

**TOWN OF LEBANON
ZONING BOARD OF APPEALS**

Thursday, April 21, 2022 ~ 7:00 p.m.

**SPECIAL MEETING / PUBLIC HEARING
Lebanon Town Hall**

MINUTES

PRESENT: David Geligoff, Chairman
Donna Skaats, Vice Chairman
Keith Sczurek
Eilleen Weinstein
Michael Nintean, Alternate
John Noblet, Alternate
ABSENT: Mark DeCaprio
P. Ziel, Alt.

- 1) Call to Order:
Chairman Geligoff called the April 21, 2022, Special Meeting of the Town of Lebanon Zoning Board of Appeals to order at 7:00 p.m. He read the legal notice into the hearing record and introduced the members of the board. Mr. Nintean was seated as voting member for Mr. DeCaprio.
- 2) Public hearings for the following:
 - a) **#ZBA-22-3:** Riley & Sandra Leppo, 32 Lakeview Heights, Lebanon, CT, 06249 (owners), for property at 444 Deepwood Drive, Assessors Map 105, Lot 190. Variance from Section 5.2 to reduce the setback from the lake from 75 feet required to 61 feet requested for construction of addition.

Chairman Geligoff opened the public hearing. Ms. Skaats read the following correspondence into the hearing record:

- 1) Letter in support received from Robin Cohen, 37 Sunset Drive.
- 2) Letter in support received from William and Marianne Freitas, 452 Deepwood Drive
- 3) Letter in support received from Keith and Donna Payne, 29 Sunset Drive

Chairman Geligoff entered the following exhibits into the hearing record:

- a) Legal Notice; b) Two-page application; c) Copy of deed; d) Assessors Street Card, Map 105, Lot 190; e) Assessors Map 105, Lot 190 f) Abutter's List; g) Site plan, revision date February 16, 2022, prepared by Dutch and Associates Land Surveyors, 392 South Main Street, Colchester, CT;
- h) proposed foundation plan; i) Proposed plan, elevation views 4-pages;
- j) Photos of existing structure 2-pages; k) Certified mail receipts, return

receipt cards (collectively); L) Letter in support (Cohen, 37 Sunset Drive); M) Letter in support (Freitas, 452 Deepwood Drive); N) Letter in support (Payne, 29 Sunset Drive).

Sandra Leppo, owner, was sworn in. She explained that their hardship is that the existing dwelling is not meeting the needs of her family and is small to accommodate her children who are in need of help with her grandchildren. Also, that her parents are elderly and may be in need of caretakers in the future and it would be nice to offer them a place to stay. The Leppo's enjoy the lake area and neighbors, have owned property there, have been involved for 20 years at the lake, and would like their family to be able to enjoy their lake house. They are wanting to add a connector between the garage and the house in order to install an appropriate staircase to gain access to the second floor of the house. They currently have a spiral staircase in the house that has pros and cons, but would like to add a safe stairway in the proposed plan. Mr. Geligoff inquired on the existing house pictures, and the pictures of the same in the proposed plans, that were submitted appearing to be different. She clarified for Mr. Geligoff that part of the pictures were photoshopped in and that the existing house will not be changing, except that they will be 'going up'.

Mr. Leppo was sworn in and explained that part of the reason for the breezeway addition is to have access to the upstairs. He said that inside the existing house, the square footage at the location of the spiral staircase is unsafe and they have not been able to figure out a feasible solution except to add the staircase in the addition and unfortunately, the proposed breezeway is within the required setback from the lake. He also noted that they would not be raising the peak of the roof on the existing house, just the sides. The house is currently seasonal use only, but their plan is to convert it to year-round use.

Bruce Hayne, Home Designs by Bruno, 289 Lebanon Avenue, Colchester, CT, was sworn in, reviewed the site plan and clarified questions from the board members.

It was noted by Mr. Geligoff that it is possible an additional variance might be needed because of the proposed increased square footage of the existing house, even though the footprint is not changing.

