

FINAL

**LEBANON ZONING BOARD OF ADJUSTMENT
CITY HALL, COUNCIL CHAMBERS
MONDAY, July 1, 2019
7:00 PM**

MEMBERS PRESENT: Chair William Koppenheffer, Dan Nash, Jonathan Peress, Paul McDonough (Alt), Jeremy Katz (Alt), Dave Newlove (Alt)

MEMBERS ABSENT: Alan Patterson Sr. and Vice Chair Jennifer Mercer. (Note: Ms. Mercer was in attendance in the audience for Public Hearing A. She left the meeting after that public hearing and did not participate in the meeting at all as a board member.)

STAFF PRESENT: Tim Corwin - Zoning Administrator

1. CALL TO ORDER

The meeting was called to order at 7:05 PM by Chair Koppenheffer.

Alternates: Mr. Newlove and Mr. McDonough, were appointed to participate.

2. APPROVAL OF MINUTES: June 3, 2019

Mr. Nash MOVED to approve the June 3, 2019 Minutes as presented in the July 1, 2019 agenda packet as amended.

Seconded by Mr. Peress.

Amendments: Page 7 Line 17 Add ‘.9’ before .7, reading 29.97 acres. Page 7 Line 20 Remove ‘property’ and add ‘plan’. Page 7 Line 22 Add “The applicant noted that the property is in current use”.

**The MOTION passed unanimously (5-0).*

3. PUBLIC HEARINGS: Continued from June 3, 2019

A. JENNIFER MERCER & JASON WEALE, 4 WOODLAND ROAD (Tax Map 136, Lot 27), zoned R3: Applicant requests a Variance from Article VI, Section 611.C of the Zoning Ordinance to allow the keeping of roosters. **#ZB2019-13-VAR**

The applicants appeared and spoke to noise mitigation and noise limitation in the spirit of the ordinance. Showing a power point presentation, Ms. Mercer spoke to the terms of the NH Zoning Statute and the Lebanon Master Plan. She addressed the density of population and the typical distances between houses where roosters are currently allowed in the RL zoned districts. She presented a map showing the distance from their chicken coop to the nearest neighbor’s house, which is substantially further than the requirements for the RL zoned districts. The presentation showed the estimated level of sound from a rooster crowing that was based on a sound calculator. This was compared to noise levels that have been recorded for standard background noise levels in neighborhoods.

The Board members asked for clarification about the noise level in neighborhoods and the ratio of chickens to roosters the applicants want to keep. The noise level that would happen early in the morning was discussed and the Board asked the applicants what they would do if the noise was too much for the neighbors. The Board discussed the specific hardship the applicants were addressing. The applicants responded that due to the large size of their property they are similar to properties zoned for agriculture

and their chicken coop is much further in distance from their neighbors than the distance between neighbors in areas where roosters are permitted.

Chair Koppenheffer opened the Public Hearing.

Melissa Leenders and Dave Leenders appeared against the application. They are the closest neighbors. They stated their perspective of the requirements to permit a variance and said the applicants purchased the property in 2015 and it was not zoned for agriculture. It seems this is not a hardship.

Brian Fontaine and Yvette Fontaine appeared against the application. They reviewed the criteria for the approval of a variance and spoke of the current sound they hear from the existing chickens.

Susan Mazur and Amy Knight appeared against the application. Ms. Knight, who lives elsewhere, owns roosters and said they start at 4:30 in the morning at this time of year and they crow all day. They are penned in an open coop in the morning and she restricts the crowing with an enclosed and insulated coop until 7 in the morning. The roosters compete against one another by crowing. The Board asked for information about the insulated coop the Knights built to contain the roosters that keeps them from crowing.

Andrew White and Melissa White appeared for the application. He stated that property rights should be as permissive as possible and placing undue restrictions on property owners is not in the best interest of the City. Mr. White said this application is consistent with the perspective of the citizens of Lebanon by providing incentive for agriculture. He referenced the farmers market as an example of the intent of agricultural enterprise within Lebanon. He said other areas of Lebanon allow roosters; this piece of property is unique and more like areas that allow roosters.

