

**AGENDA
ZONING BOARD OF ADJUSTMENT
JUNE 3, 2019**

**AGENDA ITEM #2
APPROVAL OF MINUTES**

APRIL 24, 2019

DRAFT

LEBANON ZONING BOARD OF ADJUSTMENT
CITY HALL, COUNCIL CHAMBERS
MONDAY, April 24, 2019
7:00 PM

MEMBERS PRESENT: Chair William Koppenheffer, Vice Chair Jennifer Mercer, Dan Nash, Alan Patterson Sr., Paul McDonough (Alt)

MEMBERS ABSENT: Jonathan Peress, Jeremy Katz (Alt)

STAFF PRESENT: Tim Corwin - Zoning Administrator

1 **1. CALL TO ORDER**

2
3 The meeting was called to order at 7:04 PM by Chair Koppenheffer.

4
5 **2. APPROVAL OF MINUTES: NONE**

6
7 **3. PUBLIC HEARINGS – Continued from March 18, 2019**

- 8
9 **A. BASIC HOLDINGS, LLC, 5 & 11 OAK RIDGE ROAD** (Tax Map 4, Lots 5 & 6), zoned R-
10 3: Request for a Variance from Section 501.1.H.2 of the Zoning Ordinance to allow an
11 existing building at 11 Oak Ridge Road, currently located +/- 33 ft. from the side lot line
12 shared with 15 Oak Ridge Road, to be included as part of a proposed Planned Unit
13 Residential Development (PURD) to be located on 5 & 11 Oak Ridge Road. Section
14 501.1.H.2 requires all buildings in the PURD to be set back a minimum of 50 feet from the
15 side lot line of the PURD property. Whenever the PUD abuts a residential lot less than
16 40,000 square feet in area this setback shall be increased to 75 feet. #ZB2019-03-VAR
17 appointed Mr. McDonough to sit on this hearing.

18
19 Chair Koppenheffer appointed Mr. McDonough to sit on this hearing.

20
21 The Chair asked the applicants for a summary of where the application and the new submission
22 stands. Nate Stearns, attorney for the applicant, Rob Finley from Pathways, and Jeff Shapiro, the
23 principle applicant provided a brief recap of the previous meeting.

24
25 The application is for a variance with a proposed planned unit residential development. The applicant
26 showed a drawing that was modified slightly from the previous presentation. It shows the existing
27 house that is near a residence on a lot that is less than 40,000 square feet and that requires the
28 variance for a PURD. The applicant would like to leave the existing house rather than tear it down.
29 The rest of the new construction is outside the need for a variance. The only request pertains to the
30 existing structure in its existing location.

31
32 The applicant presented variance criteria and case law stating there is no conflict for granting this
33 variance. It is a dimensional variance in a predominantly residential area and there are similar
34 developments in the area. They believe there is no new loss for permitting the variance and no gain
35 for denying the variance. They would be contributing to the housing stock in the community. They
36 have received a realtor's opinion that the value of the adjoining properties would not be diminished.
37 Since their last presentation they have worked on the survey. Preliminary determination shows there
38 is not enough acreage to do the stand-alone lot in addition to the PURD.

39
40 Mr. Finley discussed the minor changes to the site plan that was previously presented. They have
41 changed the parking and entrances to the units and driveway. There would not be any parking
42 expansion, new construction, or any modification to the existing 35-foot setback. To accomplish this,

1 two of the single-family units have been combined into a duplex. The applicant, Mr. Shapiro,
2 explained that if this variance is not permitted, it is too expensive to move the existing house. If it
3 isn't left standing, they would tear down the house. He feels it does not seem reasonable to tear down
4 a perfectly good residence, lose housing facilities in the community and fill the land fill with debris.

5
6 The Chair asked about the measurements of the lots, as they are different from the original proposal.
7 The applicant has done a survey, but it is not complete. The total acreage is somewhere in the range
8 of 5.07 for both lots. They said if they could create two separate lots they theoretically could expand
9 the existing house and move closer, 15 feet from the abutting property. Alternatively, they could
10 develop a conventional subdivision on the acreage and apply for a special exception to build duplexes
11 on the subdivided lots, potentially 13 lots with 26 units. Each of those lots would have the 15-foot
12 setback.

13
14 The Chair asked about the target market for these units. Mr. Shapiro responded that the demographic
15 has been long term rentals for families. The plan is going to be rental units. The rental target is
16 around \$2500 per month. The applicant would reserve the right to turn the units into condominiums
17 and sell the properties. The best solution is long term rental.

18
19 The Chair asked about the concerns of the neighbors, and if it would be college housing. Mr.
20 Shapiro's choice is to have long term rentals, and students are not his choice. He would like long
21 term rentals and stability of renters. He hopes to have good rental properties. Single family homes
22 tend to take better care of a property, as opposed to multi-family housing.

23
24 **The Chair reopened the Public Hearing.**

25
26 The following came forth to speak:

27
28 **John Jay Hutchins** came forward and spoke to the continuity of his neighborhood and believes this
29 development would change their neighborhood. The Chair asked what type of renters he thinks they
30 would attract. He referred to the huge need for student housing and does not believe they would
31 attract the type of renters that were described by the applicant.