Public Comment:

Tony DiCarmine, 439 Deepwood Drive, in favor.

Laurel Hannebury, 458 Deepwood Drive, in favor.

Dan Stubbings, 15 Cove Road, in favor.

There was no further discussion and no one else present to speak either in favor or in opposition to the application.

Chairman Geligoff read the notice regarding the appeal of decision according to the Connecticut General Statutes Sec. 8-8. He stated that he anticipated the board will discuss the application at the regular meeting following the public hearings, but that no further comments can be made.

The public hearing was closed for ZBA-22-3.

- b) **#ZBA-22-4:** Jennifer Barone, 21 Millstone Drive, Marlborough, CT, 06447 (owner), for property at 232 Lakeside Drive, Assessors Map 107, Lot 15. Appeal of Cease and Desist Order, claim of error by Zoning Enforcement Officer pertaining to Section 9.2e. of the Town of Lebanon Zoning Regulations.

Chairman Geligoff opened the public hearing and entered the following exhibits into the hearing record: a) Legal Notice; b) Two-page application with one-page attachment; c) Notice of Violation and Cease and Desist Order; d) Copy of deed; e) Assessors Street Card, Map 107, Lot 15 from year 2020; f) Assessors Map 107, Lot 15; g) Abutters List; h) Site plan existing; i) Site plan proposed; j) Proposed building plan, 2-pages; k) Letter from Uncas Health District dated 3/23/2022; l) Photos of existing new construction 3-pages; m) Permits and approvals of existing deck from 2006/2007; n) Certified mail receipts, proof of mailing (collectively).

Jennifer Barone was sworn in and stated that she wanted to offer an apology and was not aware they were in violation.

Ms. Barone filed the appeal of the ZEO in order to pause the Cease and Desist Order to allow time to apply for the variance and get her project permitted properly. She was told by the town office to file two applications, one to appeal the Cease and Desist Order and the second was to apply for a variance.

Mr. Geligoff asked Mr. Chester if it was true that if Ms. Barone did not challenge the Cease and Desist Order, that it would have been necessary for Ms. Barone to remove the existing construction that had already been completed within 14 days and Mr. Chester replied yes, that it would need to be removed within 14 days or be subject to a fine.

Mr. Philip Chester, Town Planner, was sworn in. He reported the following:

- 1) A call was received by the Land Use Office on March 14, 2022 that construction was taking place at 232 Lakeside Drive, close to the lake.
- 2) Mr. Chester requested that the Building Official visit the site and give report.
- 3) Mr. Chester reviewed the property records for 232 Lakeside Drive and found the property was purchased by the Barone's in 2020, had been converted to year-round use in 2021, building file showed the deck replaced in 2016 and aerial photographs show the deck in place.
- 4) The Building Official reported that he visited the site and spoke with the contractor, who stated that to his knowledge, the owner had taken care of the permits. The Building Official instructed the contractor to stop work and forwarded a photo of the construction work to Mr. Chester.
- 5) Mr. Chester called the owner and explained to the owner that construction was taking place without building or zoning permits and within the 75-foot setback, which was not permitted.
- 6) Mr. Chester prepared a Cease and Desist Order and consulted with the town attorney, and sent a copy to Ms. Barone by email and certified mail.
- 7) Mr. Chester stated that according to Zoning Section 8.6.1a.1b states that a non-conforming building containing a conforming use shall not be expanded.
- 8) Mr. Chester stated that to his knowledge and from his past experience regarding the zoning regulations, a variance is required for vertical expansion.

Chairman Geligoff read the notice regarding the appeal of decision according to the Connecticut General Statutes Sec. 8-8.

With no further discussion, the public hearing was for #ZBA-22-4 was closed.

