

FINAL

**LEBANON ZONING BOARD OF ADJUSTMENT  
CITY HALL, COUNCIL CHAMBERS  
MONDAY, January 6, 2020  
7:00 PM**

**MEMBERS PRESENT:** Vice Chair Jennifer Mercer, Dan Nash, Paul McDonough (Alt), Dave Newlove (Alt), Jeremy Katz (Alt)

**MEMBERS ABSENT:** Chair William Koppenheffer, Alan Patterson Sr., Jonathan Peress

**STAFF PRESENT:** Tim Corwin - Zoning Administrator

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**1. CALL TO ORDER**

The meeting was called to order at 7:05 PM by Vice Chair Jennifer Mercer, as Acting Chair. Mr. Nash was appointed Acting Vice Chair. Paul McDonough (Alt), Dave Newlove (Alt), and Jeremy Katz (Alt) were appointed regular members for the meeting.

**2. ELECTION OF OFFICERS**

*Mr. Nash MOVED to re-elect William Koppenheffer as Chair of the Zoning Board of Adjustment. Seconded by Vice Chair Mercer.*

*\*The MOTION passed 5-0.*

*Mr. Nash MOVED to re-elect Jennifer Mercer as Vice Chair of the Zoning Board of Adjustment. Seconded by Mr. Katz.*

*\*The MOTION passed 4-0-1. Ms. Mercer abstained.*

**3. APPROVAL OF MINUTES: December 2, 2019**

*Mr. Nash MOVED to approve the December 2, 2019 Minutes as presented in the January 6, 2020 agenda packet with amendments.*

*Seconded by Mr. Katz.*

Amendments: Page 3, Line 49; Remove 'Nash' and Add 'Patterson'. Page 4, Line 2; Add 'Mr. Nash rejoined the meeting.'

*\*The MOTION passed unanimously (4-0-1). Vice Chair Mercer abstained from voting as she was not at the December 2, 2019 meeting.*

**4. PUBLIC HEARING**

- A. **JOANN & STEPHEN ALLAN, 7 CENTRAL STREET (Tax Map 72, Lot 64), zoned CBD:** Applicants request a Special Exception pursuant to Article VII, Section 702.1 of the Zoning Ordinance to change the use of the property from a non-conforming warehouse to a non-conforming plumbing and heating service company. #ZB2020-01-SE

Mr. Brown, the Managing Broker from Lang McLaughry Commercial appeared on behalf of the application. The property has always been a commercial property. Most recently it was a warehouse for gifts for convenience stores. There are offices and a warehouse/garage. It is insulated and heated and has one overhead garage door. Mr. Brown distributed a rough parking plan. He described the number of parking spaces that are available and how the number of spaces exceeds the requirements. The business operates during the week. The business has 5 vans and 7 employees. Jeremy Clark owns the business.

Customers would not be coming to the building as a retail business is not operated. A neighboring property is willing to lease parking spaces to the business. The Board noted that offsite parking would require a special permit. There are no parking restrictions in the central business district. The Board discussed the parking restrictions in other districts. It's possible that an emergency call would require a late-night visit to the location to pick up parts.

**Vice Chair Mercer opened the Public Hearing and hearing no comments from the public, closed the public hearing.**

The Board deliberated the application. It is a comparable use and there is ample parking to accommodate the scale of operations.

*M. Nash MOVED, On January 6, 2020, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Cameron Brown on behalf of the applicants and property owners, JOANN & STEPHEN ALLAN, regarding, 7 CENTRAL STREET (Tax Map 72, Lot 64), zoned CBD. Applicants request a Special Exception pursuant to Article VII, Section 702.1 of the Zoning Ordinance to change the use of the property from a non-conforming warehouse to a non-conforming plumbing and heating service company. #ZB2020-01-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 located in the Central Business District, is +/-0.22 acres in size, and is developed with an existing two-story building that was most recently used as a warehouse for Allan's Vending, a non-conforming use in the Central Business District.
2. The applicants request a Special Exception pursuant to Article VII, Section 702.1 of the Zoning Ordinance to change the non-conforming warehouse use to a plumbing and heating service company (which is not a permitted use in the Central Business District).
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 applicants must demonstrate that the proposal meets the general Special Exception criteria set forth in Section 801.3.
5. No one from the public spoke for or against the project.

**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: (§801.3.B)
  - a. The proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use.
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 **6<sup>th</sup> day of January, 2020**, hereby **GRANTS** the requested Special Exception per Section 702.1 of the Zoning Ordinance to allow the use of the property at 7 Central Avenue (Tax Map 72, Lot 64) to change from a non-conforming warehouse to a plumbing and heating service company, 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. Should shared parking with the neighbor be desired by the applicant, applicant shall obtain a conditional use permit from the Planning Board.

*Seconded by Mr. Newlove.*

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

### **5. STAFF COMMENTS**

The next Zoning Board meeting will be in the Citizens Bank building, on the third floor. The entry to the building is the doorway between the ice cream shop and Salt Hill.

### **6. ADJOURNMENT**

*Mr. Nash MOVED to adjourn the meeting at 7:30 PM.*

*Seconded by Mr. McDonough.*

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

Respectfully Submitted,  
Linda Billings  
Recording Secretary