

FINAL

**LEBANON ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING AGENDA  
REMOTE VIA MICROSOFT TEAMS  
LebanonNH.gov/Live  
MONDAY, May 4, 2020  
7:00 PM**

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

**MEMBERS ABSENT:** None

**STAFF PRESENT:** Tim Corwin – Senior Planner and Zoning Administrator

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**1. CALL TO ORDER**

The meeting was called to order at 7:03 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. April 6, 2020**

*Mr. Nash MOVED to approve the April 6, 2020 Minutes as presented in the May 4, 2020 agenda packet.*

*Seconded by Vice Chair Mercer.*

**Roll Call Vote**

*Vice Chair Mercer, Mr. Patterson, Mr. Nash, Chair Koppenheffer and Jonathan Peress all voting Yea. None voted Nay.*

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

**B. April 20, 2020**

*Mr. Nash MOVED to approve the April 20, 2020 Minutes as presented in the May 4, 2020 agenda packet as amended.*

*Seconded by Mr. Peress.*

Amendments: Page 5 Line 12; Remove ‘reasonable’ and Add ‘responsible’.

**Roll Call Vote**

*Vice Chair Mercer, Mr. Patterson, Mr. Nash, Jonathan Peress and Chair Koppenheffer all voting Yea. None voted Nay.*

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

### 3. PUBLIC HEARING

**A. ADIMAB, LLC and THE HITCHCOCK CLINIC; 7 LUCENT DRIVE (Tax Map 10, Lot 11-2600) and 0 NH ROUTE 120 (Tax Map 10, Lot 10), zoned IND-L and GC-1:** Applicants propose a 27, 300 sq. ft. expansion to an existing building, a new parking lot, and other associated site improvements. In connection with the proposed construction, applicants request a Special Exception pursuant to Article IV, Section 401.5 (“Wetlands Conservation District”) of the Zoning Ordinance to allow permanent wetland impacts of +/-7,395 sq. ft., and temporary wetland impacts of +/-351 sq. ft. **#ZB2020-10-SE**

- Mr. Peress recused himself and Mr. McDonough was appointed to be a voting member for this hearing.
- Mr. Newlove recused himself.

Kevin Worden of Engineering Ventures appeared on behalf of the application. The project is laid out in the above description. A picture of the proposal was shown on the computer. The Project is at 7 Lucent Drive and the picture shows the ADIMAB Building in Centerra. The Planning Board has approved taking a portion of The Hitchcock Clinic Lot 10 for a parking lot. The parking lot is located on uplands, not wetland areas, but to get to the parking lot the road crosses a portion of wetlands. Mr. Worden described the portions of the area that would be affected. The wetland would be restored to preexisting stormwater capacities of this area. This is primarily a watershed area for water from upland developments. They would put a culvert under the road. It would also be on the edge of wildlife that would be mitigated by planting trees around the perimeter of the parking area and retained in the wetland area. The Conservation Commission Minutes were provided where the Committee approved the plan with some minor modifications to the plan, expanding the pipe under the entryway so small animals can cross without being on the road.

The Board Members were given an opportunity to ask questions of the applicant. The land was purchased from The Hitchcock Clinic and there would be an employee expansion for the RMD facility.

#### **Chair Koppenheffer Opened the Public Hearing.**

The Public was instructed how to speak at this meeting and informed that a special meeting would be held on May 19, in order to allow anyone to make comments if they were unable to access the meeting tonight. Comments should be provided to the City by Monday May 11, 2020.

***Mr. Patterson MOVED to continue this hearing to Tuesday, May 19, 2020.  
Seconded by Mr. Nash***

#### **Roll Call Vote**

***Vice Chair Mercer, Mr. Patterson, Mr. McDonough, Mr. Nash, and Chair Koppenheffer all voting Yea.***

***None voted Nay.***

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

The Hearing was adjourned until May 19, 2020.

