



LEBANON ZONING BOARD OF ADJUSTMENT
JUNE 7, 2021 - 7:00 PM
REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE

1. Call to Order

- A. Review of meeting procedures and NH RSA 91-A "Right-to-Know" requirements.

2. Approval of Minutes

- A. May 3, 2021
B. May 18, 2021

3. Public Hearing Items

- A. Jacqueline Minard, Trustee, 78 Mascoma Street (Tax Map 106, Lot 67) and 82 Mascoma Street (Tax Map 106, Lot 67, Plot 701), zoned R-3: 82 Mascoma Street currently conforms with the 10,000 sq. ft. minimum required lot size. The applicant proposes a boundary line adjustment between the subject properties that will reduce the size of 82 Mascoma Street to +/-8,414 sq. ft. To allow the proposed boundary line adjustment, the applicant requests a Variance from Article II, Section 202 (prohibiting the reduction of lot area to less than the minimum required) and from Article III, Section 309.3 of the Zoning Ordinance (requiring a minimum lot size of 10,000 sq. ft. for Class 1 lots in the R-3 District). ZB2021-09-VAR Continued from May 3, 2021
- B. Ohana, LLC, 83 NH Route 4A (Tax Map 98, Lot 7), zoned RL-2: Applicant requests a Special Exception pursuant to Article VII, Section 702.5 of the Zoning Ordinance to expand the current non-conforming "seasonal" restaurant use to year-round and include an ice cream trailer. ZB2021-05-SE Continued from May 3, 2021
- C. Brock Christensen & Erika Moen, 71 Maple Street (Tax Map 59, Lot 1), zoned R-3: Applicant requests a Special Exception per Section 703.1 of the Zoning Ordinance to construct a 100 sq. ft. addition onto an existing garage that is non-conforming to the minimum required 20 ft. front setback. ZB2021-16-SE
- D. Laurie A. & Noel T. Pauli, 46 Eldridge Street (Tax Map 91, Lot 33), zoned R-3: The existing home is non-conforming to the minimum required 20 ft. front setback. Applicant requests a Variance from Section 310.3 of the Zoning Ordinance to replace the existing porch with a new porch that extends an additional two (2) ft. into the minimum required 20 ft. front setback. ZB2021-15-VAR

4. Other Business

- A. Discussion re: proposed amendment to Rules of Procedure to add Rules of Decorum

5. Staff Comments

6. Adjournment

The order of agenda items is subject to change.

Due to the current situation with the COVID-19 Pandemic, the City of Lebanon is offering its meetings via Microsoft Teams. Members of the public are encouraged to attend by going to 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 Microsoft Teams software or by phone. Please visit LebanonNH.gov/Live for full details.

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.

**Agenda
Zoning Board of Adjustment
October 19, 2021**

**Agenda Item #2A
Approval of Minutes**

May 3, 2021

DRAFT

**LEBANON ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
REMOTE VIA MICROSOFT TEAMS
LebanonNH.gov/Live
MONDAY, May 3, 2021
7:00 PM**

MEMBERS PRESENT: Chair William Koppenheffer, Alan Patterson Sr., Dan Nash, Jeremy Katz, Dave Newlove, (Alt), Paul McDonough (Alt)

MEMBERS ABSENT: Vice Chair Jennifer Mercer

STAFF PRESENT: Tim Corwin – Senior Planner and Zoning Administrator

1. CALL TO ORDER

The meeting was called to order at 7:01 PM by Chair Koppenheffer.

Board Members who participated remotely are listed above.

A. Review of meeting procedures and NH RSA 91-A “Right-to-Know” requirements

Mr. Corwin delivered the Right to Know procedures to the Members and the Public.

2. APPROVAL OF MINUTES

Mr. Newlove was appointed a voting member for this Motion.

A. April 5, 2021

Mr. Patterson MOVED to approve the April 5, 2021 Minutes as presented in the May 3, 2021 agenda packet with amendments.

Seconded by Mr. Nash.

Amendment: Page 11, Line 32; Remove ‘154’ and Add ‘184.’

Roll Call Vote

Mr. Newlove, Mr. Katz, Mr. Nash, and Chair Koppenheffer all voting Yea.

None voted Nay.

Mr. Patterson Abstained.

**The Vote on the Motion was approved (4-0-1).*

3. PUBLIC HEARING ITEMS

A. Ohana, LLC, 83 NH Route 4A (Tax Map 98, Lot 7), zoned RL-2: Applicant requests a Special Exception pursuant to Article VII, Section 702.5 of the Zoning Ordinance to expand the current non-conforming “seasonal” restaurant use to year-round and include an ice cream trailer. **ZB2021-05-SE – Continued from April 5, 2021**

The applicants have requested a continuance until Monday, June 7, 2021. No one appeared on behalf of the application. However, there is an issue that needs to be addressed. Based on the testimony of

1 the applicant at the last hearing, it is thought that the ice cream trailer is going to be stored on the lot,
2 but not used as part of the restaurant facility. If that is the case, then the applicant would have to
3 apply for a variance to store the trailer at the location of the restaurant. Had this been understood
4 initially, a variance would have been recommended to be included. Originally it was thought that the
5 ice cream cart would be used at the premises and off site at times. If that were the case it could have
6 been addressed as an expansion of a non-conforming use. The Board discussed if the applicant could
7 add that to the current application and have it re-noticed.

8
9 If the applicant was to use the trailer on the premises at certain times, the question is how much it can
10 be used without a variance. If it is to be stored, the question is how long it can be stored. Additional
11 testimony is necessary. The question remains if the storage of an ice cream truck, intended to be used
12 off site, can be considered a natural expansion of a non-conforming use. If it is primarily used offsite,
13 then it likely is not a natural expansion of a non-conforming use.

14
15 ***Mr. Nash MOVED to continue this hearing until June 7, 2021.***

16 ***Seconded by Mr. Newlove.***

17
18 Mr. McDonough was given voting privileges for this hearing.

19
20 **Roll Call Vote**

21 ***Mr. McDonough, Mr. Katz, Mr. Nash, Mr. Patterson, and Chair Koppenheffer all voting Yea.***

22 ***None voted Nay.***

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

24
25 **B. Diane Doe, 5 Richardson Place (Tax Map 8, Lot 9), zoned R-3: Applicant requests**
26 **a Variance from Article II, Section 201.7 of the Zoning Ordinance to allow additional**
27 **parking spaces within the minimum required 20 ft. front yard. ZB2021-04-VAR -**
28 **Continued from February 1, 2021**

29
30 Mr. Newlove was given voting privileges for this hearing.

31
32 The applicant was requested to provide a boundary line survey and a drawing showing how the parking
33 was envisioned. Those materials were not received and without those documents it is not possible to
34 move forward. There are two choices, continue to June or open the public hearing and go forward. The
35 applicant is attending the meeting and was asked why the documents have not been provided.

36
37 Diane Doe responded that what she submitted was photographs of property stakes showing there is 24
38 feet between the stake and her driveway. The stake closest to the road had not been seen before. She
39 worked with the abutters to locate the missing stake.

40
41 An expert opinion of a licensed surveyor is what is expected. The photographs are not what the Board
42 intended. The photographs appear to be right, but the survey would show the distances. Staff believes it
43 is important to clarify that the survey include the dimensions of the present and future parking, as they
44 exist and where the third spot would be located, including the measurements. The Board discussed what
45 boundary lines they need, and they determined a professional survey would include a boundary line
46 survey of all the lines. Additionally, the applicant is asked to provide the current parking conditions on
47 the ground and the proposed parking.

48
49 ***Mr. Nash MOVED to continue this hearing until the June 7, 2021 meeting.***

50 ***Seconded by Mr. Patterson.***

1 The members discussed that the timeline may be too constrained. The applicant is agreeable with an
2 extended timeline.

3
4 ***Mr. Patterson MOVED to amend the Motion to the October 4, 2021 meeting.***
5 ***Seconded my Mr. Nash.***

6
7 Staff is concerned that a building permit was submitted back in the Fall and the ADU has already been
8 constructed. In some sense, this variance is after the fact. There is concern for extending this so far in the
9 future. Ms. Doe said she did submit a building permit and did have an inspection and she was told to go
10 ahead with the construction. The property has been classified as a 3 bedroom for many years. She
11 merely improved that area with insulation. It is the same as it was before she applied for the building
12 permit. Additional parking is not allowed until a variance is granted, and there is no additional parking
13 until then.

14
15 **Roll Call Vote**

16 ***Mr. Patterson, Mr. Katz, Mr. Newlove, Mr. Patterson, and Chair Koppenheffer all voting Yea.***
17 ***None voted Nay.***

18 ****The Vote on the Motion was unanimously approved (5-0).***
19

20 **C. Jacqueline Minard, Trustee, 78 Mascoma Street (Tax Map 106, Lot 67) and 82**
21 **Mascoma Street (Tax Map 106, Lot 67, Plot 701), zoned R-3:** 82 Mascoma Street
22 currently conforms with the 10,000 sq. ft. minimum required lot size. The applicant
23 proposes a boundary line adjustment between the subject properties that will reduce
24 the size of 82 Mascoma Street to +/-8,414 sq. ft. To allow the proposed boundary line
25 adjustment, the applicant requests a Variance from Article II, Section 202
26 (prohibiting the reduction of lot area to less than the minimum required) and from
27 Article III, Section 309.3 of the Zoning Ordinance (requiring a minimum lot size of
28 10,000 sq. ft. for Class 1 lots in the R-3 District). **ZB2021-09-VAR**
29

30 Mr. McDonough was given voting privileges for this hearing.
31

32 Mr. Corwin advised that these 2 properties are not separate lots but are one lot. There cannot be a
33 boundary line adjustment when it is only one lot. There is no evidence that this has ever been
34 considered two lots. In that case, the relief that is needed is to create a non-conforming lot. It is not a
35 boundary line; it is a subdivision. It is thought that the request needs to be re-noticed, that it is a
36 different case.
37

38 Chris Rollins, the surveyor, said that the deed states there are two tracks. In the 1950s there were two
39 homes, and two separate lots were defined. There is no evidence, except common use, that would
40 change this from two lots to one lot.
41

42 Staff thought that the surveyor reluctantly agreed in phone conversations, that this is one lot. If the
43 Board accepts it is one lot, then theoretically the Board could grant the variance. If the Board
44 believes the content of the notice is not substantiative, then it needs to be postponed. If the Board
45 believes a legal opinion is required, then it also needs to be postponed. Chris Rollins and the
46 applicant are willing to move forward with it as one lot for this hearing. The Board members believe
47 the cleanest way to move forward is to get a legal opinion.
48

1 *Chair Koppenheffer Moved to continue this hearing to June 7, 2021. And to direct Mr. Corwin to*
2 *seek legal opinion as to whether the Board has the power to decide whether there are two lots that*
3 *they are dealing with or just one lot.*

4
5 *Seconded by Mr. Katz.*

6
7 **Roll Call Vote**

8 *Mr. McDonough, Mr. Katz, Mr. Patterson, and Chair Koppenheffer all voting Yea.*

9 *Mr. Nash voted Nay.*

10 **The Vote on the Motion was approved (4-1).*
11

12 **D. Providence Presbyterian Church, 99 Maple Street (Tax Map 59, Lot 14), zoned**
13 **R-3:** Applicant requests a variance from Section 608.4.B.2 of the Zoning Ordinance
14 to allow an 11 sq. ft. freestanding sign where 4 sq. ft. is the maximum sign area
15 permitted for a single use. **ZB2021-10-VAR**
16

