

Lancaster Planning Board
Location: Lancaster Town Hall
Wednesday, November 9, 2022

Chair Andrew Nadeau opened up the meeting at 1830H and led the Pledge of Allegiance.

Initial Business: Roll call

Regular Members:

Present: Chairman Andrew Nadeau, Maggie Jones, Vickie Gibbs, Selectmen's Representative Leon Rideout (late, arrived mid-case #838)

Absent:, Mark St. Pierre

Alternate Members:

Present: Donald Doolan, Rick McCarten, Ericka Canales, Greg Westcott, Selectmen's Representative Troy Merner

Absent:

Others Attending: Land Use Coordinator Robin L. Irving, Jesse Picha (Applicant), Monica Ashenfalder (Ryder Abutter), Karen Ryder (Applicant), Allan Ryder (Applicant), Mary Snowman (Ryder Abutter)

Minutes: Maggie Jones moved to approve the October 12, 2022, minutes as written. Vickie Gibbs seconded the motion. All members voted to approve the October 12, 2022, minutes as written, no objections. *Motion passed.*

Appointments: Chairman Nadeau appointed Alternate Member Rick McCarten and Selectmen's Representative Troy Merner, as a regular voting member for Case #838 (Ryder); Don Doolan will recuse and present Case #838 as the Applicant's Surveyor. Greg Westcott is an abutter. Chairman Nadeau appointed Alternate Members Donald Doolan and Selectman's Representative Troy Merner, and Greg Westcott as regular voting members for the meeting for Case # 839; Chairman Nadeau will recuse and present Case #839 as the Applicant's Surveyor.

Public Hearing(s):

Chairman Nadeau opened the public hearing for Case #838 and read the case description:

Minor Subdivision

Case# 838 – Ryder, Allan C. & Karen S.– Applicants/Owners request a minor subdivision to divide one lot, Lancaster Tax Map P06, Lot 017, more particularly described as 21 Railroad Street, into 3 lots. Said minor subdivision will result in one land lot totaling approximately 10,077 square feet (0.231 acres), a second land lot totaling approximately 17,598 square feet (0.404 acres), and the remaining house lot totaling approximately 15,216 square feet (0.349 acres). Land Zoned Residential. (Tax Map P06-Lot 017 (~0.98 acres), 21 Railroad Street).

Surveyor Doolan explained that the property subject to the proposed subdivision into 3 lots is located at the intersection of Railroad and Depot Streets. This lot was originally Lot #3 of Mary Snowman's 2003 subdivision mapped by Colin Sutherland.

Chairman Nadeau explained procedure to the public: the Board would go through the required items checklist for minor subdivision, determine if the application is complete as submitted, then open the hearing for public comment. Chairman Nadeau recited each requirement on the checklist for a minor subdivision: The proposed subdivision name or identifying title, name and address of the Applicant(s) and Owner(s), and abutter(s)' names and addresses have been provided. There is a boundary survey completed with bearings and distances and location of permanent markers. The tax map and lot numbers, building setbacks, zoning district, lot line dimensions, acreage, and numbering are provided. There is no any topography to show because the land is flat at this location therefore no 5-foot contour intervals are available. The existing and final proposed lines of streetways, lots, and easements for utilities and drainage within the subdivision have been provided. There are no proposed streets. There are no cross sections applicable. There is no drainage design required. There is no need for soils and groundwater because there is public utility. The remaining buildings are depicted. There is no flood zone. As for deed restrictions, Surveyor Doolan emphasized that the Applicants' attorney checked the property for encumbrances and counsel stated that there are NO existing encumbrances, including conservation or agricultural restrictions. Chairman Nadeau stated that the application appeared to be complete and asked for comments from the Board. LUC Irving stated that no fees had been paid, however, she invoices applicants prior to recording; she would like to amend the pre-pay requirement in the application because 1) up-front there is no way to determine what the fees are going to be and this leads to 2) multiple invoicing with no tracking mechanism. Vickie Gibbs moved to allow invoicing for fees until the application form is modified. Motion seconded by Troy Merner. All Board members agreed to allow invoicing of fees until the application form is amended, no objections. *Motion passed.*

Vickie Gibbs moved to accept the application as complete. Troy Merner seconded the motion. All Board members voted to accept the application as complete, no objections. *Motion passed.*
Application accepted as complete.

