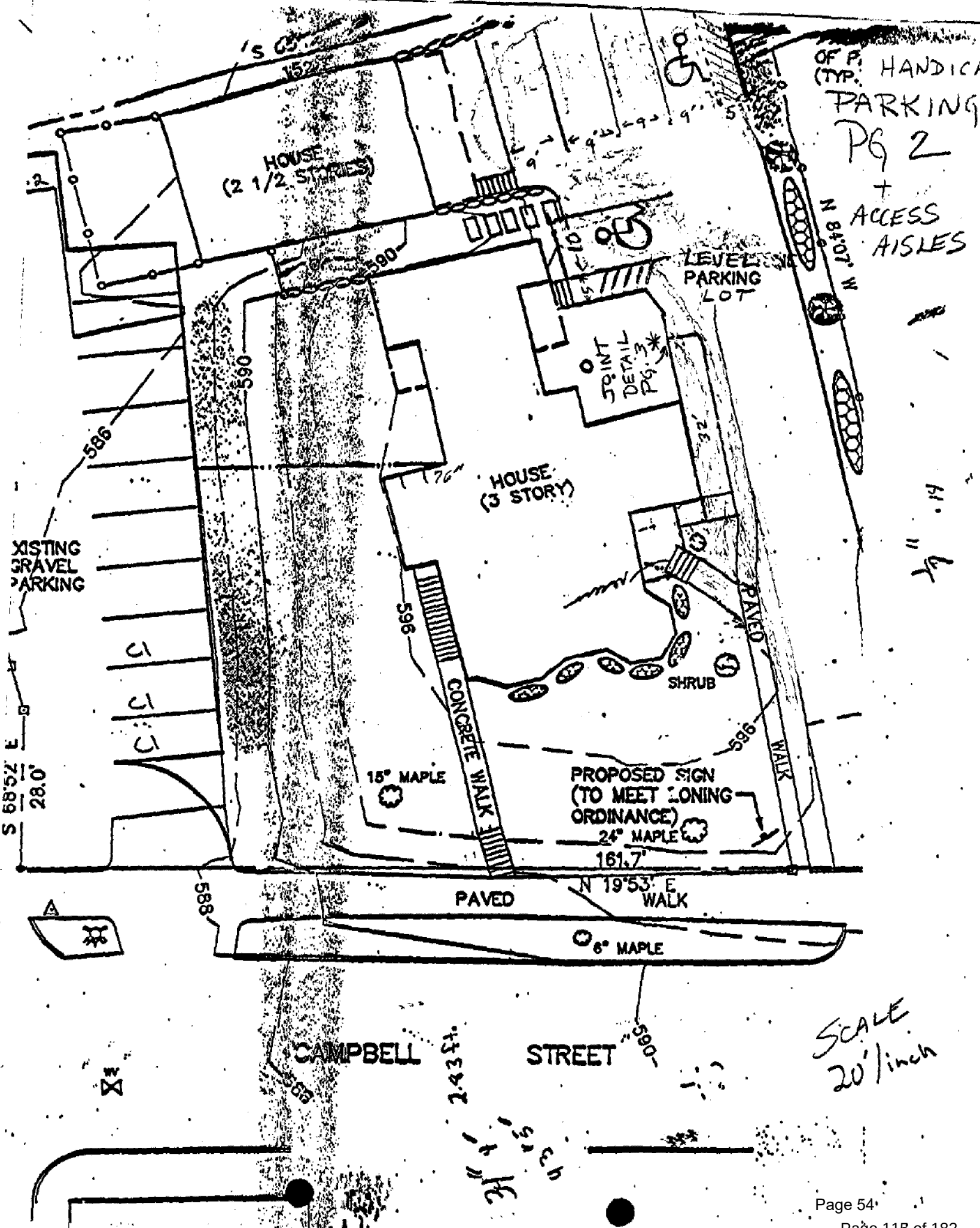
WALK

SCALE
3/32" = 1'

CONCRETE W/P

15" MAPLE

PROPOSED SIGN
(TO MEET ZONING



OF P. HANDICA
(TYP. HANDICA)
PARKING
PG 2
+
ACCESS
AISLES

SCALE
20' / inch

ING LIGHT
JSE
STORIES)

STONE
STEPS

PG. 4

GATE 590

596
EXISTING
CRUSHED STONE
PARKING

BEDROOM
HERE
SMOKE
DETECTOR
36" DOOR
EXITS
TO
PORCHES
32" DOOR

Egress
OK

OFFICES
40" DOOR

SCALE
 $\frac{3/32"}{1'} = 1'$

596

CONCRETE WALKWAY

SHRUB

APARTMENT EGRESS

GROUND FLOOR

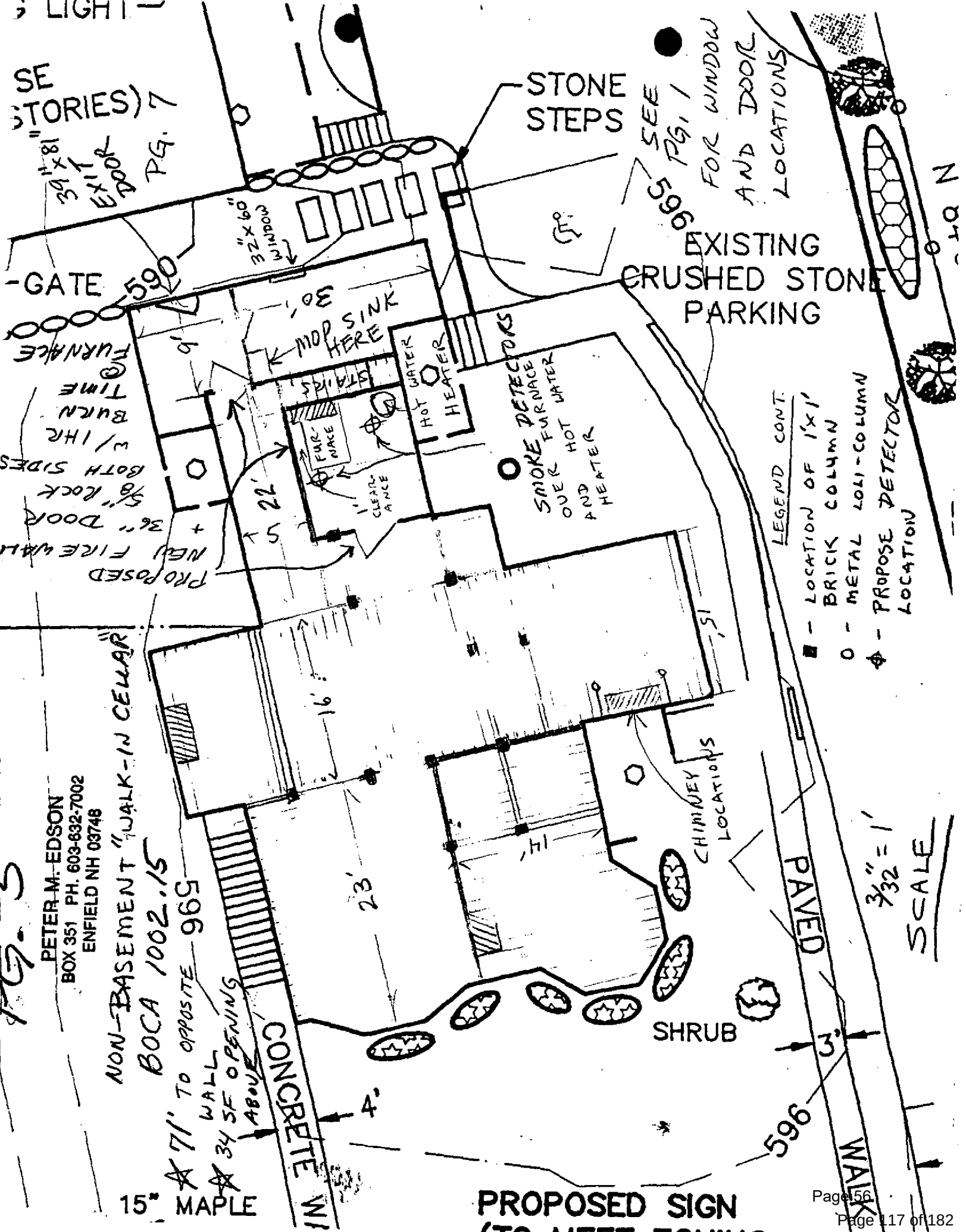
* - DENOTES SMOKE
DETECTOR LOCATION

15" MAPLE

PROPOSED SIGN
(TO MEET ZONING

3 LIGHT

SE
(STORIES) 7
39" x 81"
EX 1
DOOR
PG. 7



PETER M. EDSON
BOX 351 PH. 603-632-7002
ENFIELD NH 03748

NON-BASEMENT "WALK-IN CELLAR"
BOCA 1002.15
71' TO OPPOSITE 965'
WALL
ABOVE 34 SF OPENING
CONCRETE WALK

15' MAPLE

PROPOSED SIGN
(TO MEET ZONING)

LEGEND CONT.

- - LOCATION OF 1'x1' BRICK COLUMN
- - METAL LOU-COLUMN
- ⊕ - PROPOSE DETECTOR LOCATION

3/32" = 1'
SCALE

6 LIGHT
(5E
STORIES)

STONE
STEPS

PG. 6

GATE 590

EXISTING
CRUSHED STONE
PARKING

NO
APARTMENT
HERE
THIS
LEVEL

EXT. STAIRS
TO 3RD
FLOOR
EXIT
(SEE PG. 7)

5'x12'
LANDING

TO LADDER

(14" WIDE)
13' TO
GROUND
LEVEL

36" WINDOW
EXIT TO
FIRE ESCAPE

SMOKE
DETECTOR

STAIRS
TO 3RD FLOOR

HALL 5

32" DOOR

EXIT TO HALL

36" DOOR
TO PORCH

DOOR
30" OPENING
EXIT TO
HALL

SMOKE
DETECTOR

EXISTING
19 STEP
STAIRS (COVERED)
W/ 7 1/2" RISERS
9 1/4" TREAD
SCALE

3 1/2" = 1'

CONCRETE

SHRUB

APARTMENT EGRESS

SECOND FLOOR

AND SMOKE DETECTOR
LOCATIONS *

SEE PG. 4

15" MAPLE

PROPOSED SIGN
(TO MEET ZONING

Page 5

Page 118 of 182

G LIGHT.~

USE
STORIES)

STONE
STEPS

Pg. 7

GATE 590

FIRE ESCAPE DETAILS

20 STEP
9" TREADS
8" RISERS
W/ RAILING 42"
BOTH SIDES

EXISTING
UNCOVERED
STAIRS

EXISTING
CRUSHED STONE
PARKING

LADDER
TO GROUND

3RD FLOOR LANDING
40x40

EXISTING
EXIT TO
FIRE ESCAPE
THROUGH 32"
WINDOW

INTERIOR
EXISTING
STAIRS

15 STEPS
7 1/2" RISERS
9 1/4" TREADS
W/ RAILING
42

EXIT
DOOR
32"

(HALL
2ND FLOOR
LEVEL)

596

SMOKE
DETECTOR

STAIRS
TO
GROUND
LEVEL

SCALE
3/32" = 1'

CONCRETE

SHRUB
APARTMENT EGRESS

3RD FLOOR
W/ SMOKE DETECTOR
LOCATION

PAVED

596

WALK

15" MAPLE

PROPOSED SIGN

HOUSE
2 STORIES)

GATE

STONE STEPS

EXISTING
CRUSHED STONE
PARKING

SPACE W
LEVEL YARD
PARKING
*RAISED
FLAT
EXISTING WALKWAYS
AND

OVERVIEW
OF
+ PERCH.
PG. 21

DECK RAISED
TO HEIGHT OF
THRESHOLD

CONTAINS
PAINT 1/2 OZ

32

RAILS
60X60
LANDING

PETER M. EDSON
BOX 351 PH. 603-632-7002
ENFIELD NH 03748

ENFIELD NH 03748

CONCRETE WA

SHRUB

PAVED

MA

PROPOSED SIGN
(TO MEET ZONING

ING LIGHT -
)
HOUSE
2 STORIES)

STONE
STEPS

GATE 590

EXISTING
CRUSHED STONE
PARKING

SCALE

$\frac{3}{16} = 1'$

INTERIOR
CEILING
HGT. 9'-4"

PORCH
CEILING
HGT.
11'4"

THIS AREA
PAGE 3

HOT WIRE
TO DETECTOR LOCATION

EXTERIOR ALARM - HOT WIRE
TO DETECTOR LOCATION
INDICATED BY
SYMBOL

EXTERIOR ALARM
(SMOKE)
HORN

BATH DETAILS

* TOILETS 19" HIGH
22" DEEP

* SINKS 32" HIGH
20" WIDE

HAND
RAIL HGT. 34"

@ 80" UNITS

CONCRETE WALKWAY

15" MAPLE

PROPOSED
FLOOR PLAN

SHRUB

PAVED

596

WALK

PROPOSED SIGN
(TO MEET ZONING)

MIKE DAVIDSON

PETER M. EDSON

BOX 351 PH. 603-632-7002

ENFIELD NH 03748

BASEMENT + FIRST FLOOR
JOISTS + STRUCTURE

15" MAPLE

CONCRETE

PROPOSED
NEW FIRE WALLS
+ 36" DOOR
5/8" ROCK
BOTH SIDES
W/ 1 HR
BURN
TIME

GATE 590

PG. 7

STONE
STEPS

LEGEND

DOUBLE

2X12

8X12

BEAM

JOISTS

ALL

2X12 JOISTS

16 O.C.

ON TOP

OF BEAMS

EXISTING
CRUSHED STONE
PARKING

SPRINKLERS
OVER FURNACE
AND HOT WATER
HEATER

LEGEND CONT.

LOCATION OF 1'x1'

BRICK COLUMN

METAL LOU-COLUMN

PROPOSE SPRINKLER

LOCATION

CHIMNEY
LOCATIONS

SHRUB

PAVED

3/32" = 1'

SCALE

PROPOSED SIGN

Page 6

Page 122 of 182

G LIGHT

USE
STORIES)

STONE
STEPS

GATE 590

EXISTING
CRUSHED STONE
PARKING

SMOKE DETECTORS
IN APARTMENTS
- LOCATIONS PORCH

EXITS
GROUND
FLOOR
APT.

