

**AGENDA
ZONING BOARD OF ADJUSTMENT
APRIL 1, 2019**

**AGENDA ITEM #2
APPROVAL OF MINUTES**

MARCH 18, 2019

DRAFT

**LEBANON ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING
CITY HALL, COUNCIL CHAMBERS
MONDAY, MARCH 18, 2019
7:00PM**

MEMBERS PRESENT: Chair William Koppenheffer, Vice Chair Jennifer Mercer, Dan Nash

MEMBERS ABSENT: Alan Patterson Sr.

STAFF PRESENT: Tim Corwin - Zoning Administrator

1 **1. CALL TO ORDER**

2
3 The meeting was called to order at 7:03 PM by Chair Koppenheffer.

4
5 **2. APPROVAL OF MINUTES:** February 19, 2019
6 Amendment: Page 6, line 41; change "Keys" to Kiess"

7
8 *Mr. Nash Moved to approve the minutes of the Lebanon Zoning Board of Adjustments meeting of*
9 *February 19, 2019 as amended. Seconded by Vice Chair Mercer.*
10 **The MOTION passed unanimously (3-0).*

11
12 Chair Koppenheffer announced that due to the number of people present who are opposing Item 3A
13 below (Basic Holdings, LLC) this topic would be discussed last.

14
15 **3. PUBLIC HEARINGS – Continued from February 19, 2019**

16
17 **A. BASIC HOLDINGS, LLC, 5 & 11 OAK RIDGE ROAD (Tax Map 4, Lots 5 & 6), zoned**
18 **R-3:** Request for a Variance from Section 501.1.H.2 of the Zoning Ordinance to allow an
19 existing building at 11 Oak Ridge Road, currently located +/- 33 ft. from the side lot line
20 shared with 15 Oak Ridge Road, to be included as part of a proposed Planned Unit
21 Residential Development (PURD) to be located on 5 & 11 Oak Ridge Road. Section
22 501.1.H.2 requires all buildings in the PURD to be set back a minimum of 75 feet from the
23 side lot line of the PURD property. #ZB2019-03-VAR.

24
25 **(Note:** All 189 pages of detailed documentation regarding this requested variance was included in the
26 March 18, 2019 agenda packet.)

27
28 Chair Koppenheffer informed the applicants that under the rules that the Zoning Board operates,
29 regardless of the Motion/Application, it needs to receive three (3) votes, even when there are only
30 three (3) people sitting. He said the applicant would need all three (3) votes but noted that on April 1,
31 2019 the ZBA will have the absent member, one new member and two alternates present. He gave
32 the applicants the option to continue the hearing or reschedule for April 1st. The applicants chose to
33 proceed.

34
35 Mr. Jeffrey Shapiro (owner of Basic Holdings, LLC), Attorney Nathan Sterns (Hershenson, Carter,
36 Scott and McGee, PC) and Mr. Rodney Finley (Pathway Consultants) came before the Board
37 representing the above request.

38
39 Mr. Finley presented a detail description of the Oak Ridge Road project to the Board that included:

- 40
- 41 • The footprint of the existing house.
 - 42 • The two lots that would be combined to make a total minimum of 5-acres (presently listed as 5.38-acres), noting that the applicant was doing a ground survey to verify the information on

- 1 record.
- 2 • The dimensions of Lot #6 (approximately 200 x 200 ft.). The existing house is set-back from
3 the side property line by approximately 75 ft., but the required set back in this zone is 15 ft.
4 The setback to a PURD is 75 ft. to any lot of 40K sq. ft. or less.
- 5 • The currently driveway off Oak Ridge Road enters the existing garage, which would be
6 maintained as a garage.
- 7 • The applicant would like to use the existing house and converted it to a duplex rather than
8 tearing it down.
- 9 • No further encroachment on the proposed building. The side setback is going to remain 33.7
10 ft. so the only Variance needed would be from the existing house to the side setback.

11
12 Attorney Stearns reviewed the five (5) Variance criteria with the Board noting: How previous court
13 findings would pertain to the use (PURD) in this particular area; what the setbacks would be if this
14 had been a traditional subdivision; that in order for this project to be developed as a PURD, it would
15 have to go through a Site Plan Review, with the Planning Board, as well as the detailed review
16 requirements for a PURD Conditional Use Approval in §501 of the Zoning Ordinance; that there is no
17 compelling reason to tear the house down, which would be a hardship for applicant; and discussed
18 Special Conditions, Tax Maps and the reasonable use for this area.