17 Mr. Newlove was appointed voting privileges for this hearing.
18

19 Mr. Isaac Trudeau appeared on behalf of the application. They would like to put up a free-standing
20 sign in front of their place of worship. When the previous owner relocated, they took the free-
21 standing sign with them. It may or may not have been a permitted. There are two other places of
22 worship on the street with bigger signs, therefore he believes they are not asking for anything out of
23 the ordinary. A smaller sign that meets the zoning requirements would be too small to read. The City
24 Council determined, in the ordinance, that the size limit is 4 square feet. It is true there are bigger
25 signs, but those signs may have preceded the sign ordinances. Unless there is a hardship, the zoning
26 ordinances apply.
27

28 **Chair Koppenheffer opened the Public Hearing. Hearing no one from the public, the Public**
29 **Hearing was closed.**
30

31 *Mr. Nash MOVED on May 3, 2021, at a duly noticed meeting of the Lebanon Zoning Board of*
32 *Adjustment, there appeared Isaac Trudeau on behalf of Providence Presbyterian Church,*
33 *regarding 99 Maple Street (Tax Map 59, Lot 14), zoned R-3. Applicant requests a variance from*
34 *Section 608.4.B.2 of the Zoning Ordinance to allow an 11 sq. ft. freestanding sign where 4 sq. ft. is*
35 *the maximum sign area permitted for a single use. ZB2021-06-VAR*
36

37 **I. FINDINGS OF FACT**
38

39 Based on testimony given, application materials presented, and supporting documents submitted, the
40 Lebanon Zoning Board of Adjustment makes the following findings of fact:
41

- 42 1. The property is improved with a +/-10,722 sq. ft. building constructed in 1900 per the City
43 Assessor's records, which is currently (and which has been historically) occupied by a church.
44 "House of worship" is a permitted use in the R-3 District.
45
- 46 2. The applicant requests a variance from Section 608.4.B.2 of the Zoning Ordinance to allow an 11
47 sq. ft. freestanding sign where 4 sq. ft. is the maximum sign area permitted for a single use. The
48 application materials include a rendering of the proposed sign and a plot plan showing the
49 proposed location of the sign on the property.
50

3. Section 608.4.B of the Zoning Ordinance sets forth the sign regulations for non-residential uses in the residential districts as follows:

Non-Residential Uses in Residential and Mixed-Use Districts. For legally existing non-residential uses and for *home businesses* in the *residential* and *mixed-use districts*, one *sign* is permitted per lot which may be with a *freestanding sign, projecting sign* or *wall sign*. If location in a *mixed-use district*, the *sign* may have *external illumination* in accordance with Section 608.4.A.6.c (“External illumination”).

1. Freestanding Signs. *Freestanding signs* shall;

a. Comply with the landscaping requirements set forth in Section 608.4.A.4.c.i (“Landscaping”).

b. Have a height of no greater than eight (8) feet.

2. Sign Area. *Sign area* is limited to four (4) square feet if a single non-residential use is located on the *lot*. For each additional non-residential use on the lot, an additional two (2) square feet of *sign area* may be added to the single *sign* permitted on the *lot*. The total *sign area* for each *lot* shall not exceed sixteen (16) square feet.

4. Because there is only a single use on the property (the church), the size of the freestanding sign is limited to 4 sq. ft. Because an 11 sq. ft. sign is proposed, a Variance is required from the maximum sign area limitations of Section 608.4.B.2 of the Zoning Ordinance
5. To obtain a Variance from Section 608.4.B.2, 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 applicant submitted testimony addressing the Section 801.2 Variance criteria in an application received by the Planning and Development Department on April 12, 2021.
6. No one from the public spoke for or against the application.

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Variance criteria set forth in Section 801.2 of the Zoning Ordinance:

1. The variance **will not** be contrary to the public interest. (Section 801.2.A.1)
2. The spirit of the ordinance **is** observed. (Section 801.2.A.2)
3. Substantial justice **is** done. (Section 801.2.A.3)
4. The values of surrounding properties **are not** diminished. (Section 801.2.A.4)
5. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area (Section 801.2.A.5.a):

- i. There **is not** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. (Section 801.2.A.5.a.i)
- ii. The proposed use **is** a reasonable one. (Section 801.2.A.5.a.ii)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **3rd day of May 2021**, hereby **GRANTS** the requested Variance from Section 608.4.B.2 of the Zoning Ordinance, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit for the proposed sign.

Seconded by Mr. Patterson.

Two issues were identified. First, this property is essentially right across from the fields. Every season there are many other signs around that area. Also, the property is unique. There is a very tight turn coming toward West Lebanon. If entrance into the church parking lot is missed, it is difficult to turn around. The application materials are a little light.

Roll Call Vote

Mr. Newlove, Mr. Katz, Mr. Patterson, and Mr. Nash all voting Yea.

Chair Koppenheffer voted Nay.

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

- E. Michael McCarthy, 29 Summer Street (Tax Map 76, Lot 166), zoned R-3:** Applicant requests a Special Exception pursuant to Article III, Section 310.2 of the Zoning Ordinance to convert an existing one-family dwelling to a two-family dwelling. **ZB2021-11-SE**

Mr. McDonough was appointed voting privileges for this hearing.

Michael McCarthy appeared on behalf of the application with Susan Simon, his technical advisor. The architect was not present as was intended. Mr. McCarthy said he has an enclosed porch behind his two garages. It was living space when he purchased the property, and he would like to make it into a unit, a living space again.

The Board commented that four parking spaces would be needed. Two are in the garage, one is on the street side of the property, and another parking space is required, meeting the minimum setback or in front of the building if it is a non-conforming building. The applicants need to show where the parking spaces can be accommodated. The Chair pointed out additional problems with the parking, and the space between the house and telephone pole. They discussed the curb cuts. The second parking space cannot be closer to the street than the front of the building. It is likely that both cars would have to park further back on the property. The Board would like clarification about the parking.

Chair Koppenheffer opened the Public Hearing.

Mr. McCarthy asked for clarification about the number of required parking spaces. He needs one additional space. Mr. Nash believes another curb cut could be made on Colburn Street. The parking spaces in the garage cannot be blocked by the cars in the driveway in front of the garage spaces. Further, the driveway is within the setback and cannot be used for parking.

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

Mr. Nash MOVED on May 3, 2021, at a duly noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Michael M. McCarthy and Susan Simon regarding 29 Summer Street (Tax Map 76, Lot 166), zoned R-3: Applicant requests a Special Exception pursuant to Article III, Section 310.2 of the Zoning Ordinance to convert an existing one-family dwelling to a two-family dwelling. ZB2021-11-SE

I. FINDINGS OF FACT

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

1. The subject property is a +/-0.21 acre lot located at the corner of Colburn Street and Summer Street. The property is improved with a 1,946 sq. ft. (finished) one-family dwelling constructed in 1920 (according to the City's assessing records) and has two driveway cuts: one from Summer Street providing access to a two-car garage, and another from Colburn Street providing a one-car parking space.
2. The applicant proposes to convert the existing one-family dwelling into a two-family dwelling. The applicant does not propose any site changes.
3. "Two-family dwelling by conversion of existing one-family dwelling" is a use permitted by Special Exception in the R-3 District per Section 310.2 of the Zoning Ordinance.
4. In order to grant a Special Exception for the proposed conversion, the Board must determine that the proposal meets the general Special Exception criteria, set forth in Section 801.3 of the Zoning Ordinance. The applicant submitted testimony addressing the Section 801.3 criteria in an application received by the Planning & Development Department on April 15, 2021.
5. No one from the public spoke for or against the application.

II. CONCLUSIONS OF LAW

1. The Special Exception is specifically authorized by §310.2 of the Zoning Ordinance. (§801.3.A)
2. There are no special conditions/requirements applicable to the proposed use. (§801.3.B)
3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy. (§801.3.C) *Staff is not aware of any Zoning Ordinance violations on the property.*
4. The character of the area **will not** be adversely affected. (§801.3.D)
5. **No** hazard or nuisance will be created. (§801.3.E)

6. The capacity of existing or planned community facilities and services (including streets and highways) **will not** be adversely impacted. (§801.3.F)
7. The granting of the Special Exception **will not** result in undue municipal expense. (§801.3.G)
8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and intent of the ordinance. (§801.3.H)
9. The general welfare of the City **will** be protected. (§801.3.I)

III. **DECISION**

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 3rd day of May 2021, hereby **GRANTS** the requested Special Exception per Section 310.2 of the Zoning Ordinance to convert the existing one-family dwelling at 29 Summer Street (Tax Map 76, Lot 166) to a two-family dwelling, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit and a certificate of occupancy.
2. Prior to submitting a building permit application, the applicant shall submit a plot plan to the Zoning Administrator demonstrating compliance with the minimum parking requirements of Section 607 of the Zoning Ordinance and the applicable parking setback requirements of Section 201.7. The applicant shall demonstrate compliance with the parking plan prior to a certificate of occupancy.

Seconded by Mr. Patterson.

The Board discussed the need to ensure the parking requirements were met.

Mr. Nash MOVED to amend his motion by adding the last sentence to Section III. 2, “The applicant shall demonstrate compliance with the parking plan prior to a certificate of occupancy.”

Seconded by Mr. Patterson.

Roll Call Vote on the Amendment

Mr. McDonough, Mr. Katz, Mr. Patterson, Mr. Nash, and Chair Koppenheffer all voting Yea.

None voted Nay.

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

Roll Call Vote on the Motion

Mr. McDonough, Mr. Katz, Mr. Patterson, Mr. Nash, and Chair Koppenheffer all voting Yea.

None voted Nay.

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

The original agenda was changed to accommodate the following hearing.

- F. **Christopher & Erin Audino, 18 Peabody Street (Tax Map 90, Lot 49), zoned R-1:** Applicant proposes to construct a 10 ft. by 16 ft. covered porch onto the side of the existing non-conforming home, which is located +/- 0 ft. from the front lot line. The

1 proposed porch will be located entirely within the minimum required 20 ft. front yard
2 required for Class 1 lots. To permit the expansion of the non-conforming home, the
3 applicant requests a Special Exception pursuant to Article VII, Section 703.1 of the
4 Zoning Ordinance. **ZB2021-14-SE**

5
6 Chris Audino appeared on behalf of the application. This is a basic improvement to their home. There
7 is an existing entry with a deck. The existing deck would be removed, and a new covered deck would
8 be built.

9
10 Mr. McDonough was appointed voting privileges for this hearing.

11
12 **Chair Koppenheffer opened the Public Hearing. Hearing no one, the Public Hearing was closed.**

13
14 *Mr. Nash MOVED on May 3, 2021, at a duly noticed meeting of the Lebanon Zoning Board of*
15 *Adjustment, there appeared Christopher Audino regarding 18 Peabody Street (Tax Map 90, Lot 49),*
16 *zoned R-1: Applicant proposes to construct a 10 ft. by 16 ft. covered porch onto the side of the existing*
17 *non-conforming home, which is located +/- 0 ft. from the front lot line. The proposed porch will be*
18 *located entirely within the minimum required 20 ft. front yard required for Class 1 lots. To permit the*
19 *expansion of the non-conforming home, the applicant requests a Special Exception pursuant to Article*
20 *VII, Section 703.1 of the Zoning Ordinance. ZB2021-14-SE*

21
22 **I. FINDINGS OF FACT**

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

- 26
27 1. The subject property is improved with a one-family dwelling constructed in 1957. As shown on
28 the plot plan provided by the applicant, the home is located at the front lot line. Consequently, the
29 home is non-conforming to the minimum front yard of 20 ft. required for Class 1 lots in the R-1
30 District.
31
32 2. As shown on the plot plan submitted with the application, the applicant proposes to construct a 10
33 ft. by 16 ft. covered porch to the south-facing side of the home. The addition is proposed to be
34 located +/-2 ft. back from the street-facing side of the home, which means that the porch is
35 proposed to be constructed +/-2 ft. from the front lot line and will be located entirely within the
36 minimum required 20 ft. front yard.
37
38 3. Class 1 lots (lots that are served by municipal sewer and water) in the R-1 District must maintain
39 a minimum front yard (i.e. a space unobstructed by buildings and structures) of 20 ft. See §308.3
40 of the Zoning Ordinance. §703.1 of the Zoning Ordinance allows the expansion of “any increase
41 in the footprint and/or volume of the non-conforming part of the building or structure,” by Special
42 Exception from the Zoning Board of Adjustment.
43
44 4. In order to grant a Special Exception for the proposed expansion, the Board must determine that
45 the proposal meets the criteria set forth in §703.1.A of the Zoning Ordinance. Per §703.1.A.3, the
46 Board must also determine that the proposal meets the general Special Exception criteria set forth
47 in §801.3.
48
49 5. The applicant has submitted testimony addressing the §801.3 and §703.1.A criteria in an
50 application received by the Planning and Development Department on April 15, 2021.

