

FINAL

**LEBANON ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE
THURSDAY, January 16, 2025
7:00 PM**

MEMBERS PRESENT: Paul McDonough, Jennifer Barkley, Michael Morris (alternate)

MEMBERS ABSENT: Chair William Koppenheffer, Vice Chair Jeremy Katz, Dave Newlove,

STAFF PRESENT: Nathan Reichert – Zoning Administrator

Mr. Morris was given voting privileges for this meeting.

***Mr. Morris MOVED that Mr. McDonough chair this meeting.
Seconded by Ms. Barkley.***

****The Vote on the Motion was (2-0-1).
Mr. McDonough abstained.***

1. CALL TO ORDER

Paul McDonough called the meeting to order at 7:24 PM.

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

2. APPROVAL OF MINUTES

None.

3. PUBLIC HEARING ITEMS

The applicants were given the opportunity to postpone this hearing until there is a full Board. They declined. The Board decided to present both of the applications at the same time, in succession. The vote will be done after that.

- A. Mary Hitchcock Memorial Hospital & Families Flourish Northeast, 424 Mount Support Rd (Tax map 24, Lot 6), zoned R-1:** The applicant requests a Special Exception pursuant to Article IV, Section 401.5 (“Wetlands Conservation District”) of the Zoning Ordinance to allow wetland impacts associated with construction of a group residence and associated infrastructure. **ZB2025-01-SE Continued from the 1/6/2025 meeting**

Engineer Nick Fiore and Sue Cobb appeared on behalf of the application. He showed the delineated wetlands within the property. The Conservation Commission asked if it could be a 4-story building instead of a 3-story building. This seemed to minimize the functionality of the building. They tried rotating the building but that did not improve the wetland impact. They drafted many renditions of the building affecting the usefulness of the building, parking, and useful outdoor space. Each iteration impacted the amount of square footage of wetlands impacted. The final design has a bend in the building,

with the front of the building facing the road more. This resulted in 5638 square feet permanently impacting to the wetlands with over 7000 sq. ft temporary impact. It would result in a retaining wall and sloping ground with native materials growing back to maintain the slope. There would be retention chambers to control the storm runoff so the flow rate would be equivalent to what flows off the land now. These chambers would need ongoing maintenance. There would not be contaminants coming off during construction.

Mr. Fiore reviewed the criteria for the special conditions. Nothing can be built upon the site without impacting the wetlands to some degree. Currently there is water from the City but there is no sewer. There is no place on the property where a septic system can be built. This building would have an injector system that would push down to the City sewer system on Mount Support Road. It appears that there is no other reasonable use for any residence that would work on this property. It would take a much larger facility to make it financially reasonable to develop the property with the City sewer. There is no place on the property where a septic system can be built within the wetland guidelines. They believe this facility is the most reasonable structure for the use of this property.

The Board discussed the need for state, federal and local permits. The Conservation Commission asked the applicants to be conscious of the amount of impermeable surface that would become the parking area. They would try to make the minimal number of parking spaces that meet approval requirements.

Rachel Townsend spoke in opposition to the special exception. She said the character of the area would be affected by bringing individuals and families with drug addictions into the neighborhood. The capacity of existing and planned facilities would be adversely impacted, and it would affect the human services. The City is already a tax burden. Granting would result in undue expenses and the municipal expense would not result in any tax benefit.

Nicholaos Mouzourakis said pertaining to attitudes toward wetlands he has seen the community change considerably. Hundreds of housing units have been added in the neighborhood and hundreds of additional units are planned to be added. Previous projects have impacted the wetlands, and it is a bad precedent to approve the impact on wetlands. Over time it would change the land and wetlands. This would destroy the natural area that is part of the neighborhood. It would also encroach on endangered species.

Joan Townsend was concerned about the maintenance of the parking lots and the care of the retaining walls. All of the salt gets pushed away from the lots onto the ground and into the wetlands. The amount of impermeable grounds and the maintenance of those areas, such as winter salt, would have an impact on the wetlands.

Courtney Tanner spoke saying she has the privilege of serving on the Board for Family Flourish. They are excited that they have gotten this project to this point. At this point the Board is only evaluating the impact on the wetlands. She said they have worked very hard to mitigate the impact on the wetlands and have worked hard to find the best property. This parcel makes the most sense for the project.

Hearing no further comments, the Public Hearing was closed.