19
20 Mr. Shapiro informed the Board about his reasoning for not leaving the existing house as is. He noted
21 that there is no reason to tear down a good house, that the goal is to have something that is
22 aesthetically pleasing, that unit count does matter to him to make this project work, that Basic
23 Holding, LLC wants to create some space/garden space in the community between the homes and are
24 trying hard to create single family homes in this area rather than townhouses. He said that if this
25 Variance was not granted, Basic Holdings, LLC would probably end up “slicing and dicing” the
26 property in a different way.

27
28 Chair Koppenheffer asked Mr. Shapiro about what his hardship would be, other than the costs of
29 tearing down the existing house and rebuilding, if the Variance was not granted. His understanding
30 was that if the Variance was not granted, the house would be torn down. Mr. Shapiro was asked if
31 Basic Holdings, LLC has ever considered a PURD with a lot line adjustment, which would be another
32 option. Mr. Finley said that this type of analysis has not been done but they are willing to come back
33 to the Board with that information.

34
35 **Chair Koppenheffer opened the Public Hearing.**

36
37 Chair Koppenheffer took a head count of people present opposed to the Variance request. He
38 explained the time constraints and said the Board may not be able to hear everyone’s testimony, but
39 there would be at least one more Public Hearing, if not more, that would be devoted solely to this
40 case.

41
42 The following abutters/residents presented their written and verbal testimonies in opposition to this
43 Variance request:

44
45 **Mr. Rand Swenson (abutter):** He and his wife, Mardrey, presented the Board with a two-page
46 document dated 3/18/2019, which was in addition to the document included in the March 18, 2019
47 agenda packet. Mr. Swenson read the letter verbatim to the Board.

48
49 **Mr. Steve Arcone (member of Oak Ridge Community):** He handed out a 5-page document (dated
50 March 15, 2019) and read his document verbatim to the Board.

51
52 Mr. Corwin informed Mr. Arcone about next steps in the review process noting that the ZBA is just
53 reviewing information pertinent to the Variance application at his meeting.

1
2 **Mr. Lawrence Kelly (25 Wildwood - neighbors):** He and his wife, Lorraine Tompkins Kelly,
3 presented a 3-page document to the Board, dated March 13, 2019, and read their listed concerns.

4
5 Other members of the public who verbally expressed their opposition/concerns regarding this
6 Variance were: *Jacqueline PU, Jay Hutchins, Eleanor Coffey, Mardrey Swenson, Andrew Faumce,*
7 *Jeanette Hutchins, Sandy Suckow, John Walsh, and Lorraine Kelly.* Their concerns included:
8 Turning their area into a high-density development; the height of the building if it is turned into a
9 duplex; the number of units (21) proposed; effects the project would have on the environment; safety
10 of the neighborhood families due to increased traffic/traffic accidents - potentially involving children;
11 decreasing property values; development being rental properties; destroying the natural beauty of the
12 land; increased paving of land; opposition to turning existing house into a duplex; effect on wildlife in
13 the area and the potential of losing them; the removal of trees and vegetation, and; the hardship this
14 development would cause on people who live in this area.

15
16 **Hearing no further comments from the public, Chair Koppenheffer ADJOURNED the Public**
17 **Hearing, which will be continued as follows:**

18
19 Mr. Nash MOVED to continue the application of Basic Holding to 22 April. Seconded by Vice Chair
20 Mercer.

21
22 After Basic Holdings, LLC said would not be available on this date Mr. Nash withdrew his Motion
23 and it was restated as follows:

24
25 **Mr. Nash MOVED to continue the Public Hearing on Basic Holding to 23 April 23, 2019,**
26 **Tuesday at 7:00 pm. Seconded by Vice Chair Mercer.**
27 ****The vote on the MOTION passed unanimously (3-0).***

28
29 Mr. Corwin said there will be a Planning Board Meeting (not to be confused with the ZBA) regarding
30 Basic Holdings, LLC on Monday, April 8, 2019, 7:00 PM., in Council Chambers.