- 1
2 6. No one from the public spoke for or against the application.
3

4 **II. CONCLUSIONS OF LAW**
5

6 As a result of the above findings of fact and based on testimony given, application materials presented,
7 and supporting documents submitted, the Board concludes the following with respect to the Special
8 Exception criteria set forth in §801.3 of the Zoning Ordinance:
9

- 10 1. The Special Exception is specifically authorized by §703.1.A of the Zoning Ordinance.
11 (§801.3.A)
12
13 2. The following special conditions/requirements §703.1.A **are** met (§801.3.B):
14
15 • The reasonable use of abutting properties **is not** adversely affected by the proposed
16 expansion. (§703.1.A.1)
17
18 • The proposed expansion will not render the lot size proportionately less adequate, i.e.
19 any aspect of the building or structure that is currently nonconforming cannot be
20 made more non-conforming in the absence of a variance. (§703.1.A.2)
21
22 3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of the
23 Special Exception would not remedy. (§801.3.C) *Staff is not aware of any Zoning Ordinance*
24 *violations on the property.*
25
26 4. The character of the area **will not** be adversely affected. (§801.3.D)
27
28 5. **No** hazard or nuisance will be created. (§801.3.E)
29
30 6. The capacity of existing or planned community facilities and services (including streets and
31 highways) **will not** be adversely impacted. (§801.3.F)
32
33 7. The granting of the Special Exception **will not** result in undue municipal expense. (§801.3.G)
34
35 8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and
36 intent of the ordinance. (§801.3.H)
37
38 9. The general welfare of the City **will** be protected. (§801.3.I)
39

40 **III. DECISION**
41

42 Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 3rd day of May 2021,
43 hereby **GRANTS** the requested Special Exception per Section 703.1 of the Zoning Ordinance to allow the
44 expansion of a non-conforming building at 18 Peabody Street (Tax Map 90, Lot 49), as set forth above
45 and per testimony, plans, and materials submitted, and per the following conditions:
46

- 47 1. The applicant shall obtain a building permit, and shall comply with all applicable local, state, and
48 federal regulations in the construction of the proposed addition.
49

50 ***Seconded by Mr. Patterson.***

1
2 **Roll Call Vote on the Motion**

3 **Mr. McDonough, Mr. Katz, Mr. Patterson, Mr. Nash, and Chair Koppenheffer all voting Yea.**

4 **None voted Nay.**

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

6
7 **G. Lyme Properties (applicant), XYZ Dairy, LLC (property owner), 215 N. Main**
8 **Street (Tax Map 21, Lot 1), zoned RL-2: An appeal pursuant to Article VII, Section**
9 **702.2 of the Zoning Ordinance to allow the resumption of a discontinued non-**
10 **conforming use of the subject property. ZB2021-12-AAD**

11
12 Mr. Newlove was given voting privileges for the two companion hearings.

13
14 Attorney Philip Hastings, attorney for the applicant, appeared on behalf of the application.
15 There are two applications, one is an appeal pertaining to a building permit and the other is a request
16 to resume a discontinued use. Ultimately, they are looking to the Board to give them an extension to
17 continue or resume a non-conforming activity.

18
19 The Board discussed how best to proceed, as the first hearing is an appeal. If the first agenda item is
20 resolved, it would potentially make the second hearing moot. The attorney agreed, as he believes the
21 building permit is complete. However, the Planning Department is unable to state that an application
22 is complete without a Zoning Board approval.

23
24 Attorney Hastings said the background facts have been laid out thoroughly. This property has
25 historically had two residences. Since 2012 the applicant has not taken any action that would indicate
26 abandonment of that use. The applicant has taken care to try to improve the housing units. In 2018 it
27 was determined that the buildings could not be repaired adequately and by 2019 they were
28 demolished with the intent of replacing them with in kind. Due to Covid and other related issues, it
29 has been difficult to rebuild the buildings. The Zoning Administrator has concluded that the use was
30 discontinued in December 2018. The two-year period under the zoning ordinance, for reestablishing
31 the non-conforming use had expired. To continue an application for an extension was required.

32
33 For a variety of reasons, the applicant disputes that interpretation. Despite that, the applicant is
34 applying for an extension to give them time to rebuild on the property. There was not an intention to
35 abandon the use. The plans anticipate making the property less non-conforming than it originally
36 was. They would meet all setback requirements and all State permitting requirements. They are
37 asking to be granted a two-year extension, giving the applicant the opportunity to rebuild the
38 property.

39
40 Attorney Hastings was asked to give his interpretation of 702.2 and to clarify if the applicants agree
41 the use has been discontinued for over two years. He responded that he does not believe they are
42 reestablishing a use, they did not intentionally agree to discontinue the non-conforming use. The
43 demolition occurred in April 2019 and if not for the Covid, they would have rebuilt within the two-
44 year time period. The applicant has to agree that the use has been discontinued to have the
45 entitlement under 702.2. The applicants are willing to proceed under the assumption that the
46 discontinued use does apply to this situation, although it is ambiguous. If theoretically it applied, the
47 failure to reestablish the use, was affected by the inability to plan, get permits, engage contractors,
48 and make improvements due to Covid.

1 The Board discussed the impact Covid had on the building trades. The demolition permit was issued
2 in December 2018 and the demolition occurred in April 2019. Some members believe the demolition
3 was intended to be the first step in the reconstruction process; there could be an assumption that the
4 demolition was with the intent to continue forward. It is reasonable to ask for more time due to the
5 Covid.

6
7 Conversely, it was clearly stated on the demolition permit that there were two years from the date of
8 the permit to complete construction. There were 30 days to appeal. The applicant is saying the two-
9 year period started with the demolition in 2019. But that is not what is stated on the permit.

10
11 Regarding Section 702.2, there are two conditions that have to be fulfilled. To ask for a resumption,
12 the applicant has to agree that no actions were taken to continue the use. It is not clear what the
13 applicant had in mind because nothing was filed with the City until recently. The buildings were torn
14 down because they could not be rehabilitated. According to Section 702.2 the razing of the building
15 is an indication of abandoning the non-conforming use.

16
17 The way to establish an intent to continue was to request a new building permit. But that was not
18 requested for another two years. Although Covid was a hindrance, there were no efforts to show
19 there was no intent to abandon the use. Covid could be a reason, but Covid only began in March
20 2020. The applicant had a year and two months to move ahead with the project before Covid. Under
21 this interpretation, it is not believed that the applicant can fulfill the conditions under Section 702.2.

22
23 Some Members believe that had a building permit been requested, the non-conforming use would not
24 have been relinquished. Anyone in the construction business can comment on the limitations of their
25 actions based on Covid. There seems to be agreement that had the building been raised and a
26 building permit issued there would not be a question. Just because a building is raised does not mean
27 there was intent to abandon the resumption of the use. There was 9 months still left before Covid
28 took place and it is reasonable that Covid impacted their intent to rebuild. But it is not clear that the
29 intent to build two homes was planned all along.

30
31 **Chair Koppenheffer opened the Public Hearing. Hearing no one, the public hearing was closed.**

32
33 Attorney Hastings added that the per se evidence of what the demolition permit was intended, is that
34 the raising of the building is not the sole indicator of an intent to abandon the practice within that two-
35 year period. He has provided evidence that it was not the intention. The Zoning Ordinance does not
36 give authority to give a two-year time limit on a demolition permit. He argued that the date can be
37 ignored and that the period actually starts in April 2018.

38
39 It is thought that the City Staff acted reasonably, and the applicant also acted in good faith as well.
40 There are plenty of conditions and ambiguity. It does not seem that any one has not been operating in
41 good faith.

42
43 Chair Koppenheffer pointed out that on the City's building permit completed by the applicant it
44 states, "Demo two homes on one lot and no replacement at this time."

45
46 Staff asked for clarification if both hearings are being discussed simultaneously. Based on this
47 application, originally numbered on the agenda as 3F is granted, then 3G is mute. If it is denied, then
48 it will be discussed again.

49
50 Members discussed the circumstances with differing points of view. There seems to be no dispute
51 that there is a finding that the use was discontinued and that was not appealed. Therefore, it falls

1 within Section 702.2 and it is appropriate to seek relief under Section 702.2. Raising a building could
2 be determined that it was the intent to abandon the practice. Reasonable testimony has shown that the
3 condition in section B was also met, due to Covid. Therefore, the resumption of the non-conforming
4 use could be supported. This lot supported two independent family structures and it could be
5 continued. It lapsed, for reasons. If they move forward for another two years, then it was
6 recommended that the timeline begin when permits are issued from the NHDES for septic approval
7 and shoreland permit. Other members believe the two-year limit should start effective immediately
8 and there is no reason to give further delay. It was emphasized that it is unpredictable when things
9 will be back to normal and when things are once again available.

10
11 ***Chair Koppenheffer MOVED to continue this hearing for Decision and Deliberation until May 18,***
12 ***2021 at 7:00 PM.***

13 ***Seconded by Mr. Nash.***

14
15 **Roll Call Vote on the Motion**

16 ***Mr. Newlove, Mr. Katz, Mr. Patterson, Mr. Nash, and Chair Koppenheffer all voting Yea.***

17 ***None voted Nay.***

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

19
20 **H. Lyme Properties (applicant), XYZ Dairy, LLC (property owner), 215 N. Main**
21 **Street (Tax Map 21, Lot 1), zoned RL-2: An appeal pursuant to Article VIII, Section**
22 **801.1 of the Zoning Ordinance regarding a communication made by the Zoning**
23 **Administrator on April 7, 2021 in regard to a building permit application filed by Lyme**
24 **Properties on April 6, 2021 for the subject property. **ZB2021-13-AAD****

25
26 The Building Permit will be reviewed based on Zoning Requirements.

27
28 **4. STAFF COMMENTS**

29
30 In person meetings will likely begin in July. Further discussion will be needed regarding public
31 participation.

32
33 **5. ADJOURNMENT**

34
35 ***Mr. Patterson MOVED to adjourn the meeting at 10:09 PM.***

36 ***Seconded by Mr. Nash.***

37
38 Mr. McDonough was given voting privileges on this Motion.

39
40 **Roll Call Vote**

41 ***Mr. McDonough, Mr. Katz, Mr. Patterson, Mr. Nash, and Chair Koppenheffer all voting Yea.***

42 ***None voted Nay.***

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

44
45 Respectfully submitted,
46 Linda Billings
47 Recording Secretary

**Agenda
Zoning Board of Adjustment
October 19, 2021**

**Agenda Item #2B
Approval of Minutes**

May 18, 2021

DRAFT
LEBANON ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
REMOTE VIA MICROSOFT TEAMS
LebanonNH.gov/Live
TUESDAY, May 18, 2021
7:00 PM

MEMBERS PRESENT: Chair William Koppenheffer, Alan Patterson Sr., Dan Nash, Jeremy Katz, Dave Newlove, (Alt), Paul McDonough (Alt)

MEMBERS ABSENT: Vice Chair Jennifer Mercer

STAFF PRESENT: Tim Corwin – Senior Planner and Zoning Administrator

1. CALL TO ORDER

The meeting was called to order at 7:01 PM by Chair Koppenheffer.