Chairman Nadeau OPENED TO THE PUBLIC the hearing.

Abutter Monica Ashenfalder (13 Railroad Street) expressed her newness to the process as a first-time homeowner and wanted to know what the planning board's role was in ensuring that whatever happens to the abutting lot does not affect her property. Chairman Nadeau stated that the planning board's role is to make sure that what the applicant is proposing conforms to the zoning ordinance, so the board looks at setbacks, frontage, minimum lot size, and availability of water/sewer services, etc. The Board does not to comment on the legitimacy of what they are doing, like future development, outside the scope of the zoning ordinance. Ashenfalder asked how close to her property boundary would any building be located. Surveyor Doolan showed Ashenfalder the plan and pointed out the 10-foot setback lines that indicate that a building cannot be within that distance without a variance. Ashenfalder asked if the tree buffer would be removed. Chairman Nadeau indicated that tree cutting *might* be addressed through the building permit process but not at a minor subdivision level. Surveyor Doolan stated that the Applicants do not have any immediate plans for the property.

Abutter Mary Snowman asked if the lot was even big enough for a house to be built on. LUC Irving stated that the minimum lot size in that residential zone is 10,000 square feet and the

resulting lot exceeds that footage at 10,077 square feet. She pointed out that the lot gets very narrow in the rear as it is triangular in shape. Ericka Canales asked what the frontage requirement was and whether there were dimension requirements given that the rear of the lot is so narrow. Chairman Nadeau stated that the frontage requirement when hooking up to public utilities is 50 feet. Doolan pointed out that this lot has 92 feet of frontage so it meets the requirement. Vickie Gibbs asserted that a small house could be built on the lot but some of the greenery would likely have to be removed. Chairman Nadeau iterated that it is a buildable lot.

Abutter Mary Snowman pointed out that there is a utility pole marked by a small circle on the plan in the back of the lot near the Applicant's garage. Snowman asked how can there be no encumbrances if there is power to the lot from a pole that has an Eversource number. She also said that she thought that there was an easement or railroad right-of-way when she bought the property but she could not remember what happened to them during the 2003 subdivision process. Because the pole services her building and the Applicant's property, she is concerned that the pole might be eliminated if someone purchases the property. Both Ericka Canales and Vickie Gibbs expressed concern over the lack of an easement despite power was still being supplied. Chairman Nadeau said that there is really no risk to the end users because, even if the pole is moved by a new owner, that new owner cannot deny the end users power. LUC Irving said that, had there been an easement, she would have had to send them certified notice of public hearing but there was no easement on file. Surveyor Doolan re-emphasized that the Applicants' attorney determined that there are no encumbrances on the property so there is no utility easement.

No further comments from the public. **Chairman Nadeau CLOSED TO THE PUBLIC the hearing.**

Chairman Nadeau acknowledged the concern over the narrow rear of the lot abutting the Ashenfalders, however, Lancaster does not have a length-to-width ratio requirement. As for the utility pole, Chairman Nadeau stated that, if the pole was there, the easement should have been created during the 2003 subdivision. If the pole is in the way of building anything, there is no easement to restrict demolition or moving of the pole.

Maggie Jones moved to approve the minor subdivision. Troy Merner seconded the motion. All Board members voted to approve the minor subdivision, no objections. *Motion passed.* **MINOR SUBDIVISION OF 21 RAILROAD STREET INTO 3 LOTS APPROVED.**

Public Hearing Case #838 Closed.

Chairman Nadeau recused for Case #839. Vice Chair Maggie Jones opened the public hearing for Case #839 and read the case description.