9" TREADS
20 STEPS
8" RISER

13' DOWN
LADDER
TO GROUND
LEVEL

EXISTING
THIRD FLOOR APT.
FIRE ESCAPE
OUT 32" WINDOW

2ND
FLOOR
APT. ACCESS
TO FIRE
ESCAPE
THRU
WINDOW

EXISTING
STAIRS
7 1/2" RISER
9 1/4" TREADS

3RD FLOOR APT.
(32" DOOR)
EXIT TO STAIRS

2ND FLOOR
APT. EXIT (30" DOOR)
EXIT TO HALL
+ STAIRS

EXISTING
COVERED
STAIRS
(19 STEPS)

7 1/2" RISERS
9 1/4" TREADS

2ND
FLOOR
+ 3RD
FLOOR

RESIDENCE EGRESS

DETAILS
HALL + STAIR WALL
TO BE ROCKED

965
W/5/8" SHEETROCK
1 HR BURN TIME
DOORS

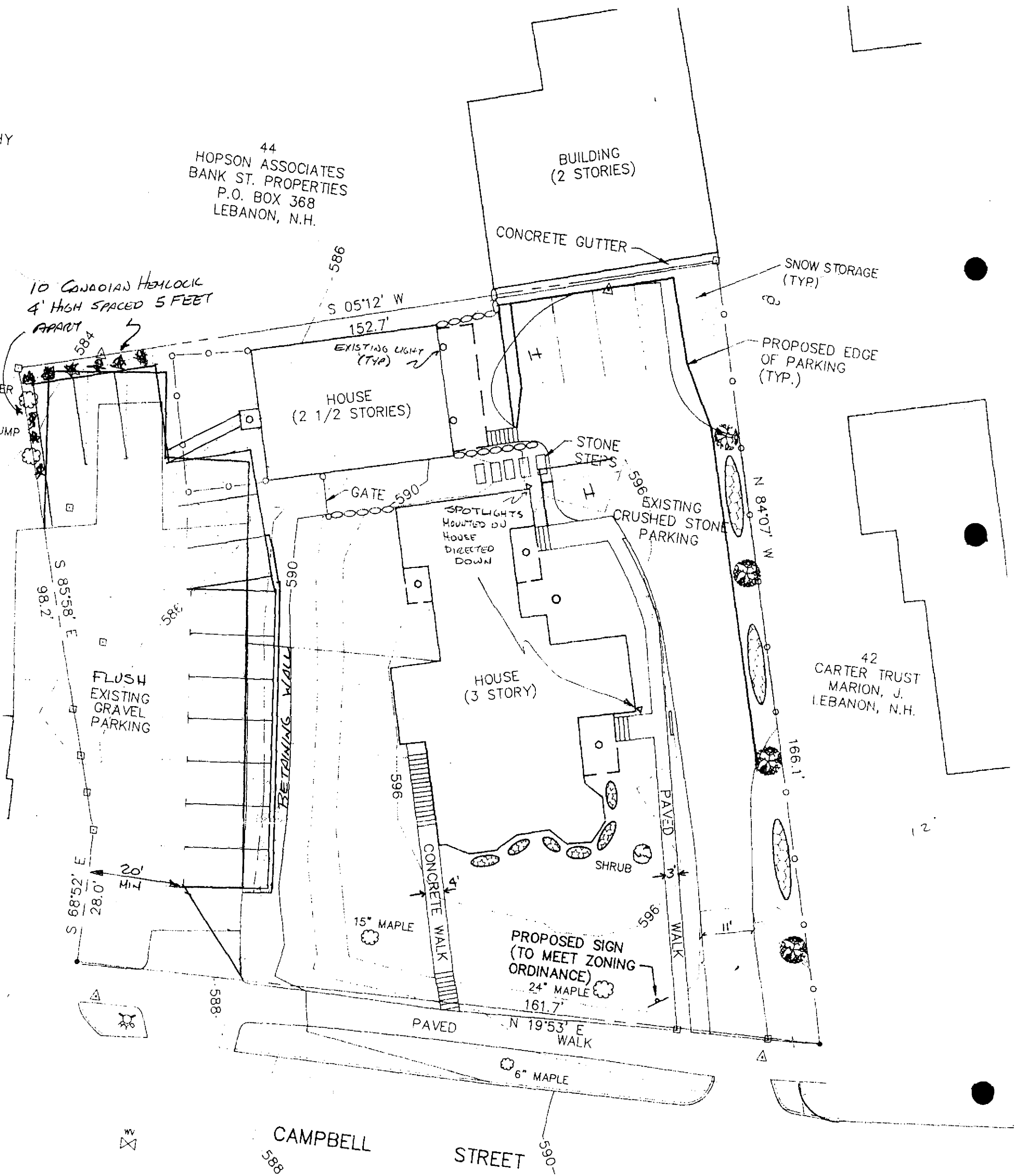
CONCRETE W.

SHRUB

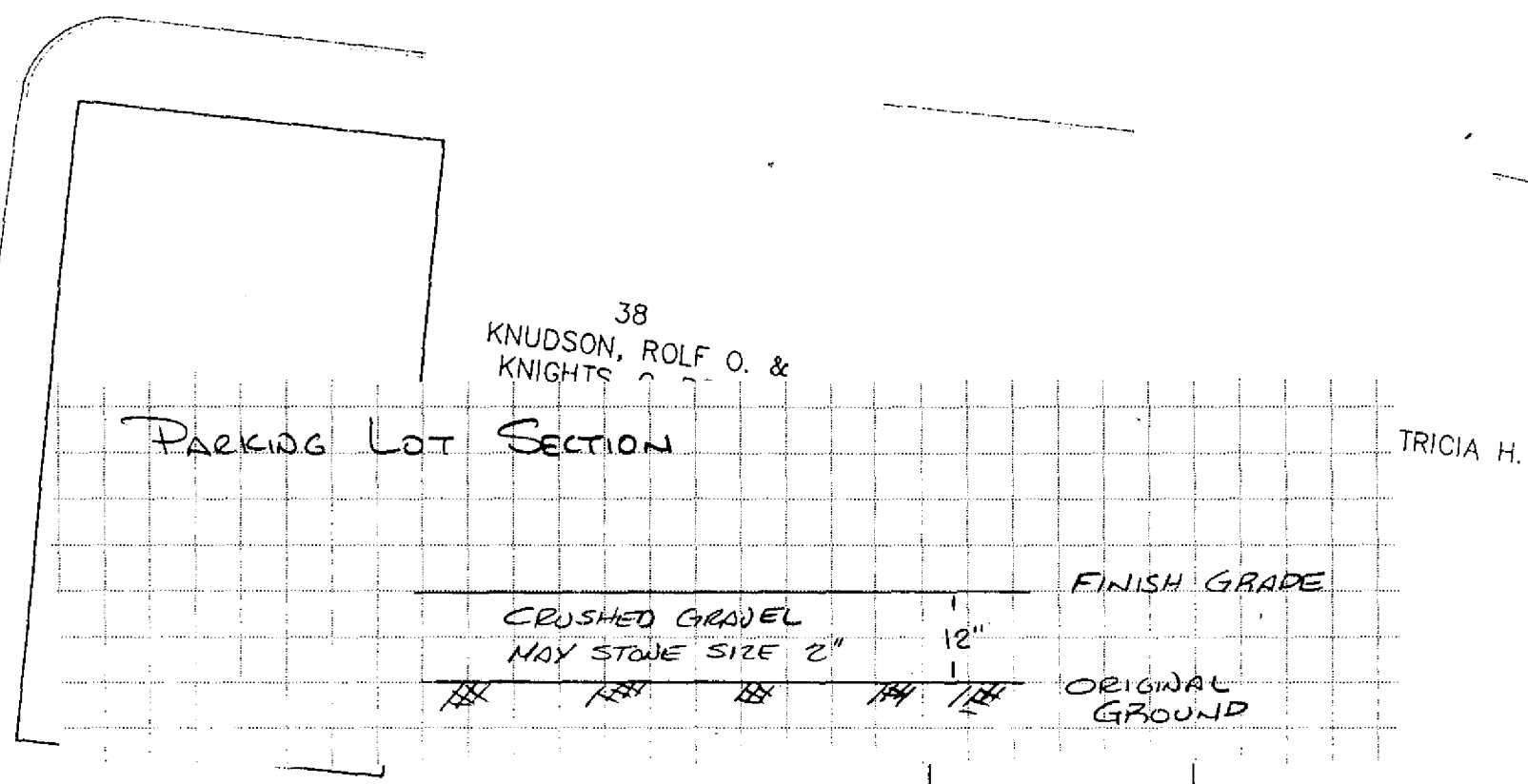
PAVED

WALK

PROPOSED SIGN



42
CARTER TRUST
MARION, J.
LEBANON, N.H.



NORTH

(B)

GATE 590

EXISTING CRUSHED STONE PARKING

SCALE

$\frac{3}{16}'' = 1'$

INTERIOR CEILING HGT. 9'-4"
PORCH CEILING HGT. 11'-4"

WIRE LOCATION
HOT WIRE ALARM - HOT WIRE INDICATED BY (SMOKE) HORN

ROCK THIS SIDE

RECESSED DOOR

PAVED

SHRUB

EXISTING FLOOR PLAN

PROPOSED SIGN (TO MEET ZONING ORDINANCE)

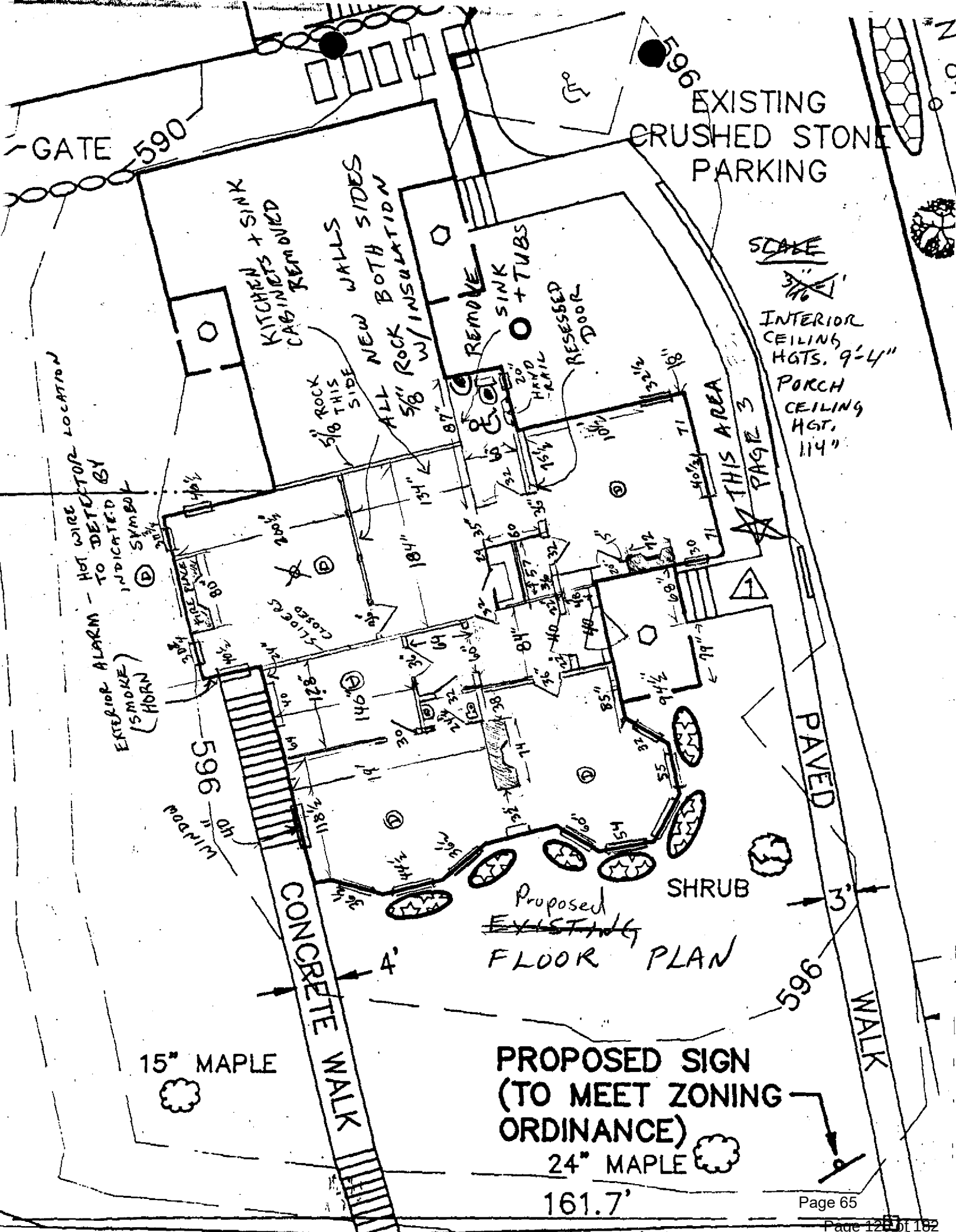
24" MAPLE

161.7'

15" MAPLE

CONCRETE WALK

WALK



GATE 590

EXISTING CRUSHED STONE PARKING

SCALE

3" = 1'

INTERIOR CEILING HGTS. 9'-4"

PORCH CEILING HGT. 11'4"

THIS AREA

PAGE 3

EXTERIOR ALARM - HOT WIRE LOCATION
TO DETECTOR BY
INDICATED BY
SYMBOL

(SMOKE)
(HORN)

596

CONCRETE WALK

15" MAPLE

Proposed
~~EXISTING~~
FLOOR PLAN

SHRUB

PROPOSED SIGN
(TO MEET ZONING
ORDINANCE)

24" MAPLE

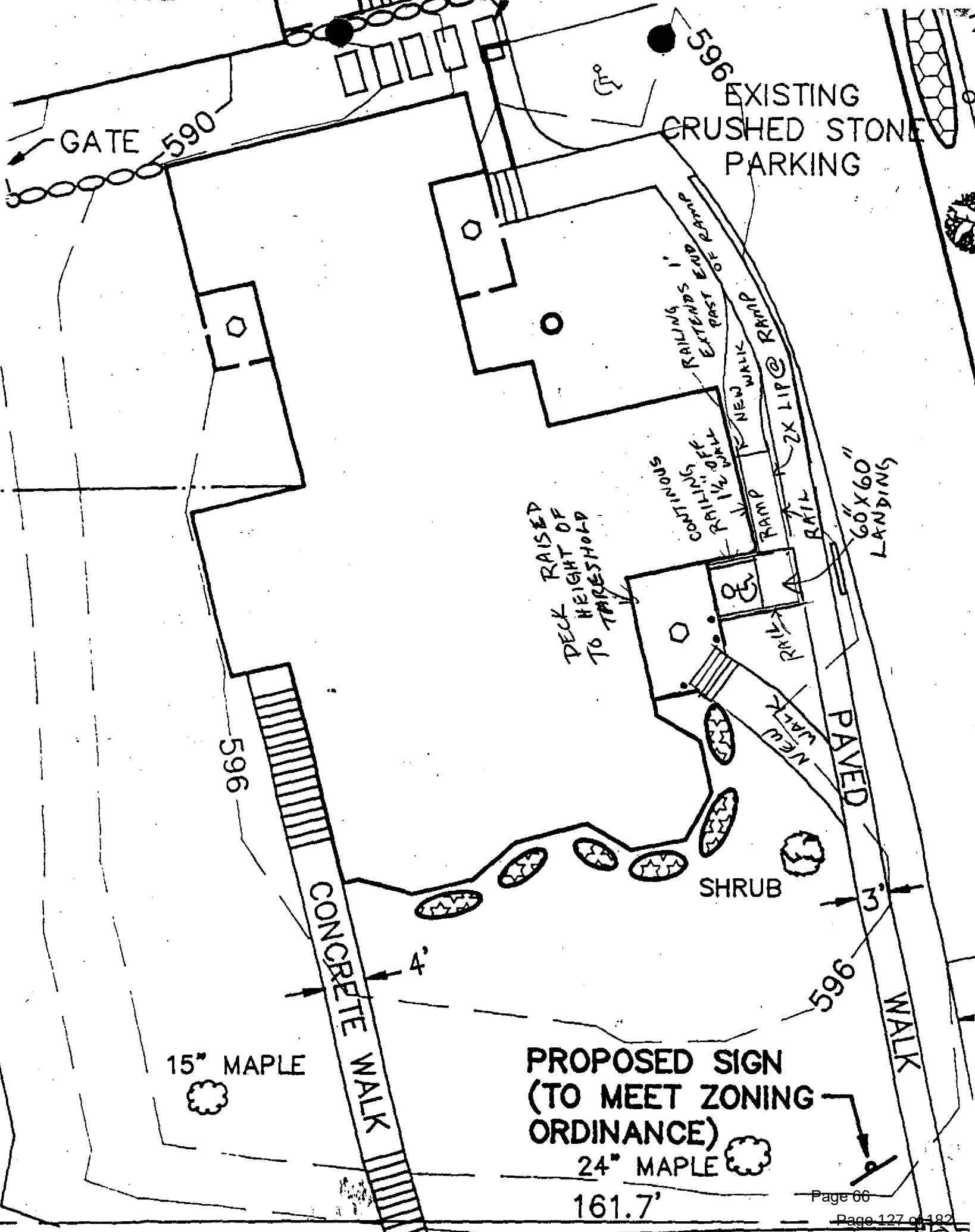
161.7'

PAVED

WALK

3'

596



GATE 590

EXISTING
CRUSHED STONE
PARKING

RAILING 1'
EXTENDS EAST
END OF RAMP

NEW WALK
RAMP 2X LIP @ RAMP

RAILING 1 1/2' OFF
GROUND

60" X 60"
LANDING

DECK RAISED
TO HEIGHT OF
THRESHOLD

NEW WALK

PAVED
WALK

SHRUB

CONCRETE WALK

15" MAPLE

PROPOSED SIGN
(TO MEET ZONING
ORDINANCE)

24" MAPLE

161.7'

1994 PB Site Plan Approval

City of Lebanon



51 North Park Street
P.O. Box 1207
Lebanon, New Hampshire 03766-1207

April 27, 1994

Michael Davidson
CN 9005
Lebanon, NH 03766

Dear Michael:

Congratulations for your site plan approval by the Planning Board. Please find enclosed the formal Notice of Action for this approval. The next step to begin the construction process is to obtain a building permit within one year of the date of this approval. The following is an excerpt from the City of Lebanon Site Plan Review Regulations:

Section 5.3 - Planning Board Jurisdiction

- F. Expiration. Any site plan for which a building permit has not been obtained within one year of the date of approval of the site plan shall be considered void unless the Board grants an extension for good cause.