Board Members who participated remotely are listed above.

A. Review of meeting procedures and NH RSA 91-A “Right-to-Know” requirements

Mr. Corwin delivered the Right to Know procedures to the Members and the Public.

2. APPROVAL OF MINUTES - NONE

3. DELIBERATION

A. Lyme Properties (applicant), XYZ Dairy, LLC (property owner), 215 N. Main Street (Tax Map 21, Lot 1), zoned RL-2: An appeal pursuant to Article VII, Section 702.2 of the Zoning Ordinance to allow the resumption of a discontinued non-conforming use of the subject property. ZB2021-12-AAD - Deliberation continued from May 18, 2021

Philip Hastings appeared on behalf of the application. The Public Hearing was closed at the previous meeting and the Board is in Deliberation.

Mr. Newlove was given voting privileges for this hearing.

Mr. Katz MOVED on May 3, 2021, at a duly noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Attorney Philip Hastings on behalf of XYZ Dairy, LLC, regarding 215 N. Main Street (Tax Map 21, Lot 1), zoned RL-2. Pursuant to Article VII, Section 702.2 of the Zoning Ordinance, applicant seeks to resume a discontinued non-conforming use of the subject property [two (2) one-family dwelling principal buildings where only one (1) principal building is allowed in RL-2 District per Section 205]. ZB2021-12-AAD

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 1.07 acre lot, which is non-conforming to the minimum 3-acre lot size required for Class 3 lots in the RL-2 District. Until 2019, the subject property was improved with

two (2) one-family dwellings. With two principal buildings, the property was non-conforming to Section 205 of the Zoning Ordinance which provides that, “[t]here shall be only one principal structure on a lot in the residential districts.”

2. A building permit for the demolition of the two homes was issued on December 6, 2018 (#BP2018-00397), with a condition providing, in part, that, “[r]esumption of non-conforming use [...] must occur within two (2) years of issuance of demolition permit[.]” According to the applicant, the homes were demolished on April 25, 2019.
3. The applicant proposes to construct two (2) one-family dwellings on a lot of the type and specifications submitted in their application packet, thereby resuming the non-conformity with respect to Section 205 of the Zoning Ordinance which prohibits more than one (1) principal building on properties in the residential zoning districts.
4. Section 702.2 of the Zoning Ordinance (“Resumption of Use”) provides that, “[a]ny non-conforming use shall not be re-established if such use has been discontinued for a period of two (2) years; provided, however, that the Zoning Board of Adjustment, upon an appeal from the Zoning Administrator’s decision concerning such discontinuance, may permit the re-establishment of the same use if it finds: (a) that no action incorporating an intent to abandon the non-conforming use has been taken by the owner or occupant, including but not limited to a change to a permitted use or razing or remodeling of a building; and (b) that the failure to continue or re-establish the use during the two-year period was due to economic, regulatory or other forces beyond the control of the owner or occupant.”
5. On December 2, 2020, the applicant sent a memo via e-mail to the City’s Building Inspector “outlining [the applicant’s] intent to proceed with resuming the non-conforming use at [the subject property].” In response, the Zoning Administrator issued an administrative decision to the applicant via e-mail on December 9, 2020, that the applicant would need to apply to the Zoning Board in order to resume the non-conforming use.¹
6. On March 18, 2021, the applicant submitted an application to the Zoning Board (ZB2021-08-AAD) appealing pursuant to Section 801.1 of the Zoning Ordinance the Zoning Administrator’s determination that the two-year period within which a non-conforming use must resume has passed.
7. Application ZB2021-008-AAD was scheduled to be heard by the Board at its April 5, 2021 meeting, but it was withdrawn by the applicant following the Board’s decision to postpone the hearing as result of the late hour. The applicant’s voluntary withdrawal of the appeal rendered the Zoning Administrator’s administrative decision final and binding.
8. On April 15, 2021, the applicant submitted the subject application to the Zoning Board (ZB2021-12-AAD) requesting per Section 702.2 of the Zoning Ordinance that the Board permit the re-establishment of the non-conforming use.
9. Section 702.2 allows the Zoning Board to approve the resumption of a non-conforming use beyond the two (2) year timeframe. In order to grant such an appeal, the Board must find:

¹ The Board notes that in the e-mail sent on December 9, 2020, the Zoning Administrator intended to refer to Section 702.2 (“Resumption of Use”) of the Zoning Ordinance but mistakenly referred to Section 702.5 and mistakenly quoted from Section 703.2 (“Abandonment, Discontinuance, Destruction”) which applies to the resumption of non-conforming structures.

- a. that no action incorporating an intent to abandon the non-conforming use has been taken by the owner or occupant, including but not limited to a change to a permitted use or razing or remodeling of a building; and
 - b. that the failure to continue or re-establish the use during the two-year period was due to economic, regulatory or other forces beyond the control of the owner or occupant.
10. In addition to the application materials, Attorney Hastings presented applicant's position to the Board and answered questions from the Board. In relevant part, Attorney Hastings testified that:
 - a. At all times, applicant intended to continue the lawful nonconforming use and had planned to construct two single family homes on the property.
 - b. Applicant engaged in activities after razing the prior structures to move the construction project forward and resume the use.
 - c. The COVID-19 pandemic was not a situation of Applicant's making, Applicant could not have reasonably known about or avoided it, and the delay in progress was reasonably tied to the impact caused by the pandemic.
11. Multiple Board members with personal experience in engineering, construction and real estate investing additionally confirmed that:
 - a. The New Hampshire/Vermont border area (where this property is located) suffered exceptionally during the pandemic as Vermont implemented a travel restriction that prevented Vermont workers from coming into New Hampshire to work at construction sites.
 - b. Pandemic shutdowns not only affected trade labor negatively, but also severely impacted the supply chain of the requisite goods and materials in the building supply market.
12. No other members of the public spoke 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 criteria set forth in Section 702.2 of the Zoning Ordinance:

- (a) Action incorporating an intent to abandon the non-conforming use **was not** 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. The Applicant has credibly demonstrated that there was no intent to abandon the nonconforming use. Additionally, although the Board acknowledges that the Applicant razed the previous structures, the Board finds that the razing alone is not (in and of itself) irrebuttable evidence of an intent to abandon. In doing so, we rely upon the language in finding of fact #2 (above) where City staff issued a demolition permit to raze the structures that explicitly referenced the resumption of the use after the razing. The Applicant's statement that "but for the pandemic" this use would have been resumed within the previously allocated two-year timeframe is credible.

- (b) 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. See Findings of Fact 10 and 11, above.

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **18th day of May 2021**, hereby **GRANTS** the request made per Section 702.2 of the Zoning Ordinance to resume the non-conforming two (2) principal building use, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The structures and resumed use shall match in all material respects the building type, size and plans proposed in Applicant's written submission.
2. The use shall be resumed in full no later than May 17, 2023. For the avoidance of doubt, "resumed in full" means that all applicable permissions and consents from any applicable authority shall have been applied for and received, all construction completed, all certificates of occupancy/completion issued and both structures residentially occupied as dwellings prior to that date.
3. The proposed homes shall meet the minimum required setbacks for Class 3 lots in the RL-2 District, in addition to complying with all other applicable zoning requirements (other than the resumed non-conformity with Section 205).

Seconded by Mr. Patterson.

Chair Koppenheffer asked about the "resumed in full," language; requiring the dwellings are occupied, may be outside the applicant's control. Mr. Katz said to maintain the non-conforming use, it has to be fully vested within two years, which is standard for any non-conforming use.

Roll Call Vote

Mr. Newlove, Mr. Katz, Mr. Patterson, Mr. Nash, and Chair Koppenheffer all voting Yea.

None voted Nay.

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

Mr. Hastings was asked if he is prepared to move forward with the second hearing, the appeal. Based on the vote that just took place, the Board will dismiss this unless the applicant would like to withdraw it. The applicants continue to have questions of law that they believe the Board should address.

4. PUBLIC HEARING ITEMS

- A. **Lyme Properties (applicant), XYZ Dairy, LLC (property owner), 215 N. Main Street (Tax Map 21, Lot 1), zoned RL-2:** An appeal pursuant to Article VIII, Section 801.1 of the Zoning Ordinance regarding a communication made by the Zoning Administrator on April 7, 2021 in regard to a building permit application filed by Lyme Properties on April 6, 2021 for the subject property. **ZB2021-13-AAD - Continued from May 18, 2021**

Mr. Newlove was given voting privileges for this hearing.

1 This arose because of the application to build two dwellings. There are two issues pertaining to this
2 appeal, one is the Zoning Administrator's jurisdiction to opine and has since been recognized. And
3 the second one is if a building permit can be deemed complete without the Zoning Board
4 review process for a non-conforming use. The legal question is whether the ordinance prohibits a
5 building permit from being deemed complete without the Zoning Board review. Mr. Corwin said he
6 is confused about what issues remain to be determined. Staff agrees there is nothing necessary from
7 the Zoning Board before it can be determined to be complete. There is no issue of dispute that he is
8 aware of.

9
10 The specific issue on appeal is not whether it is complete or not, the issue is a statement that Staff said
11 he could not sign off on a building permit until the Zoning Board made a ruling and he incorrectly
12 used the words the "application is complete." He has since then stated that the choice of words was
13 not correct, and that Staff does not have the ability to rule if it is complete. It has been resolved. Mr.
14 Hastings stated he is asking that a full and accurate record is made of the circumstances.

15
16 Chair Koppenheffer stated the Board is not inclined to make judgements on communications.

17
18 ***Mr. Katz MOVED that this appeal is dismissed for lack of subject matter jurisdiction, for the***
19 ***following three reasons. The issue discussed in this appeal was not an administrative decision as it***
20 ***is traditionally defined. The applicant has already stated that their grievance was satisfied through***
21 ***the previously granted decision. And this is in effect asking for an advisory opinion and the***
22 ***Zoning Board has no ability to issue advisory opinions. And three, the removal of the dispute***
23 ***makes the applicant no longer aggrieved and since being aggrieved by an administrative decision is***
24 ***a prerequisite to being able to bring forth an appeal, that prerequisite is no longer met, and as a***
25 ***result this Board should refuse to accept this on the basis it has no subject matter jurisdiction to***
26 ***hear this appeal.***

27
28 ***Seconded by Mr. Nash.***

29
30 **Chair Koppenheffer opened the Public Hearing. Hearing no one, the Public Hearing was**
31 **closed.**

32
33 The motion remains as originally stated. There was no additional discussion.

34 35 **Roll Call Vote**

36 ***Mr. Newlove, Mr. Katz, Mr. Patterson, Mr. Nash, and Chair Koppenheffer all voting Yea.***

37 ***None voted Nay.***

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

39 40 **4. STAFF COMMENTS**

41
42 The Board asked to discuss second meetings in a month. Chair Koppenheffer stated he believed they
43 would only do this when all the materials have been submitted and that it was not possible to make
44 the decision. Having a second meeting would normally not require more Staff work, whereas there
45 would be additional work for Staff if other hearings were addressed on a second meeting during the
46 month.

47
48 Mr. Corwin agreed that staff time is a consideration, but there are times when it is important to serve
49 the needs of the community. Whatever the Board determines is necessary will be done by the City
50 Staff. Chair Koppenheffer believes that it is appropriate when the hearing is a continuation. Mr.

1 Nash is of the opinion that two meetings a month are better for the Public, especially if the meetings
2 are running over time or there is an overload. Some other members agreed to give the appropriate
3 time for the public needs.

4
5 The Board discussed the in-person meetings. It is likely that State law will continue to allow Boards
6 to meet remotely if a Board would like to continue virtually. It seems for at least the short term, the
7 City Manager will allow the Boards and Committees to determine for themselves. City Staff will be
8 bringing forth what they believe the options are and the pros and cons of meeting in person or virtual.
9 It is likely that the Board will have to decide about this next month. There may be a recommendation
10 for in person meetings for regulatory Boards and allowing the public to participate virtually.