Minor Subdivision

Case# 839 – Picha, Jesse W.– Applicants/Owners request a minor subdivision to divide one lot, Lancaster Tax Map R15, Lot 033, more particularly described as 129 Stebbins Hill Road, into 2 lots. Said minor subdivision will result in one house lot totaling approximately 2.96 acres with the remaining land lot with barn totaling approximately 2.81 acres. Land Zoned Agricultural. (Tax Map P15-Lot 033 (~5.70 acres), 129 Stebbins Hill Road).

Vice Chair Maggie Jones recited each requirement on the checklist for a minor subdivision: The proposed subdivision name or identifying title, name and address of the Applicant(s) and Owner(s), and abutter(s)' names and addresses have been provided. Fees will be invoiced. There is a boundary survey completed with bearings and distances and location of permanent markers. The tax map and lot numbers, building setbacks, zoning district classification, lot line dimensions, acreage, topography, LIDAR contours, and numbering are provided. The existing and final proposed lines of streetways, lots, and easements for utilities and drainage within the subdivision have been provided. There are no proposed streets. Cross section profiles are not applicable. Drainage system locations are based on soils. Groundwater percolation tests are based on location of building situated in the open space. There is no flood prone area. The remaining buildings (barn on new lot) are depicted. There are no deed restrictions or encumbrances.

Vickie Gibbs moved to accept the application as complete. Donald Doolan seconded the motion. All Board members voted to accept the application as complete, no objections. *Motion passed.*
Application accepted as complete.

Surveyor Nadeau confirmed that he had surveyed the lot. Because Lancaster has a soils-based minimum lot size in the agricultural district, Applicant Picha hired a designer who came out and dug test pits and did a wetland delineation/analysis to determine whether the division of property is feasible. Upon review of the calculations based on soils, soils grouping, and the test pits, both of the lots would require a minimum of 62,000 square feet and the proposed division is roughly 2.5 times what is required to support it. The plan shows a couple of 4K areas within which a septic system would have to go (the 4K areas are not the size of the leach field but the area in which it must be located). There is an existing well in front of the house and the proposed well will meet the 75-foot radius from the septic system. The lot already has an access drive into it that been utilized. The septic radius is close to the setback, however, the town does not restrict septic systems within the setback. Finally, this proposed subdivision is pending at DES Subsurface since they have their own approval process whenever a lot under 5 acres is created.

Applicant Picha stated that the barn will stay on the parcel. He intends to construct a small, 3-seasons cabin for him and his daughter.

LUC Irving asked whether the road is maintained by the Town. Her understanding is that the road crew maintains snow up Buffalo Road then they turn around at Abutter Chad LaBounty's yard across the street. She said that Planning & Zoning typically requires a signed waiver of liability as a condition of approval for properties beyond the area of maintenance. Nadeau said that there is a gate is just down the road beyond the second driveway; there is also another resident service (the Greene family is living there). It is a Class VI road, but he thought that non-maintenance would start after the gate. Applicant Picha stated that the road is maintained by the cell tower people beyond that last house past his property because they are back and forth all winter. Irving said that the location of the gate is irrelevant; the whole road is Class VI and the extent of maintenance is determined by what the Town accepted to maintain. Nadeau agreed that signing the waiver of liability would be a good idea because the Applicant's frontage is partially on this non-maintained area. There is a standard form that basically says that the property owner

is holding the town harmless or indemnifying them in the event the property cannot be reached in a timely manner during an emergency. Applicant Picha felt that this was not an issue.

Vice Chair Maggie Jones OPENED TO THE PUBLIC the hearing.

No abutters were present and there was no other public comment.

Vice Chair Maggie Jones CLOSED TO THE PUBLIC the hearing.

Surveyor Nadeau said that he would get the waiver language and the location of the gate on the mylar.

Vickie Gibbs moved to approve the minor subdivision with a condition that a signed waiver of liability/agreement and release regarding Class VI highways or private roads shall be filed with the Town prior to issuance of a building/land use permit. Troy Merner seconded the motion. All Board members voted to approve the minor subdivision with a condition that a signed waiver of liability/agreement and release regarding Class VI highways or private roads shall be filed with the Town prior to issuance of a building/land use permit, no objections. Motion passed. **MINOR SUBDIVISION OF 129 STEBBINS HILL ROAD INTO 2 LOTS APPROVED WITH CONDITION OF WAIVER OF LIABILITY.**

Public Hearing Case #839 Closed.

