

FINAL

**LEBANON ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
REMOTE VIA MICROSOFT TEAMS
LebanonNH.gov/Live
MONDAY, May 19, 2020
7:00 PM**

MEMBERS PRESENT: Chair William Koppenheffer, Sr., Dan Nash, Paul McDonough (Alt),
Jeremy Katz (Alt)

MEMBERS ABSENT: Vice Chair Jennifer Mercer, Jonathan Peress, Dave Newlove (Alt), and
Alan Patterson

STAFF PRESENT: Tim Corwin – Senior Planner and Zoning Administrator

1. CALL TO ORDER

The meeting was called to order at 7:02 PM by Chair Koppenheffer.

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.

A Roll Call of Board Members who participated remotely is listed above.

Mr. Katz was appointed as a full voting member of the Board for tonight’s meeting.

2. PUBLIC HEARING

Mr. McDonough was appointed a full voting member for this hearing.

- 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. Yaroshevich spoke on behalf of the application. He said this change would be a minimal change as it is taking area from his lawn. He presented this proposal to the Conservation Committee and was told this would have little impact on wetlands.

Mr. McDonough discussed the requirements for special provisions under 401.5 and 401.6. Special provisions shall be allowed provided the change isn’t more than 20% of the existing structure. Mr. Corwin said he believes 401.6e would allow anyone to make this change because it is a minimal encroachment. However, in this situation it doesn’t qualify under 401.6e and therefore it is a special exception.

Mr. Koppenheffer opened the public hearing.

No one from the public spoke at this meeting.

Mr. McDonough MOVED to continue this hearing until the June 1, 2020 meeting. Seconded by Mr. Nash.

Roll Call Vote

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

None voted Nay.

***The Vote on the Motion was unanimously approved (4-0).**

3. DELIBERATION

Mr. McDonough was given voting privileges for this 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**

No additional comments from the Public came to the Zoning Office since the last meeting.

Kevin Worden of Engineering Ventures appeared on behalf of the application and was present at this meeting to answer any questions.

The Board had no additional questions.

The Public Hearing was closed.

The Board had no additional deliberation.

Mr. Nash MOVED On May 4, 2020 and May 19, 2020, at duly-noticed meetings of the Lebanon Zoning Board of Adjustment, there appeared Kevin Worden, P.E., of Engineering Ventures, P.C. and Jason Yehle on behalf of ADIMAB, LLC and THE HITCHCOCK CLINIC regarding 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****

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. 7 Lucent Drive is currently a +/-2.03 acre property located in the Centerra planned business park and is improved with a +/-22,272 sq. ft. industrial building owned and operated by Adimab LLC. The Adimab property abuts a vacant +/-39-acre property owned by The Hitchcock Clinic. On April 27, 2020, the Planning Board approved a Boundary Line Adjustment plat which annexed

+/-3.16 acres of The Hitchcock Clinic lot to the Adimab LLC lot. As a result, the 7 Lucent Drive property is now +/-5.19 acres (assuming the boundary line adjustment plat is recorded).

2. Adimab LLC has submitted a Site Plan Review application to the Planning Board to develop their expanded lot with the construction of a 27,300 sq. ft. expansion to their existing building, a new parking lot, and other associated site improvements. The Site Plan application is scheduled to be heard by the Planning Board on June 1, 2020.
3. As shown on the plans submitted by Engineering Ventures, PC, a large wetland is present to the west of the existing Adimab facility (the wetland is primarily located on the 3.16 acres recently annexed from The Hitchcock Clinic lot). The wetlands have not been identified by the City of Lebanon as High or Very High Value.
4. In order to construct the proposed building addition and associated site improvements, the applicant proposes permanent wetland impacts of +/-7,395 sq. ft., and temporary wetland impacts of +/-351 sq. ft. The permanent impacts are identified as Impact #s1-6 on the applicant's Wetland Exhibit plan, and the temporary impact is identified as Impact #7.
5. Construction within wetlands that have not been identified by the City of Lebanon as of High or Very High Value, is permitted by Special Exception pursuant to §401.5.
6. In order to grant the Special Exception to allow the wetland buffer impact, the applicant must demonstrate compliance with the criteria set forth in §401.5 of the Zoning Ordinance.
7. The applicant submitted testimony addressing the §401.5 criteria in an application received by the Planning & Development Department on March 26, 2020.
8. As required by §401.7.D of the Zoning Ordinance, a copy of the application was forwarded to the Conservation Commission and was discussed at their April 9, 2020 meeting. A copy of the relevant portion of the draft minutes was submitted at the hearing as Staff Exhibit "A".
9. No one from the public spoke for or against this 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 **19th 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 Site Plan approval from the Planning Board, a building permit and a certificate of occupancy, shall comply with all applicable local, state, and federal regulations in the construction and use of the property, and shall obtain all required permits related to the proposed construction including but not limited wetland impact permits from the Army Corps of Engineers and the New Hampshire Department of Environmental Services.
2. The Boundary Line Adjustment plat approved by the Planning Board on April 27, 2020 (#PB2020-12-BLA) shall be recorded.

Seconded by Mr. Katz.

Roll Call Vote

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

None voted Nay.

**The Vote on the Motion was unanimously approved (4-0).*

4. STAFF COMMENTS

Mr. Corwin thanked the Members for the doubling up of monthly meetings to accommodate the Public during this time. There are 3 applications coming forward for the next meeting.

5. ADJOURNMENT

Mr. Nash MOVED to adjourn the meeting at 7:29 PM.

Seconded by Mr. Katz.

Roll Call Vote

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

None voted Nay.

****The Vote on the Motion was unanimously approved (4-0).***

Respectfully Submitted,
Linda Billings
Recording Secretary