The Chair asked the applicants to respond to some additional questions. Ms. Mercer read a letter into the record from Realtor Melissa Robinson, a neighbor, who stated property values would not be diminished by the roosters. She is in support of the application. Ms. Mercer responded to questions related to the amount of outside background noise at their property and the estimated decibel level of a typical rooster crow at 341 feet from the source. The applicants are confident in their calculations of the decibel levels of the crowing that would reach the neighbors.

Hearing no further comments from the public, Chair Koppenheffer closed the public hearing.

The Board discussed the application and the relative conditions they felt would be required to approve the application for a variance.

Mr. Nash MOVED On June 3, 2019 and July 1, 2019 at duly-noticed meetings of the Lebanon Zoning Board of Adjustment, there appeared Jennifer Mercer and Jason Weale regarding 4 Woodland Road (Tax Map 107, Lot 91), zoned R-3, requesting a Variance from Article VI, Section 611.C of the Zoning Ordinance to allow the keeping of roosters. #ZB2019-13-VAR

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 a +/- 29.97 acre parcel located in the Residential Three (R-3) District. The property is improved with a one-family dwelling and is used for residential purposes.

2. Other than the abutting property at 26 Ledge Lane, the subject property is substantially larger than any other property located in the R-3 District within at least a 1,500 ft. radius.
3. The keeping of hens is permitted in the R-3 District pursuant to the regulations set forth in §611 of the Zoning Ordinance. Per §611.A, up to approximately 60 chickens may be kept at the subject property. However, per §611.C, the keeping of roosters is prohibited.
4. The applicants propose to keep roosters on the property as an accessory use to the primary residential use. Accordingly, the applicants are seeking a Variance from the terms of Article VI, §611.C which prohibits the keeping of roosters at the property.
5. To obtain the requested Variance from §611.C, the applicants must demonstrate compliance with each of the five variance criteria as set forth in §801.2 of the Zoning Ordinance. The applicants have submitted testimony addressing the §801.2 Variance criteria in an application received by the Planning Department on May 20, 2019.
6. Numerous neighbors opposed the application.
7. Andrew and Melissa White spoke in favor of the variance request.

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 Variance criteria set forth in §801.2 of the Zoning Ordinance:

1. The variance **will not** be contrary to the public interest. (§801.2.A.1)
The land use law that gives communities the ability to enact zoning supports agriculture.
2. The spirit of the ordinance **is** observed. (§801.2.A.2)
The ordinance supports agricultural activities on parcels this size (rural lands).
3. Substantial justice **is** done. (§801.2.A.3)
4. The values of surrounding properties **are not** diminished. (§801.2.A.4)
5. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area (§801.2.A.5.a):
The parcel is unique in that it is 30 times the minimum class III lots size (no public water resources).
 - i. There **is not** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. (§801.2.A.5.a.i)
The prohibition regarding roosters is reasonable for parcels close together; it is not reasonable for large parcels.
 - ii. The proposed use **is** a reasonable one. (§801.2.A.5.a.ii)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **1st day of July 2019**,

hereby **GRANTS** the requested relief, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall not have more than 60 poultry animals on the property.
2. The applicant shall not have more than 2 mature roosters.
3. The sound of the roosters shall not exceed 55 dB at the nearest house, 18 Grand View.
4. Rosters shall be kept in an enclosed building and released no earlier than 7 am.

Motion seconded by Mr. Peress.

***The MOTION passed (3-2). Alternates Mr. Newlove and Mr. McDonough opposed.**

A five-minute break was taken at 9:20.