- c) **#ZBA-22-5:** Jennifer Barone, 21 Millstone Drive, Marlborough, CT, 06447 (owner), for property at 232 Lakeside Drive, Assessors Map 107, Lot 15. Variance from Section 5.2 to reduce setback from the lake from 75 feet required to 50 feet at the closest point to construct a porch addition on an existing deck.

Chairman Geligoff opened the public hearing and entered the following exhibits into the hearing record: a) Legal Notice; b) Two-page application and two-page attachment; c) Notice of Violation and Cease and Desist Order; d) Copy of deed; e) Assessors Street Card, Map 107, Lot 15 current; f) Assessors Street Card, Map 107, Lot 15, year 2020; g) Assessors Map 107, Lot 15; h) Abutters List; i) Site plan existing; i) Site plan proposed; k) Proposed building plan, 3-pages; l) Letter from Uncas Health District dated 3/23/2022; m) Photos of existing new construction 3-pages; n) Permits and approvals of existing deck from 2006/2007; o) Certified mail receipts, proof of mailing (collectively).

Ms. Barone spoke on the application. She explained that when they purchased the house two years ago, the rear 40-foot deck was existing, along with a permanent back wall and pergola with a roof which were deteriorating. The contractor replaced the back wall. No digging is taking place and all construction of a three-season room will take place on the existing deck. She spoke with Dave Coughlin of the Uncas Health District who wrote a letter, exhibit 'L', giving approval for the construction on the existing deck. The porch will not contain insulation or heat and will not be a finished living space. Ms. Barone said that the builder told her she did not need a permit because the construction was taking place over an existing area of the deck.

Ms. Skaats inquired on who the current owner of Liz Lane is, regarding abutter notification. Ms. Barone clarified that the association sold Liz Lane which is now owned by the abutting neighbor.

Ms. Barone answered members questions and discussed details of the plans.

Mr. Chester submitted the 2016 aerial photograph, which was entered into the record and labeled exhibit 'P'. He noted that there was no permit on record for the wall that was previously constructed.

Ms. Weinstein feels that the plan represents a true room addition.

There was no further discussion and no one else present to speak either in favor or in opposition to the application.

Chairman Geligoff read the notice regarding the appeal of decision according to the Connecticut General Statutes Sec. 8-8.

3) Adjournment:

Mr. Nintean made a motion, seconded by Mr. Sczurek, to close the special meeting and public hearing. Motion was approved unanimously, and the meeting was adjourned at 8:15 p.m.

Respectfully Submitted,
Holli E. Smith, Recording Secretary
April 27, 2022

Please see minutes of subsequent meetings for approval of these minutes and any corrections hereto.

**TOWN OF LEBANON
ZONING BOARD OF APPEALS**

Thursday, April 21, 2022 ~ 7:00 p.m.

**REGULAR MEETING
Lebanon Town Hall**

MINUTES

PRESENT: David Geligoff, Chairman
Donna Skaats, Vice Chairman
Keith Sczurek
Eilleen Weinstein
Michael Nintean, Alt.
John Noblet, Alt.
ABSENT: Mark DeCaprio
P. Ziel, Alt.

- 1) Call to Order:
Chairman Geligoff called the April 21, 2022, regular meeting of the Town of Lebanon Zoning Board of Appeals to order at 8:20 p.m. Mr. Nintean was seated as voting member for Mr. DeCaprio.
- 2) Discuss and Act on Public Hearings:
 - a) **#ZBA-22-3:** Riley & Sandra Leppo, 32 Lakeview Heights, Lebanon, CT, 06249 (owners), for property at 444 Deepwood Drive, Assessors Map 105, Lot 190. Variance from Section 5.2 to reduce the setback from the lake from 75 feet required to 61 feet requested for construction of addition.

Mr. Nintean did not feel that a hardship was demonstrated during the public hearing, which is necessary to grant a variance.

Chairman Geligoff noted that training is provided and now required for members in determining valid hardships.

Mr. Noblet understands that only the property should be taken into consideration, not the individual, when deciding variances.