Building permit applications are available in the Codes Department at City Hall. Your building permit application will be reviewed and once the building permit is issued you have then six (6) months to begin construction. The building permit expires if construction has not begun within this time.

Please note that any conditions, which have been made a part of the attached Notice of Action for the project must be addressed before the actual Building Permit can be issued. This includes bonding, impact fees, etc.

If you have any questions, please feel free to call the Codes Department at 448-1524 or the Planning Department at 448-1457.

Sincerely,


Tracey Colburn
Planning Secretary

Assessing 448-1499 • City Clerk 448-3054 • Codes 448-1524 • Engineering 448-1451 • Finance 448-0682 • Highway 448-3112
Landfill 298-7872 • Manager 448-4220 • Planning 448-1457 • Public Works 448-1451 • Recreation 448-5121 • Tax Collector 448-1720
Wastewater Plant 298-5986 • Water & Sewer Billing 448-1569 • Water Plant 448-2514 • Welfare 448-2944

Area Code 603

Fax 448-4891

Page 68

City of Lebanon



File
51 North Park Street
P.O. Box 1207
Lebanon, New Hampshire 03766-1207

**CITY OF LEBANON, NEW HAMPSHIRE
PLANNING BOARD
NOTICE OF ACTION FOR
MICHAEL DAVIDSON**

Notice is hereby given that the request of Michael Davidson has been approved on April 11, 1994 after being reviewed in accordance with the City of Lebanon Site Plan Review Regulations and after the following motion was passed by a majority of the members of the Lebanon Planning Board:

Nancy Cohen moved to grant a waiver per Section 6.27 of the Site Plan Review Regulations as requested for a change of use of one unit from residential to office requiring additional parking. The property is located at 3 Campbell Street, Lebanon, NH, in the CBD zone.

William Koppenheffer seconded the motion and the vote on the motion passed 9-0 in favor.

SIGNED: Norman B. Dobson
Norman B. Dobson, Chairman

DATED: April 26, 1994

DAVIDSON GOURLEY & ACKER

PROPERTY MANAGEMENT

CN 9005 • Lebanon, New Hampshire 03766 • (603) 448-2999

April 6, 1994

Lebanon Planning Board
City Hall
Lebanon, NH 03766

Dear Planning Board Members,

I am contemplating changing the use of the ground floor apartment at the main building of my property at 3 Campbell St., Lebanon. I would like to convert the space, approximately 600 square feet, into office space contiguous with my existing office. In order to do this, I would like to request a waiver of Site Plan Review.

My reasons for requesting this waiver are as follows:

1.) An office would require a fraction of a space more than the current apartment use (2.5 vs. 2).

The additional spaces needed would be Commercial Spaces within the CBD. my understanding is that current regulations do not require on site parking for commercial spaces within the CBD.

2.) The current approved site plan cannot accommodate an extra parking space without excessive expense. Additionally, the current site plan is both functionally and aesthetically pleasing. As a historic property, the changes in landscaping and structure have enhanced the appearance of the property. While it is possible to squeeze in one more space, it is not practical or desirable.

3.) The change of this unit from residential to office reduces the night time parking peak from 18 to 16 spaces. At the same time, it

only increases the day time peak from 7 to 10. The mixed use of this property makes both daytime and nighttime parking more manageable.

4.) No exterior alterations of the property are needed to change the space from residential to office.

I hope that the issues listed above will allow you to grant me a waiver of the site plan review. It will allow me to continue improving the property which I believe is in the best interest of the community. Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael Davidson', with a large, stylized loop at the end.

Michael Davidson

Zoning Ordinance Last Amended

SECTION 307 LEBANON DOWNTOWN DISTRICT (LD).

307.1 Purpose. The purpose of the Lebanon Downtown District is to provide in-town areas for retail and service businesses, banks, **offices**, and government facilities in downtown Lebanon, and to encourage other related commercial activities and higher density residential uses. The district regulations are intended to promote an active pedestrian environment consistent with the mixed-use character of the district by providing for continuity of building setbacks and limiting parking in front yards to promote an environment that is safe for walking and biking.

307.2 Table of Uses.

<u>Permitted Uses</u>	<u>Uses by Conditional Use Permit (see Section 302.4)</u>
<u>Residential</u> 1. Multi-family dwelling (see Section 307.5) 2. Dwelling unit(s) above or below the street level story	<u>Commercial/Non-Residential</u> 1. Craftsman's shop, art studio 2. Dry cleaning pick up station 3. Educational facility, college/university 4. Essential service 5. Laundromat 6. Other uses per Section 307.4 7. Parking facility 8. Publishing/printing 9. Recreational facility, indoor 10. Recreational facility, outdoor
<u>Commercial/Non-Residential</u> 3. Amusements (indoor) 4. Community center 5. Financial institution 6. Group day care facility per Section 604 7. Health club 8. Hotel 9. House of worship 10. Library 11. Local government use 12. Membership club 13. Museum 14. Office 15. Personal service 16. Radio or TV studio 17. Renewable energy system per Section 612 18. Restaurant, sandwich shop 19. Retail store 20. Senior housing complex 21. Social service center 22. Theater, concert hall, movie theater	

The Supreme Court of New Hampshire: Douglas R. Guy, Jr. v.
Town of Temple Argued June 18, 2008 Opinion Issued:
August 21, 2008

NOTICE: This opinion is subject to motions for rehearing under Rule 22 as well as formal revision before publication in the New Hampshire Reports. Readers are requested to notify the Reporter, Supreme Court of New Hampshire, One Charles Doe Drive, Concord, New Hampshire 03301, of any editorial errors in order that corrections may be made before the opinion goes to press. Errors may be reported by E-mail at the following address: reporter@courts.state.nh.us. Opinions are available on the Internet by 9:00 a.m. on the morning of their release. The direct address of the court's home page is: <http://www.courts.state.nh.us/supreme>.

THE SUPREME COURT OF NEW HAMPSHIRE

Hillsborough-southern judicial district
No. 2007-784

DOUGLAS R. GUY, JR.

v.

TOWN OF TEMPLE

Argued: June 18, 2008
Opinion Issued: August 21, 2008

Matthew W. Glavey, of New Ipswich, on the brief and orally for the petitioner.

Drescher & Dokmo, P.A., of Milford (Dwight D. Sowerby on the brief and orally), for the respondent.

DUGGAN, J. The petitioner, Douglas R. Guy, appeals an order of the Superior Court (Hampsey, J.) upholding the Temple Zoning Board of Adjustment's (ZBA) denial of his application for a junkyard license. See generally RSA 236:110-:129 (1993 & Supp. 2007). We reverse and remand.

The trial court found or the record supports the following facts: Guy owns property in Temple, upon which he operates an automotive repair, body work, and junkyard business (the property). A commercial enterprise of the same nature has existed on the property since before 1972 and possibly as early as the 1960s. Guy has operated the junkyard for approximately the last twenty years.

In 1972, the Town of Temple (Town) adopted a comprehensive zoning ordinance, which mandated that all “[m]otor vehicle junkyards . . . abide by the state laws on this subject” At that time, the state law on the subject, RSA chapter 267-A (1966), required owners of established junkyards to, among other things, submit an application containing various information regarding the junkyard’s location to “the legislative body” of the town where the junkyard was located. RSA 267-A:13 (1966). Upon receipt of that application, the statute provided that “the legislative body shall issue [the junkyard] owner a license valid” for one year. *Id.* The Town’s zoning ordinance also provided that “[a]ny lawful use of land or buildings or parts thereof at the time of the adoption of this ordinance may be continued indefinitely, although such use does not conform to the provisions of this ordinance”

In 1999, Guy filed an application with the Temple Board of Selectmen (Board), requesting both a license to conduct state automobile inspections and certification that he was in compliance with local zoning laws. After the Board denied his application, Guy appealed to the ZBA. On October 12, 1999, the ZBA issued an order reversing the Board’s denial of “grandfathered/non-conforming status to [Guy]’s automotive-related activities on” the property, which included the following findings of fact:

1. A commercial enterprise including auto repair/junkyard/auto body work/garage, public [sic] existed at [the property] prior to the adoption of the Temple Zoning Ordinance in 1972.
2. Said activities have continued since then through the present.
-
4. New testimony, documents, and photographs presented at the rehearing reinforced the applicant’s original contention and evidence that a grandfathered use existed at said premises.
5. The junkyard phase of the commercial enterprise is subject to state licensing and regulation.

Based upon these findings, the ZBA concluded that Guy’s “commercial enterprise is a grandfathered/non-conforming use and is therefore protected under the Temple Zoning Ordinance and under New Hampshire RSA 674:19.” Neither party appealed this order.

On August 2, 2001, the Board sent Guy a letter enclosing “an initial application, per [his] request, for a motor vehicle junkyard permit,” as well as “a copy of RSA 236:11 through 236:129 pertaining to junk yards.” In the letter, the Board requested that he “complete the application and return it with the \$25.00 fee.” The Board also advised him that by signing the application he

would be “affirming that [he] me[t] all the provisions of the State of NH RSA’s.” Guy asserts that he never received this correspondence.

There were no further communications between the parties regarding the junkyard until 2006, when Guy applied for a vehicle dealer license. The Board responded on March 8, 2006, informing him that his “request for dealer plates constituted an expansion of [his] non-conforming use.” The same day, Guy contested the Board’s determination and submitted a copy of the 1999 ZBA decision in support of his position.

Shortly thereafter, Guy, for the first time, filed an application for a junkyard license with the Board. The application form required Guy to “affirm that [his] junkyard . . . is in compliance with all the requirements of RSA 236:123, and all other provisions of RSA 236 relative to junkyards.” Furthermore, in filing the application, Guy was required to affirm that he had “received confirmation of ‘Grandfathered’ status from the” ZBA and had “not moved, expanded on, or enlarged [his junkyard] to occupy more area than [his] original site plan.”

On April 19, 2006, the Board sent Guy a letter denying his requests for a vehicle dealer license and a junkyard license. With respect to the vehicle dealer license, the Board found that the selling of motor vehicles was an expansion of his non-conforming use and, thus, Guy needed “to file for a special exception.” As to the junkyard license, the Board stated:

The 1999 ZBA decision to “grandfather” your auto repair business included a requirement that you bring your junkyard into compliance with Temple’s Zoning ordinance and State statutes (RSA 236). The Board . . . subsequently wrote to you reminding you of this ZBA requirement and attached copies of the relevant State statutes. To date you have not complied; you are therefore in violation of both Temple’s Zoning ordinance and State of NH RSA’s.

We are now in receipt of your application for a junkyard license which the [Board is] unable to approve because you are in violation of the above referenced Temple Zoning ordinance and State Statutes.

Please schedule an appointment to meet with the [Board] to discuss your plan to comply with the State’s junkyard statutes and thereby the requirement of the 1999 ZBA decision to “grandfather” your auto repair business.

After receiving this letter, Guy appealed the Board’s “determination that his application for motor vehicle dealer plates constituted an expansion of a non-

conforming use requiring a special exception” to the ZBA. The ZBA scheduled a hearing on the matter for July 6, 2006.

On May 23, 2006, the Board issued a notice of violation, ordering Guy to “cease and desist any and all activities on [his property] consisting of the creation, establishment and/or maintenance of a junkyard.” (Emphasis omitted.) In support thereof, the Board stated that Guy had failed to obtain a license and demonstrate his compliance with the requirements for a junkyard in RSA 236:111 through RSA 236:129, as required by both the 1999 ZBA decision and New Hampshire law. Moreover, the Board asserted that Guy’s junkyard “ha[d] been expanded, without benefit of permit or license,” since the 1999 ZBA decision. Therefore, the Board found that Guy had “not taken the steps required under the applicable statute[s] to protect [his] vested right to continue [his] junkyard operation” and, as provided by RSA 236:119 (Supp. 2007), the junkyard constituted a nuisance. Accordingly, the Board declared that, in order to continue operation of his junkyard, Guy had to comply with the application requirements for a new junkyard as provided in RSA 236:115 (Supp. 2007).

On June 23, 2006, the Board sent Guy another letter, stating that it was “declin[ing] to entertain [his] permit request.” The Board explained that, as already indicated in the notice of violation, it was of the opinion “that the junkyard operation referred to in the 1999 ZBA decision is no longer a permitted non-conforming use for reason of [Guy’s] failure to comply with the applicable State Statutes in a timely fashion.” Because Guy had lost his non-conforming status, and a junkyard is not a permitted use in the Town, the Board concluded that Guy was required to obtain a special exception, subject to any applicable historic district commission oversight, in order to continue his junkyard operation. After the Board denied his motion for reconsideration, Guy appealed the Board’s April 19, 2006 and May 23, 2006 decisions to the ZBA.

The ZBA held a public hearing on the matter on October 5, 2006. At that hearing, the Town contended, among other things, “that the junkyard, if it ever enjoyed a grandfathered status, has now lost it . . . [because] the junkyard has not complied with either state statute or the 1999 ZBA decision.” In addition, the Town argued that the junkyard had been expanded since 1999 into an area that was designated on the tax rolls as current use property. See generally RSA 79-A:1 (2003). Guy, in contrast, asserted that he had actually contracted, rather than expanded, the number and location of cars on the property since 1999. He further argued that the 1999 decision vested non-conforming status upon his junkyard that could not be stripped away for failing to pay a license fee and, even if it could, the Town did not have an application process in place until 2001 at the earliest. At the same time, however, Guy’s counsel submitted licensing records of the only other junkyard in Temple, which indicated that

that junkyard had submitted applications for the years 1993, 2000, 2003, 2004, 2005 and 2006.