32
33 **Bob Drake** lives close to the property. He described a similar neighborhood where he previously
34 lived. He found that when renters moved into a neighborhood with other family owned houses, the
35 renters were often disruptive. He believes the character of the neighborhood would be changed.

36
37 The Board members reminded the public that the applicant's intent is to rent to families rather than
38 young student renters. And there are other opportunities to develop this property that could be more
39 of a burden.

40
41 **Steve Arcone** spoke about the expansion of Dartmouth College and the need for rental properties for
42 these students. There is a considerable part of Schem Village that is intended to be further
43 developed as well. If the applicant does sell the units, the new owners could choose to rent to
44 students. There are new guidelines that allow up to 4 unrelated people living in each of these units.
45 There could be potential of 84 vehicles or more in the applicant's proposed development. He believes
46 that 4 students would share the \$2500 because it would be too expensive for most families.

47
48 **Rand Swenson**, an abutter of the property, thought the new plan is some-what of an improvement.
49 He sought a second realtor's opinion that indicated this development would adversely affect the value
50 of his property. He described Pine Wood Village, and how this development would be substantially
51 different. He further explained that the property does not allow enough open space for the PURD.
52 He feels the zoning rules were initiated to prevent the encroaching on abutting properties and he
53 would like the Board to consider the precedent of adjoining properties brought into a PURD. He

1 believes the two abutters are small lots and the setbacks should be 75 feet, or the abutters would be
2 adversely affected.

3
4 The Chair spoke to a letter from Mr. Clarkson stating that the parking on the previous plan was the
5 problem. With this revision of the plan, the new parking arrangements would be less of a problem.
6 Mr. Swenson believes Mr. Clarkson intends that the whole property would adversely affect the
7 abutter's property.

8
9 Vice Chair Mercer spoke to the dimensional variance. She asked what the abutter thought about the
10 applicant's other alternatives, such as tearing down the house or other ways to develop the property,
11 to ensure they adhere to the 75-foot setback. He believes they are allowed by law to have the PURD,
12 however the 75-foot setback would be beneficial to his property because of the additional open space.

13
14 *Eleanor Coffey*, an adjoining property owner on the other side of the applicant's property addressed
15 the Board. She is convinced that the property and the quality of her life would be affected. Her
16 property is at a dead-end road and is surrounded by wooded area. She spoke to the other conforming
17 use of properties that have been overdeveloped, including Sachem Village, Wheeler Professional
18 Park, the big church, the Campion Skating Rink, Quail Hollow and other developments in that area,
19 saying this is one more over development. She would like the Board to protect this residential area.
20 It appears the community garden that is proposed enters the 75-foot buffer zone. She would like a
21 tree buffer between her property and the PURD to buffer the noise, light and additional traffic. She
22 believes that the size of this property does not support enough land for a PURD.

23
24 *Mardrey Swenson* pointed out that in the entire area where they live there are only 3 street lights.
25 This development would substantially increase the light within the area. The Board said street
26 lighting is in the purview of the Planning Board.

27
28 **Hearing no additional comments from the public, the Chair closed the public hearing.**

29 Vice Chair Mercer asked the Zoning Administrator if the community garden is permitted in the
30 setback and what the intent was about the language regarding 75-foot abutment for adjoining
31 properties. Mr. Corwin will investigate the answer about the garden. He also responded that he
32 believes it was not the intent that a 75-foot setback is required for properties that touch a PURD,
33 rather it was intended to protect the abutting properties. This is a regulation that has been in place for
34 many years and there are several developments where this setback has not been required for adjoining
35 properties that touch the PURD. There is precedent for developments with the same variance that this
36 applicant is requesting.

37
38 The Board members discussed the community garden, asking if the garden is part of the conditional
39 use requirement and not part of this variance request. They reviewed that the house has been on the
40 property since 1978 based on the tax records. The size of the variance is pertinent, but this is not an
41 extreme request.

42
43 Some Board members are concerned that they do not have the definitive size of the lot and it seems
44 pertinent to this case. The boundary survey would show how much property they have and based on
45 the acreage they may have other alternatives such as asking for a lot line adjustment. If the acreage is
46 under 5 acres, they do not have enough land for the PURD. The applicants believe the survey will be
47 finished within a few weeks, in time for the preliminary hearing with the Planning Board that is set
48 for early May.

49
50 *Mr. Patterson MOVED that this hearing be continued until they have a complete boundary survey.*
51 *Seconded by Mr. McDonough.*

52 **The MOTION passed by a vote of 3-2. Vice Chair Mercer and Mr. Nash voted nay.*

53

1 The deliberation and discussion are continued until Monday June 3. The hearing will be reopened at
2 that time.

3
4 **4. STAFF COMMENTS**

5
6 The new members were welcomed by Chair Koppenheffer.

7
8 **5. ADJOURNMENT**

9
10 *Mr. Nash MOVED to adjourn. Seconded by Mr. Patterson.*
11 **The MOTION passed unanimously (6-0).*

12
13 The meeting was adjourned at 8:10 PM.

14
15 Respectfully Submitted,
16 Linda Billings
17 Recording Secretary