31
32 **(NOTE:** Since there is a City Council meeting on April 23, Mr. Corwin contacted the ZBA members
33 and Basic Holdings, LLC. The ZBA Special Meeting was subsequently rescheduled to Wednesday,
34 April 24, 2019, 7:00 PM in Council Chambers.)

35
36 **B. JOLIN SALAZAR-KISH, 384 NORTH MAIN STREET (Tax Map 8, Lot 18), zoned**
37 **R-3:** Applicant requests a Special Exception pursuant to Article III, §310.2 of the Zoning
38 Ordinance to convert a one-family dwelling into a two-family dwelling.
39 #ZB2019-04-SE

40
41 Chair Koppenheffer said both of Ms. Kish's applications for Special Exceptions would be heard at the
42 same time. These Special Exceptions were listed in the March 18, 2019 agenda packet as:

- 43 • Continued Hearing items 3B, #ZB2019-04-SE: Ordinance to convert a one-family dwelling
44 into a two-family dwelling.
- 45 • New Public Hearing item 4A, #ZB2019-07-SE: Ordinance to permit an expansion of the
46 building which is non-conforming to the minimum required 40 ft. front yard.

47
48 Ms. Jolin Salazar-Kish came before the Board representing the above applications.

49
50 Ms. Kish said she previously applied for a building permit in June 2018 to expand the second floor of
51 the existing structure, which she received by the Planning Department on August 21, 2018 and then
52 began substantial construction. She was then was made aware that the building permit was issued
53 erroneously and would need a Special Exception to expand the building. She submitted a letter and

1 an application packet, which was received by the Planning Department on February 20, 2019.

2
3 Ms. Kish said the construction involves turning an existing single-family home into two (2) three-
4 bedroom units. She described and presented photos of the property and detailed site diagrams of the
5 proposed 1st and 2nd floor expansion on the existing house. The packet also included the exterior and
6 elevations levels of the home and a diagram from Cardigan Mountain Land Surveys, LLS depicting
7 the proposed parking area.

8
9 Mr. Corwin said the parking area needed to meet the side set back requirements. A discussion took
10 place regarding where the parking lot was proposed, the setback requirements, the minimum parking
11 required for this expansion, and how redesigning the parking area might be achieved to meet the set-
12 back requirements.

13
14 **Chair Koppenheffer opened the Public Hearing.**

15
16 Mr. Donley (abutter at 386 North Main Street) came before the Board to testify in opposition to Ms.
17 Kish's applications. He handed the Board his testimonial packet and read each of the documents
18 (listed below) verbatim:

- 19 • A letter from his attorney, Thomas F. Hanna, 41 School Street, Keene, NH.
- 20 • A 9-page document detailing why he thought an expansion of the building should not be
21 granted.
- 22 • A 7-page document detailing his reasons why a special exception should not be granted for
23 turning the property into a two-family dwelling.

24
25 The Board took Mr. Donley's and Attorney Hanna's concerns under advisement regarding the square
26 footage of the lot; having the building coverage be certified by a surveyor; that the Parking Area be
27 plotted out exactly where the proposed parking spaces would be located; that the driveway is not closer
28 than 15 ft. from the Donley property line and a driveway permit be received; and how the two units
29 would be rented out to college students, which would change the character of the single family
30 residential neighborhood by adding more vehicles for their overnight guests and other visitors causing
31 a potential hazard where the driveway intersects with the highway.

32
33 Chair Koppenheffer ask Ms. Kish if she would be renting to college students. Ms. Kish said this is a
34 possibility but if it happened it would most likely be to Graduate Students, as this property is too far
35 away from the Dartmouth Campus for Under Graduates.

36
37 Hearing no further comments from the public, the Public Hearing was adjourned.

38
39 The Board wanted to see the proposed 2nd floor plan and discussed having the 2nd floor kitchen be
40 reviewed by a building inspector. They would also like to see a revised Parking Plan that would
41 comply with setback requirements. Mr. Nash suggest the Parking Plan could become a Condition of
42 an approval.