Other Business:

Preliminary Conceptual Consultation(s): None

Zoning Board Decision(s): None

Permit(s):

Land Use Permit #22-068-Residential, Owner(s)/Applicant(s) –Consoletti, Guy, 20 High Street, to demo pre-existing front porch & replace w/6’x34’ stick-built railed deck on existing stone piers with 5’-wide railed stairs, metal overhang roof on new columns, crushed gravel for drainage, no footprint change.

Land Use Permit #22-067-Residential, Owner(s)/Applicant(s)—O’Clair, Ronald & Linda, 72 Prospect Street, to demo on site & replace in kind existing stick-built L-shaped (6’x11’ and 6’x24’) screened porch with metal roof and electricity on piers & attached to garage, no change in footprint; repair fieldstone foundation of garage.

Land Use Permit #22-069-Commercial, Owner(s)/Applicant(s)—Reynolds, Bonnie L., 288 Main Street, to demo existing 4’x41’ deck and replace w/5’x43’ stick-built with composite decking, open vinyl-railed deck, on existing concrete pad, with stairs.

LUC Irving said that the Applicant submitted an application with dimensions that are 1-foot larger on all sides. She had conditioned the permit to require that the Applicant “shall be constructed to be compliant with the setbacks” because the abutting parking lot for Home Health

is very close to the boundary. The Applicant did clarify that the deck was going to be replaced with no change of footprint.

Training Topic(s)/Material(s): LUC Irving submitted a copy of “The Rules of the Chair” that she had gotten from her participation in NHMA’s drafting of proposed legislative policies. She explained that not only was the paper copy handed out to attendees but the Chair read the rules at session opening. The idea is to have the Chairman have more control of meetings and this is a way to provide the public with procedural notice. Irving would like to amend this document for the Planning and Zoning Boards; once amended, the document would have to be voted on and appended to the regulations. Irving reminded the Board about the OSI webinars that were sent out regarding procedure. In these webinars, the panelists recommended Board member introductions and explanation of procedure to the public even for cases that are not controversial. Leon Rideout suggested that name placards could be placed before each member for identification. Chairman Nadeau commented that he would like to limit side discussions, make clear that public comments are directed to the Board following acceptance of a speaker; this would help with confusion as well as confrontation with the applicants. Board members agreed that implementation of more formal rules would lend some credibility and confidence to the public who are observing a more organized setting. LUC Irving will revise the “Rules of the Chair” and submit it to the Board for review and acceptance.

Announcement(s)/Correspondence: None

Other Business as may legally brought before said meeting:

- A) LUC Irving notified the Board that an un-permitted concrete pad with 4-1000 gallon propane tanks had already been poured behind Shaw’s. She wanted to know if the Board felt that it was necessary to do a site plan review before she issued a land use permit. The square footage of the pad does not trigger (1200 square feet) a site plan review on its own but it may require review as part of the initial site plan. LUC Irving explained that there are three underground storage tanks behind the store that are owned, operated, and maintained by CN Brown. It is really wet behind there and CN Brown had concerns about flooding, freezing and ice formation, and above-ground maintenance, e.g. chipping at ice, that would compromise the integrity of the tanks. CN Brown unilaterally decided to pour a new pad and install above-ground storage tanks. They will eventually remove the underground storage tanks and install jersey barriers/K-rails around the ASTs. LUC Irving indicated that she would have the Fire Department review and sign off on a building permit, however, there is the issue of this being a new structure on a previously approved site plan by Butson in 2004 (PB#604). LUC Irving distributed photographs of the new pad and tanks. CN Brown submitted copies of the Berlin Fire Department’s Permit to Install and Operate LP and/or Natural Gas Equipment as well as their Fire Prevention Permit Application; the LP application references compliance with RSA 153:5. LUC Irving stated that her office could implement a permit application like this. Vickie Gibbs expressed concern over compliance performance of Shaw’s and that they have historically done things without permitting and ask for forgiveness later and this infraction should be addressed somehow. Chairman Nadeau said that the original site plan approval should have been reviewed. LUC Irving will review the regulations for

procedure on review of old site plans. The Board further discussed issues surrounding review of the site plan and recommended, for now, to handle the issue through the land use permit process and refer the final approval to the Lancaster Fire Department.