11
12 **5. ADJOURNMENT**

13
14 *Mr. Patterson MOVED to adjourn the meeting at 7:41 PM.*

15 *Seconded by Mr. Nash.*

16
17 *Mr. McDonough was given voting privileges for this motion.*

18
19 **Roll Call Vote**

20 *Mr. McDonough, Mr. Katz, Mr. Patterson, Mr. Nash, and Chair Koppenheffer all voting Yea.*

21 *None voted Nay.*

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

23
24 Respectfully submitted,
25 Linda Billings
26 Recording Secretary

**Agenda
Zoning Board of Adjustment
October 19, 2021**

**Agenda Item #3A
Public Hearing Items**

**Jacqueline Minard, Trustee,
78 Mascoma Street
(Tax Map 106, Lot 67)
and 82 Mascoma Street
(Tax Map 106, Lot 67, Plot701),
zoned R-3**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

June 7, 2021 Meeting

Staff Memorandum – ZB2021-09-VAR – *con't from 5/3/21*

APPLICATION INFORMATION

Agenda Item: 3.A

Application Type:

Variance from §310.3 to allow a subdivision of the property resulting in an undersized lot

Location:

78 Mascoma Street (Tax Map 106, Lot 67) / 82 Mascoma Street (Tax Map 106, Lot 67, Plot 701)

Applicant/Property Owner:

Jacqueline Minard, Trustee

Zoning District: R-3

Property Size:

+/-0.49 acres (+/-21,389 sq. ft.) (per figures provided on surveyor's plat submitted with Variance application) (property is conforming to the min. 10,000 sq. ft. lot size required per §310.3 for Class 1 lots in the R-3 District)

Overlay Districts: None

Previous ZBA Action (since 1995):

None

Other Approvals Required:

- Planning board minor subdivision approval

Attachments:

- Application (6 pages total)

HEARING NOTICE

Jacqueline Minard, Trustee, 78 Mascoma Street (Tax Map 106, Lot 67) and 82 Mascoma Street (Tax Map 106, Lot 67, Plot 701), zoned R-3: 82 Mascoma Street currently conforms with the 10,000 sq. ft. minimum required lot size. The applicant proposes a boundary line adjustment between the subject properties that will reduce the size of 82 Mascoma Street to +/-8,414 sq. ft. To allow the proposed boundary line adjustment, the applicant requests a Variance from Article II, Section 202 (prohibiting the reduction of lot area to less than the minimum required) and from Article III, Section 310.3 of the Zoning Ordinance (requiring a minimum lot size of 10,000 sq. ft. for Class 1 lots in the R-3 District). ZB2021-09-VAR

STAFF COMMENTS

The applicant has requested a continuance of the hearing to the July 5, 2021 meeting so that the Variance request can be renoticed. As noted in the prior staff memo, the hearing notice is inaccurate in its description of the property's existing conditions and of the type of Planning Board approval that will be needed if the Variance is granted.

cc: Jacqueline Minard, Trustee (via e-mail)
Christopher Rollins, LLC (via e-mail)

**Agenda
Zoning Board of Adjustment
October 19, 2021**

**Agenda Item #3B
Public Hearing Items**

**Ohana, LLC,
83 NH Route 4A
(Tax Map 98, Lot 7),
zoned RL-2**

Memorandum for Lebanon Zoning Board

From: Ohana, LLC, DBA The Baited Hook

Prepared by: Michael Donnelly

RE: Response to additional questions and issues raised by Lebanon Zoning Board as supplement to Special Exception request to formally be open year-round during normal business hours.

Date: May 24, 2021 for June 7th Meeting.

The Baited Hook is a fixture of tradition and community for the Mascoma Lake Community and a vibrant part of the lake experience for many thousands of boaters, tourists and residents who enjoy the sport, recreation and life on the lake. The Baited Hook now under new management has a vision to be a more present part of life on the lake and serving the lake community by providing year-round food service.

During the Board's online meeting in April, additional questions were asked regarding the use of the trailer proposed as to be used by the Baited Hook. A site plan was requested as well as a response to concerns raised by an abutter. During the meeting the Chair and other board members questioned whether a special exception for operation year-round was even required because the Baited Hook had previously been operated year-round and therefore its previous use was grandfathered into the re-zoning of its property in 2018 from Neighborhood Commercial to Residential. An email from the previous owner has been submitted explaining that there were no restrictions on operating times and that the hook at operated in all four seasons at various times over the course of its history.

The creation and use of the ice cream trailer on the premises will not change the parking or footprint of the business. The trailer will be located on the paved area to the right of the hook when facing the lake. See Site Plan. The trailer will be primarily used ON PREMISES to serve ice cream during summer and hot chocolate or other warm snacks during the winter when the hook is open or during events. The trailer will be used occasionally for special events off site.

The hours of operation of the Baited Hook will continue to be 11-9 PM Monday/Tuesday through Sunday during the Summer Season (roughly April – October). Hours and days will taper off to mostly weekends during the fall and winter months.

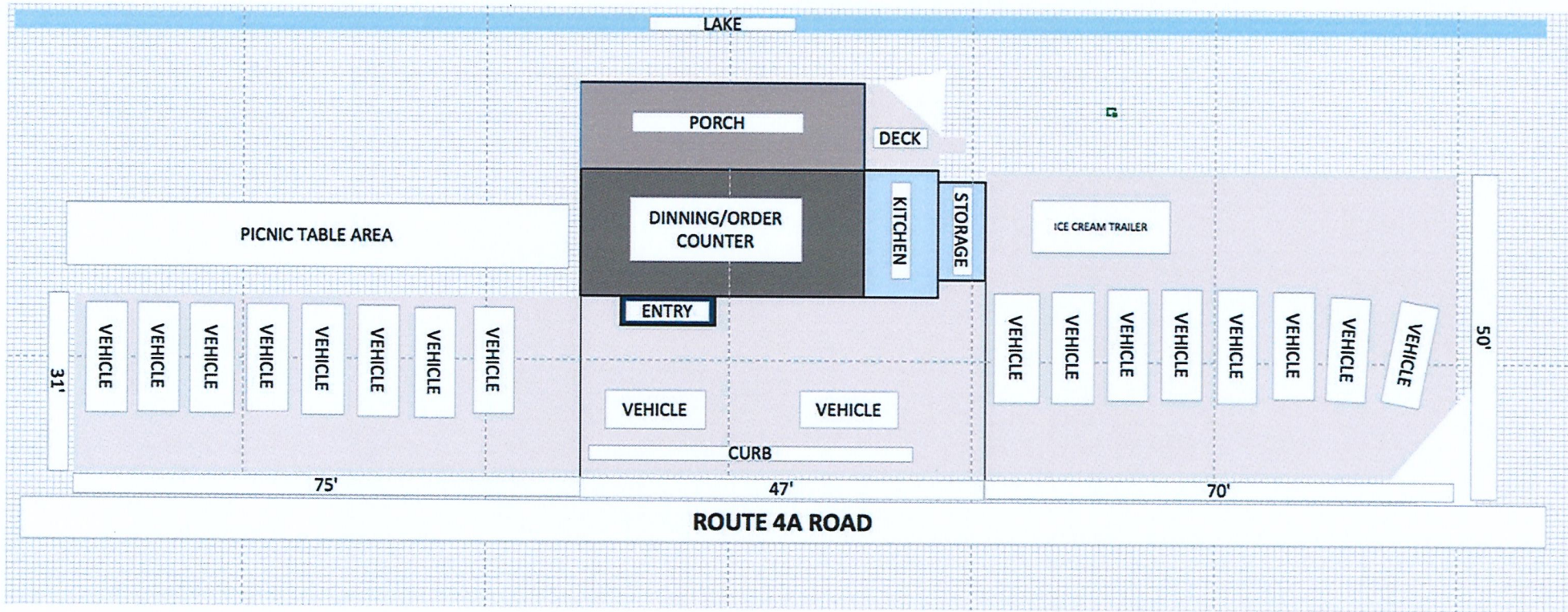
The Baited Hook strives to be a good neighbor and carefully maintains the structure and landscape. As a destination restaurant the hook provides an important support to the surrounding neighborhood but also attracts many who come for the ice cream and quality menu. The staff endeavor to rapidly fulfill to go orders to ensure parking is not an issue for those who are coming for a meal. The lights are turned off in the evening except for security lamps.

In contrast to the assertion raised by Mr. Marchionne who abuts the property, parking is not reduced by the trailer use or any other operational plans. The parking area on the campground side of the building matches the parking on the abutter's side (see Site plan). It is not possible

(or permitted) for cars to double-park thus the space is not at all impaired or reduced.

We have been amazed and appreciate the huge outpouring of support and gratitude from the community. Nearly every local customer expresses appreciation for the extended hours and opportunity to sit, savor and make a memory. So many memories of family lunches, dinners, ice cream with grandparents and parents are shared with staff every day. The heart behind the owners is for local families to be able to make memories here in their own backyard, and to show tourists and visitors just how beautiful and welcoming NH is. We have tried very hard to lift the burdens of our customers and create opportunities for the community to enjoy the lake even while we all face the challenge of dealing with the serious challenges of the Coronavirus pandemic.

SITE PLAN



**Agenda
Zoning Board of Adjustment
October 19, 2021**

**Agenda Item #3C
Public Hearing Items**

**Brock Christensen &
Erika Moen,
71 Maple Street
(Tax Map 59, Lot 1),
zoned R-3**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

June 7, 2021 Meeting

Staff Memorandum – ZB2021-16-SE

APPLICATION INFORMATION

Agenda Item: 3.C

Application Type: Special Exception per §703.1 to permit the expansion of a non-conforming structure

Location:
71 Maple Street (Tax Map 59, Lot 1)

Applicant/Property Owner:
Brock Christensen & Erika Moen

Zoning District:
Residential Three (R-3) District

Property Size:
+/-0.27 acres (+/-11,761 sq. ft.)
(conforming to the minimum required 10,000 sq. ft. lot size required for Class 1 lots in the R-3 District per §310.3)

Existing Improvements and Use:
+/-2,016 sq. ft. (finished) two-story one-family dwelling constructed in 1903, per the City's assessing records (a conforming use in the R-3 District) and a detached 440 sq. ft. garage constructed in 1930, per the City's assessing records

Proposed Improvements:
Construct a 100 sq. ft. addition onto the rear of the existing garage

Overlay District: none

Previous ZBA Action (since 1995):
none

Other Approvals Required:
Building Permit

Attachments:
Application (7 pages total)

HEARING NOTICE

Brock Christensen & Erika Moen, 71 Maple Street (Tax Map 59, Lot 1), zoned R-3: Applicant requests a Special Exception per Section 703.1 of the Zoning Ordinance to construct a 100 sq. ft. addition onto an existing garage that is non-conforming to the minimum required 20 ft. front setback. ZB2021-16-SE

BACKGROUND & PROPOSAL

The subject property is improved with a one-family dwelling constructed in 1903 and a detached garage constructed in 1930. As shown on the attached plot plan provided by the applicant, the garage is located 8 ft. from the front lot line along Highland Avenue and, therefore, is non-conforming to the minimum required front yard of 20 ft.

As shown on the attached plot plan, the applicant proposes to construct a 100 sq. ft. addition to the rear of the garage, in the location approximately marked by the yellow star in Figure 1 below. The addition will be located at least partially within the 20 ft. front setback, but no closer to the front lot line than then existing garage.

Figure 1. Bird's Eye View of subject property (looking south).