4. PUBLIC HEARINGS: NEW

- A. WILLIAM & DEBORAH RAFTER 12 UNION STREET (Tax Map 92, Lot 194), zoned R-2:** Applicant requests a Variance from Article III, Section 309.3 of the Zoning Ordinance to construct a detached carport to be located +/-9 ft. from the side lot line shared with 8 Union Street (Tax Map 92, Lot 195), where a minimum side yard of 15 ft. is required. **#ZB2019-14-VAR**

Deb Rafter, William Rafter and their builder, Peter Scopettone appeared on behalf of the application. They wish to build a car port. They do not see how the carport would adversely impact the neighborhood. The placement of the carport is the only area that would allow the applicants to retain any outside space. Building the carport would not require removal of trees, perhaps some trimming.

Chair Koppenheffer opened the Public Hearing.

Bruce Schwaegler, and Sarah Schwaegler, abutters of the property appeared on behalf of the applicant. They believe drainage would not be a problem and are in favor of adding it to the property.

Hearing no further comments from the public, Chair Koppenheffer closed the public hearing.

Alternates Mr. Katz and Mr. McDonough participated in the hearing.

Mr. Nash MOVED On July 1, 2019, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Peter Scopettone on behalf of William & Deborah Rafter regarding 12 Union Street (Tax Map 92, Lot 194), zoned R-2, requesting a Variance from Article III, Section 309.3 of the Zoning Ordinance to construct a detached carport to be located +/-9 ft. from the side lot line shared with 8 Union Street (Tax Map 92, Lot 195), where a minimum side yard of 15 ft. is required. #ZB2019-14-VAR

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 property is improved with a one-family dwelling on a non-conforming lot of 7,405 sq. ft. (10,000 sq. ft. is the minimum required for a Class 1 lot in the R-2 District, per §309.2 of the Zoning Ordinance).
2. The home conforms to the minimum required rear yard setback of 20 ft., and the minimum 15 ft. side yard required from the lot line shared with 8 Union Street (the abutting property to the

north). However, the property is non-conforming to the minimum required front yard of 20 ft., and to the minimum 15 ft. side yard required from the lot line shared with 14 Union Street (the abutting lot to the south).

3. The home was built in 1860 and a one car garage was later added to the rear. In 1998, the prior owners obtained a Special Exception to expand the home (which, as stated above, is non-conforming to the minimum side yard requirement). As part of that expansion, it appears the garage was converted into living space. Consequently, there is currently no interior space or sheltered space on the property for the parking of vehicles.
4. The applicant proposes to construct a detached 20 ft. by 20 ft. carport to be located +/-9.5 ft. from the side lot line shared with 8 Union Street (Tax Map 92, Lot 195). The carport will be located on the north side of the existing home, where a minimum side yard of 15 ft. is required. Because the carport will be constructed within the minimum required side yard, the construction of the carport requires a Variance.
5. A minimum side yard of 15 feet is required for Class 1 lots in the R-2 District per §309.3 of the Zoning Ordinance. Therefore, a Variance is required to permit construction of the proposed carport, which will be located approximately 9½ feet from the side lot line shared with 8 Union Street.
6. To obtain the requested Variance from §309.3, the applicants must demonstrate compliance with each of the five variance criteria as set forth in §801.2 of the Zoning Ordinance. The applicants have submitted testimony addressing the §801.2 Variance criteria in an application received by the Planning Department on June 14, 2019.
7. The abutters to the north, Bruce and Sarah Schwaegler spoke in favor of 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 Variance criteria set forth in §801.2 of the Zoning Ordinance:

1. The variance **will not** be contrary to the public interest. (§801.2.A.1)
2. The spirit of the ordinance **is** observed. (§801.2.A.2)
3. Substantial justice **is** done. (§801.2.A.3)
4. The values of surrounding properties **are not** diminished. (§801.2.A.4)
5. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area (§801.2.A.5.a):
The carport cannot be located elsewhere on the lot in a conforming manner.
 - i. There **is** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. (§801.2.A.5.a.i)
 - ii. The proposed use **is** a reasonable one. (§801.2.A.5.a.ii)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **1st day of July 2019**, hereby **GRANTS** the requested relief, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

Motion seconded by Mr. Katz.

