

**LEBANON MAINE BOARD OF APPEALS**  
**AMERICAN LEGION ADMINISTRATIVE APPEAL**  
**MONDAY, March 29, 2021**

**Members Present**

Dede Bruce – Vice Chairman  
Lyle Duell  
Don Leuchs - Remotely  
Kathleen Perry – Alternate

**Others Present**

Jenn Griffin  
Dave Salvatore, CEO  
James Cray/American Legion  
Gerald Kibbey/American Legion  
Pastor Bob Andrews/Abutter

Vice Chair Bruce, Kathleen and Lyle met at the Town Hall at 3:45 PM. Lyle made a motion to open meeting and Kathleen seconded. All voted approving. A motion was then made by Kathleen and seconded by Co-Chair Bruce to make the site visit to the American Legion Hall at 649 Center Road. All voted approving. The three Board members visited the site. Kathleen then made motion to reconvene meeting at 6:00 PM at Town Hall for Appeal Hearing. Lyle Seconded. All voted approving.

At 6:04 PM Kathleen made a motion to open the meeting. Lyle seconded and all voting Board members approved.

Vice Chair Dede Bruce, who will be conducting this evening's appeal, introduced herself and the Board members. She mentioned Don will be joining the appeal remotely and Kathleen, who is an Alternate Board member, will be voting this evening.

Kathleen made a request to open the public hearing and the motion was seconded and approved by Board.

Vice Chair Bruce brought the subject of waiving the application fee to the Board. Co-Chair Bruce asked Don and he was in favor. Don made motion to waive fee. Kathleen seconded. No further discussion. Approved by Board.

Vice Chair Bruce outlined how meeting would be run and agenda. American Legion will present case. Board will be allowed to ask questions. CEO, Dave Salvatore, will be allowed to offer any suggestions/recommendations and take questions. Public hearing

will be adjourned for Board to make decision. Guests at meeting can stay for deliberations.

James Cray, Commander of American Legion Post 214 introduced himself. The American Legion is looking for a variance to install a handicapped accessible ramp in compliance with ADA requirements for public buildings. The building is located at 649 Center Road in Lebanon. The proposed ramp doesn't meet setback requirements which means it will be too close to the road. Proposed ramp is 21 feet from road and requirement is 50 feet per the 2017 Lot Size Ordinance. Years ago when the town moved the building to its current spot it, was moved too close to the road. Don was asked if he had any questions. Don stated that he lives close to the building. He feels it would be an easy ramp to construct. James spoke about having no dimensions on lot. Lyle spoke about getting a surveyor to get that information. That no one on this Board is qualified to do that.

CEO said that after reviewing the application submitted on March 5, 2021 he had to deny it for not meeting setback. Ramp is too close to the road. He did speak to applicants and explain why application was denied. CEO did mention there was a prior variance given for the old set of steps which was closer to the street than what they are even asking for. Lyle asked about concrete and wooden steps on building. He asked if CEO had been out to see them. Applicant said wooden steps there are only temporary. Lyle was concerned about risers.

Vice Chair Bruce asked for comments/concerns from abutter. Pastor Bob Andrews, First Parish Congregation Church across from the American Legion spoke. He feels they are great neighbors. Sees no issues with his church or property. Likes seeing building being used in the spirit that it will be used. Having a ramp will make it more accessible to a handicapped population.

Gerald Kibbey added that at some point down the road the building will also be used as a temporary shelter.

Don asked CEO about issues of handicapped ramp variances before. He thought part of the Board of Appeals Ordinance gave CEO the authority to grant variances for handicapped ramps. Lyle and Vice Chair Bruce spoke about this and she thought it might have part of the ordinance that was not passed last year. Co-Chair Bruce felt Chair Wilson would be more knowledgeable about this and could be discussed at further meetings.

Lyle made motion to close public hearing and Dede seconded. All voted in favor.

There is a list of hardship criteria in the Lebanon Board of Appeals Ordinances used to determine whether a variance can be granted.

Don asked to make a motion to grant variance due to the variance not yielding an undue hardship. That variance and hardships are listed below. Lyle seconded motion. All voted in favor.

#### Section 4: Variances

4.1 The Board shall not grant a variance unless it finds that strict application of the ordinance to the appellant and the appellant's property would cause Undue hardship. "Undue Hardship" will be found only when all the Following criteria are met.

- (a) The land in question cannot yield a reasonable return unless a variance is granted;
- (b) The need for a variance is due to the unique circumstances of the Property and not the general conditions of the neighborhood;
- (c) The granting of a variance will not alter the essential character of the locality; and
- (d) The hardship is not the result of an action taken by the applicant or a prior owner.

Vice Chair Bruce informed applicant and abutter about their appeal rights from Lebanon Board of Appeals Ordinance:

#### Section 8: Appeal to Superior Court

Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to the Superior Court in accordance with State law within forth-five (45) days from the date of the decision of the Board of Appeals.

#### Section 9: Reconsideration

9.1 The Board of Appeals may consider a request for consideration within forth-five (45) days of it's prior decision. The Board may conduct additional hearings and Receive additional evidence and testimony.

9.2 The request for reconsideration shall be filed in writing within ten (10) days of the original decision by the Board of Appeals.

9.3 Any vote to reconsider and any action taken on the reconsideration shall be completed within forty-five (45) days of the original decision.

9.4 An appeal of a reconsidered decision to the Superior Court must be made within Fifteen (15) days after the decision on reconsideration.

The Board has ten days to file our decision and applicant will be given a copy of that. Applicant will then have to 30 days to file with registry of deeds and the stamped original

will be returned to the Lebanon Code Enforcement Office. Don spoke about an application will be sent to David to make sure the ramp adheres to ADA requirements. David said he already has the application.

At 6:23 PM Kathleen made a motion to adjourn meeting. Lyle seconded. All voted in favor. Meeting was adjourned.