©2021 Eagleview (image taken 4/3/2021)

ORDINANCE REQUIREMENTS

Class 1 lots (i.e. lots that are served by municipal sewer and water) in the R-3 District must maintain a minimum front yard (i.e. a space unobstructed by buildings and structures) of 20 ft. See Section 310.3 of the Zoning Ordinance. **Section 703.1** of the Zoning Ordinance allows the expansion of “any increase in the **footprint** and/or volume of the non-conforming part of the building or structure,” by Special Exception from the Zoning Board of Adjustment.

In order to grant a Special Exception for the proposed expansion, the Board must make each of the following findings per Section 703.1.A:

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 nonconforming cannot be made more non-conforming in the absence of a variance.

Note: Section 703.1.A.2 allows an expansion that is equally non-conforming or less non-conforming, but prohibits an expansion that would be more non-conforming. Here, the proposed addition will be located no closer to the front lot line than the existing garage and, therefore, will not “render the lot size proportionately less adequate”.

By contrast, if the addition were proposed to be located closer to the front lot line than the existing garage, the applicant would be unable to demonstrate compliance with Section 703.1.A.2 and, instead, would require a Variance from Section 310.3 to permit the addition to encroach further into the minimum required front yard.

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

Per Section 703.1.A.3 of the Zoning Ordinance, in order to grant a Special Exception for an expansion of a non-conforming structure, the Board must also determine that the proposal meets the general Special Exception criteria of Section 801.3. The applicant has submitted testimony addressing the Section 703.1.A and Section 801.3 criteria in an application received by the Planning and Development Department on May 3, 2021 (see attached).

STAFF COMMENTS

Absent abutter testimony to the contrary, the proposed expansion does not appear to be inconsistent with any of the applicable criteria set forth in Section 703.1.A and Section 801.3.

Attachment

cc: Brock Christensen & Erika Moen, property owners (via e-mail)
File

CITY OF LEBANON APPLICATION FOR

SPECIAL EXCEPTION ☒	SITE PLAN REVIEW ☐
VARIANCE ☐	SUBDIVISION ☐
MOTION FOR REHEARING ☐	LOT LINE ADJUSTMENT ☐
APPEAL OF AN ADMIN. DECISION ☐	CONDITIONAL USE PERMIT ☐

☐ OTHER _____

PROPERTY OWNER (APPLICANT):

NAME: BROCK CHRISTEN & ERIKA MOEN TEL.#: 857-492-1977

MAILING ADDRESS: 71 MAPLE ST. LEBANON NH 03784

E-MAIL ADDRESS: BROCKCLARKE@GMAIL.COM

CO-APPLICANT, AGENT, OR LESSEE:

NAME: JARED TOON TEL.#: 603.217.7998

MAILING ADDRESS: 322 MAZCOMA ST. LEBANON NH 03766

E-MAIL ADDRESS: MJTC213@GMAIL.COM

PROJECT LOCATION:

TAX MAP #: 59 LOT#: 1 PLOT #: N/A ZONE: R3

STREET ADDRESS OF PROJECT: 71 MAPLE ST., WEST LEBANON NH 03784

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

SCOPE OF PROJECT:

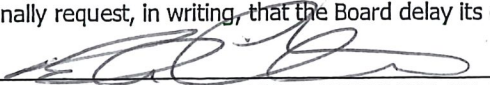
BUILD MUDROOM BETWEEN GARAGE AND HOUSE. ADD APX. 4' ADDITION ON BACK OF THE EXISTING GARAGE.

TYPE OF OCCUPANCY:

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:

FOR PLANNING BOARD APPLICATIONS ONLY: 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 _____, 20____, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY OWNER:  DATE: 5.3.21

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.

PROPERTY OWNER:  DATE: 5.3.21

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #
5/3/2021	59/1	282021-16-5E	217.88	5/3/21	18223

(Last Revised 4/04/18)

**CITY OF LEBANON, NEW HAMPSHIRE
SUPPORT STATEMENT FOR A SPECIAL EXCEPTION**

One cover application, one abutters list, a filing fee and ten copies of the site plan must accompany this support statement.

I (we) hereby request a Special Exception as provided for in Article(s) _____, Section(s) _____, of the Lebanon Zoning Ordinance.

PROJECT DESCRIPTION *(Please provide your plans for the property with as much detail as possible with respect to your proposed. You can respond in the space provided, or attach a separate statement.)*

- BUILD NEW 128 SQ.FT. MUDROOM CONNECTOR BETWEEN
EXISTING HOUSE AND GARAGE.
- BUILD A NEW 100 SQ.FT. STORAGE ADDITION ON THE
BACK OF THE EXISTING GARAGE.

In order to grant a Special Exception, the Zoning Board of Adjustment must make affirmative findings of certain conditions. Those conditions are listed below:

(You can respond in the space provided, or attach a separate statement. Please be prepared to address the conditions with the Board during your public hearing. You must show that you have met all the conditions.)

SECTION 801.3 Special Exceptions - 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:

A. That the special exception is specifically authorized by a provision of this ordinance:

SECTION 703.1

B. That all special conditions required of the special exception have been met:

EXPANSION WILL NOT BE CLOSER TO LOT LINE.

C. That there are no existing violations of this ordinance on the property that the granting of this special exception would not remedy:

THERE ARE NONE.

CITY OF LEBANON, NEW HAMPSHIRE
SUPPORT STATEMENT FOR A SPECIAL EXCEPTION
Page 2

- D. That the character of the area shall not be adversely affected:
A SMALL 4' ADDITION, COUPLED WITH THE STONE WALL
WILL ENHANCE THE CHARACTER.
- E. That no hazard or nuisance will be created:
CORRECT
- F. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted:
NON IMPACTED.
- G. That granting the special exception will not result in undue municipal expense:
NO EXPENSE IMPACTED.
- H. That the proposed special exception will be developed in a manner compatible with the spirit and intent of the ordinance:
CORRECT
- I. That the general welfare of the City will be protected:
YES.

Please Note:

Pursuant to Section 802.4B, "Special Conditions", the Board may attach whatever conditions it deems necessary in order to assure compliance with the purposes of this ordinance.

A special exception 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 special exception or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a special exception must be completed.

PROJECT SUMMARY

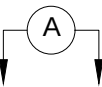
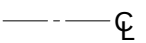
CONSTRUCTION OF NEW MUDROOM
CONNECTOR BETWEEN EXISTING
SIDE ENTRY AND EXISTING TWO CAR
GARAGE

CONSTRUCTION OF ADDITIONAL
STORAGE SPACE ALONG BACKSIDE
OF EXISTING GARAGE

SHEET LIST

- A0 SITE PLAN
- D1 DEMO PLAN
- A1 PROPOSED PLAN
- A3 EXTERIOR ELEVATIONS
- A3.1 EXTERIOR ELEVATION / SECTION
- A4 INTERIOR ELEVATIONS

SYMBOL LEGEND

-  ALIGN
-  DOOR/WINDOW TAG
-  EQUIPMENT TAG
-  ELEVATION TAG
-  SECTION TAG
-  CENTER LINE



LAURIE PAULI AIA
46 ELDRIDGE ST LEBANON NH 03766
P: 518.461.4997 W: LAURIEPAULI.COM

SHEET TITLE
SITE PLAN
SCALE : NTS

CLIENT
MOEN / CHRISTENSEN
71 MAPLE - WEST LEBANON NH

ISSUE
ISSUED FOR PERMIT
APRIL 12 2021

SHEET NO
A0

KEY NOTES

- 1

REMOVE EXISTING WINDOW
- 2

REMOVE PORTION OF EXISTING WALL TO ACCOMMODATE NEW DOOR OR OPENING
- 3

REMOVE EXISTING EXTERIOR STAIR
- 4

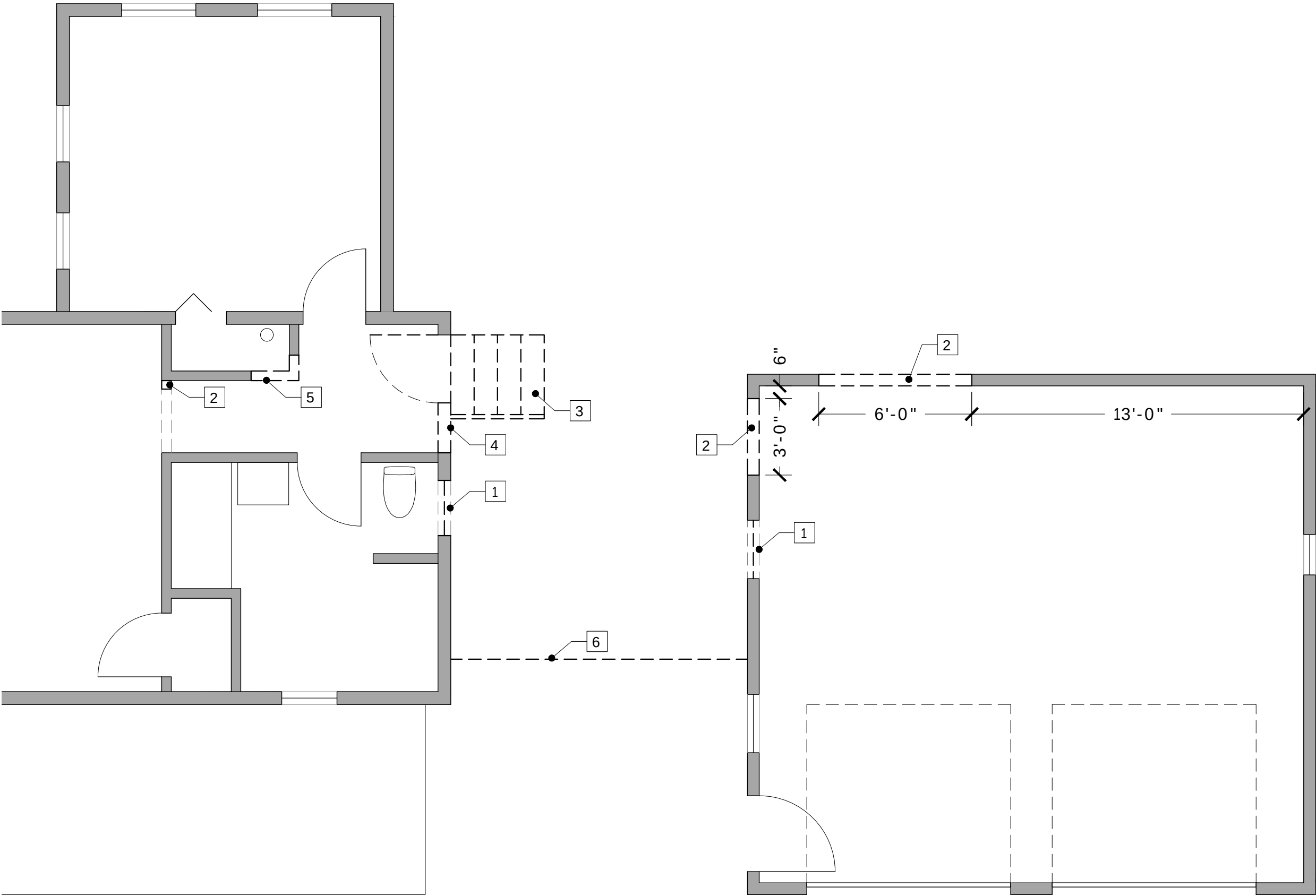
REMOVE EXISTING SIDE DOOR AND PORTION OF EXISTING EXTERIOR WALL
- 5

REMOVE PORTION OF EXISTING WALL TO ACCOMMODATE NICHE - SEE INTERIOR ELEVATIONS
- 6

REMOVE EXISTING WOOD FENCE

GENERAL NOTES

1. ALL WALLS, DOORS, FIXTURES AND EQUIPMENT INDICATED IN DASHED LINES TO BE REMOVED



LAURIE PAULI AIA
46 ELDRIDGE ST LEBANON NH 03766
P: 518.461.4997 W: LAURIEPAULI.COM

SHEET TITLE
DEMO PLAN
SCALE : 1/4" = 1'-0"