### 4. DELIBERATION—Continued from April 20, 2020

**A. EM & EE BOISVERT SR, CO-TTEES, 237 HANOVER STREET EXT (Tax Map 64, Lot 2), zoned R-3:** Applicant requests a Special Exception pursuant to Article VII, Section 702.1 to permit a change from one non-conforming use (Vehicular Repair) to another non-conforming use (Storage and Recycling Facility). **#ZB2020-07-SE**

- Mr. Patterson recused himself from this hearing.
- Mr. McDonough and Mr. Katz will continue to be voting members on this decision.

Chair Koppenheffer stated it was decided at the last meeting that two motions would be drafted, one for approval and one for denial. Mr. Nash read the motion to approve the application.

*Mr. Nash MOVED On March 2, 2020, April 6, 2020, and April 20, 2020, at duly-noticed meetings of the Lebanon Zoning Board of Adjustment, there appeared Eugene Boisvert, Jr., and on April 20, 2020, there appeared Joshua Dickey of Nordic Waste Services, LLC, regarding 237 Hanover St Ext (Tax Map 64, Lot 2), zoned R-3, requesting a Special Exception pursuant to Article VII, Section 702.1 to permit a change from one non-conforming use (Vehicular Repair) to another non-conforming use (Storage and Recycling Facility). #ZB2020-07-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 developed with one-story commercial building that was most recently used for a vehicular repair business, car rental and sales facility (Rent-a Wreck), a non-conforming use in the R-3 District.
2. The applicant requests a Special Exception pursuant to Article VII, Section 702.1 of the Zoning Ordinance to change the non-conforming vehicular repair use of the building to “offices, storage & recycling”, as described on the applicant’s Zoning Board application form. The use as described by the applicant is not permitted in the R-3 District, which is primarily intended for single-family dwellings.
3. Section 702.1 of the Zoning Ordinance states, in part: “A non-conforming use may, as a Special Exception, be changed to another non-conforming use provided that the Board of Adjustment shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use.”
4. In order to grant a Special Exception to change one non-conforming use to a different non-conforming use, the applicant must demonstrate that the proposal meets the criteria of Section 702.1 and the general Special Exception criteria, set forth in Section 801.3.
5. The applicant submitted testimony addressing the Section 801.3 criteria in an application received by the Planning & Development Department on February 18, 2020. On March 19, 2020 and April 13, 2020, the Planning & Development Department received additional information from the applicant regarding the proposed use.
6. The following facts are found based upon the written and verbal testimony of the applicant, Eugene Boisvert, and Joshua Dickey, a representative of the applicant’s prospective tenant, Nordic Waste Services, LLC, who provided verbal testimony at the April 20<sup>th</sup> meeting:

- a. The vehicular repair shop that most recently operated at the property was in operation for more than three decades and had hours of operation from 8:30am to 5:00pm.
  - b. The proposed use is as a “storage and recycling facility” with hours of operation between 6:30am and 4:00pm.
  - c. Elements of the storage and recycling facility use that are proposed to be conducted on the premises include:
    - i. Pickup of recyclable materials from residential and commercial locations in Lebanon, West Lebanon and potentially adjoining towns and returning them to 237 Hanover Street.
    - ii. Processing recyclable material inside the premises, by hand sorting, in a manner that ensures that all resulting odors or vapor are confined to the premises and that noise and vibration will not be a nuisance or otherwise detrimental to abutting properties.
    - iii. Storage of new or clean waste containers of varying sizes inside the 237 Hanover Street Premises.
    - iv. Potentially storing metal dumpsters behind a stockade fence (to be constructed) until such time as they can be delivered to a customer’s property.
    - v. Storing vehicles on the premises that are originally anticipated to number no more than four (4) and to not, in all likelihood, ever exceed twenty (20) vehicles on site.
    - vi. Storing a large container outdoors for the aggregation of scrap metal, until such time that the container is sufficiently filled to cart away.
  - d. Applicant does not anticipate very many individuals will be working at the premises. The number was originally estimated as a few, but certainly even with expansion fewer than ten people.
  - e. Trucks used on trash collection days will be started at 6:45am and generally leave the neighborhood between 7:00 and 7:30am. Trucks used for the collection of non-recyclable garbage and/or food waste will be stored on site, but the actual non-recyclable garbage and/or food waste will not be on site, except for limited residue to be cleaned out of the trucks and/or containers at the conclusion of their waste runs.
  - f. Where possible, the internal vehicular bays at the subject property will be used for cleaning residual food waste from trucks as well as parking up to three trucks overnight.
7. The following facts are found based upon the personal knowledge of Board members familiar with the neighborhood:
- a. The property at 237 Hanover Street has frontage on two streets, Hanover Street (a/k/a Hanover Street extension) and Old Etna Road. The property sits opposite to land of School Administrative Unit 88 (SAU88) which operates Lebanon High School and Hanover Street School there.