Ms. Skaats also agreed that no hardship is present and the request actually increases a non-conformity that is prohibited. She does not think the board has the authority to grant a variance on those grounds.

She also commented that Mr. Chester noted that a variance is also required for the vertical expansion and increases a non-conformity, which the board also does not have the authority to grant.

Chairman Geligoff read notes from the Zoning Board of Appeals training manual in regard to hardships and feels that the board must really make decisions keeping in mind, what is best for the land. He was additionally concerned that this property was located in a flood plain.

Following additional brief discussion, it was the consensus of the Board that this application lacks a valid hardship. There was no further discussion.

A motion to approve application ZBA-22-3, variance from Section 5.2 to reduce the setback from the lake from 75 feet required to 61 feet requested for construction of addition, made by M. Ninteanu, seconded by E. Weinstein. Vote: In favor (0). In opposition (5) Weinstein, DeCaprio, Sczurek, Skaats, Geligoff, unanimous. Application denied.

- b) **#ZBA-22-4:** Jennifer Barone, 21 Millstone Drive, Marlborough, CT, 06447 (owner), for property at 232 Lakeside Drive, Assessors Map 107, Lot 15. Appeal of Cease and Desist Order, claim of error by Zoning Enforcement Officer pertaining to Section 9.2e. of the Town of Lebanon Zoning Regulations.

It was the consensus of the board, that the Cease and Desist Order was issued properly and should be upheld

A motion to affirm the Cease and Desist Order as described in application ZBA-22-4 legal notice, made by D. Skaats, seconded by M. Ninteanu. Vote: In favor (5) Weinstein, DeCaprio, Sczurek, Skaats, Geligoff, unanimous. Application denied, Cease and Desist Order upheld.

- c) **#ZBA-22-5:** Jennifer Barone, 21 Millstone Drive, Marlborough, CT, 06447 (owner), for property at 232 Lakeside Drive, Assessors Map 107, Lot 15. Variance from Section 5.2 to reduce setback from the lake from 75 feet required to 50 feet at the closest point to construct a porch addition on an existing deck.

M. Ninteanu commented that he does not see where there is a valid hardship, nor did he hear any testimony that a hardship was caused by the land.

Mr. Sczurek is sympathetic, but that is not the hardship. They are not being restricted from using their property.

Mr. Geligoff feels that there is an increase in a non-conforming use. Also, that this is more of a room addition with sheetrock and electrical, not a porch

Ms. Skaats commented that the roof had no permit according to the Zoning Officer, there was no hardship on the setback request and increases the non-conforming use.

Ms. Weinstein is in agreement with other members comments.

A motion to approve application ZBA-22-5, variance from Section 5.2 to reduce setback from the lake from 75 feet required to 50 feet at the closest point to construct a porch addition on an existing deck, made by D. Skaats, seconded by K. Sczurek. Vote: In favor (0). In opposition (5) Weinstein, DeCaprio, Sczurek, Skaats, Geligoff, unanimous. Application denied.

- 3) Approval of Minutes of Previous Meetings:
 - a) Ms. Skaats, made a motion, seconded by Ms. Weinstein, to approve the March 17, 2022 ZBA Special Meeting Minutes as presented. Abstained: Ninteau. Motion unanimously approved.
 - b) Ms. Weinstein made a motion, seconded by Ms. Skaats, to approve the March 17, 2022 ZBA Regular Meeting Minutes as presented. Abstained: Ninteau. Motion unanimously approved.
- 4) Old Business: None.
- 5) New Business: None.
- 6) Bills: None.
- 7) Correspondence: None.
- 8) Adjournment:

With no further business, Ms. Skaats made a motion to adjourn, Ms. Weinstein seconded. Motion unanimously approved and meeting adjourned at 8:50 p.m.

Respectfully Submitted,
Holli E. Smith, Recording Secretary
April 27, 2022

Please see minutes of subsequent meetings for approval of these minutes and any corrections hereto.