AGENDA
ZONING BOARD OF ADJUSTMENT
JUNE 15, 2020

AGENDA ITEM #2A
APPROVAL OF MINUTES

JUNE 1, 2020

DRAFT

LEBANON ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
REMOTE VIA MICROSOFT TEAMS
LebanonNH.gov/Live
MONDAY, June 1, 2020
7:00 PM

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

MEMBERS ABSENT: Jonathan Peress

STAFF PRESENT: Tim Corwin – Senior Planner and Zoning Administrator

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1. CALL TO ORDER

The meeting was called to order at 7:00 PM by Chair Koppenheffer.

A Roll Call of Board Members who participated remotely is 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

A. May 4, 2020

Vice Chair Mercer MOVED to approve the May 4, 2020 Minutes as presented in the June 1, 2020 agenda packet as amended.
Seconded by Mr. Nash.

Amendments: Page 2, Line 18; Add 'for a' after Lot 10. Page 12, Line 34; Remove 'unanimously'.

Roll Call Vote
Mr. Nash, Vice Chair Mercer, Mr. Newlove, Mr. McDonough and Chair Koppenheffer all voting Yea.
None voted Nay.
****The Vote on the Motion was unanimously approved (5-0).***

B. May 19, 2020

Mr. Nash MOVED to approve the May 19, 2020 Minutes as presented in the June 1, 2020 agenda packet.
Seconded by Mr. Katz.

Roll Call Vote
Mr. Nash, Mr. Katz and Chair Koppenheffer all voting Yea.
None voted Nay.
Mr. Patterson, Vice Chair Mercer, Mr. Newlove all abstained.
****The Vote on the Motion was approved (3-0).***

The order of the meeting was changed.

3. PUBLIC HEARING-Continued from May 19, 2020.

A. JEROME YAROSHEVICH, 328 POVERTY LANE (Tax Map 188, Lot 47), zoned RL-1: The subject property is improved with a one-family dwelling, partly located within the 100 ft. high-value wetland buffer established by Article IV, Section 401.2.B of the Zoning Ordinance. Applicant proposes to replace an existing 9 ½ ft. x12 ½ ft. attached sunroom with a new 16'x16' attached sunroom, resulting in +/-95 additional sq. ft. within the wetland buffer. In order to construct the new sunroom, the applicant requests a Special Exception pursuant to Section 401.5. **#ZB2020-11-SE**

Mr. Katz and Mr. McDonough were appointed voting members for this hearing.

Mr. Patterson chose to stand down because he was not present at the previous meeting.

The public hearing for this application was continued until this meeting.

Hearing no additional comments from the public, Chair Koppenheffer closed the Public Hearing.

***Mr. Nash MOVED** on **May 19, 2020** and **June 1, 2020**, at duly-noticed meetings of the Lebanon Zoning Board of Adjustment, there appeared **JEROME YAROSHEVICH** regarding **328 POVERTY LANE (Tax Map 188, Lot 47)**, zoned RL-1. The subject property is improved with a one-family dwelling, partly located within the 100 ft. high-value wetland buffer established by Article IV, Section 401.2.B of the Zoning Ordinance. Applicant proposes to replace an existing 9 ½ ft. x 12 ½ ft. attached sunroom with a new 16 ft. x 16 ft. attached sunroom, resulting in +/-95 additional sq. ft. within the wetland buffer. In order to construct the new sunroom, the applicant requests a **Special Exception** pursuant to **Section 401.5**. #ZB2020-11-SE*

I. <u>FINDINGS OF FACT</u>

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

1. A substantial portion of the subject property is located within the Wetlands Conservation District. As established by §401.2.B of the Zoning Ordinance, the Wetlands Conservation District consists of the wetlands themselves as well as a 100 ft. buffer that extends from wetlands that the City of Lebanon has identified as being of high or very high value.

2. The subject property is improved with a one-family dwelling that is partially located within the 100 ft. buffer.

3. The applicant proposes to replace an existing 9 ½ ft. x 12 ½ ft. attached sunroom with a new 16 ft. x 16 ft. attached sunroom, resulting in +/-95 additional sq. ft. within the 100 ft. buffer. The new sundeck will also be closer to the wetlands than the existing sunroom.