43
44 **No action was taken on #ZB2019-04-SE: Ordinance to convert a one-family dwelling into a two-
45 family dwelling.**

46
47 ***Vice Chair Mercer Moved that this discussion be continued at the Monday, April 1, 2019 Zoning
48 Board of Adjustment meeting.***

49 ***Seconded by Mr. Nash.***

50 ****The Vote on the Motion passed unanimously (3-0).***

51
52 **4. PUBLIC HEARINGS - New:**

53

- 1 **A. JOLIN SALAZAR-KISH, 384 NORTH MAIN STREET (Tax Map 8, Lot 18), zoned R-**
 2 **3:** Applicant requests a Special Exception pursuant to Article VII, §703.1 of the Zoning
 3 Ordinance to permit an expansion of the building which is non-conforming to the minimum
 4 required front yard. #ZB2019-07-SE

5
 6 *Vice Chair Mercer MOVED that:*

7
 8 On **March 18, 2019**, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there
 9 appeared **Jolin Kish** regarding **384 North Main Street (Tax Map 8, Lot 18)**, zoned **R-3**. Applicant
 10 requests a Special Exception pursuant to Article VII, §703.1 of the Zoning Ordinance to permit an
 11 expansion of the building which is non-conforming to the minimum required front yard. #ZB2019-07-SE

12
 13 **I. FINDINGS OF FACT**

14
 15 Based on testimony given, application materials presented, and supporting documents submitted, the
 16 Lebanon Zoning Board of Adjustment makes the following findings of fact:

- 17
 18 1. The subject property is currently improved with a one family dwelling, which is non-conforming
 19 to the minimum required 40 ft. front yard (note that the applicant seeks a conversion of the one-
 20 family dwelling to a two-family dwelling pursuant to a separate application, #ZB2018-04-SE).
 21 The applicant proposes to expand the second story of the building, as depicted in the attached
 22 materials submitted for this application.
 23
 24 2. The proposed expansion will not encroach any closer to the front of the property than the existing
 25 home, but it will increase the volume of that portion of the home that is located within the
 26 minimum front setback. Therefore, a Special Exception pursuant to §703.1 of the Zoning
 27 Ordinance is required in order to expand a non-conforming structure.
 28
 29 3. §310.3 of the Zoning Ordinance requires a 40 ft. minimum front yard for Class 1 lots in the R-3
 30 District having frontage on a state highway. Based on the survey provided by the applicant
 31 (prepared by Cardigan Mountain Land Surveys, LLC), the front porch is located approximately
 32 8.1 ft. from the front lot line, and the home itself is located approximately 18 ft. from the front lot
 33 line. Consequently, the home is non-conforming to the minimum required 40 ft. front yard.
 34
 35 4. The applicant proposes to expand the second floor of the home, and in doing so, proposes to
 36 expand the volume of that portion of the building that is located within the minimum front yard
 37 setback. Expansions of non-conforming structures are permitted by Special Exception pursuant to
 38 §703.1 of the Zoning Ordinance
 39
 40 5. The applicant has submitted testimony addressing the Special Exception criteria in an application
 41 received by the Planning Department on February 20, 2019.
 42
 43 6. David Donley, an abutter at 385 North Main Street, submitted a letter from his attorney, Thomas
 44 R. Hanna, Esq., dated March 18, 2019, in opposition to the requested variances.
 45

46 **II. CONCLUSIONS OF LAW**

47
 48 As a result of the above findings of fact and based on testimony given, application materials presented,
 49 and supporting documents submitted, the Board concludes the following with respect to the Special
 50 Exception criteria set forth in §801.3 of the Zoning Ordinance:
 51

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

31 **III. DECISION**

32
33 Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 18th day of March 2019,
34 hereby **GRANTS** the requested relief, subject to testimony, plans, and materials submitted, and per the
35 following conditions:

- 36 1. The applicant shall obtain a building permit.
37
- 38 2. The plan for the second-floor kitchen will be reviewed by the Building Inspector.
39

40
41 *The Motion was seconded by Mr. Nash.*

42 **The Vote on the MOTION passed unanimously (3-0)*
43

44 **B. PETER KERMOND (applicant) & TRIDENT KNIGHTS OF LEBANON, INC.**
45 **(property owner) 57 HANOVER STREET (Tax Map 91, Lot 220), zoned CBD:**
46 Applicant requests a Special Exception pursuant to Article III, §306.2 of the Zoning
47 Ordinance to allow a portion of the building to be used as a craftsman’s shop.
48 **#ZB2019-06- SE**
49

50 Mr. Peter Kermond and his wife , Carin Reynolds, came before the Board regarding the above
51 application. Mr. Kermond said that they have signed a Purchase & Sales agreement with Knights, but

1 it is contingent on being able to obtain the above request. He described the property as detailed in the
2 March 18, 2019 agenda packet.