After listening to the parties' arguments, the ZBA entered closed session to discuss the matter. As indicated in the ZBA's minutes, during the ensuing discussion the ZBA members "spent a lot of time talking about where cars are located . . . and how many there are as well as where they were located in 1999 and how many there were then." ZBA member Don Kraemer, who was on the ZBA in 1999, also told the rest of the members that the only issue in 1999 was whether Guy's property could "be grandfathered so he could have an inspection station." He stated that the "the junkyard wasn't an issue at that time" and that it was his opinion that the ZBA members had "simply noted that [Guy] needed to get the junkyard licensed" in the 1999 decision. Finally, the ZBA "members noted that RSA 236:125 came into being in 1966, so if there was a junkyard that was grandfathered in 1999, it was an illegal one because it wasn't licensed." Ultimately, the ZBA affirmed the Board's decision on the following basis:

The applicant's junkyard has, at least since 1999, been operated in an unlawful fashion. Therefore, based on the language of the Temple Zoning Ordinance that a non-conforming use refers to a lawful use, the use is not grandfathered. The applicant does not have an allowable non-conforming use by the definition in the Temple Zoning Ordinance.

After the ZBA denied his motion for rehearing, Guy appealed to the superior court. On October 10, 2007, the court ruled:

The 1999 decision did not "grandfather" [Guy]'s usage of the property for a junkyard operation because the decision states that the junkyard is subject to state law and licensing requirements. State law requiring junkyard licensure has existed since 1965. . . . There is no indication that any junkyard on the property has ever been licensed. Even if the ZBA, in the 1999 decision, had determined that [Guy]'s junkyard was a valid nonconforming use, it would have been incorrect, given that nonconforming uses must be lawful. Because [Guy]'s junkyard was not licensed under state law in 1972, it could not be lawful. . . . Further, the record indicates that on August 2, 2001, the Board sent [Guy] a letter enclosing an application for a junkyard license, further suggesting that the 1999 decision did not license [Guy]'s junkyard. . . .

The trial court then rejected the majority of Guy's arguments based, in substantial part, upon its interpretation of the 1999 decision. In addition, the trial court ruled that Guy had failed to: (1) present any evidence to support his claim that the Town did not have a formal junkyard licensing process; (2) show

that the Town's alleged delay in enforcing the licensing requirements was unreasonable, or that he suffered prejudice as a result, such as to make the doctrine of laches applicable; and (3) articulate sufficient support for his claim that the Board "violated his constitutional right of due process, resulting in an unconstitutional taking of his property."

On appeal, Guy asserts that the trial court committed reversible error by: (1) "finding that the 1999 decision . . . did not determine [his] motor vehicle junkyard to be a valid nonconforming use"; (2) "finding [his] junkyard unlawful because it was not properly licensed"; (3) "rejecting [his] claim that the [T]own . . . did not have a formal licensing process in effect in 1999, and to the extent that the [T]own ever implemented a procedure thereafter, such process was sporadically enforced up to the time enforcement action was taken"; (4) "failing to apply the doctrines of collateral estoppel and laches"; (5) "rejecting [his] contention that the provisions of RSA 236:125 and related case law required the . . . [Board] to issue [him] a motor vehicle junkyard license in 2006"; and (6) "rejecting [his] claim that the Board's failure to issue [him] a junkyard license in 2006, or afford [him] a hearing thereon, breached [its] obligation to [him] under state law, unreasonably interfered with [his] occupation, [and] violated [his] constitutional right of due process resulting in an unconstitutional taking of [his] property."

Our review of zoning board decisions is limited. Harrington v. Town of Warner, 152 N.H. 74, 77 (2005). We will uphold the trial court's decision unless the evidence does not support it or it is legally erroneous. Chester Rod & Gun Club v. Town of Chester, 152 N.H. 577, 580 (2005). For its part, the trial court must treat all factual findings of the ZBA as prima facie lawful and reasonable. Id.; see RSA 677:6 (2008). It may set aside a ZBA decision if it finds by the balance of probabilities, based upon the evidence before it, that the ZBA's decision was unreasonable. Town of Chester, 152 N.H. at 580. However, the interpretation of a tribunal's order presents a question of law, which we review de novo. See In re Guardianship of Luong, 157 N.H. ____, ____ (decided July 2, 2008). With these principles in mind, we turn to Guy's arguments.

I

Guy argues first that, despite the trial court's findings to the contrary, the ZBA expressly found that his junkyard was a valid nonconforming use in the 1999 decision. Because the Town failed to appeal the ZBA's decision, Guy contends that the trial court erred in questioning the validity of the ZBA's determinations therein. We agree.

In the 1999 decision, the ZBA broadly stated that it was reversing the Board's denial of "grandfathered/non-conforming status to [Guy]'s automotive-related activities on" the property. Nowhere in the decision is this expansive

holding qualified in such a way as to exclude the junkyard. To the contrary, the ZBA clarified that Guy's "commercial enterprise includ[ed] auto repair/junkyard/auto body work/garage" activities and that that "commercial enterprise is a grandfathered/non-conforming use." (Emphases added.) Indeed, the very sentence relied upon by the trial court in concluding that "the 1999 decision did not 'grandfather' [Guy]'s usage of the property for a junkyard operation," again references the junkyard as a "phase of the commercial enterprise" in question. (Emphasis added.) That the 1999 decision also noted that "[t]he junkyard . . . is subject to state licensing and regulation," in no way alters the fact that the ZBA clearly envisioned the junkyard as a component of the commercial enterprise that it found to be "a grandfathered/non-conforming use."

The Town argues that the ZBA was nevertheless precluded "from legally ruling that the [junkyard] was grandfathered because" the junkyard was not licensed and "[t]he law is well established that a nonconforming use is permissible only where it legally exists at the date of the adoption of the zoning ordinance." Thus, the Town argues, any finding in the 1999 decision that the junkyard was a valid nonconforming use is invalid and must be overturned.

Even assuming the Town is correct that the ZBA so erred, to entertain such an assertion would invariably require us to revisit the substance of the 1999 decision. To do so here, where, as indicated above, the issue has already been resolved and the order was not appealed, would run afoul of the doctrine of collateral estoppel. See, e.g., Grossman v. Murray, 141 N.H. 265, 269 (1996) ("In its most basic formulation, the doctrine of collateral estoppel bars a party to a prior action, or a person in privity with such a party, from relitigating any issue or fact actually litigated and determined in the prior action." (quotation omitted)). We therefore agree with Guy that the doctrine of collateral estoppel bars consideration of this claim. Accordingly, we accept the findings in the 1999 decision and hold that Guy's junkyard has been determined to be a valid nonconforming use.

II

Having determined that the 1999 decision established that the junkyard was a valid nonconforming use, we must now assess whether the junkyard was subsequently divested of that status. As we have previously explained:

The right to maintain nonconforming uses is meant to protect property owners from a retrospective application of zoning ordinances, so that property owners may continue using and enjoying their property when their uses were lawful prior to the enactment of a zoning ordinance. RSA 674:19 protects that right by providing that zoning ordinances shall not apply to existing structures or uses, thereby creating a vested right to continue the

prior lawful use of land. Because the general policy of zoning law, however, is to carefully limit the extension and enlargement of nonconforming uses, we strictly construe provisions that permit the continuance of such uses, and the party asserting that a proposed use is not new or impermissible bears the burden of proof. Therefore, an extension and enlargement that substantially changes the nature and purpose of the nonconforming use is impermissible.

Town of Salem v. Wickson, 146 N.H. 328, 330 (2001) (quotations omitted); see also D. Mandelker, Land Use Law § 5.79, at 5-75 (5th ed. 2003) (explaining that “[a]n ordinance prohibiting a change in a nonconforming use is not a taking of property”).

In this case, the Town’s zoning ordinance bars “substantial[] expan[sion] or enlarge[ment]” of a nonconforming use and states that a nonconforming use can be lost if the use is “discontinued for two years” or “superseded by a conforming use.” The Town argues first that the junkyard is no longer a valid nonconforming use because Guy failed to comply with state law, including the requirement that he “obtain a state license under RSA 236:114.” Guy concedes that he has not obtained a license for his junkyard since the 1999 decision was issued, but asserts that his junkyard nevertheless maintains its nonconforming status because: (1) the Town did not have a formal licensing procedure in place; and (2) the failure to obtain a license does not obviate nonconforming use status because such failure “can be easily remedied by payment of any back licensing fees.”

Resolution of Guy’s first argument requires little discussion. The only evidence he has provided in support of his contention that the Town did not have a formal licensing process indicates that the other junkyard in the Town submitted license applications in, at least, 1993, 2000, 2003, 2004, 2005 and 2006. This evidence supports, rather than contradicts, a finding that the Town had a licensing scheme in place during the pertinent years. It was, therefore, not unreasonable for the ZBA and the trial court to conclude that Guy failed to provide sufficient evidence to prove this claim. Town of Chester, 152 N.H. at 580; Malachy Glen Assocs. v. Town of Chichester, 155 N.H. 102, 105 (2007) (“The party seeking to set aside the ZBA decision bears the burden of proof” (quotation omitted)).

Guy’s second argument raises a more complex question; namely, whether a valid nonconforming use can be divested for an owner’s failure to comply with a licensing statute. Although we have not before been faced with this precise issue, the majority of courts that have considered the matter have held that the failure to obtain a license does not terminate a valid nonconforming use “because the power to license is distinct from the power to zone.” D. Mandelker, supra § 5.81, at 5-81 to -82; see Carroll v. Hurst, 431

N.E.2d 1344, 1347-8 (Ill. App. Ct. 1982) (finding nonconforming use despite property owner's failure to obtain license to operate his junkyard where the statute sought to prevent disposal of stolen vehicles); Trailer City, Inc. v. Board of Adjustment, 218 N.W.2d 645, 648 (Iowa 1974) (explaining how a mobile home park maintains its nonconforming status despite owner's failure to renew license); Dempsey v. Newport Bd. of Adjustments, 941 S.W.2d 483, 486 (Ky. Ct. App. 1997) (holding that an automotive repair center did not lose its nonconforming use because of failure of prior owner to renew occupation license); Baltimore v. Dembo, 719 A.2d 1007, 1011 (Md. Ct. Spec. App. 1998) (holding "that a property owner will not lose its nonconforming use status accorded under zoning laws simply by its failure to comply with a licensing law"); Board of Selectmen of Wrentham v. Monson, 247 N.E.2d 364, 365 (Mass. 1969) (holding that mobile home park's nonconforming use status was "not destroyed . . . by any failure to comply with local or State licensing provisions where the defect . . . can be easily remedied"); Hooper v. City of St. Paul, 353 N.W.2d 138, 141 (Minn. 1984) ("Violations of ordinances unrelated to land use planning do not render the type of use unlawful."); Costa v. Callahan, 840 N.Y.S.2d 163, 166-67 (App. Div. 2007) (holding that a junkyard owner's failure to obtain a license to operate "did not disqualify the sites from nonconforming use status as junkyards"); Stephentown Concerned Cit. v. Herrick, 676 N.Y.S.2d 246, 248 (App. Div. 1998) (gravel pit owner did not lose nonconforming status by failing to maintain a valid mining permit), appeal dismissed in part, denied in part, 756 N.E.2d 72 (N.Y. 2001); City of Franklin v. Gerovac, 197 N.W.2d 772, 773-74 (Wis. 1972) (finding that property owner's failure to obtain license for his salvage yard did not invalidate his nonconforming use).

Like these courts, we are cognizant of the fact that, unlike zoning law which "is primarily concerned with uniformity of land use and stability of community growth," licensing regulations are generally "concerned with proper operation or with limitation or distribution or outright suppression of operation." Primm v. City of Reno, 252 P.2d 835, 839 (Nev. 1953). In other words, licensing laws typically "regulate[] establishments based on the type of business they conduct, and zoning [laws] regulate[] them based on their location." Dembo, 719 A.2d at 1011 (quotations omitted). As a result, "the failure to obtain a license does not render the use unlawful in the sense intended by zoning ordinances which preserve existing lawful uses." Costa, 840 N.Y.S.2d at 166 (quotation and emphasis omitted). For these reasons, we agree with the majority of courts that the failure to obtain a license designed to regulate an activity will not adversely affect the previously determined nonconforming status of the land upon which such an activity is being conducted.

Because the rule is founded upon the distinction between zoning and licensing laws, however, the rationale supporting its application weakens when the licensing scheme offended "so meaningfully curtail[s] the use to which land

may be employed . . . as to be deemed the equivalent of an ordinance which regulates the utilization of land.” Town of Scituate v. O’Rourke, 239 A.2d 176, 180 (R.I. 1968); cf. In re Chamberlain, 360 A.2d 100, 101-02 (Vt. 1976). For instance, in O’Rourke, a junkyard owner had failed to obtain a license pursuant to an ordinance that required a licensed junkyard to be, among other things, “a specific distance from a state highway or school” and “more than 300 feet from any park, bathing beach, school, church or cemetery.” O’Rourke, 239 A.2d at 180. After determining that the licensing regulation controlled the use of land “to such an extent . . . that it could well be designated as a quasi-zoning ordinance,” the court held that the junkyard owners’ “failure to comply with the requirements of the [ordinance] . . . preclude[d] them from acquiring the protective status of a valid nonconforming use.” Id.

Although O’Rourke is distinguishable to the extent that it involved a junkyard that had not yet been deemed a nonconforming use, it is at least conceivable that a licensing scheme could be so closely aligned with zoning regulations that failure to comply with its terms might rise to the level of an abandonment of a pre-existing nonconforming use. Cf. Pushnik v. Hempfield Tp., 402 A.2d 318, 320 (Pa. Commw. Ct. 1979). Determination of whether Guy’s failure to obtain a license will affect the nonconforming use status of his junkyard therefore requires analysis of the applicable licensing law. See RSA 236:111-:129.

When interpreting the language of a statute, we ascribe the plain and ordinary meaning to the words used and discern the legislative intent from the statute as written. State v. Doyle, 156 N.H. 306, 308 (2007). We will not consider what the legislature might have said, or add language that the legislature did not see fit to include. Id. When the language of a statute is plain and unambiguous, we do not look beyond it for further indication of legislative intent. Franklin v. Town of Newport, 151 N.H. 508, 509 (2004). However, we are the final arbiters of the legislature’s intent as it is expressed in the words of a statute when considered as a whole. Doyle, 156 N.H. at 308.

In this case, the junkyard licensing statute was “adopted under the police power of the state to conserve and safeguard the public safety, health, morals, and welfare, and to further the economic growth and stability of the people of the state through encouragement to the development of the tourist industry within the state.” RSA 236:111 (Supp. 2007). To achieve this end, the statute prohibits an individual from operating, establishing, or maintaining a junkyard without first obtaining “a license to operate a junk yard business” and “a certificate of approval for the location of the junk yard.” RSA 236:114 (1993). The statute provides two distinct processes for obtaining the required license: one for junkyards established after the date of passage of the subdivision (new junkyards), see RSA 236:114-:118, :120, :121 (1993 & Supp. 2007), and one for junkyards “already established” on that date (established junkyards), see RSA 236:125 (1993). The trial court ruled that the date of

“passage of the subdivision” is April 20, 1981. Because neither party has directly challenged this ruling in their briefs, we accept it for purposes of resolving this case.