- B) LUC Irving had submitted a memo outlining the history of the George M Stevens zoning/lot line adjustment cases. She had met with the new landowners of the church lot and explained to them that a condition of the last zoning approval was not fulfilled. LUC Irving requested that the new owners request a meeting with the Planning Board to satisfy this condition. The owners have requested to be scheduled on the December 14, 2022, agenda. The upshot is that the owners will confirm that they had full knowledge of street-only access when they bought the parcel and that they are okay with this arrangement. It was LUC Irving's opinion that, given this declaration, doing a formal review of the 2021 lot line adjustment has no benefit. Having some kind of disposition from the Planning Board on file, e.g. minutes, fulfills the ZBA's condition on approval and the new zoning decision would stand. A zoning decision follows the land so if the new owners decide to sell the property, the most recent zoning decision would provide notice to a subsequent owner that a driveway permit would need to be submitted for residential use. LUC Irving noted that the new owners did express to her desired conditions for emergency rear access and moving of stockpiled snow along the boundary, however, these are really party negotiated agreements.
- C) LUC Irving announced that the InvestNH capital grant money for affordable housing has been awarded and neither PAK nor Mollie White were awardees. In short, PAK did not get the funding in order to finish the renovations of both the LHOP building and the old Simon the Tanner building. CEDC, Lancaster Town Manager Ben Gaetjens-Oleson, Sharon Kopp (PAK), Andrew Dorsett (InvestNH) and one of the partners from PAK had a conference call to discuss the shortcomings of the application so it could be improved for a possible additional round of funding. CEDC is working with PAK to see what other kinds of gap funding are available; the primary goal is to finish the LHOP building. In the meantime, PAK is seeking modifications to the design to reduce costs and analyzing cost-benefit of selling the Simon the Tanner building. Because PAK did not get awarded GOFER funding either, denial of the InvestNH funding is a potential project killer as costs have skyrocketed since the original investment and liquidation of additional assets did not cover the shortfall. Leon Rideout pointed out that the project had been granted an exemption long before this funding was available (at least a year).
- D) Chairman Nadeau announced that he will be submitting a solar project for site plan soon. The location is the Rexford spreading field off Route 3. Canales asked Nadeau if the developer would be interested in constructing spec homes with solar on top instead of a solar field and Nadeau responded that they have not expressed any interest in a project of that caliber. Basically, if land is anywhere near 3-phase power and has good southern exposure, solar companies are motivated to invest and construct.
- E) Chairman Nadeau stated that Zack Colby got an offer on his Main Street property but there is no decision regarding disposition. LUC Irving stated that she sent information to Zack Colby about the corner land lot next to Sanel's. The building is a multifamily structure and the ground floor used to have a driving school and Chad LaBounty in the rear. The owner wants to subdivide this lot to create the house lot and the corner land lot having about 0.5 acres. LUC Irving consulted the road agent and there is no issue with a drive-thru off Summer Street. There may, however, be an issue with 1) the drainage

system (presumed to be the State's) where the land forms a swale and directs water into a catch basin in the corner, and 2) the presence of the Town's pressure reducing valve station in the same location. Even if the corner had to be unused, Colby would gain about a tenth of an acre as opposed to the Main Street lot. LUC Irving provided Colby with the owner's contact information. This may be an alternative location if the owner is willing to sell.

Troy Merner moved to adjourn the meeting at 2005H. Vickie Gibbs seconded the motion. All members voted to adjourn, no objections. *Motion passed.*

Respectfully submitted,

Robin L. Irving, Land Use Coordinator

Approved:

Andrew Nadeau, Chairman