The Board did not have any additional questions.

B. Mary Hitchcock Memorial Hospital & Families Flourish Northeast, 424 Mount Support Rd (Tax map 24, Lot 6), zoned R-1: The applicant requests a Special Exception from Section 308.2,

pursuant to Section 801.3, of the Zoning Ordinance, to allow the construction of a group residence with associated infrastructure. **ZB2025-02-SE Continued from the 1/6/2025 meeting**

The second application was discussed. The applicants stated that the Planning Board believes this does meet the criteria of group residence and meets the criteria for a special exception. They believe this housing would be smaller than many buildings next to it. The housing would be staffed, and they believe this would limit the negative impacts of the types of residents that would be living in the building. It is dedicated to people improving their lives. It would be twelve residential units. The ordinance does allow for a group residence in this zoning district.

Daisy Goodman spoke of the population that would inhabit the residence. Over time they have seen an increase in the number of people who have significant addiction and have children and are having a new child. They often come into the hospital close to delivery time instead of coming in earlier and having time to detox. All of these things would be mitigated by being housed in this type of residence. This is a model that has been used across the country with good outcomes. Keeping the children and newborn children together results in a greater outcome for all of this group. Residential treatment settings eliminate many of the hazards of living on the street, resulting in incredible outcomes. Ideally these would be 3 to 9 month living arrangements. The residents are simultaneously under treatment for addictions.

Courtney Tanner spoke. This residence would have 24/7 staff and be a full-time treatment center. Living in the home would include the requirement to participate in the community. Family Flourish is a part of the solution for these women and the community. It would lessen the burden on society.

Joan Townsend spoke. It seems that 13.4% of babies who come to MHMH are under substance abuse. The cost of building in this area would become a City burden in the future. The Board asked how much the City would have to fund this building and what happens when funding runs out. As it is, there is no financial burden. Ms. Townsend said this would create costs for road maintenance, ambulances, police protection, and all the City facilities would be a future cost. It is not apparent how this would benefit the residents of the City.

Andrew Winters from Twin Pines, the adjacent property, spoke in full support of this project, its purpose, and its location. It is away from significant residential areas and close to the hospital. He believes the applicants have done a lot to address the concerns of residents of the City. There already is a significant cost of people who need treatment in the City.

Nicholaos Mouzourakis said the Lebanon GIS system shows that all of the land around this area is owned by Dartmouth. He wondered why this tiny bit of land near the wetlands is chosen instead of the other land. Also, he wonders how the people who would be living adjacent to the group home who are part of Twin Pines would feel about living next to that type of facility.

Miss Goodman spoke. They are concerned about the safety and benefit of the families of the future residents of the home. The goal is to provide a sheltered space that is somewhat sequestered. People and children would not be wandering unsupervised. Most people who come to this place are not allowed to bring a vehicle. Most of the vehicles would belong to staff. One of the reasons this location was chosen is its proximity to the bus service.

Rachel Townsend said she heard people say that this facility needs to be in Lebanon. She feels it does not need to be in a location that requires a special exception to be in Lebanon and asked why it needs to be in a location that it is not already acceptable.

Hearing no further comments, the Public Hearing was closed.

The Board deliberated and determined that the wetlands application had no further need for discussion.

A motion was made by Mr. Morris regarding agenda item 3B2025-01-SE and the request for a special exception.

On January 6th, 2025, and January 16, 2025 at duly-noticed meetings of the Lebanon Zoning Board of Adjustment, there appeared Nicholas Fiore regarding 424 Mount Support Rd (Tax Map 24, Lot 6). The applicant requests a Special Exception pursuant to Article IV, Section 401.5 (“Wetlands Conservation District”) of the Zoning Ordinance to allow wetland impacts associated with construction of a group residence and associated infrastructure.