**The MOTION passed unanimously (5-0).*

B. JOSHUA & CHELSAE CONNERS, 4 DOROTHY PERLEY ROAD (TAX MAP 94, LOT 18), ZONED R-3: Applicant requests a Special Exception pursuant to Article III, Section 310.2 & Article VI, Section 610 to allow an accessory dwelling unit within a proposed addition to the existing one-family dwelling. #ZB2019-15-SE

Alternates Mr. Newlove and Mr. Katz served on this hearing.

Joshua Connors and David Crowe appeared on behalf of the application. They are requesting to add an addition to the existing structure for a family member. The old garage would be torn down, and a new garage would be built with a breezeway to the second living unit. It is an extremely large lot. The new unit will have City water and sewer from the existing property.

Chair Koppenheffer opened the Public Hearing and hearing no further comments from the public, Chair Koppenheffer closed the public hearing.

Mr. Nash MOVED On July 1, 2019, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Joshua Connors and David Crowe on behalf of Joshua & Chelsae Connors regarding 4 Dorothy Perley Road (Tax Map 94, Lot 18), zoned R-3, requesting a Special Exception pursuant to Article III, Section 310.2 & Article VI, Section 610 to allow an accessory dwelling unit within a proposed addition to the existing one-family dwelling. #ZB2019-12-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 a +/-1.06 acre parcel located in the Residential Three (R-3) zoning district, and is currently improved with a one-family dwelling, a detached garage, and a shed. Interstate 91 abuts the property to the north. The home and lot and conforming to the minimum dimensional requirements of the R-3 District, which are set forth in §310.3 of the Zoning Ordinance.
2. The applicant has submitted a building permit application (#BP2019-00195) to remove the existing detached garage and, in its place, to construct an attached garage and, attached to the rear of the garage, a +/- 576 sq. ft. Accessory Dwelling Unit (ADU).
3. An ADU is allowed by Special Exception within the R-3 District pursuant to §310.2 of the Zoning Ordinance and is defined in Appendix A as: “A separate complete housekeeping unit that is either contained within or is attached to a single-family dwelling, or within a detached accessory building on the same lot, for which the title is inseparable from the primary dwelling.”

4. In order to grant the Special Exception, the Board must find that the proposal meets the requirements for ADUs set forth in §610 of the Zoning Ordinance, as well as the general Special Exception criteria set forth in §801.3.
5. No one from the public 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 §801.3 of the Zoning Ordinance:

1. The Special Exception is specifically authorized by §310.2 & §610 of the Zoning Ordinance. (§801.3.A)
2. The special conditions/requirements of §610 **are met** (§801.3.B).
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) Staff is not aware of any Zoning Ordinance violations on the property.
4. The character of the area **will not** be adversely affected. (§801.3.D)
5. **No** hazard or nuisance will be created. (§801.3.E)
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)
8. The proposed Special Exception **will** be developed in a manner compatible with the spirit and intent of the ordinance. (§801.3.H)
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 **1st day of July 2019**, hereby **GRANTS** the applicant's request, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall provide a door between the ADU and the garage (in order to meet the requirements of §610.D).
2. The applicant shall obtain a building permit.
3. The ADU shall be connected to the same utilities (except telephone and television) as the existing dwelling and shall have an interconnected fire alarm system.
4. The applicant shall sign a form furnished by the Planning & Development Department acknowledging that the property owner must occupy either the primary residence or the ADU

as their permanent residence. The signed form shall be recorded at the Grafton County Registry of Deeds, and proof thereof shall be provided to the Zoning Administrator, prior to the issuance of any building permit or certificate of occupancy.

