

FINAL

**LEBANON ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE
MONDAY, December 1, 2025
7:00 PM**

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

MEMBERS ABSENT: Jennifer Barkley

STAFF PRESENT: Nathan Reichert – Zoning Administrator

1. CALL TO ORDER

Chair Koppenheffer called the meeting to order at 7:06 PM.

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

2. APPROVAL OF MINUTES

A. November 3, 2025

Mr. Burtan was given voting privileges for this meeting.

Vice Chair Katz MOVED to approve the November 3, 2025, minutes as presented in the December 2, 2025 packet.

Seconded by Mr. Newlove.

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

3. PUBLIC HEARING ITEMS

- A. Peter Buttrick, 61 Crafts Ave (Tax Map 58, Lot 88), Zoned R-3:** The applicant requests an Equitable Waiver of Dimensional Requirement pursuant to State of New Hampshire RSA 674:33-a and Zoning Ordinance 801.4.B, for the construction of a single-family dwelling +/- 14 ft. from the right-side property line, where a minimum of 15 ft. is required. **ZB2025-25-EW**

Peter Buttrick appeared on behalf of the application. He is seeking an equitable waiver for a building on Crafts Avenue. The builder started building the house in June, and in October Mr. Buttrick's mortgage company did a mortgage plot plan and noted a discrepancy on the rear setback. Mr. Buttrick reached out to the City and proceeded to get an as-built site survey showing that the front of the house was within the setback, but the right rear of the house was six inches over the setback. He believed there was more than 6 feet leeway on the site plan. The builder discovered that the right rear pin was missing and measured out the building layout. The builder did a miscalculation of the property line that ultimately resulted in a mistake that moved the building 6 inches over the right rear setback. This resulted in the necessity of getting a new

deed for the property with correct measurements and the correct dimensions of the lot. It is a very small lot and has unusual shape. Mr. Buttrick was not aware of any of this until October.

Chair Koppenheffer opened the public hearing. Hearing no one else, the public hearing was closed.

Mr. McDonough MOVED on December 1, 2024, at a duly noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Peter Buttrick regarding 61 Crafts Ave (Tax Map 58, Lot 88), Zoned R-3: The applicant requests an Equitable Waiver of Dimensional Requirement pursuant to State of New Hampshire RSA 674:33-a and Zoning Ordinance 801.4.B, for the construction of a single-family dwelling +/- 14 ft. from the from the right-side property line, where a minimum of 15 ft. is required.

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 in the process of being developed with a single-family residence.
2. At this time, the applicant is seeking an Equitable Waiver per State of New Hampshire Code §674:33-a and section §801.4.B of the Zoning Ordinance to permit a +/- 1' side yard encroachment into the required 15' setback.
3. In order to grant an Equitable Waiver, the applicant must demonstrate that the proposal meets the §674:33-a criteria. The applicant has submitted testimony addressing the Equitable Waiver criteria in an application received by the Planning & Development Department on October 27, 2025.
4. No member of the public was in attendance or spoke for or against this petition.

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 Equitable Waiver criteria set forth in §674:33-a of the New Hampshire Code:

1. That the violation **was not** noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;
2. That the violation **was not** an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;
3. That the physical or dimensional violation **does not** constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and

4. That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far **outweighs** any public benefit to be gained, that it **would be** inequitable to require the violation to be corrected.

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 2nd day of December 2025, hereby **GRANTS** the requested Equitable Waiver pursuant to State of New Hampshire RSA 674:33-a and Zoning Ordinance 801.4.B to allow the construction of a single-family dwelling +/- 14 ft. from the from the right-side property line, where a minimum of 15 ft. is required, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

Seconded by Mr. Newlove

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

- B. Mark & Mary Manikian, 69 NH Route 4A (Tax Map 84, Lot 46), Zoned RL-2:** The applicants request two Variances from Section 313.3, pursuant to Section 801.2 of the Zoning Ordinance, to allow a garage to be built +/- 7.5 ft from the front property line where 40 ft is required, and to allow +/- 30% building coverage on the lot where 20% is allowed. **ZB2025-26-VAR**

Mr. Reichert informed the Board that there is an error in the GIS mapping for this application. On behalf of the applicants, he asks that the Board offer a continuance for one month. Early this morning it was discovered that there is an error on the GIS layer. They discovered that the property is in the Riverbank Protection and the GIS Map is in error. The applicants are going to need an additional variance in this application. They have already filed an amended application, and they will be meeting with the Conservation Commission. The application would be taken up again at the January meeting. The Board agreed to continue the application.