With regard to junkyards established after the date of “passage of the subdivision,” the owner is required to apply “in writing to the local governing body of the municipality where it is proposed to locate the junk yard” in order to obtain a license. RSA 236:115 (Supp. 2007). In that application, the owner must provide “[a] description of the land to be included within the junk yard” and “[c]ertification of compliance with best management practices [as] established by the department of environmental services.” *Id.* In determining whether to grant or deny the application, the legislative body is required to consider “the suitability of the applicant with reference to his ability to comply with the fencing requirements [under RSA 236:123 (1993)] or other reasonable regulations concerning the proposed junk yard . . . , to any record of convictions for any type of larceny or receiving stolen goods” RSA 236:117 (1993).

In addition, as in *O’Rourke*, the licensing process for new junkyards contains certain location requirements. *See O’Rourke*, 239 A.2d at 180. For instance, prior to granting a license the legislative body is required to consider whether there are “natural or artificial barriers protecting the junk yard . . . from view.” RSA 236:120 (1993). Moreover, the statute also commands that:

In passing upon the application, . . . [the local governing body] shall take into account the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gatherings; and whether or not the use of that proposed location can be reasonably prevented from affecting the public health, safety, or morals by reason of offensive or unhealthy odors or smoke, or of other causes. In no case may a license be granted for a new junk yard or automotive recycling yard located less than 660 feet from the right-of-way lines of class I, class II, class III or class III-a highways or located less than 300 feet from the right-of-way lines of class IV, class V and class VI highways.

RSA 236:118 (1993).

The process for obtaining a license for an “established” junkyard, in contrast, is less exacting. This is largely because, “[f]or the purposes of [the junkyard licensing statute,] the location of junk yards . . . already established are considered approved by the local governing body of the municipality where located and the owner of the yard considered suitable for the issuance of a license.” RSA 236:125. By deeming the location of established junkyards “approved by the local governing body,” RSA 236:125 effectively renders the location and aesthetic requirements that are imposed upon the approval of a

license for a new junkyard inapplicable to existing junkyards. With those considerations out of the equation, all that the statute requires for approval of a license for an established junkyard is: (1) the payment of a license fee, RSA 236:122 (Supp. 2007); (2) the submission to the local governing body of “the information as to location which is required in an application,” RSA 236:125; (3) compliance with certain fencing requirements, RSA 236:123, :125; (4) “certification of compliance with best management practices [as] established by the department of environmental services for the automobile salvage industry,” RSA 236:121, II (Supp. 2007); (5) that the applicant has not been “convicted of any type of larceny or of receiving stolen goods,” *id.*; and (6) that “the junkyard [has] not become a public nuisance,” *id.* Unlike the regulation in O’Rourke, each of these requirements is concerned with the “proper operation” of junkyards, and not “uniformity of land use and stability of community growth.” Primm, 252 P.2d at 839. As a result, the law governing the licensing of established junkyards is a pure licensing scheme.

The Town does not dispute that Guy’s junkyard was already established on the date of “passage of the subdivision.” See RSA 236:125. Nevertheless, the Town argues that Guy is subject to the more stringent licensing procedure for a new junkyard because he failed to “furnish the local governing body the information as to location which is required in an application,” as mandated by RSA 236:125. Moreover, the Town contends that the licensing process for new junkyards is quasi-zoning and, thus, Guy’s failure to obtain a license pursuant to that licensing scheme has divested him of his nonconforming use status.

We need not pass upon whether the licensing process for new junkyards is a “quasi-zoning” statute, O’Rourke, 239 A.2d at 180, because we disagree with the Town that the licensing process for established junkyards provided in RSA 236:125 is inapplicable in this case. To be sure, as the Town notes, the second sentence of RSA 236:125 states: “Within 60 days from the passage of this subdivision, however, the owner shall furnish the local governing body the information as to location which is required in an application, together with the license fee” But nothing in that language suggests that the remedy for failure to submit such an application is to subject established junkyards to the licensing process for new junkyards. Instead, that sentence simply imposes another restriction on established junkyards and, as with all other requirements in the statute, the failure to comply opens the junkyard owner to potential liability for a penalty, see RSA 236:127 (1999), and gives the Town the right to “initiate proceedings” to, among other things, seek a “mandatory injunction to end the violation,” RSA 236:128 (Supp. 2007). Accordingly, because RSA 236:125 is applicable in this case, we hold that Guy’s failure to obtain a license does not divest his junkyard of its status as a nonconforming use. Cf. Carroll, 431 N.E.2d at 1348.

The Town also argues that Guy lost whatever right to a nonconforming use he may have had by unlawfully expanding his use “onto a lot that was not

previously part of the operation.” As noted above, the Town’s zoning ordinance bars “substantial[] expan[sion] or enlarge[ment]” of a nonconforming use. See also RSA 236:124 (1993) (expressly permitting the adoption of local ordinances for the control of junk yards and explaining that such “ordinances shall control when in conflict with” the state law). However, while the minutes of the 2006 ZBA hearing mention that the ZBA members “spent a lot of time talking about where cars are located . . . and how many there are” in the junkyard, as noted by the trial court, “[t]he 2006 ZBA findings of fact make no mention of any finding that [Guy] unlawfully expanded his junkyard operations.” (Emphasis added.) We are therefore unable to ascertain whether the ZBA actually determined that Guy had expanded his nonconforming use, see Kalil v. Town of Dummer Zoning Bd. of Adjustment, 155 N.H. 307, 310-11 (2007) (finding remand to the ZBA appropriate where the superior court “intended to vacate and remand the matter because it found the text of the [ZBA] decision unclear”), let alone the character, nature, scope or effect on the surrounding neighborhood of the purported expansion, see Wickson, 146 N.H. at 331; Town of Hampton v. Brust, 122 N.H. 463, 469 (1982) (“where there is no substantial change in the use’s effect on the neighborhood, the landowner will be allowed to increase the volume, intensity or frequency of the nonconforming use”). Accordingly, we must remand this issue for proceedings consistent with this opinion.

III

Guy argues next that the trial court erred in “rejecting [his] contention that the provisions of RSA 236:125 and related case law required the . . . [Board] to issue [him] a motor vehicle junkyard license in 2006.” Although it is unclear, there appear to be two separate components to Guy’s argument on this issue. First, he argues that “the ZBA assumed the licensing authority vested in the Board” when it held in 1999 that his junkyard was a nonconforming use. Second, he asserts that the Town was required to issue him a license because RSA 236:125 states that upon payment of “the license fee . . . the local governing body shall issue a license” to all “already established” junkyards. (Emphasis added.) We disagree with both arguments.

To the extent that Guy is arguing that he is entitled to a license by mere virtue of the ZBA’s 1999 decision grandfathering his junkyard, he is in error. See, e.g., Dembo, 719 A.2d at 1015 (holding that a landowner who has obtained nonconforming use status is still required to obtain a license to operate a business and comply with “later police power regulations governing the manner or operation of use” of the property); Costa, 840 N.Y.S.2d at 167 (explaining that nonconforming uses “remain[] obligated to comply – in all respects – with other applicable laws and ordinances”). Nonconforming use status does not confer upon its holder an unfettered right to operate in circumvention of licensing laws. As already discussed at length above, the power to zone and to license are “distinct powers that do not conflict with each

other.” Willow Creek Ranch v. Town of Shelby, 611 N.W.2d 693, 700 (Wis. 2000). Therefore,

[a] zoning ordinance is not in its legal effect like a license or legislative sanction to carry on in a district every kind of business that may not be expressly excluded therefrom, and if there are reasons apart from the zoning law why the business may not legally be carried on in the district, the zoning law . . . furnishes no protection to it.

Marshall v. Holbrook, 177 N.E. 504, 506 (Mass. 1931).

Nor do we agree that RSA 236:125 required the Town to issue Guy a license. Guy’s argument on this point ignores the express language of the statute. Although it states that upon payment of “the license fee . . . the local governing body shall issue [the applicant] a license,” (emphasis added), RSA 236:125 also explicitly provides that the owner of an established junkyard must “furnish the local governing body the information as to location which is required in an application” and “comply with all other provisions of this subdivision including the fencing requirements set forth in RSA 236:123.” Guy must therefore comply with all of the requirements in the licensing statute in order to obtain a license to operate his junkyard, as well as a renewal of such license. See RSA 236:121, II (providing that “[l]icenses shall be renewed . . . upon payment of the annual license fee without a hearing, if all provisions of this subdivision are complied with during the license period”). The only case cited by Guy in support of this argument, Greene v. Town of Deering, 151 N.H. 795 (2005), is inapposite and we decline to further address it.

IV

Guy’s remaining contention is that the trial court erred by “rejecting [his] claim that the Board’s failure to issue [him] a junkyard license in 2006, or afford [him] a hearing thereon, breached [its] obligation to [him] under state law, unreasonably interfered with [his] occupation, [and] violated [his] constitutional right of due process resulting in an unconstitutional taking of [his] property.” Lingering within this sweeping assertion – and the mere paragraph of argument that follows in his brief – are elements of a procedural due process claim, a substantive due process claim, and a takings claim. However, as stated by the trial court below, Guy has failed to “clarify whether he is arguing that his substantive or procedural due process rights were violated” and to sufficiently develop any of these arguments. As we have repeatedly stated, “[j]udicial review is not warranted for complaints regarding adverse rulings without developed legal argument, and neither passing reference to constitutional claims nor off-hand invocations of constitutional rights without support by legal argument or authority warrants extended consideration.” Appeal of Omega Entm’t, 156 N.H. 282, 287 (2007); State v.

Chick, 141 N.H. 503, 504 (1996) (explaining that a mere passing reference to a constitutional claim renders the argument waived); Keenan v. Fearon, 130 N.H. 494, 499 (1988) (stating that “off-hand invocations” of constitutional rights supported by neither argument nor authority warrant no extended consideration). We therefore decline to address this argument further. The remaining arguments presented in this appeal are without merit and do not warrant further discussion. Vogel v. Vogel, 137 N.H. 321, 322 (1993).

Reversed and remanded.

BRODERICK, C.J., and DALIANIS, GALWAY and HICKS, JJ., concurred.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

STAFF MEMORANDUM

Brett Sowerby & Patricia Atchinson
39 Spring Street

To: Zoning Board of Adjustment

Prepared By: Nathan Reichert, *Director of Planning & Development* and *Zoning Administrator*
& Tiffany Adams, *Zoning Executive Assistant*

Date: May 5, 2025 – Regular Meeting

Application Number: ZB2025-11-VAR

HEARING NOTICE:

Brett Sowerby & Patricia Atchinson, 39 Spring St (Tax Map 107, Lot 62), zoned R2: The applicant requests 2 variances to allow a carport to be built +/-6.5 ft from the left-side property line shared with 43 Spring St where 15 ft is required and to allow 44% building coverage on the lot where 25% is allowed. ZB2025-11-VAR

SITE DESCRIPTION / BACKGROUND:

The subject property is improved with a dimensionally non-conforming 1-family home constructed in 1880, per the City Assessor's records, is non-conforming to the R2 zoning district, Class 1, minimum lot size requirement of 10,000 sq ft with +/- 3,920 sq ft and is not within any overlay district. There has been no previous ZBA action since 1995.

PROPOSAL:

In 2018 the previous property owner completed an extensive renovation which included "renovating" the existing garage. "Renovating" the garage consisted of converting the portion of the garage that was directly under the home into the living space within the home and demolishing the remainder. The current owner purchased the property in 2019 after all renovations were completed and inspected by City staff.

Section 703.2 of the Zoning Ordinance states: *Any non-conforming building or non-conforming structure which is partially or wholly destroyed by reason of any cause whatsoever, including obsolescence, fire, explosion, storm, floods, or other acts of God, may be resumed or restored and operated in its former non-conformity if same is done within two (2) years; thereafter, any non-conforming building or structure shall not be re-established if such building or structure has been discontinued for a period of two (2) years or more; provided, however, that the Zoning Board of Adjustment, upon an appeal from the Zoning Administrator's decision concerning such resumption or restoration, may permit the resumption or restoration of the same building or structure if it finds: (a) that no action incorporating an intent to abandon the non-conforming building or structure has been taken by the owner or occupant, including but not limited to a change in non-conforming use to razing or remodeling the building or structure; and (b) that the failure to resume or restore the use during the two-year period was due to economic, regulatory, or other forces beyond the control of the owner or occupant.*

The footprint of the previous non-conforming garage structure was able to be replaced with another structure for up to 2 years after its demolition; +/- April 2, 2020, based on the 2018 building permit issuance date.

The applicants purchased the property on March 5, 2019. Sometime thereafter they installed the existing carport at the left side of the home, without applying for or receiving a building permit. Because a permit was not applied for, Staff has no way to substantiate when the carport was installed, thereby requiring a variance for the carport to be located +/-6.5 ft from the left-side property line shared with 43 Spring Street.

The installation of the carport increases the building coverage on the lot from the legal non-conforming 38% to 44%.

ZONING ORDINANCE REQUIREMENTS – VARIANCE:

To obtain the two requested Variances 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 carport roof is accessible from within the applicants' home and is also used as a deck. The applicant reports the presence of a membrane that prevents rainwater from draining through the structure to the ground beneath. The high percentage of impervious surfaces on this lot (house, pavement, deck, and carport) and sloping terrain may result in increased runoff being directed toward 43 Spring Street. If approved, the Board may wish to consider a condition that requires specific management of runoff so that 43 Spring Street does not receive what could potentially be a burdensome amount.

Please note that there is another pathway to permitting this activity should the owner choose. The property is within the Pattern Zones Overlay District. While the district allows more permissive setbacks it also has further obligations that must be met. The option to posthumously permit the deck / carport via the Pattern Zones overlay may also require a variance relative to impervious surface coverage. A formal calculation was not made to determine this need. Further, shading requirements and other site improvements would also need to be met as a part of participating in the Pattern Zones overlay requirements. When presented with the options, standard zoning or pattern zoning, the owner chose to proceed with the variance request under the standard zoning requirements of the R-2 zone.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

VARIANCE

Draft Decision

Brett Sowerby & Patricia Atchinson – 39 Spring Street

DRAFT MOTION for:

Agenda Item 3.D

Case ZB2025-11-VAR

Request for Variance from Section §309.3

Motion made by: _____

On May 5, 2025, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared _____ regarding 39 Spring St (Tax Map 107, Lot 62), zoned R2: The applicant requests 2 variances to allow a carport to be built +/-6.5 ft from the left-side property line shared with 43 Spring St where 15 ft is required and to allow 44% building coverage on the lot where 25% 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 subject property is improved with a one-family home constructed in 1880. At +/- 3,920 sq. ft., the lot is not conforming to the 10,000 sq. ft. minimum lot size required for Class 1 lots in the R-2 District.
2. The single-family home is dimensionally non-conforming on both the Pine Street and Spring Street sides but is conforming on the remaining two sides.
3. In 2018 a building permit was issued to the previous owner to demolish a portion of the existing dimensionally non-conforming garage and to convert the remaining portion to living space.
4. The subject property contains a legally non-conforming 38% building coverage.
5. The ability, per Section 703.2 of the Zoning Ordinance, to restore the non-conforming garage structure expired 2 years after its demolition.
6. The applicant has submitted testimony addressing the section §801.3 Variance criteria in an application received by the Planning and Development Department on April 14th, 2025.
7. 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 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 **5th day of May, 2025**, hereby **GRANTS / DENIES** the Variance from Section §309.3, pursuant to Section §801.2 of the Zoning Ordinance to allow a carport to be built +/-6.5 ft from the left-side property line shared with 43 Spring St where 15 ft is required and to allow 44% building coverage on the lot where 25% is allowed. , as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The Applicant shall apply for a building permit.

