

FINAL

**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.

Seconded by Ms. Barkley.

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

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

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

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

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

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

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

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

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

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 building that was constructed in 1945 and has been used by Headrest Inc. as a residential social service center for adults experiencing substance use disorders since 1987.
2. The applicant proposes to transition away from their current 14-bed, 3.1 Low Intensity Residential Program use.
3. The applicant is seeking a Special Exception pursuant to Article VI Additional Standards for Specific Uses, Section 614 Recovery Houses, of the Zoning Ordinance to allow them to transition their services to a 14-bed Recovery House as defined in RSA 153:10-d, II, as the same may be amended: A residence that provides a safe, healthy, family-like, substance free living environment that supports individuals in recovery from addiction and is centered on peer support and a connection to services that promote long-term recovery; provided that “recovery housing” shall not include a halfway house or any other facility requiring a license pursuant to RSA 151, in the LD Zoning District.
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 10, 2025.
5. There are no known existing zoning violations on the property.
6. No member of the public appeared to speak either for or against the application.

II. CONCLUSIONS OF LAW

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

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

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

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 7th day of April, 2025 hereby **GRANTS** the requested Special Exception pursuant to Sections 614 and 801.3 of the Zoning Ordinance to allow the existing facility to be used as a recovery house.

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

Seconded by Ms. Barkley.

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

Mr. Newlove voted nay.

- C. Execusuite, LLC, 75 Bank St (Tax Map 92, Lot 78), zoned RO:** The applicant requests a Special Exception from Article III, Section 311.2, 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. **ZB2025-08-SE**

Tim Sidore appeared on behalf of Execusuite for the application. The building is formerly known as the Lebanon Middle School. Eleven years ago, the building was converted into 43 apartments and commercial space, so it is a mixed-use facility. For many years Execusuite rented this commercial space to Spark and since they left the owners have not been able to find another lessor for this section of the property. The Treehouse Gymnastic Organization has signed a lease for the space, and the applicants believe an indoor recreational facility falls under the conditional use in this zone, allowed in the district through a special exception. Because it is a former school, there is ample parking on site. The applicants also own the two abutting properties and believe there would be no impact against abutters. There would be shorter operating hours than the previous tenants.

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

Staff discussed some concerns regarding previous zoning violations. There was an old classroom trailer that had been stored on site that was required to be moved and has now been moved. There are also other materials and appliances in the back that need to be cleaned up because. The applicants are in agreement to clean up the areas.

The approved site plan seems to be in conflict of what was originally approved, such as the parking lots. 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 is important to ensure that all permitted requirements are met.

The rugby club occasionally uses the fields, but it is not a rental arrangement. They have allowed the Rugby club to play on the fields. There is an unpermitted shed. The shed belongs to the City and is believed to have been there for the last 6 years. The shed is used by Lebanon Parks and Recreation.

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

Chair Koppenheffer opened the Public Hearing.

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

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

Chair Koppenheffer MOVED on April 7th, 2025, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Tim Sidore regarding 75 Bank St (Tax Map 92, Lot 78), zoned RO: The applicant requests a Special Exception from Article III, Section 311.2, 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.

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 building that was constructed in 1927 and was previously the Lebanon Jr. Highschool. The current owner purchased the property in 2013 and has since converted it to 43 dwelling units, a gym/fitness club, a private education facility, and office space.
2. The applicant proposes to convert a portion of the previous private education facility space into an indoor gymnastics facility – Treehouse Gymnastics.
3. 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 10, 2025.
4. There are a number of issues with the condition of the property as laid out and stated in a memorandum from the Zoning Administrator and Director of Planning to the Zoning Board. There are 8 individual categories of potential zoning violations of the property.
5. Annie Arrington testified in favor of the proposal, being the tenant of the space in question.

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 §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