



# LEBANON ZONING BOARD OF ADJUSTMENT

## APPLICATION FOR SPECIAL EXCEPTION

### ***ACCESSORY DWELLING UNIT***

# **THE LEBANON ZONING BOARD OF ADJUSTMENT**

## ***Instructions for filing Appeals***

The Zoning Board of Adjustment meets the first and third Mondays of each month. Meetings begin at 7:00PM, and are held at City Hall, 51 North Park Street, Lebanon, NH, in City Council Chambers, Level 5). Attached are the forms and instructions necessary for appeals to the Zoning Board of Adjustment.

**Please Submit:** The cover application; support statement; certified notification list, and a site plan. The required filing fee must be paid upon submission of the application.

A site plan is required for most Zoning Board appeals. If your site plan is drawn on paper larger than 8 ½" x 11", please submit 10 copies of the plan. In addition to the required paper copies, digital submissions are also appreciated.

### **Please include the following on the site plan:**

- The lot that is the subject of your application to the ZBA;
- location of all buildings and structures on the lot, showing building setbacks to all property lines;  
*(If you have a survey or plot plan, please use that as your base plan. Assessing maps are available on the City's website [www.lebnh.net](http://www.lebnh.net) (see E-Services GIS Maps on-line). However, please note, GIS maps are not surveys and are not always accurate. It is your responsibility to determine the location of your building and property lines.*
- driveways and/or parking areas, and
- any other prominent features of the lot that will assist you in explaining why you need relief from the Zoning Ordinance (i.e., location of on-site utilities, landscaping features, wetlands, riverbanks, and topographic information as applicable).

After filing your application and supporting documents with the Codes Office, City Staff will confirm the date of your public hearing. City Staff will advertise your request in the Valley News and will send a notice about the hearing, by certified mail, to you (the owner of record) co-applicants and/or agents listed on your cover application. City staff will also mail a notice, by certified mail, to the abutting property owners listed on the certified notification sheet you provided. These notifications are mailed at least five days prior to your public hearing.

### ***What will happen the night of the Public Hearing:***

- The Chairperson calls the meeting to order. Usually the first order of business is the acceptance of the meeting minutes from the previous meeting. There *may* also be continued public hearings or unfinished business from the previous meeting.
- The Zoning Board Chairperson will announce your request, at which time you come forward and present your application.

## **Instructions for filing Appeals**

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- After you have presented your application to the Board, your hearing is opened up for public comment. After public comment is taken, and if the Zoning Board is satisfied that all relevant questions concerning your application have been answered, your hearing is closed. Once a hearing is closed, no further testimony from the applicant or the public can be taken. *(Please do not send or distribute information to Board members after the public hearing is closed.)*
- The Board will hold deliberations after completing all other scheduled public hearings. After deliberations, the Board *may* finalize a decision and vote that evening on your request. If not, the decision is presented and voted on at the following meeting.
- Decisions are final once a motion is passed by at least 3 members\* of the Zoning Board.

*\*ZBA By-Laws, Appeals, Section 4. "The failure of the Board to reach any result by 3 concurring votes constitutes a defacto denial unless a subsequent motion is made at the same meeting that garners the required 3 votes. If there are fewer than 5 members able to sit on the appeal, the applicant has the choice of either (a) wait until a 5 member board can sit or (b) proceeding with the understanding that the failure of any motion to receive at least 3 votes will automatically constitute grounds for a rehearing."*

- You may be given a copy of the decision that night. A formal copy of the decision and the Zoning Permit are usually prepared and mailed within two weeks of the final vote. Audio recordings of all public meetings are usually available on the City's website the day after the meeting.

If your appeal is granted, in most cases, you will also need to obtain a Building Permit for your construction project. Please contact the Codes Department at (603) 448-1524 for the appropriate Building Permit application and assistance.

If your appeal is denied, you have the right to request a rehearing. A motion for rehearing must be filed within 30 calendar days. The 30-day time frame to file an appeal begins the day after the Board voted. *See Rehearings and Appeals, Section 802.5 of the Zoning Ordinance.*

The Zoning Ordinance and Zoning Map are both available on-line at the City's website: [www.Lebnh.net](http://www.Lebnh.net) Please go to Codes Department page and look for the link to *Current Zoning Ordinance & Map*. Copies of all Zoning Board application packets are also available on-line, see Codes Department page, *Zoning Board Applications*.