2.

3.

Motion seconded by: _____

Vote: _____



Property Information

Property ID 107-62
Location 39 SPRING ST
Owner SOWERBY, BRETT D



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 01/30/2025
Data updated 11/18/2018

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

**CITY OF LEBANON
ZONING BOARD OF APPEALS
APPLICATION**

SPECIAL EXCEPTION	☐	☐	BUILDING CODE BOARD OF APPEALS
WETLANDS SPECIAL EXCEPTION	☐	☐	APPEAL OF AN ADMIN DECISION
VARIANCE	☒	☐	REHEARING REQUEST
EQUITABLE WAIVER	☐	☐	

PROPERTY OWNER (APPLICANT):

NAME: Brett Sowerby

TEL.#: [REDACTED]

MAILING ADDRESS: 39 Spring St, Lebanon, NH 03766

E-MAIL ADDRESS: [REDACTED]

CO-APPLICANT, AGENT, OR LESSEE:

NAME:

TEL.#:

MAILING ADDRESS:

E-MAIL ADDRESS:

PROJECT LOCATION:

TAX MAP #: 107

LOT#: 62

PLOT #:

ZONE: R2

STREET ADDRESS: 39 Spring St, Lebanon, NH 03766

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

REQUEST DESCRIPTION:

USE TYPE:

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:

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 5/5/25, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

Owner Signature: 

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.

Owner Signature: _____

DATE: _____

DATE RECEIVED: 4/14/2025

APPLICATION #: ZB2025-11-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

I (we) hereby request a variance from the terms of Article(s) III
Section(s) 309 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;
The carport replaced an existing structure. It does not introduce a new traffic pattern or safety concerns.

2. That the variance will observe the spirit of the Ordinance.
The carport is smaller than the original structure and maintains the residential character intended by the ordinance

3. That by the granting of the variance, substantial justice will be done;
Denying the variance would require removal of a functionally neighborhood-appropriate structure with no gain to the general public

4. That the variance, if authorized, will not diminish the values of surrounding properties
The finished carport enhances the surrounding properties and; by completing a previously incomplete project

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

(a) In this section "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property

The carport replaces a previously existing structure and enforcing setbacks would only remove a functional ; and structure that is less intrusive than what legally existed before.

(ii) The proposed use is a reasonable one.

The carport provides standard vehicle shelter appropriate for a residential property.

(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.

The special conditions is that there was a larger, non-conforming structure that the prior owner permitted for renovation but failed to complete before selling the property.

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)."

To the Lebanon Planning Board:

I'm writing to respectfully request zoning relief for an existing carport at our home at 39 Spring Street. We're seeking this variance due to unique challenges posed by our property's size and layout, which make it difficult to fully meet the current zoning requirements.

BACKGROUND AND HISTORY

When we bought our home in 2019, the previous owner had been granted a permit (included) to renovate the original garage and had already removed the existing structure and installed a ledger board, intending to build a carport. That project was never completed. After purchasing the property, and based on the understanding of our building contractor that the original building permit was still valid, we moved forward in good faith to finish the carport. It was our understanding that that all rules and regulations were followed throughout. We have now been made aware by city employees that the permit had not transferred with the sale of the property, and we now find ourselves needing to request this variance to resolve the situation properly.

WHAT WE'RE ASKING FOR

We're requesting relief from two zoning requirements under Article III, Section 309.3:

- 1.Side Setback – The ordinance calls for a 15-foot side setback; our carport is about 6.5 feet from the lot line.
- 2.Building Coverage – The ordinance allows up to 25% building coverage on the lot. Without the carport our lot coverage is about 38%, and with the carport our lot coverage is about 44%. Even before the garage was replaced, the property exceeded the allowed coverage and was legally nonconforming.

WHY A VARIANCE IS NEEDED

We're hoping the board will consider the following circumstances:

1. A Small, Inherently Limited Lot – Our lot is only 3,920 square feet, less than half the zoning district's (R2) minimum of 10,000 square feet. It's simply not possible to meet all zoning setbacks and coverage requirements on such a small lot and still make practical use of the property.
2. Not a New Issue – The lot coverage was already nonconforming before we bought the home or replaced the garage. These constraints aren't something we created—they've always existed with the property. Despite the non-conforming property, building permits had been granted to allow greater than 25% building coverage.
3. Respecting the Home's History – The carport sits in roughly the same footprint as the old garage and is in fact a bit smaller, which lessens the nonconformity of the historical structure. We've tried to be thoughtful about preserving the character and functionality of the home while making it work for everyday life.

NEIGHBORHOOD FIT AND FEEDBACK

The carport is modest and blends well with the house and the neighborhood. It doesn't block any views or impact any neighboring homes, and the neighbor closest to it has expressed their support. We've made every effort to ensure the carport is a low-profile, visually appropriate addition that fits right in and helps us better care for our home.

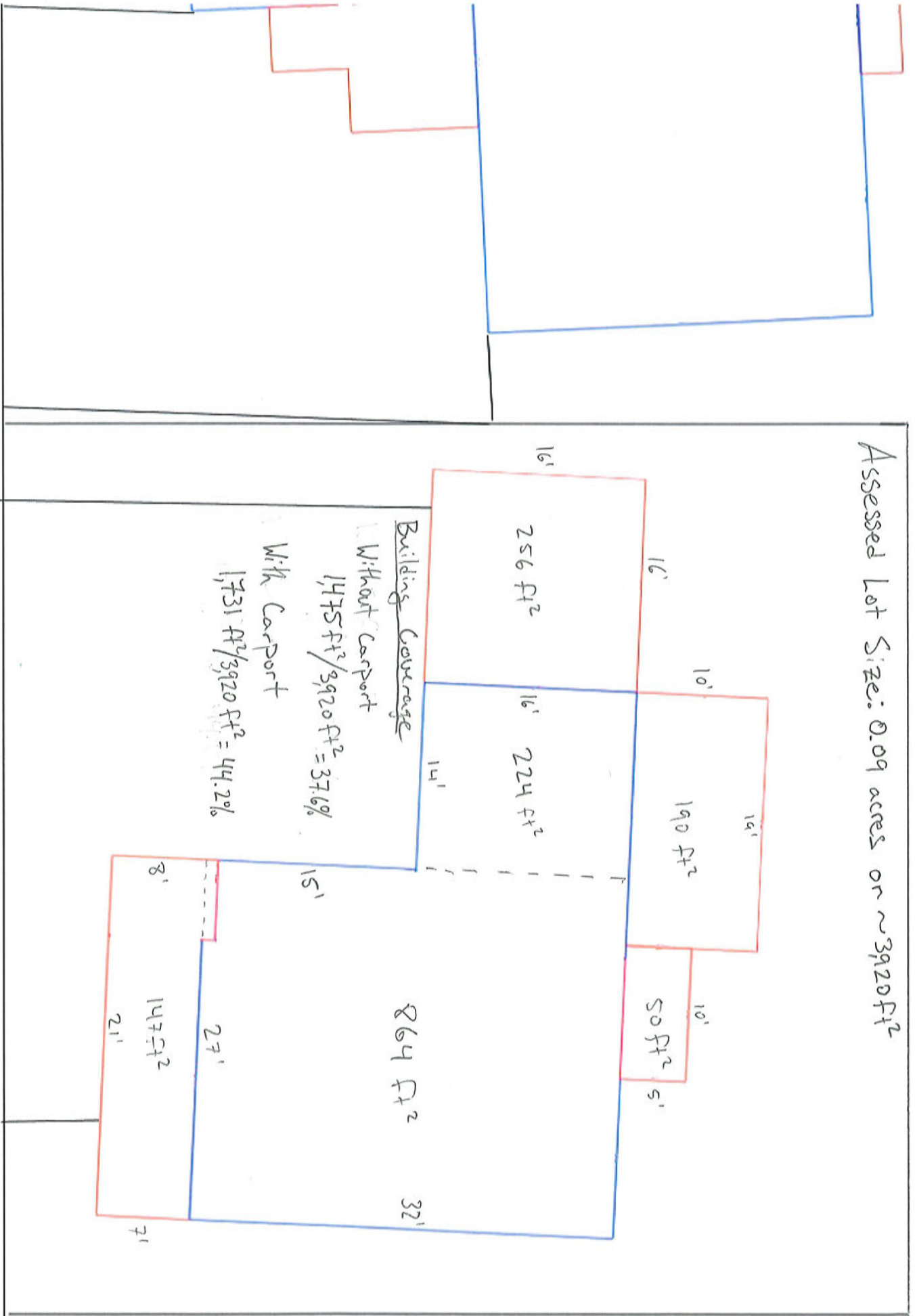
IN CLOSING

We genuinely appreciate the board's time and service. We understand the importance of upholding the zoning ordinances, and our intention has always been to follow the proper process and be good neighbors. We believe this variance is reasonable given the long-standing limitations of the property, and that the structure itself supports—not detracts from—the character of our street.

Thank you again for your time and consideration.

Brett Sowerby
39 Spring St
Lebanon, NH 03766

Assessed Lot Size: 0.09 acres or ~3920 ft²

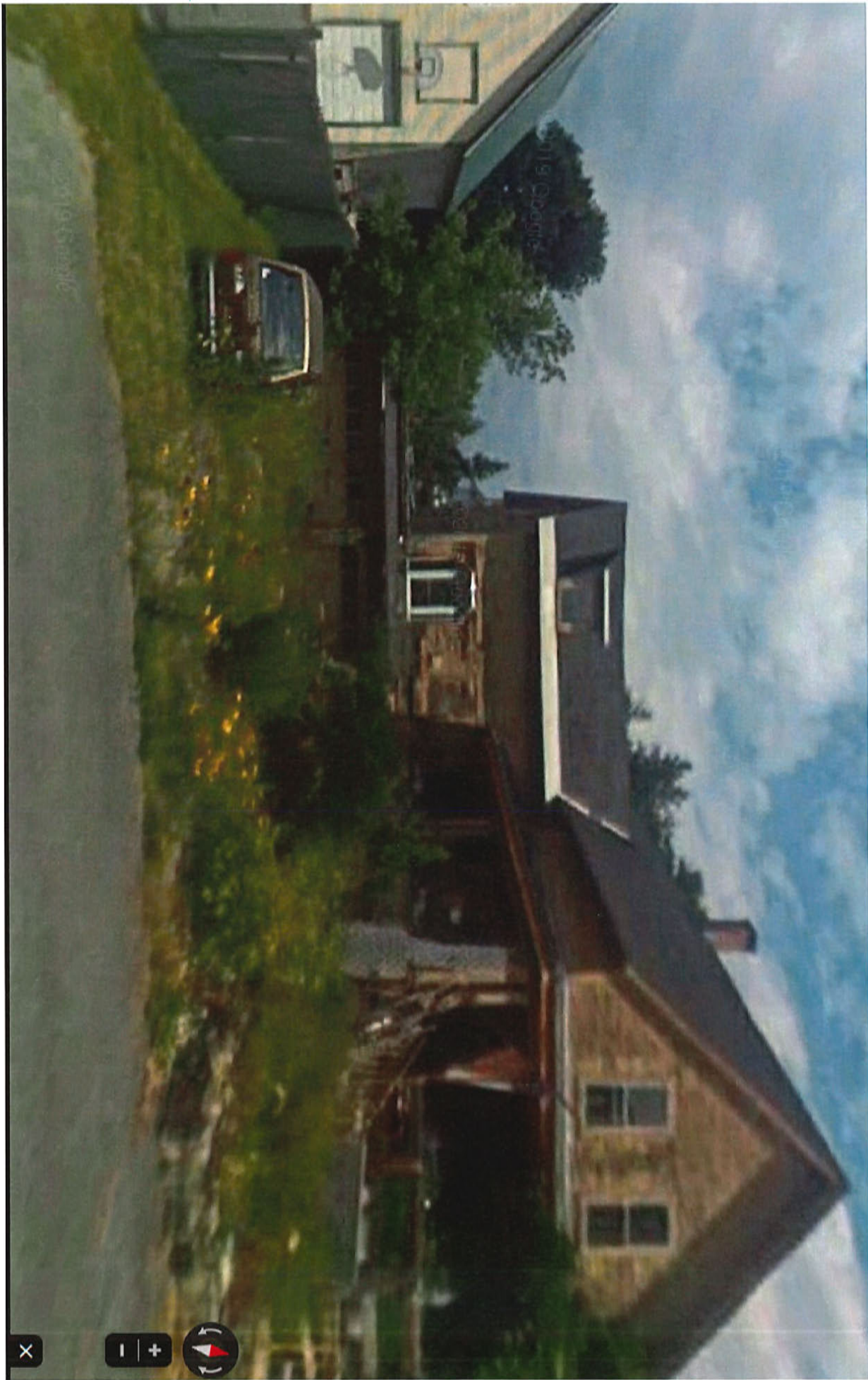


Building Coverage
 Without Carport
 $1475 \text{ ft}^2 / 3920 \text{ ft}^2 = 37.6\%$
 With Carport
 $1731 \text{ ft}^2 / 3920 \text{ ft}^2 = 44.2\%$

43 Spring St

39 Spring St

Pine St







CITY OF LEBANON
Building Permit

RESIDENTIAL
Lebanon, NH 03766
603-448-1524
www.lebcity.com

Permit Number
2018-00064

Date of Issue
4/02/2018

*4/2/18
email to Curtis
and
FCM to Curtis*

Owner: CICOTTE, JOHANNA

Applicant: CICOTTE, JOHANNA

Location of Work: 39 SPRING ST
(No. and Street) (Unit or Building)

Description of Work: Interior renovations, windows, roofing, siding and renovate garage

ZONING DATA: District: R2 Map/Lot: 107/62

CONTRACTOR: DAVE CURTIS

REMARKS:

THIS PERMIT IS BEING ISSUED WITH THE FOLLOWING CONDITIONS:

SEE ATTACHED CONDITIONS LETTER

WORK SHALL NOT PROCEED UNTIL THE CITY INSPECTORS HAVE APPROVED THE FOLLOWING STAGES OF CONSTRUCTION:

1. Foundation footings, forms and reinforcements. Lot pins must be in place at this inspection to assure the setback requirements are met. If the pins are not there or the setbacks cannot be verified, the construction will not be approved or allowed to continue. Mistakes in location of boundary lines are the sole responsibility of the property owner. **DO NOT POUR CONCRETE UNTIL THE ABOVE HAS BEEN APPROVED!**
2. Foundation insulation, waterproofing and drainage, prior to back-filling.
3. Structural rough frame, rough electrical and rough plumbing, prior to covering.
4. Prior to concealing any work authorized under this permit.
5. Final Inspection for Certificate of Occupancy, to include plumbing, heating, electrical, and any other code issue or miscellaneous item as applicable to the project including site improvements. **PLEASE SCHEDULE THIS AT LEAST 5 DAYS IN ADVANCE.**

A building or structure shall not be used or occupied in whole or in part until a **CERTIFICATE OF OCCUPANCY** has been issued.