4. Section 401.5 of the Zoning Ordinance permits the Zoning Board of Adjustment to allow the construction of a structure within the 100 ft. buffer by Special Exception.

5. In order to grant a Special Exception to allow the proposed expansion of the sunroom, the Board must find that the applicant has satisfied the criteria set forth in Section 401.5 of the Zoning Ordinance.

6. The applicant submitted testimony addressing the Section 401.5 criteria in an application received by the Planning & Development Department on May 1, 2020.

7. As required by Section 401.7.D of the Zoning Ordinance, a copy of the application was forwarded to the Lebanon Conservation Commission and was discussed at their May 15, 2020 meeting. A copy of the relevant portion of the May 15th draft Conservation Commission meeting minutes was submitted to the Board prior to the May 19, 2020 public hearing.

8. No one 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 Special Exception criteria set forth in §401.5 of the Zoning Ordinance:

1. The use for which the exception is sought **cannot** feasibly, after consideration of all alternatives, be carried out on a portion or portions of the lot which are outside the Wetlands Conservation District. (§401.5.A)

2. Due to the provisions of the Wetlands Conservation District, as applied to the particular characteristics, setting and environment of the property, the lot **cannot** reasonably be used for any of the uses permitted or allowed by special exception, without some form of special exception under this section. (§401.5.B)

3. The design and construction of the proposed use **is** consistent with the purpose and intent of §401.1 (A), (B) and (C) of the Zoning Ordinance, and adequate conservation measures **will** be taken to mitigate the detrimental effects of the proposed use on the natural function of the wetlands (§401.5.C)

4. The criteria set forth in §401.5.D relates to pipelines, powerlines, and other transmission of lines and, therefore, is not applicable.

5. The proposed use **will not** create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of ground water, or any other reason. (§401.5.E)

6. The project **is** capable of complying with all State and Federal wetlands and wetlands permitting requirements. (§401.5.F)

7. The project **is** capable of conforming to all existing best management practices, as referenced in Appendix A of the Zoning Ordinance, and **will** be implemented in a way which conforms to those practices (§401.5.G)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **1st day of June 2020**, hereby **GRANTS** the requested Special Exception, as set forth above and per testimony, plans, and

materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit.

Seconded by Mr. Katz.

Roll Call Vote
Mr. McDonough, Mr. Katz, Mr. Nash, Vice Chair Mercer and Chair Koppenheffer all voting Yea. None voted Nay.
****The Vote on the Motion was unanimously approved (5-0).***

4. PUBLIC HEARINGS - NEW

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

A. NICHOLAS & REBECCA KATTAMIS, 45 SCHOOL STREET (Tax Map 107, Lot 113), zoned R-2: The location of the existing home extends across the side lot line shared with 39 School Street and is, therefore, non-conforming to the minimum side yard requirements in the R-2 District. Applicants propose to construct a 3-story addition to be located +/-12 ft. from the side lot line. To permit the expansion of a non-conforming structure, the applicants request a Special Exception pursuant to Article VII, Section 703.1 of the Zoning Ordinance. **#ZB2020-12-SE**

Mr. Nick Kattamis appeared on behalf of the application. The premises is a two family dwelling at 45 School Street. The applicant and his family live in one of the units and would like to build a 2.5 story addition on the back of the house for their own expanding family. He addressed some corrections to what was stated in the application. The building is currently 12 feet from an abutting neighbor, not the 15-foot setback, relative to one portion of the house. They intend to make the appearance of the addition similar to the existing home. The added rooms would be a kitchen, bathroom and 2 bedrooms. The applicant believes the work should not require any access from the neighbor's property and his neighbor, Mr. Cox, who appeared with the applicant, said he is on board with the addition and none of the work would be coming through his property. The center portion of the house would remain at the current height except where it attaches to the new addition.

Chair Koppenheffer opened the Public Hearing.

Mr. Cox, the abutter, said he previously spoke in support of the application.

Mr. Nash MOVED to continue this hearing to the next meeting, June 15, 2020.
Seconded by Mr. Patterson.

Roll Call Vote
Mr. Newlove, Mr. Patterson, Mr. Nash, Vice Chair Mercer, and Chair Koppenheffer all voting Yea.
None voted Nay.
****The Vote on the Motion was unanimously approved (5-0).***

The Hearing was adjourned until June 15, 2020.

