

AGENDA
BUILDING CODE BOARD OF APPEALS
MAY 19, 2014

AGENDA ITEM 2
ACCEPTANCE OF MINUTES:

MAY 5, 2014

1 **DRAFT**

2
3 **CITY OF LEBANON**
4 **BUILDING CODE BOARD OF APPEALS**
5 **Minutes, May 5, 2014**
6 **City Hall—Council Chambers**
7

8 **MEMBERS PRESENT:** Chair Jeffrey Halpin, Vice Chair William Koppenheffer, Alan
9 Patterson, Larry LeClair (alternate), Jennifer Mercer and Dan Nash

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11 **MEMBERS ABSENT:**

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13 **STAFF PRESENT:** Senior Planner David Brooks
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17 **1. CALL TO ORDER:** Chair Halpin called the meeting to order at 7:45 p.m.

18
19 **2. ACCEPTANCE OF MINUTES: April 21, 2014**

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21 It was noted that had Dan Nash stepped down for this hearing and Alan Patterson was not
22 present for this meeting.

23
24 *Motion by Jennifer Mercer to approve the April 21, 2014 minutes as presented.*
25 *Seconded by William Koppenheffer. *Motion was unanimous, 3-0-2 (Abstaining: Dan*
26 *Nash and Alan Patterson).*

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28 **3. PUBLIC HEARING ITEM:**

29
30 **A. WEST LEBANON RANCH, LLC: An appeal concerning the denial of a**
31 **request concerning the interpretation and enforcement of the International**
32 **Existing Building Code (IEBC) table 1301.6.14 by the Interim Code Official, for**
33 **property located at 57 Main Street, West Lebanon, NH in the CBD zone (Tax**
34 **Map 72, Lot 14) #BCBA2014-01.**

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36 Dan Nash recused himself from the hearing. Chair Halpin appointed Larry Leclair as a
37 regular member for the hearing.

38
39 Senior Planner David Brooks brought to the Board's attention the RSA which is the
40 enabling language for the Building Code Board of Appeals. He passed out new language
41 for the BCBA that supersedes the old language.

42
43 Dan Winny, Kevin Hastings of R.W. Sullivan Engineering and Peter Van OOT were
44 present for the hearing. The Board adjourned for approximately ten minutes to speak in
45 private. The Board reopened the hearing at 8:03 pm. Kevin Hastings stated that they
46 consulted with the architects and building owner to achieve code compliance. He added

1 that the State of New Hampshire adopts the existing building codes. He added that they
2 looked at the prescriptive and performance compliance methods. He noted that with the
3 performance compliance method, they found that they could achieve a passing score.
4

5 Peter Van OOT talked about the specifics of the sale and that they want to go forward
6 with this property as a mixed use project. Mr. Van OOT stated that notwithstanding the
7 change in the Lebanon Building Code Provisions, that this Board can correct what they
8 feel was a wrong decision by the Code Enforcement Officer to accept the presentation
9 and the application of West Lebanon Ranch, LLC and supported by the professional code
10 consultant and their architect. He stated also that this project does comply with the
11 International Existing Building Code and that this Board should sit as if it were the
12 Building Code Officer and rule that the correct interpretation to correct treatment of this
13 application should have been to approve it. He added that it did in fact meet the
14 requirements of the IEBC under the performance compliance methodology and that the
15 code officer should have exercised his discretion even if he chose to evaluate it under the
16 performance methodology.
17

18 Code Enforcement Officer Calvin Hunnewell stated that the outline clearly gives three
19 options and he chose one option and stuck with it. He added that under the performance
20 method table that was submitted to him, it showed two failing scores. Much discussion
21 occurred.
22

23 Chair Halpin stated that there seemed to be a general consensus of the Board that if there
24 were documents to indicate that the building inspector who made the initial determination
25 could reconsider based on new data, that it may be that best way to go about this. He
26 added that the Board has less information and that if there are modifications for the
27 building inspector to review, it may be the most appropriate way to go about this.
28

29 The owner, David Clem, spoke about the project and noted that the prescriptive method
30 should be used. He also talked about the historic nature of the building. He added that he
31 just wants a decision made, so that he can go forward with his building.
32

33 After much discussion occurred, Chair Halpin stated that the Board cannot make a
34 finding on this hearing tonight based on the evidence before the Board and not having the
35 ability to have an adequately drafted decision, so this hearing will be continued to the
36 next meeting. He added that between tonight and the next meeting, the owner needs to
37 work with Mr. Hunnewell in order for him to make a determination regarding the
38 prescriptive method. He asked Mr. Hunnewell if there was a significant life safety
39 hazard. Mr. Hunnewell stated that he questioned the life safety issue in the dwelling unit
40 and it is clear in the building code that dwelling units are to have sprinklers. He added
41 that the State has amended this code for one and two family homes only. He stated that it
42 is a life safety issue according to code. He added that Mr. Winny has known since before
43 the application was submitted that the code requires a sprinkler system. He stated that his
44 time line for reviewing their submittals is that he has sixty days to review and respond
45 and each response was about two weeks. He added that he did respond and that he
46 needed additional documentation to comply with the code.

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2 Jennifer Mercer asked if it was possible to review this application using the prescriptive
3 method. Mr. Koppenheffer asked Mr. Hunnewell his understanding with regards to the
4 limits of discretion in granting waivers with the idea in mind that this is a historical
5 building. Mr. Hunnewell stated that as Mr. Leclair explained, this is for the façade and in
6 looking at the building; this was as far as he could go with the historical part of it. Chair
7 Halpin stated that he would like a legal opinion regarding 308.1 and Ms. Mercer wanted a
8 legal opinion with regards to 104.1 from the City Attorney.
9

10 The owner of West Lebanon Feed and Supply, Curt Jacques, stated that his business has
11 the largest impact on retail for businesses in that part of West Lebanon. He added that
12 there are many buildings on Main Street that could use a lot of help. He stated that when
13 Mr. Clem came to West Lebanon and purchased the property he thought it was a great
14 opportunity to get West Lebanon to where it needs to be. He urged all parties involved to
15 take a harder look at this idea to make it work as the City needs responsible growth and to
16 get this project moving along.
17

18 Patrick Flanagan, a business owner in West Lebanon, stated that it seems like this project
19 is very close to approval and it would be dreadful if it does not get resolved. Lauren
20 Cummings, a West Lebanon resident, noted that the hardest part to understand is how it is
21 tied up over two points on a building that does not need an elevator and does not have to
22 have one. He asked that the Board grant the appeal.
23

24 *Moved by Chair Halpin to continue this hearing to the May 19, 2014 meeting.*
25 *Seconded by William Koppenheffer. * Motion was unanimous, 5-0.*
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27 **4. DELIBERATION/DECISION:**

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29 **A. WEST LEBANON RANCH, LLC (Public Hearing held 5/5/14):**

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31 Decision was deferred to the next meeting on 5/19/14.
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33 **5. ADJOURNMENT:**

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35 *Moved by William Koppenheffer for adjournment. Seconded by Larry Leclair.*
36 *Motion was unanimous, 5-0.*
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38 The meeting was adjourned at 9:20 p.m.

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40 Respectfully submitted,
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45 Tammy Roberts
46 Recording Secretary