APPROVED PLANS MUST BE KEPT AT THE JOB SITE - THIS CARD MUST BE KEPT POSTED UNTIL FINAL INSPECTIONS HAVE BEEN COMPLETED

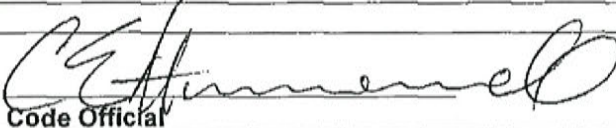
THIS PERMIT COVERS ONLY THE WORK WITHIN THE DESCRIPTION. NO WORK OUTSIDE THE SCOPE OF THIS PROJECT MAY BE CONDUCTED UNDER THIS PERMIT.

Permit Holder: CICOTTE, JOHANNA
(Taking Responsibility for the Work)

Company/Affiliation: Job Site Phone Number:

Constr Cost: \$85,000 Permit Fee: \$614.00 Check No.: 5266 Cash: \$0.00

The Permit Card Shall be Posted and Visible From the Street During Construction


Code Official

4/02/2018
Date

April 2, 2018

CICOTTE, JOHANNA
PO BOX 1010
LEBANON, NH 03766

CONDITIONS FOR:

Permit: 2018-00064

Map\Lot: 107/62

Zone: R2

Department: FIRE DEPARTMENT, 448-8810:

- F1. Structures undergoing construction, alterations, or demolition operations including those in underground locations shall comply with NFPA 241 standard for Safeguarding construction, alterations and demolition operations.
- F2. There shall be smoke and Carbon Monoxide detectors on each level of the home.
- F3. There shall be a smoke detector in every sleeping area.
- F4. There shall be a Carbon Monoxide detector immediately outside the sleeping area.
- F5. The Smoke and CO detection shall be interconnected, hardwired with battery back up.
- F6. Windows shall have a clear opening of not less than 5.7 square feet. The width shall be not less than 20 inches and the height not less than 24 inches. The bottom opening shall not be more than 44 inches above the floor.
- F7. Bathroom doors and serving rooms not exceeding 70 Square feet shall be not less than 24 inches wide.
- F8. Doors shall not be less than 6 foot 6 inches in nominal height.
- F9. Every bathroom door shall be designed to allow opening from the outside during an emergency when locked.
- F10. Call for final inspection.

Department: CODES DEPT-ELEC INSP, 448-1524

- E1. Meet with the electrician when work is to begin to go over the scope of the project.

Department: CODES DEPT-BLDG INSP 448-1524:

- F1. Call for site inspection prior to starting work to discuss the scope of work being done.

MAP 107 LOT 62 PLOT

PERMIT # 2018-00064

PERMIT

JOHANNA CICOTTE

39 Spring St Lebanon

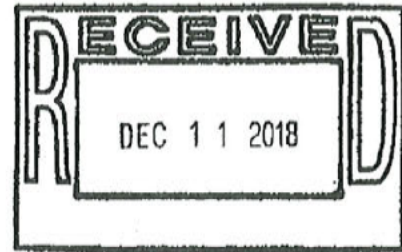
Interior renovations, windows, roofing, siding and renovate garage

DATA: No plans with application

ZONING: Tim ✓	☐ approved	☐ conditioned	☐ denied	Signature:
BLDG: Brad ✓	☐ approved	☐ conditioned	☐ denied	Signature:
BLDG: Win ✓	☐ approved	☐ conditioned	☐ denied	Signature:
FIRE: <i>KT</i>	☐ approved	☐ conditioned	☐ denied	Signature:
DPW: <i>NA</i>	☐ approved	☐ conditioned	☐ denied	Signature:
Septic System	☐ Approval for Construction		☐ Approval for Operation	
Driveway	☐ Approved		☐ Denied	
ISSUED:	☐ permit		☐ structural permit	
☐ status report	☐ foundation permit		☐ interior permit	
☐ status report	☐ framing/steel permit		☐ other	
PAID: ☐ permit fee	☐ impact fee		☐ water & sewer fee	
List Permit Conditions:				

S:\CZB\BUILDING\Building-FORMS,LABELS,PERMIT ECT\PERMIT FILE FORMS\new tracking sheet-residential.wpd

Curtis Carpentry
66 Costello Rd
White River Junction VT 05001
[REDACTED]



39 **Spring Street Job**

09 Dec. 2018

Framing consisted of dimensional lumber, sized to code. Windows are Anderson American Craftsman to meet NH energy code rating.

Slopes of ceiling; 6" of closed-cell spray foam insulation, completed by Shay Installation. Walls are R21 Fiberglass, with a R3 3/8" fanfold on the exterior walls. Ceiling contains 16" of AttiCat Pink expanding Fiberglass Blown-In insulation.

Electrical work was completed to code by licensed provider- Kyle Martino Master Electrician; 603.252.1375. All arch fault breakers, outlets, CO2 and smoke detectors have been inspected and approved by NH Fire Department and City Electrical Inspector.

Heating System installation was completed by licensed provider-Champagne Heating (Guy Champagne); 603.504.5411

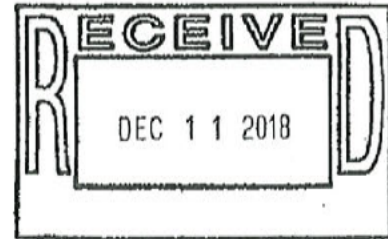
Plumbing service was completed by licensed provider- Pierce Plumbing and Heating (Bud Pierce); [REDACTED]

Thank you

David Curtis

Confirmation Ltr
from Vendors

Curtis Carpentry
66 Costello Rd
White River Junction VT 05001
[REDACTED]



39 **Spring Street Job**

09 Dec. 2018

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Plumbing service was completed by licensed provider- Pierce Plumbing and Heating (Bud Pierce); 603.448.41422

Thank you

David Curtis

Confirmation Ltr
from Vendors

2018-06064
107-62

CITY OF LEBANON
PAYMENT VOUCHER

No 16478

NAME:

Johanna Cicotte

ADDRESS:

39 Spring St / 106

Pd by
David Cortis

PAYMENT FOR:

9350

DEPARTMENT:

9350

AMOUNT DUE:

\$ 614.00

RECEIVED BY:

LC

DATE RECEIVED:

2-22-18

✓ # 5266

City of Lebanon,
New Hampshire

Building/Zoning Permit Application Form

Property Owner (Owner of Record): Johanna Cirotti

Tel.#: [REDACTED]

Mailing Address of Owner: PO BOX 15110 Lebanon NH

Fax #: _____

Email: _____

CONTACT PERSON FOR PROJECT: David Curtis

Tel.#: [REDACTED]

Mailing Address:

Fax #: _____

Email:

1. Project Location:

39 Spring St / Lebo

City Tax Map: 16

Lot: 62

Platz:

Zoning District:

R2

Location (Physical Address of Project): 39 Spring St. - Leb

2. Project Description:

Describe the nature of work proposed, in detail:

2. Project Description:

Describe the nature of work proposed, in detail:

~~face~~ Siding, Roofing, ~~replace~~ Kitchen Floors, ~~remodel~~ Bath ~~etc.~~ Heat
Demo Plaster walls. ~~Rebuild~~ GARAGE ~~same size~~ ^{replace} Windows

Cost of Project Construction: \$ 85,000

Renovate

3. Type of Occupancy: (check as appropriate)

Existing	<u> </u> Vacant Lot	<u> </u> One Family	<u> </u> Two Family	<u> </u> Multi Family	<u> </u> Commercial	<u> </u> Industrial
Proposed		<u> </u> One Family	<u> </u> Two Family	<u> </u> Multi Family	<u> </u> Commercial	<u> </u> Industrial

For Commercial or Industrial:

Specific Type of Use (for example: retail, office, industrial, etc.):

Name of Commercial/Industrial Tenant (if known):

THE UNDERSIGNED OWNER HEREBY REQUESTS A BUILDING/ZONING PERMIT FOR THE ABOVE USE, TO BE ISSUED ON THE BASIS OF THE REPRESENTATIONS CONTAINED HEREIN, INCLUDING ALL NECESSARY SUPPORT STATEMENTS. PERMIT IS VOID IN THE EVENT OF MISREPRESENTATION AND/OR NOT BEING IN COMPLIANCE WITH THE BUILDING CODE, ZONING ORDINANCE, SITE PLAN REVIEW/SUBDIVISION REGULATIONS (IF APPLICABLE) AND OTHER APPLICABLE STATE AND CITY LAWS AND REGULATIONS. CONSTRUCTION IS NOT AUTHORIZED UNTIL PERMIT IS ISSUED.

Property Owner Signature: [Signature]

Date: 2/19/18

IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING STATEMENT AND SIGN BELOW. I hereby designate the individual listed as *contact person for project* 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 Signature: [Signature]

Date: _____

FOR OFFICE USE ONLY

APPROVED - ZONING ADMINISTRATOR

DATE: 1

APPROVED - BUILDING OFFICIAL

DATE: 7/2/18

Received 2-22-18	File# 107-62	Permit# 2018-00064	Issued 4-2-18
Const. Cost \$ 85,000	Permit Fee \$ 614.00	Voucher# 16478	Date Paid 2/22/18

(Copy provided to Assessing Dept. on 4-2-18)

City of Lebanon,
New Hampshire

Property Owner:

Saharant Crotte

Building/Zoning Permit
Support Statement

Location (street address of project):

39 Spruce ST

1. If this is an interior renovation only. If yes, check here _____ and complete #3 through #7.
2. Lot Dimensions:

Lot Frontage on Street (In Feet):	Lot Size (Acres or Square Feet):	Percentage of Lot Area Covered by Buildings:
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Setbacks: Building Distances From Property Lines (Site Plan also required.)

*Front yard setback:	Rear yard setback:	Side yard setback: (right side)	Side yard setback: (left side)
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* Front yard means the portion or portions of the lot that face a street (note: corner lots have two front yards).

3. Site Information: Is this site located in the . (Check as appropriate. If you're not sure, ask.)

Flood Plain District: YES <u>NO</u>	Lebanon's Historic District: YES <u>NO</u>	NH Protected Shoreland: YES <u>NO</u>	Wetlands Conservation District: YES <u>NO</u>	Riverbank Protection: YES <u>NO</u> <u>C</u>
--	---	--	--	---

4. Building Information: Square Footage of Structural Areas

Basement Existing: _____ New: _____ Total: _____	First Floor Existing: _____ New: _____ Total: _____	Second Floor Existing: _____ New: _____ Total: _____	Third Floor Existing: _____ New: _____ Total: _____	Deck(s) Existing: _____ New: _____ Total: _____	Shed(s)/Garage(s) Existing: _____ New: _____ Total: _____	Building Height Existing: _____ New: _____ Total: _____
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5. Property Serviced By (Complete all that apply):

City Water YES <u>NO</u>	City Sewer YES <u>NO</u>	Private Well YES <u>NO</u>	Private On-Site Septic YES <u>NO</u>
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If a private on-site Septic System is being installed, please provide the State of NH DES Approval for Construction #: _____

6. Airport Information:

Is the site located in the Airport Protection District? YES <u>NO</u> <u>X</u> If YES, provide sketch with latitude/longitude and height of bldg above ground	Will there be radio frequency generation of any kind? YES <u>NO</u> <u>X</u> If YES, attach information describing the frequency/ies and any Effective Radiated Power (ERP)
---	--

7. Contractor Information:

GENERAL CONTRACTOR Name: <u>Dave Crotte</u> Address: <u>10X 814 W. 11th St, Lebanon, NH 03748</u> Contact: <u>05088</u> Phone: _____ Fax: _____ Email: _____ Are you an EPA Certified Renovator? Yes <u>No</u> If yes, provide # _____	ELECTRICIAN Name: <u>JB ELC</u> Address: <u>179 Kluge Rd, Springfield, NH 03748</u> License: <u>12613M</u> Phone: _____ Fax: _____ Email: _____	PLUMBER / GAS FITTER Name: <u>Harriman-Henry</u> Address: <u>270 Melody Lane, Springfield, VT</u> P-License: _____ G-License: _____ Phone: _____ Fax: _____ Email: _____
---	--	--

(For office use only) Permit# _____

4/17/18 Jason came into office to be removed from this permit.

CITY OF LEBANON - BUILDING PERMIT APPLICATION
SUPPORT STATEMENT FOR ELECTRICAL PERMIT

1. Property Owner: Sohanna Crotte Tel.# 448 7002

2. Project Location: 39 Spring St

Tax Map:	Lot:	Plot:	Zoning District:
Location (Physical Address):			

3. Electrical Service Information

Complete the Following for ALL Electrical Projects:

Capacity: (Amps)	Class of Use: ☒ Residential ☐ Commercial ☐ Industrial
Service Voltage: ☒ 240/120 ☐ 208/120 ☐ 480/277	Other: _____
Number of Meters: <u>1</u>	
National Grid Sequence (job) Number if Applicable: _____	
Please Note: <u>You must Contact National Grid For Sequence Number Prior to Service Work.</u> <u>Call 800-322-3223 x54020. Ask for a Service Request.</u>	

4. Electrical Project details: ☒ (Check All That Apply)

☐ New Service	☐ Upgrade Service	☐ Modification to Existing Service	
Project Includes: ☒			
☐ Branch Circuits	☐ UPS/Inverter	☐ Well Pump	☐ Site Lighting
☐ Feeders	☐ Transformer	☐ Out Building	☐ Illuminated Sign
☐ Sub Panels	☐ Generator	☐ Solar System	☐ Swimming Pool
Wiring Method: ☒ NM (rx) ☐ MC ☐ AC(bx) ☐ EMT ☐ RNC (pvc) ☐ RMC (rigid)			
Description: <u>Fix Wire Work Needed</u>			

5. Electrical Contractor Information:

Company: <u>JB ETC</u>	Contact Person: <u>Jason Ball</u>
NH License #: _____	Phone #: <u>[REDACTED]</u>
E-Mail: _____@_____	

FOR OFFICE USE ONLY

File# _____ Permit# _____ Date Service Energized: _____



Lebanon Fire Department

12 South Park Street
Lebanon, NH 03766

Phone: 603-448-8810
Fax: 603-448-8811
Email: Fire@lebcity.com

Application for Fire Code Permit (Please Print or Type)

Property Owner:

Johanna Cicotte

Phone:

Address:

39 Spring St/Leb

Contact Person for Project:

David Curtis

Submitting Contractor:

same

Mailing Address:

Coastello Rd/WRS, VT

Phone:

Fax:

NA

Email Address:

Project Location:

Tax Map:

107

Tax Lot:

62

Tax Plot:

NA

Location (Physical Address):

39 Spring St/Leb

Permit Code(s) (From following pages):

(Example: 105.6.28 LP-gas Operational Permit)

Description of Activity:

Sheetrock replacement. Paint. Replace windows,
Replace siding, roof, kitchen floors. Remodel
bathroom. Correct any electrical issues.
Demo plaster walls. Renovate
the garage.

Signature of Applicant:

fce

Date:

2-22-18

FOR OFFICE USE ONLY

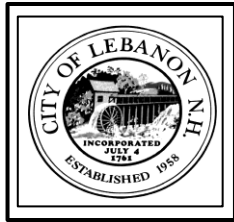
APPROVED - FIRE PREVENTION:

DATE:

INSPECTED - FIRE PREVENTION:

DATE:

Received:	File #:	Permit #:	Issued:
Fire Dept Fee(s) \$:	Statement Mailed:	Voucher #	Date Paid:



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon Zoning Board of Adjustment
FROM: Planning and Development Department Staff
RE: 2024-2025 Proposed Zoning Amendment for
Northern Lebanon Environmental Overlay
DATE: April 28, 2025

During the Council discussion of the Route 120 / Northern Lebanon Zoning Amendments at the Feb 19th City Council public hearing, the City Council indicated that they were interested in concurrently moving forward the proposed zoning map amendments and the environmental overlay amendments. At the same meeting a portion of the Centerra map amendments were passed. Due to a possible notice issue Staff recommended re-noticing the entire zoning map amendment package. Given Council's desire to concurrently consider the Environmental Overlay along with Zoning map amendments it was agreed to delay consideration of the entire plan to June 18th 2025. During the pause Staff and the leadership of the Conservation Commission and Planning Board have developed a recommendation for The Northern Lebanon Environmental Overlay for Council's consideration, attached.