- b. During the school year, the most trafficked times of school use are in the morning hours between 7 and 8am and again in the mid-afternoon. In addition to school busses the schools are accessed by parent drop off, pedestrian and bicycle traffic, and to some extent, inexperienced teenage drivers. The subject property is located on the eastern approach to the school entrance.
8. During the course of the hearing, testimony was provided by several abutters and nearby residents including Bethany Truell, Chad Gibbs, Laura Ostapenko, Mary Anne Levin, and Tim Brousseau, all of whom expressed concern as to the potential negative impacts of the proposed use. Al Patterson, a member of the Zoning Board having previously recused himself, also provided testimony as a member of the public.
9. The following facts are found based upon the testimony of abutter Tim Brousseau, who spoke in opposition of the proposed use:
  - a. Mr. Brousseau described the area as primarily a single-family residential neighborhood. Other than the SAU, the primary land use in the immediate vicinity of the subject property is residential. The sentiments expressed by other abutters such as Ms. Truell further supported that description.
  - b. Hanover Street is a primary conduit to and from the Downtown Lebanon area for bicycle and pedestrian traffic seeking to access the Dartmouth Hitchcock Medical Center and Centerra Office Park.
  - c. Dense and substantial residential development numbering hundreds of units is pending nearby along Mount Support Road in the R-1 Zone, with a corresponding anticipation of additional pedestrian, bicycle and vehicular traffic.
  - d. Bicyclists heading southwards on Mount Support Road often continue downhill along Hanover Street extension past the subject property traveling at relatively high rates of speed and would not be able to safely stop to avoid a truck that suddenly backed out of the property onto the street.
  - e. Trucks will be on the premises in a manner that is both substantially different and more intense than the prior vehicular usage at the repair shop. Specifically, trucks parked on the premises will be started and reversed at early morning times when people in single family homes may be sleeping, thereby creating a nuisance or disturbance. Additionally, large vehicles backing and/or turning in the narrow confines of Hanover Street and Old Etna Road may pose unique hazards to pedestrians, drivers and/or bicyclists.

## **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 §801.3 of the Zoning Ordinance:

1. The Special Exception is specifically authorized by §702.1 of the Zoning Ordinance. (§801.3.A)
2. The following condition/requirement of §702.1 **is** met: “The proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use.” (§801.3.B)

The analysis starts by investigating the current and proposed uses.

The current use includes:

- vehicle repairs. All day long with pneumatic tools.
- customer traffic in/out all day long
- frequent parts deliveries
- lot full to limit with vehicles, to be worked on and rental/sales.

The proposed use (storage and recycling facility) can be summarized as follows:

- Receiving, processing, and dispatching recyclable waste materials is a light industry use.
- Storing new or clean waste containers is a warehouse use.
- Storing metal dumpsters and vehicles outside behind a stockade fence is a contractor yard use

In this specific case, the Board finds that with the proposed use, vehicles and uses would largely be absent all day long. The vehicles fire up and leave to serve customers. Trash collected is disposed of prior to returning to home. Recyclables are returned to the shop for sorting, a minimal part of the work and work week. Food waste containers will be brought back to the shop for washing and reuse. Stored containers (for future customers) will be stored behind a stockade fence. Recycled metal will be stored in the same secured area and screened, both secured from public access.

We therefore find the proposed use is equally appropriate.