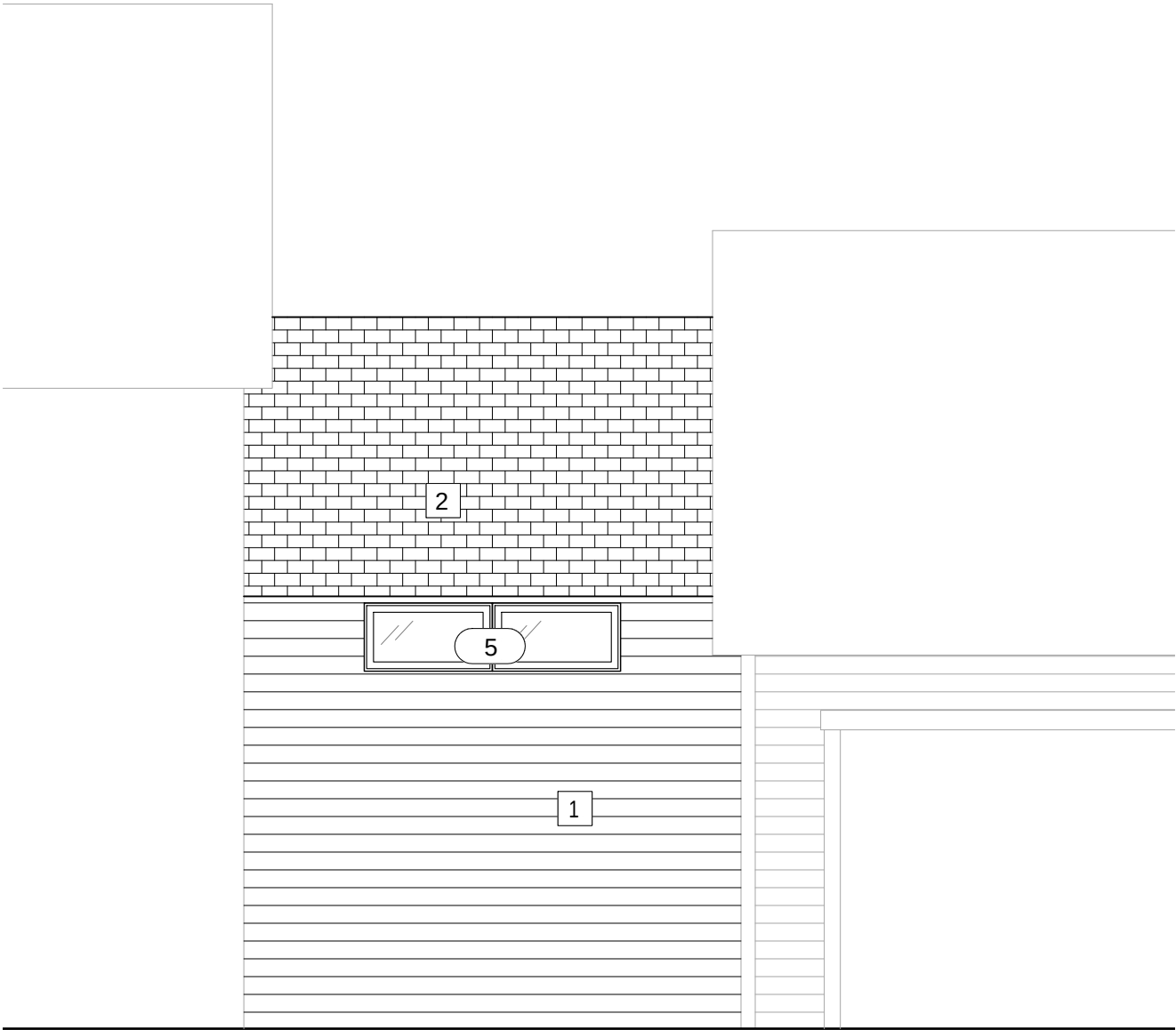
CLIENT
MOEN / CHRISTENSEN
71 MAPLE - WEST LEBANON NH

ISSUE
ISSUED FOR PERMIT
APRIL 12 2021

SHEET NO
D1

KEY NOTES

- 1 PAINTED WOOD SIDING TO MATCH EXISTING GARAGE
- 2 SHINGLED ROOF TO MATCH EXISTING



2 FRONT ELEVATION
1/4" = 1'-0"



1 REAR ELEVATION
1/4" = 1'-0"

LAURIE PAULI AIA
46 ELDRIDGE ST LEBANON NH 03766
P: 518.461.4997 W: LAURIEPAULI.COM

SHEET TITLE
EXTERIOR ELEVATIONS
SCALE : AS NOTED

CLIENT
MOEN / CHRISTENSEN
71 MAPLE - WEST LEBANON NH

ISSUE
ISSUED FOR PERMIT
APRIL 12 2021

SHEET NO
A3

DOOR / WINDOW SCHEDULE							
TAG	SIZE	TYPE	FINISH	CASING TYPE	CASING FINISH	HARDWARE	NOTES
1	(2)36W X 80H	WOOD DOORS	PAINTED	WOOD	PAINTED	TBD	TO BE BUILT BY CONTRACTOR
2	72W X 80H	OPENING	N/A	WOOD	NONE	N/A	
3	36W X 80H	2 HR FIRE RATED WOOD DOOR	PAINTED	WOOD	PAINTED	1	SIMPSON 9344 SHAKER SERIES
4	106.5W X 86H	SLIDING FRENCH DOOR	TBD	WOOD	PAINTED	BY MARVIN	MARVIN ELSFD9070 OXO LH
5	(2)36W X 19H	AWNING WINDOWS	TBD	WOOD	PAINTED	BY MARVIN	MARVIN ELAWN3719 SILL HEIGHT 7'-6" AFF
6	(2)36W X 80H	WOOD DOOR	PAINTED	WOOD	PAINTED	TBD	ADD NEW DOORS AT EXISTING BATHROOM CLOSET

HARDWARE SETS

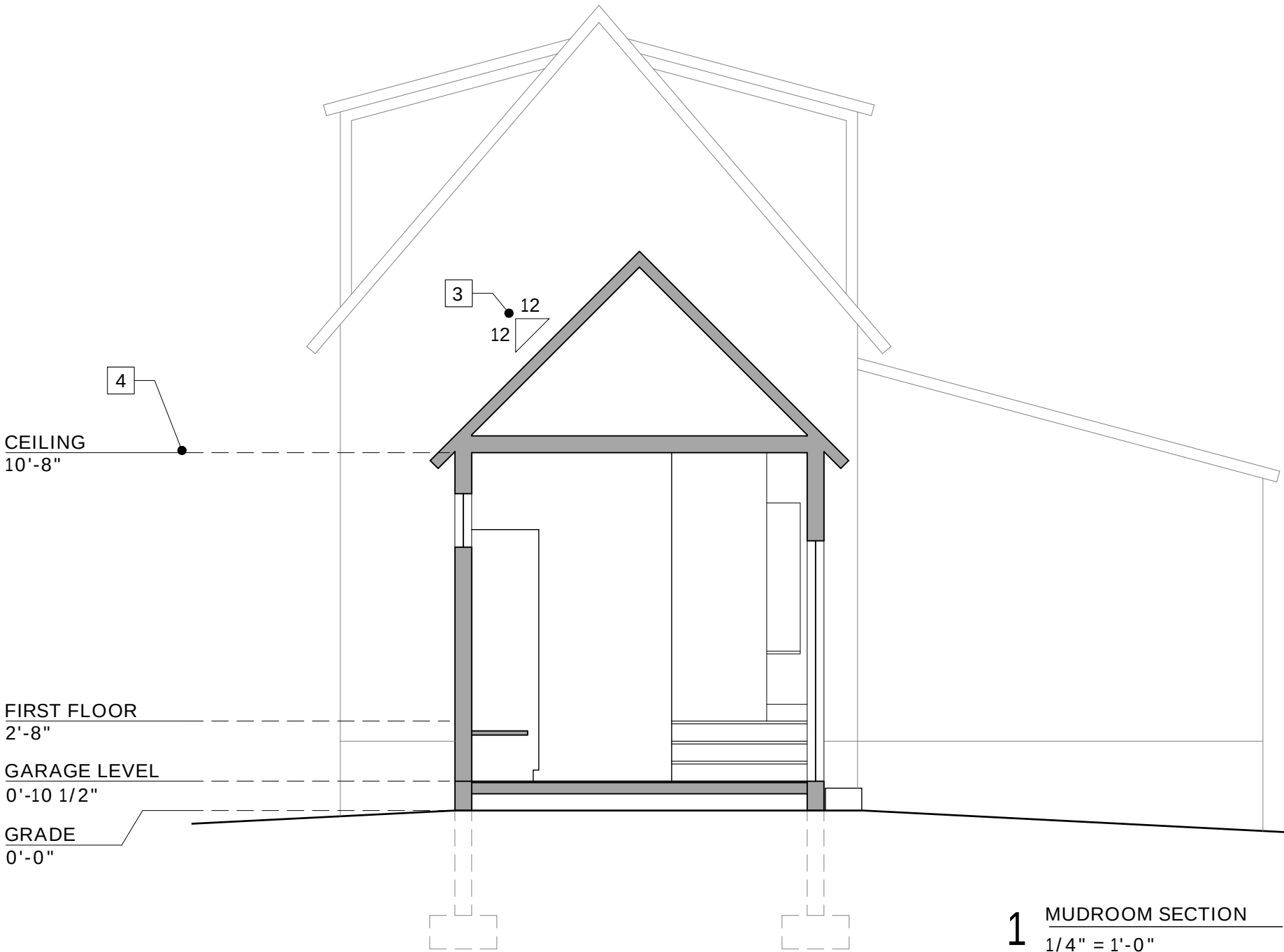
SET 1
DEADBOLT - BALDWIN 8041 CONTEMPORARY DEADBOLT IN OIL RUBBED BRONZE
KNOB - BALDWIN 5015 ESTATE KNOB AND 5032 ESTATE ROSE IN OIL RUBBED BRONZE
HINGES - OIL RUBBED BRONZE

KEY NOTES

- 1
- PAINTED WOOD SIDING TO MATCH EXISTING GARAGE
- 2
- SHINGLED ROOF TO MATCH EXISTING
- 3
- PITCH AT NEW MUDROOM TO MATCH EXISTING MAIN ROOF PITCH - VERIFY
- 4
- CEILING HEIGHT TO MATCH EXISTING KITCHEN CEILING HEIGHT - VERIFY



2 SIDE ELEVATION
1/4" = 1'-0"



1 MUDROOM SECTION
1/4" = 1'-0"

LAURIE PAULI AIA
46 ELDRIDGE ST LEBANON NH 03766
P: 518.461.4997 W: LAURIEPAULI.COM

SHEET TITLE
EXTERIOR ELEVATION / SECTION
SCALE : AS NOTED

CLIENT
MOEN / CHRISTENSEN
71 MAPLE - WEST LEBANON NH

ISSUE
ISSUED FOR PERMIT
APRIL 12 2021

SHEET NO
A3.1

**Agenda
Zoning Board of Adjustment
October 19, 2021**

**Agenda Item #3D
Public Hearing Items**

**Laurie A. & Noel T. Pauli,
46 Eldridge Street
(Tax Map 91, Lot 33),
Zoned R-3**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

June 7, 2021 Meeting

Staff Memorandum – ZB2021-15-VAR

APPLICATION INFORMATION

Agenda Item: 3.D

Application Type: Variance from §310.3 to allow a new porch to be constructed within the min. front yard

Location:

46 Eldridge St (Tax Map 91, Lot 33)

Applicant/Property Owner:

Laurie A. & Noel T. Pauli

Zoning District: R-3

Property Size:

+/-0.17 acres (+/-7,405 sq. ft.) (per the City Assessor's records; property is non-conforming to the min. 10,000 sq. ft. lot size required per §310.3 for Class 1 lots in the R-3 District)

Existing Improvements: +/-1,620 sq. ft. (finished) two-story one-family dwelling constructed in 1920, per the City Assessor's records (a conforming use per §310.3)

Proposed Improvements:

construction of new front porch

Overlay Districts: None

Previous ZBA Action (since 1995):

None

Other Approvals Required:

Building Permit

Attachments:

- Application (5 pages total)

HEARING NOTICE

Laurie A. & Noel T. Pauli, 46 Eldridge Street (Tax Map 91, Lot 33), zoned R-3: The existing home is non-conforming to the minimum required 20 ft. front setback. Applicant requests a Variance from Section 310.3 of the Zoning Ordinance to replace the existing porch with a new porch that extends an additional two (2) ft. into the minimum required 20 ft. front setback. ZB2021-15-VAR

BACKGROUND & PROPOSAL

The property is improved with a one-family dwelling constructed in 1920 per the City Assessor's records. At 0.17 acres, it is non-conforming to the 10,000 sq. ft. minimum lot size required for Class 1 lots in the R-3 District. According to the application materials, the home is currently located 18.5 ft. from the front lot line, which is non-conforming to the minimum 20 ft. front yard required for Class 1 lots in the R-3 District.