B. JOHANNA CICOTTE, 30 LITTLE HEATER ROAD (Tax Map 78, Lot 61), zoned IND-L: Applicant proposes to remove the existing buildings and to construct a new building

for a proposed car wash use. Applicant requests a Variance from Article III, Section 303.3 of the Zoning Ordinance to allow the new building to be located 20 ft. from the front lot line where a minimum of 40 ft. is required. **#ZB2020-13-VAR**

Mr. Nash recused himself from this hearing.

Mr. Katz and Mr. McDonough were appointed to sit on this hearing.

Barry Schuster appeared on behalf of the application. This property is a little section on Heater Road behind the truck stop and the Miller Volvo Dealership buildings. It is one of the few remaining single family houses in this area. The proposal is to remove the house and construct a car wash for the Miller Volvo Dealership. The property is owned by one of the owners of Miller Volvo. Moving the new building closer to the road requires a variance and would have less impact on the wetland and the brook that flows at the back of the property. The surrounding properties are primarily commercial. The proposal includes a driveway between the Dealership and the car wash, minimizing traffic in the area.

The Board asked for clarifications about the application. The applicant said the intent is that the car wash would only be for the use of customers of the dealership and the dealership's use of the facility for vehicle detailing. It is not intended to be a car wash for the public, rather a detailing shop that includes a car wash. The current structure is about 30 feet away from the road and the new structure would be about 10 feet closer to the road. It is zoned light industrial, but there are two homes across the street. The applicant has not contacted the two homes across the street. They are two dwellings that are rental properties and one of the properties is owned by Ms. Cicotte.

The access road between the dealership and the car wash would be a connector and the proposal would have to go before the Planning Board. The applicant was asked to speak to the exact hardship related to this application. The building is not very deep, therefore what is preventing it from being within the permitted setback. The wetland is about 30 feet from the back of the current building. It is a buildable area and there is nothing to prevent construction up to the wetland. Mr. Shuster said from the design standpoint it is impractical to angle the building. The intention is to minimize the impact at the rear of the property to protect the wetlands and the impact on the stream and not disturb that area. Moving it away from the wetlands protects the wetlands and creates a bigger buffer and gives better access to the dealership. The location of the building in relationship to the road would be similar to the other buildings in the area

The applicant was asked if the Volvo Dealership would allow people to drive up and pay for a car wash and if there would be any objections to a condition that it would not be open to anyone who did not have a service from the dealership. The access point to Little Heater Road that is on the site plan is an exit for the carwash. The proposed building is 60 x 100 feet and appears to be a large car wash. Mr. Nash spoke on behalf of the applicant, saying this is not a typical car wash. It is a detailing facility in addition to the car wash. It is designed to handle multiple vehicles, with multiple employees working on the cars for the dealership. It is believed that the intent is that some service must be done by the dealership, not just a car wash. Further clarification was asked, specifically, is this a service that would be open to the public and can the public make an appointment to have the car detailed. Because this is a new service for the dealership, more information is needed. Cars may be parked there waiting to be picked up or driven back to the dealership as well as parking for the employees.

Vice Chair Mercer temporarily took over the meeting and opened the Public Hearing.

Alice Standby appeared and asked if there would be office space in this building. There may be some workspace to do some administrative work related to the car wash, but it is not intended to be an office building.

Mr. Corwin stated the use itself must be approved by the Planning Board and the use would be clarified at that time. This request from this application is to place the building within the setback from the road.

Mr. Patterson MOVED to continue this hearing until the next meeting, June 15, 2020. Seconded by Vice Chair Mercer.

Roll Call Vote
Mr. Katz, Mr. McDonough, Mr. Patterson, Vice Chair Mercer and Chair Koppenheffer all voting Yea. None voted Nay.
****The Vote on the Motion was unanimously approved (5-0).***

The Hearing was adjourned until June 15, 2020.

C. **LEBANON HOUSING AUTHORITY (applicant) and BAYNE STEVENSON (property owner), 258 HEATER ROAD (Tax Map 64, Lot 7), zoned RO-1:** Applicant requests a Special Exception pursuant to Article III, Section 311A.2 of the Zoning Ordinance to construct a multi-family dwelling containing 44 dwelling units. **#ZB2020-14-SE**

Mr. Newlove was appointed voting privileges for this hearing.