3
4 Mr. Kermond answered the Board’s question regarding delivery truck’s by saying he would have
5 UPS delivery’s daily and large truck delivery’s about once each month and showed the Board where
6 the larger deliveries would take place.

7
8 **Chair Koppenheffer opened the Public Hearing.**

9
10 Mr. Jeremy Katz came forth and gave testimony in support of this application.

11
12 **Hearing no further comments from the public, the Public Hearing was closed.**

13
14 *Mr. Nash MOVED that:*

15
16 On **March 18, 2019**, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there
17 appeared **Peter Kermond** on behalf of the **Trident Knights of Lebanon, Inc.** regarding **57 Hanover**
18 **Street (Tax Map 91, Lot 220)**, zoned **CBD**. Applicant requests a Special Exception pursuant to Article
19 III, §306.2 of the Zoning Ordinance to allow a portion of the building to be used as a craftsman’s shop.
20 **#ZB2019-06-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 a +/-5,314 sq. ft. (finished) single-story commercial building constructed in
28 1910, containing two tenant spaces currently occupied by Dazzle Cupcakes and the Trident
29 Knights of Lebanon (a fraternal order).
30
31 2. The applicant proposes to use the space currently occupied by the Trident Knights for his
32 “Burnham Boat Slings” business, currently located at 250 Bank Street Extension. The business
33 employs 5 people and specializes in the manufacture of custom-made boat covers and travel
34 accessories for the rowing community. The scope and nature of the applicant’s business is more
35 thoroughly described in the attached application materials
36
37 3. For purposes of categorizing the use from a zoning perspective, the business meets the definition
38 of a “craftsman’s shop”, defined in Appendix A as: “A facility occupied as a workplace by
39 person(s) engaged in handicraft or artisan activities such as jewelry making, artists, weaving, wood
40 carving, pottery, sculpture and the like, including the sales of crafts or other artisan products made
41 on the premises.”
42
43 4. A craftsman’s shop is allowed by Special Exception within the CBD pursuant to §306.2 of the
44 Zoning Ordinance.
45
46 5. In order to grant a Special Exception for the proposed craftsman’s shop, the applicant must
47 demonstrate that the proposal meets the general Special Exception criteria, set forth in §801.3.
48
49 6. The applicant has submitted testimony addressing the §801.3 criteria in an application received by
50 the Planning Department on February 15, 2019.
51
52 7. Jeremy Katz spoke in favor of the application.
53

1 **II. CONCLUSIONS OF LAW**

2
3 As a result of the above findings of fact and based on testimony given, application materials presented,
4 and supporting documents submitted, the Board concludes the following with respect to the Special
5 Exception criteria set forth in §801.3 of the Zoning Ordinance:

- 6
7 1. The Special Exception is specifically authorized by §306.2 of the Zoning Ordinance.
8 (§801.3.A)
9
10 2. There are no special conditions/requirements applicable to the proposed use. (§801.3.B)
11
12 3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of
13 the Special Exception would not remedy. (§801.3.C) Staff is not aware of any Zoning
14 Ordinance violations on the property.
15
16 4. The character of the area **will not** be adversely affected. (§801.3.D)
17
18 5. **No** hazard or nuisance will be created. (§801.3.E)
19
20 6. The capacity of existing or planned community facilities and services (including streets and
21 highways) **will not** be adversely impacted. (§801.3.F)
22
23 7. The granting of the Special Exception **will not** result in undue municipal expense. (§801.3.G)
24
25 8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and
26 intent of the ordinance. (§801.3.H)
27
28 9. The general welfare of the City **will** be protected. (§801.3.I)
29

30 **III. DECISION**

31
32 Now therefore be it resolved, the Lebanon Zoning Board of Adjustment on this **18th day of March 2019**,
33 hereby **GRANTS** the requested relief, subject to testimony, plans, and materials submitted, and per the
34 following conditions:

- 35
36 1. The applicant shall obtain a building permit.
37

38 *MOTION was seconded by Vice Chair Mercer.*

39 **The Vote on the Motion passed unanimously (3-0)*
40

41 **C. PATCH FOREST, LLC, 0 MERIDEN ROAD (Tax Map 194, Lot 15), zoned RL-3:**

42 Applicant requests a Special Exception pursuant to Article III, §314.2 of the Zoning Ordinance to
43 construct a one-family dwelling. #ZB2019-05-SE
44

45 Mrs. Barbara Patch and her son, Cody Patch, came before the Board representing the above request.
46

47 Mrs. Patch asked the Board to allow a single-family house with a 2-car garage to be built on a 290-acre lot.
48 Mr. Patch will use the existing log landing that is already there and there is an existing driveway that goes onto
49 a cul-de-sac that they own at the end of Merry Lane. There will be a private septic system and a private well.
50 She said the Map presented is incorrect because at the last Planning Board meeting the found out they owned
51 the cul-de-sac.
52

53 Vice Chair Mercer asked if there was intention to use the garage for farming equipment. Mr. Patch said yes, it

1 may have a 4-wheeler. Mrs. Patch said it may contain tools they use for their sugaring business.

2
3 **Chair Koppenheffer opened the Public Hearing. Hearing no further comments from the public, the**
4 **Public Hearing was closed.**

5
6 *Vice Chair Mercer MOVED that:*

7
8 On **March 18, 2019**, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there
9 appeared **Barbara Patch and Cody Patch** on behalf of **Patch Forest, LLC** regarding **0 Meriden Road**
10 **(Tax Map 194, Lot 15)**, zoned **RL-3**. Applicant requests a Special Exception pursuant to Article III,
11 §314.2 of the Zoning Ordinance to construct a one-family dwelling. **#ZB2019-05-SE**

12
13 **I. FINDINGS OF FACT**

14
15 Based on testimony given, application materials presented, and supporting documents submitted, there are
16 no special conditions or requirements applicable to the proposed use and makes the following Findings of
17 Fact, which staff provided, but will add a 6th noting that no one from the public spoke for or against this
18 application:

- 19 1. The subject property is an unimproved +/-290-acre parcel currently used for agriculture. It is
20 identified with a Meriden Road address on the Assessor's tax card but does not have frontage on
21 Meriden Road. The property is accessible via Durkee Road and Merry Lane.
22
23 2. The applicant proposes to construct a one-family dwelling with a footprint of +/-2,132 sq. ft. As
24 indicated in the application materials, the home will be located +/-580 ft from the nearest lot line.
25
26 3. According to the application, no excavation and no tree removal will be required: the home will be
27 constructed in an existing clearing, and an existing logging road will be used for the driveway.
28
29 4. A one-family dwelling is allowed only by Special Exception within the RL-3 District. In order to
30 grant a Special Exception, the applicant must demonstrate that the proposal meets the general
31 Special Exception criteria, set forth in §801.3.
32
33 5. The applicant has submitted testimony addressing the §801.3 criteria in an application received by
34 the Planning Department on February 15, 2019.
35
36 6. No one from the public spoke for or against this application.

37
38 **II. CONCLUSIONS OF LAW**

39
40 As a result of the above findings of fact and based on testimony given, application materials presented,
41 and supporting documents submitted, the Board concludes the following with respect to the Special
42 Exception criteria set forth in §801.3 of the Zoning Ordinance:

- 43
44 1. The Special Exception is specifically authorized by §314.2 of the Zoning Ordinance. (§801.3.A)
45
46 2. There are no special conditions/requirements applicable to the proposed use of the Zoning
47 Ordinance. (§314.2)
48
49 3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of the
50 Special Exception would not remedy. (§801.3.C) Staff is not aware of any Zoning Ordinance
51 violations on the property.
52

- 1 4. The character of the area **will not** be adversely affected. (§801.3.D)
- 2
- 3 5. **No** hazard or nuisance will be created. (§801.3.E)
- 4
- 5 6. The capacity of existing or planned community facilities and services (including streets and
- 6 highways) **will not** be adversely impacted. (§801.3.F)
- 7
- 8 7. The granting of the Special Exception **will not** result in undue municipal expense. (§801.3.G)
- 9
- 10 8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and intent
- 11 of the ordinance. (§801.3.H)
- 12
- 13 9. The general welfare of the City **will** be protected. (§801.3.I)
- 14