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) The Board notes that several abutters alleged that the property was already being operated as the proposed use, in violation of the Zoning Ordinance. These allegations described on site “activity” and not on site “operations.” Nothing prohibits the owner from performing showings with his prospective tenant, clearing out prior tenant belongings or performing routine on-site maintenance, all actions that reasonably describe the activity testified to by the abutters.
4. The character of the area **will not** be adversely affected. (§801.3.D) The operations will be largely off-site. There will be fewer vehicles stored on-site, and much less customer traffic.
5. A hazard or nuisance **will not** be created. (§801.3.E) Early hour truck traffic will be limited to three large vehicles, moving once to travel to customer sites. Recycling and storage facilities will be conducted inside enclosed facilities. Trash collected will be disposed of at licensed facilities before returning to this location.
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) The Board notes, however, that granting a special exception with a long list of compliance conditions could create an undue municipal burden by placing an ongoing task of compliance verification upon the City.

8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and intent of the ordinance. (§801.3.H) The proposed use will be equally appropriate and will be largely off-site.
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 **4<sup>th</sup> day of May 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 and a certificate of occupancy; shall pay an impact fee pursuant to §213 of the Zoning Ordinance; and shall comply with all applicable local, state, and federal regulations in the use of the property.
2. The applicant shall obtain site plan approval from the Planning Board for the proposed use, prior to commencing any uses on-site.
3. The applicant shall prepare and submit a boundary survey, prepared by a licensed NH surveyor, to the planning office. Markers, clearly depicting the property line, shall be installed. The purpose of this condition is to ensure that vehicles are parked on the subject parcel and not in the public way.
4. The applicant shall erect an 8' high stockade fence (opaque) around the outdoor storage area. Equipment, dumpsters, and other materials that do NOT fit inside the building shall be stored in this area. The area shall be secured at all times to prevent unauthorized access.
5. The applicant shall obtain an Industrial Discharge permit for food container and vehicle washing. In no case shall any wash water be allowed to discharge to the City surface drainage system.
6. The applicant shall not allow overnight storage of trash, food waste, or any other type of organic waste to be stored at the facility.

#### ***Seconded by Vice Chair Mercer.***

Mr. Koppenheffer said at the previous meeting, with conditions, this could be approved. He said additional conditions to this Motion are necessary to address the concerns of the neighbors and the City. For example, recyclables would be stored inside until they are ready to be disposed. Nordic Waste said there would be no roll off dumpster services at the location. The hours of operation need to be imposed as a condition. Nordic Waste said it would not be open to the public or customer traffic. There would be no more than 10 employees and no more than 10 trucks. Scrap metal would be in a container and that should be a condition. Further, Mr. Nash is correct in pointing out that too many conditions can impose a burden on the City. If all of these conditions need to be imposed to address the concerns of the neighbors and if these many conditions need to be addressed, he questions if is this an activity that should be permitted in this neighborhood. In order to enforce all these conditions, it would be generally unsatisfactory for neighbors and a burden for the City. At this time, Mr. Koppenheffer thinks this is not a suitable activity for this location.

The other Board Members added additional conditions that they believed need to be addressed in order to approve the application. For example, Ms. Mercer proposed the vehicles need to be parked so they do not

need to back out of the drive onto the street. Each of the Members spoke to the review of the motion and the conditions each believed necessary to approve the application. Mr. Newlove said that according to the Table of Uses this is a new use. The Members stated whether or not they supported the application and what would be required to approve it.

**Roll Call Vote**

*Vice Chair Mercer and Mr. Nash voting Yea.*

*Mr. Patterson, Mr. McDonough, and Chair Koppenheffer voted Nay.*

*\*The Vote on the Motion was not approved (2-3).*

Chair Koppenheffer asked Mr. Katz to read the motion to deny the application.