Megan Carrier, Ditha Alonso, Jeff Merritt, and Jerry Wuebbolt appeared on behalf of the application.

Jeff Merritt, from Granite Engineering, spoke on behalf of the Lebanon Housing Authority. He showed a record survey of the property on Heater Road near Old Etna Road. It is approximately 3.37 acres in area. It is currently undeveloped, and a previous house was torn down around 2008. It is in the RO-1 zone. There are single and multi-family homes in the area. He presented a few other drawings that illustrated the proposal, a single building with 44 apartments. It would front on Heater Road and Old Etna Road. Multi-family homes are allowed in this zone, but it requires a special exception. The access would only be from Heater Road with a single curb cut. A parking lot is proposed at the rear of the building with 69 parking spaces. There is a pocket of wetlands on the property. They propose a small maintenance shed on the property and an area for dumpsters for residents' trash. It would include a sidewalk for residents extending from the intersection, through the site to access the building. There is a bus stop at the intersection and their project proposes a new bus shelter for that area.

Ms. Carrier addressed the special exception criteria that were submitted on the application. She discussed each point and how the criteria are met.

The target market for the housing would be low to moderate incomes. The majority would be one-bedroom units, with some two-bedroom and a few three-bedroom apartments. Therefore, they do not expect a significant increase in traffic in the area. It is intended to be affordable housing for the community and would have 3 handicap accessible units. This project is not tax exempt.

The potential hazard and nuisance related to the traffic on Heater Road was discussed. The Board asked if the exit could be changed because there is a high volume of traffic on that road. Mr. Merritt

said they considered a different location, but they do not have the rights to cross onto another road for exiting the location. During the planning process and the site plan they would look further into the traffic.

Increasing the uploading and offloading at the bus stop in that area is thought to cause a significant hazard to traffic in that area. The applicants intend to add a shelter to the already existing bus stop. However, increasing the use of the bus stop would increase the hazard if there is no pull off for the buses.

The applicants said the rents would not be set based on the resident's income. The rent for each apartment size must be within a certain income range, based on the number of people living in the apartment.

Chair Koppenheffer opened the Public Hearing.

Alice Zansby appeared and asked about the income brackets related to the apartment sizes. Specifically, what would be the rent for a person with $19,000 income? She mentioned that the building could negatively affect the area because the high school would be impacted if there are no trees and the building would be seen from the High School buildings. She further questions, with the number of housing units available, would this really meet the needs of low-income housing and would it really meet the needs of the community?

Ms. Carrier said the building applicant intends to include landscaping to block the view from the high school area and the wetlands area would remain. There are also some trees in the area that would remain wherever they can.

The rent would not be set based on income. Dita Alonso said that the other housing units that are being created around the community are market rents, which are substantially beyond what many people can afford. She said this would truly be affordable housing, but the intended rents are not established until the project is closer to completion. Typically, one-bedroom units are around $800 to $1000 in older housing projects.

Mr. Corwin said the School District was notified and is aware of this application. He stated that Section 601-2B requires that all parking areas are concealed but the plans do not show that the parking is completely hidden. Those measures should be highlighted on the application and identified for the Board to approve so there is no confusion before this goes forth for Site Plan review. This should be updated on the application before the June 15, 2020 meeting. The applicants were asked to prepare a simple proposed landscape plan for this Board to review.

Vice Chair Mercer MOVED to continue this hearing until the next meeting, June 15, 2020. Seconded by Mr. Newlove.

Roll Call Vote
Mr. Newlove, Mr. Patterson, Mr. Nash, Vice Chair Mercer and Chair Koppenheffer all voting Yea. None voted Nay.
****The Vote on the Motion was unanimously approved (5-0).***

5. STAFF COMMENTS: None

6. ADJOURNMENT

Mr. Patterson MOVED to adjourn the meeting at 9:10 PM.
Seconded by Mr. Newlove.

Roll Call Vote:
Mr. Patterson, Mr. Newlove, Mr. Nash, Vice Chair Mercer, and Chair Koppenheffer all voting Yea. None voted Nay.

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

Respectfully Submitted,
Linda Billings
Recording Secretary