15 **III. DECISION**

16
17 Now therefore be it resolved, the Lebanon Zoning Board of Adjustment on this **18th day of March, 2019**,

18 hereby **GRANTS** the requested relief, subject to testimony, plans, and materials submitted, and per the

19 following conditions:

- 20
- 21 1. The applicant shall obtain a building permit.
- 22

23 *The Motion was seconded by Mr. Dan Nash*

24 **The Vote on the MOTION was unanimous (3-0).*

25

26 **5. OTHER BUSINESS:**

- 27
- 28 **A. SIXTY SOUTH MAIN STREET, LLC, 60 S. MAIN STREET (Tax Map 86, Lot 7), zoned**
- 29 **R-2:** Motion to rehear an appeal of an administrative decision regarding the use of the subject
- 30 property and whether the use of the property is in compliance with the Zoning Ordinance.
- 31 #ZB2018-26- AAD (**Note:** All relevant materials pertaining to this topic is contained in the
- 32 March 18, 2019 agenda packet.)
- 33

34 Chair Koppenheffer said this is not a hearing, it is simply a matter of deciding the Motion that was

35 submitted by Attorney Brad Atwood (in a letter to City of Lebanon Zoning Board of Adjustment dated

36 February 21, 2019).

37

38 Staff had no comments.

39

40 Mr. Nash said he did not see where the ZBA made an error. The ZBA made a judgement call on how best

41 to handle it and felt it was a reasonable one.

42

43 Chair Koppenheffer said the Minutes from the night of the ZBA decision (January 22, 2019) adequately

44 spelled out the rational for acting as they did, and he would vote to DENY the Motion.

45

46 Mr. Corwin said the only thing he would observe is that the Motion was rather short and did not follow

47 the typical format of the Findings of Fact and Conclusions of Law and asked the Chair address this.

48

49 Chair Koppenheffer said the complaint of the individual who filed it before the administrator was that the

50 bulk head was being used as an entrance thereby creating a third (3rd) unit on the right side of the duplex

51 in question. The ZBA has no practical way of policing this except to do what we can to prevent that from

52 being used as an entrance. It still does not prevent the tenant there from using it as an exit and the Fire

53 Department does not require it be used as an exit.

1
2 Mr. Nash said that regarding the safety issue, the Fire Department does not care whether you have some
3 means of access for a door – they are going to get in if there is a hazard and felt there was no life-safety
4 issue - the people on the inside can get out, so it is not unsafe in that respect. Vice Chair Mercer agreed
5 with Mr. Nash’s statement.
6

7 *Vice Chair Mercer MOVED that:*

8
9 The Lebanon Zoning Board of Adjustment, on this 18th day of March, 2019, hereby
10 **DENIES** the **motion** made by Brad Atwood, Esq., on behalf of **Sixty South Main**
11 **Street, LLC** to **rehear** the appeal of Raymond Downs, resident and owner of 62 South
12 Main Street, regarding an administrative decision made by the Zoning Administrator with
13 respect to the use of the property at 60 South Main Street (Tax Map 86, Lot 7), identified
14 as Case #ZB2018-26-AAD, and upheld by the Zoning Board of Adjustment on January
15 22, 2019, with the following condition: “The applicant shall replace the existing locks on
16 the basement door with a lock that can be operated only from the interior of the dwelling
17 unit, within 30 days and the property owner shall allow the Zoning Administrator to
18 verify the lock functions as intended.”
19

20 *Motion seconded by Mr. Dan Nash.*

21 ** The vote on the MOTION was unanimous (3-0.)*

22
23 **5. STAFF COMMENTS: None**

24
25 **6. ADJOURNMENT:**

26
27 *Vice Chair Mercer MOVED to adjourn. Seconded by Mr. Nash.*

28 **The MOTION passed unanimously (3-0).*

29
30 The meeting was adjourned at 10:01 PM.

31
32 Respectfully Submitted,

33 Dona E. Gibson

34 Recording Secretary