*Mr. Katz MOVED On March 2, 2020, April 6, 2020, and April 20, 2020, at duly-noticed meetings of the Lebanon Zoning Board of Adjustment, there appeared Eugene Boisvert, Jr., and on April 20, 2020, there appeared Joshua Dickey of Nordic Waste Services, LLC, regarding 237 Hanover St Ext (Tax Map 64, Lot 2), zoned R-3, requesting a **Special Exception** pursuant to Article VII, Section 702.1 to permit a change from one non-conforming use (Vehicular Repair) to another non-conforming use (Storage and Recycling Facility). #ZB2020-07-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 developed with a one-story commercial building that was most recently used for a vehicular repair business, a non-conforming use in the R-3 District.
2. The applicant requests a Special Exception pursuant to Article VII, Section 702.1 of the Zoning Ordinance to change the non-conforming vehicular repair use of the building to “offices, storage & recycling”, as described on the applicant’s Zoning Board application form. The use as described by the applicant is not permitted in the R-3 District, which is primarily intended for single-family dwellings.
3. Section 702.1 of the Zoning Ordinance states, in part: “A non-conforming use may, as a Special Exception, be changed to another non-conforming use provided that the Board of Adjustment shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use.”
4. In order to grant a Special Exception to change one non-conforming use to a different non-conforming use, the applicant must demonstrate that the proposal meets the criteria of Section 702.1 and the general Special Exception criteria, set forth in Section 801.3.
5. The applicant submitted testimony addressing the Section 801.3 criteria in an application received by the Planning & Development Department on February 18, 2020. On March 19, 2020 and April 13, 2020, the Planning & Development Department received additional information from the applicant regarding the proposed use.
6. The following facts are found based upon the written and verbal testimony of the applicant, Eugene Boisvert, and Joshua Dickey, a representative of the applicant’s prospective tenant, Nordic Waste Services, LLC, who provided verbal testimony at the April 20<sup>th</sup> meeting:

- a. The vehicular repair shop that most recently operated at the property was in operation for more than three decades and had hours of operation from 8:30am to 5:00pm.
  - b. The proposed use is as a “storage and recycling facility” with hours of operation between 6:30am and 4:00pm.
  - c. Elements of the storage and recycling facility use that are proposed to be conducted on the premises include:
    - i. Pickup of recyclable materials from residential and commercial locations in Lebanon, West Lebanon and potentially adjoining towns and returning them to 237 Hanover Street.
    - ii. Processing recyclable material inside the premises, by hand sorting, in a manner that ensures that all resulting odors or vapor are confined to the premises and that noise and vibration will not be a nuisance or otherwise detrimental to abutting properties.
    - iii. Storage of new or clean waste containers of varying sizes inside the 237 Hanover Street Premises.
    - iv. Potentially storing metal dumpsters behind a stockade fence (to be constructed) until such time as they can be delivered to a customer’s property.
    - v. Storing vehicles on the premises that are originally anticipated to number no more than four (4) and to not, in all likelihood, ever exceed twenty (20) vehicles on site.
    - vi. Storing a large container outdoors for the aggregation of scrap metal, until such time that the container is sufficiently filled to cart away.
  - d. Applicant does not anticipate very many individuals will be working at the premises. The number was originally estimated as a few, but certainly even with expansion fewer than ten people.
  - e. Trucks used on trash collection days will be started at 6:45am and generally leave the neighborhood between 7:00 and 7:30am. Trucks used for the collection of non-recyclable garbage and/or food waste will be stored on site, but the actual non-recyclable garbage and/or food waste will not be on site, except for limited residue to be cleaned out of the trucks at the conclusion of their waste runs.
  - f. Where possible, the internal vehicular bays at the subject property will be used for cleaning residual food waste from trucks as well as parking up to three trucks overnight.
7. The following facts are found based upon the personal knowledge of Board members familiar with the neighborhood:



1. The Special Exception is specifically authorized by §702.1 of the Zoning Ordinance. (§801.3.A)
2. The following condition/requirement of §702.1 **is not** met: “The proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use.” (§801.3.B)

The analysis starts by investigating the current and proposed uses in relation to the Ordinance and the applicable Zoning Ordinance Use Table. The prior use of Vehicular Repair is a use that presently is allowed only in the “General Commercial” zone. The proposed use (storage and recycling facility) does not exist in the ordinance. However, the relevant components can be summarized as follows:

- Receiving, processing, and dispatching recyclable waste materials is a light industry use.
- Storing new or clean waste containers is a warehouse use.
- Storing metal dumpsters and vehicles outside behind a stockade fence is a contractor yard use

These uses, individually and in the aggregate, are all uses that the Ordinance contemplates as being appropriate for the “Light Industrial District”

In this specific case, the Board finds that the aggregation of multiple light industrial uses into a regional hub for an industrial activity replacing a single transaction-oriented commercial use; combined with the early morning hours of operation; and introduction of potential hazards to pedestrian, vehicular and bicycle traffic make the proposed use less appropriate to the district.