Should the Council choose to proceed a motion to send the Northern Lebanon Environmental Overlay for comment to the Zoning Board, Planning Board and Conservation Commission for comment. The proposed schedule is attached.

Conservation Commission Timeline:

As of the Council meeting on Feb 19th, the Conservation Commission had not found the agenda time to begin developing the first draft of a proposed "Northern Lebanon Environmental Overlay" district. November's meeting was consumed with beginning the analysis of the Route 120 study's recommendations; December's agenda was consumed with a wetland's application and initial consideration of the zoning amendments; and January's regular and special meetings were consumed with analysis of the proposed zoning amendments and developing recommendations for the ballot amendments. February's agenda was consumed with further analysis of the remaining council amendments. In total, the Conservation Commission consumed nearly 9 hours of agenda time over four meetings discussing the zoning amendments before City Council.

Chair's Advisory Group:

The City Council continued the consideration of the Map Amendments until further information could be developed concerning the schedule for the Northern Lebanon Environmental Overlay. Immediately following the continuance, the Chair and Vice Chair of the Planning Board suggested assembling a Chair's working group to develop a draft map and language with the Conservation Commission's Chair and Vice Chair. The Planning Chair and Vice-Chair are keenly interested in seeing the Route 120 / Northern Lebanon study yield results, most specifically in the area of housing opportunities within the corridor in addition to the larger environmental and social aspects of the study. On March 4th the Chairs of both the Planning Board and the Conservation Commission met with Mark Goodwin – Conservation Staff and Nathan Reichert – Planning Board Staff to establish the following schedule below along with a scope of topics for the group to discuss. Further advisory was made by Tim Corwin – Deputy Planning Director and Planning Board Staff and Brian Vincent City Engineer and Planning Board Staff.

Topics Considered:

1. **Overlay Map** – The Overlay Map is designed to contain environmental enhancements that will apply to unique environmental, natural resource and topographic features of the Northern Lebanon area.

2. **Wildlife Crossing Corridor** – The Overlay shall provide enhanced protections for maintaining the integrity of the Wildlife Crossing Corridor that has been identified in previous studies. Specific recommendations are under development.
 - a. A policy example may be to limit fencing in the overlay to prevent blocking off passage routes for animals.
3. **Steep Slopes** – Enhancing the steep slopes protections to include all lands within the overlay irrespective of current zoning. Steep slopes currently protect areas with a grade greater than 25% only within the RL-3 Zoning District.
4. **Wetlands** – Potential enhancements to the already protected wetlands in the proposed map are included in the discussion. There are various levels of wetlands in the overlay: “High Value Wetlands” already enjoy a heightened level of protection that eliminates nearly all development or improvements within a buffer around them. All wetlands are currently protected with permitting requirements at the local level and the state level depending on the nature of the proposed work. The largest area of wetlands in the area are considered low-quality wetlands and were not granted additional protections in the 2012 action that protected High and Very High-quality wetlands.
5. **Conservation Land Buffers** – A discussion of and recommendations concerning the possible enhancement of Conservation Land Buffers.

The Chair’s Workgroup consists of the following members:

Planning Board Chair Andrew Faunce
Planning Board Vice-Chair Richard Ford-Burley
Conservation Commission Chair Sarah Riley
Conservation Commission Vice-Chair Bruce James
Mark Goodwin – Conservation Commission Staff
Nathan Reichert – Planning Board Staff
Tim Corwin – Planning Board Staff
Brian Vincent – Planning Boards Staff / City Engineer

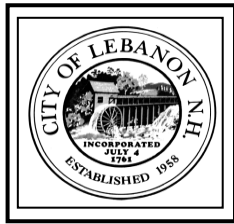
Policy Development Schedule:

1. Wednesday April 16th – City Council Orders Board Consideration and motion for further review by Land Use Boards.
2. Monday May 5th – Zoning Board Consideration
3. Legal Counsel Review - Due May 1st
4. Thursday May 8th – Conservation Commission Consideration
5. Tuesday May 27th – Planning Board Consideration
6. May 28th – Neighborhood meeting at DHMC, Auditorium F at 4pm
7. TBD May 2025 – Neighborhood meeting at Co-Op
8. Weds June 4th – Council Orders Public Hearing
9. Thursday June 5th - Mail Legal Notice to Abutters
10. Weds June 18th – Council Public Hearing Possible Passage

The Council moved forward with the schedule proposed above. Staff is requesting the ZBA to provide feedback on the proposed attached amendment. Comments from the Land Use Boards will be given to City Council and made available to the public for the Public Hearing scheduled on June 18. Following the public hearing, the amendment to Section 411 may be adopted by the City Council per Section 1000.3.D of the Zoning Ordinance.

Attachments

1. Draft Ordinance: Section 411
2. Map showing Environmentally Sensitive areas in the North Lebanon Study Area and the proposed Wildlife Corridor as agreed on by the Working Group.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon Zoning Board of Adjustment

FROM: Planning and Development Department Staff

RE: 2024-2025 Proposed Zoning Amendment for
Northern Lebanon Environmental Overlay

DATE: May 1, 2025

The Following is a draft proposal for the Northern Lebanon Environmental Overlay District:

SECTION 411 Northern Lebanon Environmental Overlay District

411.1 Purposes.

The purposes of the Northern Lebanon Environmental Overlay District are to:

- A. In the face of increasing interaction with humans and human development in Northern Lebanon, preserve the watershed and wetlands of the Northern Lebanon ecosystem, including the flow of water from upland to wetland, and encourage the protection of high-quality wetlands located in the Northern Lebanon ecosystem, which require naturally vegetated buffers for the integrity of their ecosystems. These provide flood protection and mitigation, recharge groundwater supply, augment stream flow during dry periods, provide wildlife habitat, and enhance water quality, all of which are either important or essential for human well-being and economic stability.
- B. Preserve and protect the integrity of the wildlife corridor and crossings that connect otherwise fragmented habitats in the Northern Lebanon ecosystem, as well as preserving and maintaining interconnected wildlife habitats for native flora and fauna more generally. Doing so is vital for enabling wildlife movement, promoting genetic diversity in wildlife populations, and maintaining the biodiversity and ecological health of the region, and furthermore prevents the need for investment in expensive restoration measures in the future.
- C. Preserve and protect the integrity of the steep slopes in Northern Lebanon. Development on such slopes disturbs vital and fragile ecosystems and causes expensive negative impacts such as soil erosion and stream sedimentation; unnecessary loss of vegetative ground cover and destruction of trees; on-site waste disposal problems; difficult street construction; and frequent street maintenance.
- D. Preserve, protect, and enhance scenic, scientific, and educational values associated with the conservation lands within Northern Lebanon. Conservation lands are a vital part of the character of the City of Lebanon and should be preserved for the present and future generations.

411.2 Description of Northern Lebanon Environmental Overlay District.

The Northern Lebanon Environmental Overlay District includes all areas as depicted on the Official Lebanon GIS system map.

411.3 Permitted Uses.

Uses permitted on the respective use tables of the underlying zoning district which overlap with (a) the 1000' wildlife corridor, (b) wetlands or a 100' buffer around wetlands (as defined by DES standards and to the satisfaction of the Zoning Official), and/or (c) the steep slopes shall be permitted only with the concurrent approval of a Northern Lebanon Environmental Overlay Conditional Use Permit by the Planning Board.

411.4 Accessory structures and minor expansions.

An accessory structure or building addition with a footprint up to a cumulative 500 square feet may be administratively approved by the Zoning Official upon demonstration by the applicant that the project meets the Conditional Use Permit criteria set forth in Section 411.5. If in the event that the Zoning Official cannot determine that the proposed addition of use or structure meets the Conditional Use Permit criteria, then the applicant shall make a complete application to the Planning Board for the Board's consideration.

411.5 Conditional Use Permit.

In passing upon any application for a Conditional Use Permit, the Planning Board shall make each of the following findings:

- A. The proposed project does not have an adverse impact on the free movement of wildlife through the corridor.
- B. The proposed project does not create a hazard or nuisance to the wildlife corridor, wildlife crossings, wetlands, vernal pools, steep slopes, or essential ecosystem inter-conductivity within the Northern Lebanon Environmental Overlay District.
- C. The General Welfare of the Northern Lebanon Environmental Overlay will be protected.
- D. The proposed project aligns with the spirit and intentions of the Northern Lebanon Environmental Overlay district as laid out in Section 411.1.

411.6 Enhanced Regulatory Requirements.

An application for a Conditional Use Permit shall demonstrate compliance with the following additional requirements:

- A. The requirements of Section 403 Steep Slopes District.
- B. Within any wetland or within 100' of any wetland, enhanced stormwater wetland protections shall be employed including:
 1. No net expansion of impervious surface shall be permitted for existing developed lots. Within the Northern Lebanon Environmental Overlay District, there shall exist a 100-foot buffer around any and all wetlands, within which the density of impervious coverage shall in no area exceed 100 square feet per 500 contiguous square feet.
 2. The use of low impact design principles for stormwater management shall be employed.
 3. Stormwater treatment must conform to Enhanced Wetland Buffer Standards as set out in SPR 6.6(?) unless waived by the Planning Board during the site plan review process.
 4. Retention of natural vegetation and/or establishment of vegetation and plantings, as required by the Planning Board in the site plan review process, in order to protect water quality and enhance the riparian and wetland habitats.
- C. Where a property abuts or is within 100' of a high or very high wetland complex signage identifying the sensitive nature of the area and dissuading interaction with the wetland shall be posted and maintained. (Reference High and Very High-quality wetlands further depicted in the Lebanon Wetland Overlay District map adopted March 12, 2013.)
 1. When possible gathering spaces, walking pathways and play areas should be included in the design for the neighborhood and site plan to encourage outdoor recreation in an area that is not environmentally sensitive.
- D. Fences, walls or other human made impediments to the free movement of wildlife through the corridor are not permitted unless otherwise required by rule, regulation, or law.
 1. When an impediment is required, an alternative wildlife travel pathway shall be provided. Enhancements such as open space, wildlife crossing culverts or overpasses and proven engineering solutions that mitigate adverse impacts on wildlife movement are then required.
- E. Wildlife travel pathways when identified shall be noted with signage discouraging human interaction.

411.7 Environmental Impact Assessment.

The Planning Board may require the applicant, at the applicant's expense, to submit an environmental impact assessment authored by a qualified environmental scientist to supplement an application made under this section.

93

94 411.8. Interested Parties.

95 The Lebanon Conservation Commission is hereby determined to be an interested party to any Planning

96 Board proceeding under this section. Upon receipt of an application, the Planning Board shall

97 immediately forward a copy of the complete application to the Conservation Commission. The

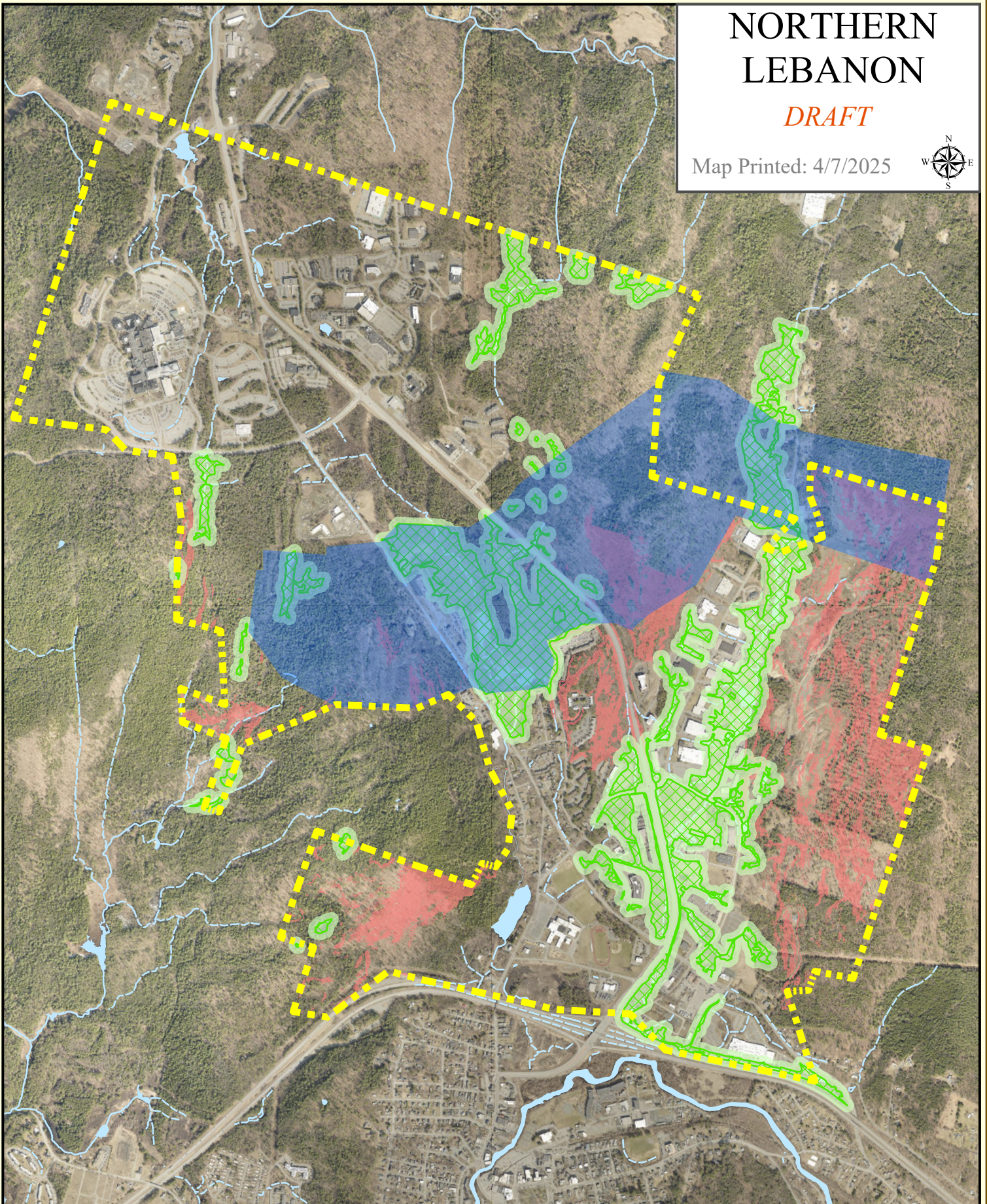
98 Conservation Commission shall receive notice of all proceedings of the Planning Board, and the Planning

99 Board shall give due weight to all evidence submitted to it by the Conservation Commission.

NORTHERN LEBANON

DRAFT

Map Printed: 4/7/2025



Steep Slopes (g.t. 25%)
Wetland and Wetland Buffer (100 ft.)
Wildlife Corridor

Natural Resource Overlay District

Wildlife Corridor Overlay
Steep Slope (gt. 25%)
Wetland Buffer (100')
Wetland