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 applicant seeks to construct a group residence and associated infrastructure.
2. The construction of the safety improvements will impact a total of 5638 sq. ft. of wetlands.
3. The applicant has applied for a wetlands permit from the NH Department of Environmental Services. The wetlands permit was reviewed by the Conservation Commission at its December 12, 2024, meeting. The applicant now seeks a Special Exception pursuant to Section 401.5 of the Zoning Ordinance to allow the proposed wetland impacts.
4. There are no known existing zoning violations on the property.
5. People spoke in favor and against. Courtney Tanner and Daisy Goodman spoke in favor. Rachel and Jan Townsend and Nicholas Mouzourakis who all spoke against it and presented clear and cogent reasons not in favor of the wetlands 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 §401.5 of the Zoning Ordinance:

1. The use for which the exception is sought **cannot** feasibly, after consideration of all alternatives, be carried out on a portion or portions of the lot which are outside the Wetlands Conservation District. (§401.5.A)
2. Due to the provisions of the Wetlands Conservation District, as applied to the particular characteristics, setting and environment of the property, the lot **cannot** reasonably be used for any of the uses permitted or allowed by special exception, without some form of special exception under this section. (§401.5.B)
3. The design and construction of the proposed use **is** consistent with the purpose and intent of §401.1 (A), (B) and (C) of the Zoning Ordinance, and adequate conservation measures **will** be

taken to mitigate the detrimental effects of the proposed use on the natural function of the wetlands (§401.5.C)

4. The criteria set forth in Section 401.5.D relates to pipelines, powerlines, and other transmission of lines and, therefore, is not applicable.
5. The proposed use **will not** create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of ground water, or any other reason. (§401.5.E)
6. The project **is** capable of complying with all State and Federal wetlands and wetlands permitting requirements. (§401.5.F)
7. The project **is** capable of conforming to all existing best management practices, as referenced in Appendix A of the Zoning Ordinance, and **will** be implemented in a way which conforms to those practices (§401.5.G)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 16th day of January 2025 hereby **GRANTS** the requested Special Exception pursuant to Section §401.5 of the Zoning Ordinance to allow wetland impacts associated with construction of a group residence and associated infrastructure at 424 Mount Support Road, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. All local, state and federal permits be applied for and achieved as necessary in order to proceed with the project.
2. Coordinate with the local Planning Board.

Seconded by Ms. Barkley.

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

The Board discussed that the application for the group home is a valuable need of the community, and they recognize the apprehensions of residents in the community. However, the Board realizes this is a population that is already in the community.

A motion was made by Mr. Morris regarding agenda item 3B2025-02-SE and the request for a special exception.

On January 6, 2025 and January 16th, 2025, at duly-noticed meetings of the Lebanon Zoning Board of Adjustment, there appeared Nick Fiore regarding 424 Mount Support Rd (Tax Map 24, Lot 6). The applicant requests a Special Exception from Section 308.2, pursuant to Section 801.3, of the Zoning Ordinance, to allow the construction of a group residence with associated infrastructure.

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 a dimensionally conforming vacant lot.

2. At this time, the applicant is seeking a Special Exception pursuant to Article III, Section 308.2 of the Zoning Ordinance to create a group residence within the R-1 zoning district.
3. As described in the application by the applicant, the applicant proposes to construct a 3-story group residence facility that will include 12 residential units and supportive programmatic space. The facility will be used as a substance use treatment and recovery center for pregnant and parenting women and their children.
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 December 9, 2024.
5. There are no known existing zoning violations on the property.
6. A number of people spoke in favor and against. The people who spoke against include the Townsends, both Joan and Rachel and Nicholaos Mouzourakis. Speaking in favor was Andrew Winter, Daisy Goodman and Courtney Tanner. Mr. Winter runs an organization that is on the boarder of 424 Mount Support Road.

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. The following criteria of Section §803.1 **have been** met:
 - a. The reasonable use of abutting properties shall not be adversely affected by the proposed expansion.
 - b. The proposed expansion shall not render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently nonconforming cannot be made more nonconforming in the absence of a variance.
3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy.
4. The character of the area **will not** be adversely affected.
5. **No** hazard or nuisance will be created.
6. The capacity of existing or planned community facilities and services (including streets and highways) **will not** be adversely impacted.
7. The granting of the Special Exception **will not** result in undue municipal expense.

8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and intent of the ordinance.
9. The general welfare of the City **will** be protected.

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 6th day of January 2025 hereby **GRANTS** the requested Special Exception pursuant to Section §801.3 of the Zoning Ordinance to allow the construction of a group residence with associated infrastructure at 424 Mount Support Road, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

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

Seconded by Ms. Barkley.

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

4. STAFF COMMENTS

Staff thanked the Board for holding this Special Meeting.

5. ADJOURNMENT

Ms. Barkley MOVED to adjourn the meeting at 8:47 PM.

Seconded by Mr. Morris.

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

Respectfully submitted,
Linda Billings, Recording Secretary