If you have any questions concerning the filing of a Zoning Board application, appearing before the Lebanon Zoning Board of Adjustment, or have a question about a pending application before the Board, please contact the Codes Department at (603) 448-1524 or by email [Codes@Lebcity.com](mailto:Codes@Lebcity.com)

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## CITY OF LEBANON APPLICATION FOR

<b>ADU SPECIAL EXCEPTION</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>SITE PLAN REVIEW</b>
<b>VARIANCE</b>	<input type="checkbox"/>	<input type="checkbox"/>	<b>SUBDIVISION</b>
<b>MOTION FOR REHEARING</b>	<input type="checkbox"/>	<input type="checkbox"/>	<b>LOT LINE ADJUSTMENT</b>
<b>APPEAL OF AN ADMIN. DECISION</b>	<input type="checkbox"/>	<input type="checkbox"/>	<b>OTHER (                    )</b>

### PROPERTY OWNER (APPLICANT):

NAME:	TEL.#:
MAILING ADDRESS:	
E-MAIL ADDRESS:	

### CO-APPLICANT, AGENT, OR LESSEE:

NAME:	TEL.#:
MAILING ADDRESS:	
E-MAIL ADDRESS:	

### PROJECT LOCATION:

TAX MAP #:	LOT#:	PLOT #:	ZONE:
STREET ADDRESS OF PROJECT:			
IS THIS PROPERTY LOCATED IN THE:	<b>WETLANDS</b> <input type="checkbox"/> YES <input type="checkbox"/> NO	<b>HISTORIC DISTRICT</b> <input type="checkbox"/> YES <input type="checkbox"/> NO	
	<b>FLOOD PLAIN</b> <input type="checkbox"/> YES <input type="checkbox"/> NO		

### SCOPE OF PROJECT:


### TYPE OF OCCUPANCY:

EXISTING	<input type="checkbox"/> VACANT	<input type="checkbox"/> ONE FAMILY	<input type="checkbox"/> TWO FAMILY	<input type="checkbox"/> MULTI-FAMILY	<input type="checkbox"/> COMMERCIAL	<input type="checkbox"/> INDUSTRIAL
PROPOSED	<input type="checkbox"/> VACANT	<input type="checkbox"/> ONE FAMILY	<input type="checkbox"/> TWO FAMILY	<input type="checkbox"/> MULTI-FAMILY	<input type="checkbox"/> COMMERCIAL	<input type="checkbox"/> INDUSTRIAL
IF USE IS <b>COMMERCIAL</b> OR <b>INDUSTRIAL</b> , PLEASE NOTE <b>SPECIFIC USE</b> : _____						

### SIGNATURE BLOCK:

	DATE: _____
PROPERTY OWNER	
<b>NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW:</b> I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.	
	DATE: _____
PROPERTY OWNER	

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #

**CITY OF LEBANON, NEW HAMPSHIRE  
SUPPORT STATEMENT FOR A SPECIAL EXCEPTION**

One cover application, one abutters list, a filing fee and ten copies of the site plan must accompany this support statement.

I (we) hereby request a Special Exception as provided for in Article(s) VI, Section(s) 610, of the Lebanon Zoning Ordinance.

**In order to grant a Special Exception, the Zoning Board of Adjustment must make affirmative findings of certain conditions. Those conditions are listed below:**

*(You can respond in the space provided, or attach a separate statement. Please be prepared to address the conditions with the Board during your public hearing. You must show that you have met all the conditions.)*

**SECTION 801.3 Special Exceptions** - To hear and decide special exceptions to the terms of this ordinance upon matters which the Board is required to pass under this ordinance. In passing upon any application for a special exception, the Board shall make each of the following findings:

A. That the special exception is specifically authorized by a provision of this ordinance:

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B. That all special conditions required of the special exception have been met:

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C. That there are no existing violations of this ordinance on the property that the granting of this special exception would not remedy:

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D. That the character of the area shall not be adversely affected:

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E. That no hazard or nuisance will be created:

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F. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted:

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G. That granting the special exception will not result in undue municipal expense:

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H. That the proposed special exception will be developed in a manner compatible with the spirit and intent of the ordinance:

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I. That the general welfare of the City will be protected:

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**Please Note:**

Pursuant to Section 802.4B, "Special Conditions", the Board may attach whatever conditions it deems necessary in order to assure compliance with the purposes of this ordinance.

A special exception shall expire if: (1) the use is not in place within two years of the date of issuance of a zoning permit or approval by the Zoning Board of Adjustment for a special exception or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a special exception must be completed.