The applicant proposes to construct a new front porch that will be located 2 ft. closer to the front lot line than the existing porch. The proposal will result in a front setback of 16.5 ft., thereby increasing the front yard non-conformity by two (2) ft.

ZONING ORDINANCE REQUIREMENTS

In the R-3 District, Class 1 lots (i.e. lots that are served by municipal sewer) must maintain a minimum front yard (i.e. a space unobstructed by buildings and structures) of 20 ft. See Section 310.3 of the Zoning Ordinance. Therefore, a Variance is required to permit construction of the proposed porch, which will encroach approximately two (2) ft. further into the front yard than the existing porch.

To obtain the requested Variance from Section 310.3, 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). The applicant has submitted testimony addressing the Section 801.2 Variance criteria in an application received by the Planning and Development Department on May 3, 2021 (see attached).

Attachments

cc: Laurie A. & Noel T. Pauli (via e-mail)
File

STAFF MEMORANDUM

ZB2021-15-VAR
46 Eldridge St (Tax Map 91, Lot 33)
June 7, 2021 ZBA Meeting
Agenda Item 3.D
Page 2 of 2

Figure 1. Bird's Eye View of subject property (looking south).



©2021 Eagleview (image taken 4/4/2021)

CITY OF LEBANON APPLICATION FOR

SPECIAL EXCEPTION	☐	☐	SITE PLAN REVIEW
VARIANCE	☒	☐	SUBDIVISION
MOTION FOR REHEARING	☐	☐	LOT LINE ADJUSTMENT
APPEAL OF AN ADMIN. DECISION	☐	☐	OTHER ()

PROPERTY OWNER (APPLICANT):	
NAME: <u>Laurie Pauli</u>	TEL.#: <u>618-461-4997</u>
MAILING ADDRESS: <u>414 Eldridge St Lebanon, NH 03766</u>	
E-MAIL ADDRESS: <u>laurie @ laurie pauli. com</u>	
CO-APPLICANT, AGENT, OR LESSEE:	
NAME:	TEL.#:
MAILING ADDRESS:	
E-MAIL ADDRESS:	
PROJECT LOCATION:	
TAX MAP #: <u>91</u>	LOT#: <u>33</u>
PLOT #: <u>N/A</u>	ZONE: <u>R3</u>
STREET ADDRESS OF PROJECT: <u>414 Eldridge St Lebanon, NH 03766</u>	
IS THIS PROPERTY LOCATED IN THE: WETLANDS ☐ YES ☒ NO HISTORIC DISTRICT ☐ YES ☒ NO	
FLOOD PLAIN ☐ YES ☒ NO	
SCOPE OF PROJECT: <u>Replacement of existing 6'-0" front porch w/ new 8'-0" deep front porch. (Replacement of existing side porch w/ new enclosed mudroom, side entry landing and stairs.)</u>	
TYPE OF OCCUPANCY:	
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:	
<u>Laurie Pauli</u> PROPERTY OWNER DATE: <u>May 3 2021</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. _____ PROPERTY OWNER DATE: _____	

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #
5-3-2021	91-33	ZB2021-15-VAR	201.44	5-3-2021	18220

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

One cover application with an abutters list, required filing fee and ten copies of the site plan (if larger than 8 ½ in. x 11in.) must accompany this support statement.

I (we) hereby request a variance from the terms of Article(s) III
Section(s) 3/6 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 proposed porch will only extend out an additional 2'-0". There will still be a substantial front yard, and the dimensions will still match the character of the neighborhood.

2. That the variance will observe the spirit of the Ordinance.

We are requesting just a few feet into the setback to build.

3. That by the granting of the variance, substantial justice will be done;

We will be improving the appearance of the home by replacing an old and worn out front porch.

4. That the variance, if authorized, will not diminish the values of surrounding properties

This is a very minor change. and;

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

(ii) The proposed use is a reasonable one.

The proposed use is the same as the existing use (front porch)

(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.

We would like to extend the front porch to allow for a more comfortable and spacious sitting area, as we often like to use the porch during nice weather for meals, play and general enjoyment!

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.**

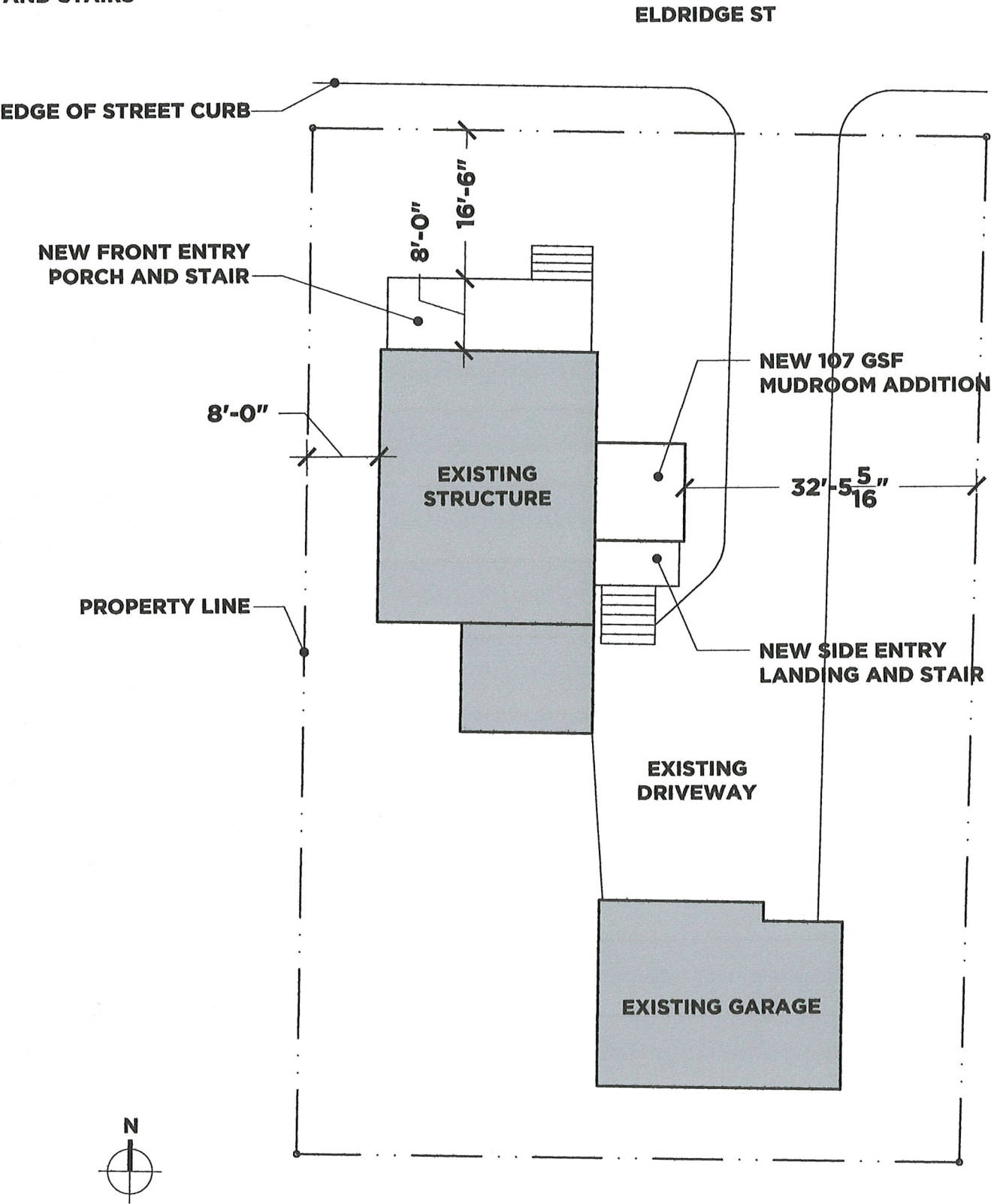
Statement of Intent:

"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)."

PROJECT SUMMARY

**REPLACEMENT OF EXISTING 6'-0" DEEP COVERED
FRONT PORCH WITH NEW 8'-0" DEEP COVERED
FRONT PORCH**

**REPLACEMENT OF EXISTING SIDE PORCH WITH NEW
ENCLOSED MUDROOM AND SIDE ENTRY LANDING
AND STAIRS**





**Agenda
Zoning Board of Adjustment
October 19, 2021**

**Agenda Item #4A
Other Business**

**Discussion re:
proposed amendment to
Rules of Procedure
to add Rules of Decorum**

LEBANON BOARDS, COMMITTEES, AND COMMISSIONS

RULES OF DECORUM AND COMMITMENT TO CIVIL BEHAVIOR

It is acknowledged that:

1. Civil, respectful, and courteous discourse and behavior are conducive to the democratic and harmonious airing of concerns and decision making.
2. Uncivil discourse and/or discourteous and inappropriate behavior have a negative impact on the character and productivity of the decision-making process.
3. Anger, rudeness, ridicule, obscene or profane language, impatience, and lack of respect for others and personal attacks are not acceptable behavior.
4. Demonstrations in support or opposition to a speaker or idea are not permitted by members of the Board. The Chairman is responsible for maintaining order. Failure to abide by this requirement may result in the forfeiture of the speaker's right to speak.

To maintain a cohesive, productive working environment, the members of the Lebanon Boards, Committees, and Commissions commit to:

1. Supporting the Board's mission.
2. Showing respect to each other as appointed members and staff representatives to the Board.
3. Promoting civility during Board meetings and tolerating nothing less.
4. Demonstrating reflective listening and not displaying negative body language (for example eye rolling, pencil tapping, shrugging of one's shoulders, hand gestures, etc.)
5. Allowing uninterrupted speech by those recognized as "having the floor" and refraining from speaking until recognized by the Chair.
6. Bringing appropriate committee-related concerns, issues, and conflicts to the Board for discussion.
7. Offering alternative solution(s) when addressing a problem or issue.
8. Maintaining the confidentiality of material discussed during closed Board meetings.

PLEDGE OF CIVILITY

The manner in which we govern ourselves is often as important as the positions we take. The City's collective decisions will be better and truer to our mission when differing views have had the opportunity to be fully vetted and considered. All those who appear before the City's boards, committees, and commissions have the right to be treated with respect, courtesy, and openness. We value all input.

Accordingly, we commit to conduct ourselves at all times with civility and courtesy, to both those with whom the Board interacts and to each other. We also pledge to endeavor to correct ourselves, should our conduct fall below this standard.