5. The ADU and the use thereof shall continue to meet the requirements of Section 610 of the Zoning Ordinance. In the event that the applicants or their successors no longer desire to comply with the restrictions set forth in the recorded acknowledgment, the applicants or their successors shall apply to the Zoning Board of Adjustment to approve a conversion to a two-family dwelling, or shall apply for whatever approval or relief is determined necessary by the Zoning Administrator, prior to using the home in any manner that is inconsistent with the recorded acknowledgment form.

Motion seconded by Mr. Newlove.

**The MOTION passed unanimously (5-0).*

C. CITY OF LEBANON, 60 SPRING STREET (TAX MAP 120, LOT 2), ZONED R-3 & RL-3

Applicant proposes grading work and the installation of synthetic turf in and around the 50-meter ski jump at Storrs Hill Ski Area, and, in connection with the proposed improvements, requests Special Exceptions pursuant to Article IV, Section 401.5 and Section 410.6 to allow impacts to the Riverbank Protection District and the Wetlands Conservation District. #ZB2019-16-S

Mr. Nash recused himself from this hearing. Alternates Mr. Newlove, Mr. Katz and Mr. McDonough participated in this hearing.

Mr. Paul Cotes and Mr. Dan Nash appeared on behalf of the application. The 50-meter ski jump is unique in New Hampshire and New England Region. They wish to change the profile of the landing jump and run out area to meet current standards of ski jumps. This would allow ski jumpers to practice year-round, including the summer. They would work on both the 50-meter and 25-meter jumps; however, the 25-meter slope is outside the restricted area. They have been offered used materials from Lake Placid for the construction. They would work within the existing slope area and they do not plan any new disturbance of the land.

The Board asked about the heavy run off due to rain. The applicants responded the surface would be pervious and they would lay materials under the ski jump run to prevent erosion. They would be cognizant of any erosion issues.

Mr. Peress MOVED to extend the Board meeting beyond 10:00 PM.

Motion seconded by Mr. Katz.

**The MOTION Passed 5-0.*

Chair Koppenheffer opened the Public Hearing and hearing no further comments from the public, Chair Koppenheffer closed the public hearing.

Mr. Peress MOVED On July 1, 2019, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Dan Nash, P.E., of Advanced Geomatics & Design, on behalf of the City of Lebanon regarding 60 Spring Street (Tax Map 120, Lot 2), zoned R-3 & RL-3, requesting Special Exceptions pursuant to Article IV, Section 401.5 & Section 410.6 to allow impacts to the Riverbank Protection District and the Wetlands Conservation District in connection with proposed grading work and the installation of synthetic turf in and around the 50 meter ski jump at Storrs Hill Ski Area. #ZB2019-12-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 used as the Storrs Hill Ski Area and is improved with a lodge, two ski jumps, and miscellaneous related improvements. As described in the attached application materials, the applicant proposes grading work and the installation of synthetic turf in and around the 50-meter ski jump.
2. As further described in the application materials, the proposed work will impact areas of the property that are located in the Riverbank Protection District and the Wetlands Conservation District. Accordingly, the applicant requests Special Exceptions pursuant to Article IV, Section 401.5 and Section 410.6 to allow impacts to the Riverbank Protection District and the Wetlands Conservation District.
3. In order to grant the Special Exception for wetland buffer impacts, the Board must find that the proposal meets the criteria set forth in §401.5 of the Zoning Ordinance. In order to grant the Special Exception for the riverbank impact, the Board must find that the proposal meets the criteria set forth in §410.6 of the Zoning Ordinance.
4. As required by §401.7.D and §410.8.B of the Zoning Ordinance, a copy of the application was forwarded to the Lebanon Conservation Commission and was discussed at their May 9, 2019 meeting. The following motion was approved by the Conservation Commission, as set forth in the draft May 9, 2019 Conservation Commission meeting minutes:

“Donald Lacey MOVED that the Lebanon Conservation Commission recommends approval of the Special Exception Application proposed by the City of Lebanon and the Lebanon Outing Club for improvements to the ski jump facilities and access ways located within the Wetlands Conservation District and Riverbank Protection District at Storrs Hill Ski Area, 60 Spring Street (Tax Map 120, Lot 2), pursuant to Sections 401.7.D and 410.8.B of the Zoning Ordinance with the following conditions:

1. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction and remain in place until the area is stabilized. Silt fences must be removed once the area is stabilized.
2. There should be no introduction or spread of invasive species.
3. The Contractor shall have appropriate oil spill kits on site, and readily accessible at all times during construction and each operator shall be trained in its use.
4. All refuelling of equipment shall occur outside of surface waters or wetlands during construction.
5. Within three days of the last activity in an area, all exposed soil areas, where construction activities are complete, shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack on slopes steeper than 4:1 or netting/matting and pinning on slopes steeper than 3:1 with stabilizing fabric.

- 6. All areas cleared of vegetation to be revegetated as quickly as possible.
- 7. Avoidance of sensitive species located near the foot bridge located east of the project (to be marked by a Conservation Commission volunteer).
- 8. The source of the fill to be inspected by a Conservation Commission volunteer prior to transport to the site.”

5. No member of the public spoke with respect to this application other than the applicant and its’ engineer.

II. CONCLUSIONS OF LAW

A. Special Exception for Wetland Buffer Impacts

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes that the proposal **does** meet the criteria set forth in §401.5 of the Zoning Ordinance.

B. Special Exception for Riverbank Impacts

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes that the proposal **does** meet the criteria set forth in §410.6 of the Zoning Ordinance.

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **1st day of July 2019**, hereby **GRANTS** the applicant’s request, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

- 1. The Conservation Commission’s conditions of approval adopted on May 9, 2019 and set forth in Finding of Fact #4, above, are hereby incorporated into this approval with one exception set forth below, into this approval granting the applicant’s Special Exception request and are made conditions of approval thereof.
- 2. With respect to said Conservation Commission’s conditions of approval, the refueling of all equipment shall occur outside of the shoreline protection zone and wetland buffer during construction.

Motion seconded by Mr. Newlove.

**The MOTION Passed 5-0.*

5. CONSIDERATION OF REHEARING REQUEST

- A. BASIC HOLDINGS, LLC, 5 & 11 OAK RIDGE ROAD (Tax Map 4, Lots 5 & 6), zoned R-3:** Request for a rehearing for a Variance from Section 501.1.H.2 of the Zoning Ordinance to allow an existing building at 11 Oak Ridge Road to be included as part of a proposed Planned Unit Residential Development (PURD). The Variance request was denied on June 3, 2019. **#ZB2019-03A-VAR**

Alternates Mr. Newlove and Mr. McDonough were appointed to this hearing.

Mr. Corwin's memo indicated there are three alternatives, to deny or grant the application, or suspend the decision. Chair Koppenheffer suggested the Board should refer the motion for a new hearing to the City's attorney.

Chair Koppenheffer MOVED that the Board suspends the decision and consult with the City's attorney regarding further procedure on this motion.

Motion seconded by Mr. Peress.

****The MOTION Passed 4-0-1. Mr. Katz abstained.***

Mr. Peress MOVED that the Board empower either or both Mr. Peress and Mr. Koppenheffer to engage with Council as they review this matter and assess legal validity of it. And in so far as any such consultation would require a public meeting, one Board member would be assigned to engage with outside council.

Motion seconded by Mr. McDonough.

****The MOTION Passed 5-0.***

6. OTHER BUSINESS

A. ZONING BOARD OF ADJUSTMENT BY-LAWS:

Discussion of letter from Jeremy Katz dated January 22, 2019.

Due to the time limits, the discussion of the letter was postponed.

7. STAFF COMMENTS

8. ADJOURNMENT

Mr. Peress MOVED to adjourn the meeting at 10:20 PM.

Seconded by Mr. McDonough.

****The MOTION passed unanimously (5-0).***

Respectfully Submitted,

Linda Billings
Recording Secretary