4. OTHER BUSINESS

A. 2026 Meeting Schedule Review & Approval

The schedule is the Board's prerogative to set and Staff following the schedule the Board establishes. It helps with deadlines for applications and materials that need to be submitted by applicants.

Vice Chair Katz moved to adopt the 2026 schedule.

Seconded by Mr. Burtan.

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

B. Proposed Zoning Amendments Review & Comment - Continued From 11/3/2025 Meeting

The role of the Board is to determine if they understand the amendments and if they can interpret the amendments as needed. The Board discussed several of the proposed changes and mentioned a few of the implications that the changes could or would have for future applications. Even though the amendments are understandable, it is apparent that some changes would have implications for current zoning rules that may not have been considered based on some of the edits.

C. Proposed Electric Vehicle (EV) Zoning Regulations Review

The impetus for this amendment pertains to an original draft of amendment 13 from LEAC and a petition filed by John LaBattis, a contractor. It is based on revisions and withdrawal of amendment 13 and the petition; and this draft has agreement by all parties. If this amendment is changed, the cost of construction would save more than half a million dollars on one project. It has to do with the requirement of the size of electric service coming into the property. As originally written, the electric requirements to service EVs required that it would have to be sized for the entire property and the electrical entrance would be massively oversized. This new requirement allows the size of electrical entrance to be determined with Liberty instead of the City. The Board reviewed documents in the packet for the new regulation.

D. Maximum Parking

The Chair commented on the maximum parking allowed on residential lots. He believes the maximum parking allowed is not reasonable, because most families have more than 2 vehicles. Striking the language that pertains to one- and two-family dwellings would be a problem. This would set up an inordinate number of special exceptions.

The Board continued to discuss other details of the amendments. One discussion pertained to the use of surface water sewage by Food trucks, rather than going through the regular sewer system.

E. Zoning Board Application Submission Requirements

The Zoning Board does not require any actual proof of property lines for a dimensional variance application. Staff have been working with all the requirements of the Zoning Board of Approval and at times go out into the field to verify where the building is supposed to be. In the real-world applicants sometimes do not even know where the property lines are. There is no proof of verification where the property lines are. And as-built drawings are not required either that have been done by a surveyor. A normal survey costs \$300 to \$800 to find a property line. A full site plan could be thousands of dollars. If it is one particular line that is of concern, that is the only area that needs to be surveyed. Mostly the facts from applicants are unsubstantiated. One way is to use existing pins and show where the building would be built, but it is sometimes difficult to find the property lines and to be able to lay out a site plan for the building.

One approach is for the Board to require surveyed proof to substantiate where the property lines are to make things accurate. Lebanon is unusual in not previously requiring a stamped site plan to get relief for a zoning ordinance. And the survey needs to be current for the property if it has been changed. If it can be demonstrated where the property pins are, that could be acceptable. Or a survey could be carried out if the pins are not available. And subdivided properties may not have property pins that are no longer accurate. The Board discussed whether an as-built document could be required.

Vice Chair Katz believes this approach is very difficult. Surveyors are incredibly difficult to find, the time to get one is years, not months or weeks. They are expensive, thousands for typical parts of an acre. Many of the changes that are requested are minimal and would make things very difficult for homeowners. If there is mandatory language, the Board needs to enforce it. Most requests are for small families, which would make it difficult for the Board as well as families that merely want to

repair a structure. The applications have been coming from average people, not large organizations making large property developments.

Recently there have been several instances where not knowing the property lines have been problematic. One solution may be to say the Board may require a survey or demonstration of the property boundaries. The Board will continue to discuss the options and work with Staff on appropriate language.

5. STAFF COMMENTS

Chairman Koppenheffer announce he is retiring after the January meeting. Vice Chair Katz will not be present at the currently scheduled February meeting.

6. ADJOURNMENT

Mr. Katz MOVED to adjourn the meeting at 8:22 PM.

Seconded by Mr. Burtan.

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

Respectfully submitted,
Linda Billings, Recording Secretary