# **City of Lebanon Zoning Ordinance (excerpt)**

## **SECTION 610**

## **ACCESSORY DWELLING UNIT (ADU)**

Accessory dwelling units are intended as an option for homeowners to offer separate and independent living space for their extended families, or to offer small dwelling units as rentals to offset the expense of maintaining the dwelling. The appearance and character of the existing or proposed new dwelling shall remain single family in nature. An accessory dwelling unit is only allowed on lots with a detached single family dwelling, and only one such accessory unit is permitted per lot. As an alternative, if allowed in the respective Zoning District, a property owner can seek a conversion of the unit to either a standard two-family or a multi-family dwelling.

If all of the following criteria are met, an accessory dwelling unit shall be allowed by special exception in all zoning districts where single family dwellings are allowed:

- A. The property owner must occupy either the primary residence or the ADU as their permanent residence. A temporary leave of absence by the property owner is allowed, provided the owner-occupied unit is not rented or occupied by anyone other than the property owner during the temporary leave or absence.

Prior to the issuance of a zoning/building permit, the owner shall record in the Grafton County Registry of Deeds an acknowledgment of the above owner-occupancy requirement, in a form satisfactory to the Zoning Administrator, in order to put prospective buyers on notice of the prohibition against renting out both units.

- B. The ADU must be located in the same building as the primary residence unless the lot meets or exceeds the minimum required lot size for the respective zoning district. If the lot meets or exceeds the required minimum lot size, the ADU may be located in a separate detached structure such as a garage or barn, provided the existing structure conforms with required yard setbacks for the respective zoning district. An ADU may also be in a new structure.
- C. If the ADU is located within or by an addition to the existing single family dwelling, an interior door shall be provided between the principal dwelling unit and the ADU.
- D. If the ADU is located within or by an addition to the existing single family dwelling, the ADU must be connected to the same utilities (except telephone and television) as the existing dwelling. If the ADU is located in a detached structure, then connections to municipal utilities (i.e. municipal water/sewer) must be separate.

If applicable, the owner must seek a permit from the State of NH Dept. of Environmental Services Subsurface Systems Bureau, in accordance with NH RSA 485-A:38, for any increased load on an existing sewage disposal system as a result of the addition of an ADU to the lot.

- E. If the primary residence is 1,500 square feet or less, the ADU may be no greater than 50% of the gross living area of the primary residence. If the primary unit is greater than 1,500 square feet, but less than 3,000 square feet, the ADU shall

not exceed 750 square feet. If the primary unit is greater than 3,000 square feet, the ADU can exceed 750 square feet provided the ADU is no greater than 25% of the gross living area of the primary unit.

- F. A detached ADU, if permitted under paragraph B above, shall maintain a proportional mass, size, and height to ensure it is not taller than the primary residence on the lot. Detached ADU height shall not exceed the height of the primary residence as measured to the eave line, with a maximum eave height of ten (10) feet for single-story and sixteen (16) feet for two-story detached ADUs.
- G. Any necessary additional entrances or exits to the primary residence, to serve the ADU, shall be located to the side or rear of the building. All new or altered structures, intended to be used as an ADU, must be located behind the building line of the existing primary residence except when the Zoning Board finds that the placement of the ADU on the lot will not adversely affect the character of the neighborhood; traffic on roads and highways; safety of pedestrians, and will not create a hazard or nuisance to abutting property owners.
- H. In addition to the two (2) on-site parking spaces required for the primary residence, one (1) additional on-site parking space for the ADU must be provided, and no more than two (2) ADU on-site spaces are allowed. The additional parking space shall comply with the parking standards contained in the Zoning Ordinance and the City of Lebanon's Driveway Regulations.
- I. A zoning/building permit application for the ADU must be approved and issued prior to its construction, and a certificate of occupancy, specifying that the dwelling unit is an ADU, must be obtained prior to its occupancy. The ADU constructed within a primary residence shall have an interconnected fire alarm system. All ADU's shall meet all life safety and building codes.



## CERTIFIED NOTIFICATION LIST

THE CITY OF LEBANON IS REQUIRED UNDER NH RSA 672:3 TO NOTIFY THE FOLLOWING PERSONS OF PUBLIC HEARINGS BEFORE THE PLANNING BOARD: ALL ABUTTERS; THE APPLICANT; PROPERTY OWNER; HOLDER OF CONSERVATION, PRESERVATION, OR AGRICULTURAL PRESERVATION RESTRICTION(S); AND EVERY ENGINEER, ARCHITECT, LAND SURVEYOR, OR SOIL SCIENTIST WHOSE PROFESSIONAL SEAL APPEARS ON ANY PLAT SUBMITTED TO THE BOARD.