This decision is made based upon the proposed use, not the proposed user. The Board has substantial sympathy for the applicant who is looking to make profitable use of his land and for the prospective tenant who seeks to provide an important service in the community. With the facts and testimony presented, it is the creation of this type of industrial use (a light industrial use that will run with the land and be capable of turning into additional industrial uses in the future that are then equally or less appropriate than the proposed use) that the Board finds objectionable and less appropriate.

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) The Board notes that several abutters alleged that the property was already being operated as the proposed use, in violation of the Zoning Ordinance. These allegations described on site “activity” and not on site “operations.” Nothing prohibits the owner from performing showings with his prospective tenant, clearing out prior tenant belongings or performing routine on-site maintenance, all actions that reasonably describe the activity testified to by the abutters.
4. The character of the area **will** be adversely affected. (§801.3.D) The district is an R3 district intended for the creation of small neighborhoods composed of single-family homes. For the reasons above the introduction of multiple industrial uses (both outdoor and indoor) will adversely affect the primary residential character of the district. While abutters have no right to deprive the applicant of his lawfully vested pre-existing nonconforming use, they have clear rights to object to the conversion to a new industrial use that is more inappropriate to the zone than the pre-existing use.
5. A hazard or nuisance **will** be created. (§801.3.E) Early hour truck beeping, truck traffic during core school drop off and pick up times, and truck activity in a heavily walked and biked area will introduce hazards that previously did not exist. Unlike other industrial properties, the trucks at

this location will not have a turning radius on this property to be able to avoid having to back out into the street, at least from the indoor bays where they are anticipated to be kept overnight.

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) The Board notes, however, that granting a special exception with a long list of compliance conditions would create an undue municipal expense in placing an ongoing burden of compliance verification upon the City.
8. The proposed Special Exception **will not** be developed in a manner compatible with the spirit and intent of the ordinance. (§801.3.H) For the reasons above, the district is a R3 district intended to be single family. The Applicant has a protected right to continue its lawfully nonconforming use or convert it to one that will be equal or less inappropriate for the zone. The proposed use moves directionally away from the intent of the ordinance.
9. The general welfare of the City **will not** be protected. (§801.3.I) The issuance of the requested special exception will not lessen congestion in the streets or promote the safe and efficient movement of people or promote the health and general welfare of the community.

### **III. DECISION**

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **4<sup>th</sup> day of May 2020**, hereby **DENIES** the requested Special Exception.

*Seconded by Mr. McDonough.*

The Chair asked for comments. Vice Chair Mercer indicated that Section 9e is a speculation on the abutters part, it is not necessarily fact.

#### **Roll Call Vote**

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

*Vice Chair Mercer and Mr. Nash voted Nay.*

*\*The Vote on the Motion was approved (3-2).*

The Chair thanked Mr. Katz and Mr. Nash for drafting the motions.

Mr. Patterson returned as a regular member of the Board.

### **5. STAFF COMMENTS**

The next Special Meeting is May 19, 2020. The application for 7 Lucent Drive will be heard and there may be another new hearing that involves intrusion on a wetland. Normally, the Zoning Board asks for the Conservation Commission opinion before reviewing the application. With this application, there will be a 5-foot minor intrusion into the buffer zone. Staff is suggesting, due to the time delay with the way meetings are currently held, that the Zoning Board reviews the application before it is reviewed by the Commission.

Mr. Peress said he has accepted employment in California as of May 18. He will try to attend the meeting before he moves, but he would like the Board to review the appointment of a permanent member to replace him.

**6. ADJOURNMENT**

*Mr. Patterson MOVED to adjourn the meeting at 8:10 PM.  
Seconded by Mr. Nash.*

**Roll Call Vote:**

*Mr. Patterson, Mr. Peress, 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