**PLEASE PROVIDE NAMES & MAILING ADDRESSES FOR ALL PERSONS LISTED ABOVE.**

<b>MAP &amp; LOT NUMBER:</b> _____	<b>MAP &amp; LOT NUMBER:</b> _____
PROPERTY OWNER:	APPLICANT:
<b>MAP &amp; LOT NUMBER:</b> _____	<b>MAP &amp; LOT NUMBER:</b> _____
ABUTTER/OTHER:	ABUTTER/OTHER:
<b>MAP &amp; LOT NUMBER:</b> _____	<b>MAP &amp; LOT NUMBER:</b> _____
ABUTTER/OTHER:	ABUTTER/OTHER:
<b>MAP &amp; LOT NUMBER:</b> _____	<b>MAP &amp; LOT NUMBER:</b> _____
ABUTTER/OTHER:	ABUTTER/OTHER:
<b>MAP &amp; LOT NUMBER:</b> _____	<b>MAP &amp; LOT NUMBER:</b> _____
ABUTTER/OTHER:	ABUTTER/OTHER:
<b>MAP &amp; LOT NUMBER:</b> _____	<b>MAP &amp; LOT NUMBER:</b> _____
ABUTTER/OTHER:	ABUTTER/OTHER:

# TITLE LXIV PLANNING AND ZONING

## CHAPTER 672 GENERAL PROVISIONS

### Words and Phrases Defined

#### Section 672:3

**672:3 Abutter.** – ""Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term ""abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term ""abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

**Source.** 1983, 447:1. 1986, 33:2. 2002, 216:1, eff. July 15, 2002.

**PROCEDURE FOR RECORDING ACKNOWLEDGEMENT FORM  
FOR ACCESSORY DWELLING UNIT  
(Zoning Ordinance, Article VI, Section 601 A.):**

After you have obtained the required special exception from the Lebanon Zoning Board of Adjustment to install an accessory dwelling unit, and prior to the issuance of the building permit, the attached acknowledgement form for the owner-occupancy restriction must be recorded at the Grafton County Registry of Deeds Office.

The City's Planning & Zoning Office will record the form and your Zoning Board Notice of Decision for you.

A certified bank check, business check or money order for this recording (the Registry will not accept personal checks) must be made payable to the Grafton County Registry of Deeds (GCRD). The charge from the Registry for this service is:

- \$12.00 for the first page.
- \$ 4.00 for each additional page.
- \$0.48 cents to cover the cost of first class postage for the return notice from Registry of Deeds Office.

**RECORDED ACKNOWLEDGEMENT FOR OWNER-OCCUPANCY  
OF ACCESSORY DWELLING UNITS, LEBANON, NH**

This recorded restriction for Owner-Occupancy is entered into by the undersigned owner(s) of real property described as:

Physical Address: \_\_\_\_\_  
\_\_\_\_\_

Further identified as: City Tax Map #: \_\_\_\_\_ Lot# \_\_\_\_\_ Plot# \_\_\_\_\_

The undersigned owner(s) of said real property have an approved special exception, and have applied for a Zoning/Building Permit to construct and/or use an Accessory Dwelling Unit on said property in accordance with the City of Lebanon Zoning Ordinance #2, Article VI, Section 610 A. which requires that:

"The property owner must occupy either the primary unit or the accessory dwelling unit as their permanent residence. A temporary leave of absence by the property owner is allowed, provided the owner-occupied unit is not rented or occupied by anyone other than the property owner during this temporary leave or absence."

(1) The owner(s) of the property will restrict use of the primary and accessory dwelling unit on the property in compliance with all of the requirements of the City of Lebanon Zoning Ordinance #2, Article VI, Section 610, and with any and all conditions of the special exception, a copy of which is attached to this form.

(2) This acknowledgement shall run with the land and be binding upon the property owner(s), his/her/their heirs and assigns, and upon parties subsequently acquiring any right, title or interest in the property.

(3) The undersigned owner(s) and their heirs, successors and assigns will inform all prospective buyers of the property of the prohibition against renting out both units.

(4) This acknowledgement shall be recorded at the Grafton County Registry of Deeds Office prior to the issuance of the Zoning/Building permit allowing construction and/or use of an accessory dwelling unit on the property.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

Dated: \_\_\_\_\_