

Lancaster Planning Board
Location: Lancaster Town Hall
Wednesday, December 14, 2022

Chair Andrew Nadeau opened up the meeting at 1832H and led the Pledge of Allegiance.

Initial Business: Roll call

Regular Members:

Present: Chairman Andrew Nadeau, Maggie Jones, Vickie Gibbs, Mark St. Pierre, Selectmen's Representative Leon Rideout (late, arrived at 1842H for beginning of Case #840 Public Hearing)

Absent:

Alternate Members:

Present: Ericka Canales, Greg Westcott, Selectmen's Representative Troy Merner

Absent: Donald Doolan, Rick McCarten

Others Attending: Land Use Coordinator Robin L. Irving, Joshua Wilds (Bartow Abutter), Toni Shea Koval (Appointment), Maggie Baker-Koval (Appointment), Jeffrey Gilman (Appointment), Jane Gilman (Attendee), Kara Moody (Prelim Consult-Stantec Consulting Services), Martha Staskus (Prelim Consult-Norwich Solar), Sally Craft (Bartow Abutter), Jeff Martin (Prelim Consult-Norwich Solar), Paul Hayes-Caledonian Record

Minutes: Mark St. Pierre moved to approve the November 9, 2022, minutes as written. Vickie Gibbs seconded the motion. All members voted to approve the November 9, 2022, minutes as written, no objections. *Motion passed.*

Appointments:

Jeff Gilman (d/b/a Geo. M. Stevens Real Estate LLC) explained that both he as the seller and Maggie Baker and Toni Koval as the buyers of the 147 Main Street church property, currently being used as a beautiful pottery shop, were appearing to finalize some unfinished business regarding the approved variance granted by the ZBA in August. LUC Irving recapped the situation that the variance had been approved with the following conditions:

1. The Applicant shall submit to the Lancaster Planning Board a request for review of Planning Board Case #818 with amended facts pertaining to access and shall adhere to any recommendations therefrom;
2. The Applicant shall submit to New Hampshire Department of Transportation District 1 a residential driveway permit application and shall comply with any terms and conditions therein.

Gilman had satisfied Condition #2 by submitting a driveway permit application to NHDOT. NHDOT had granted a driveway permit restricted to residential use of the property and imposed a condition to be documented with via deed restriction. When LUC Irving confirmed with NHDOT submittal and status, NHDOT stated that, because the use of the property is commercial, they would simply withdraw the application therefore a new application would have to be submitted if the use of the property were to change to residential. LUC Irving indicated that this option is preserved for subsequent buyers in Condition #2. Chairman Nadeau emphasized that parking and access would be from the street. All 3 parties (Gilman, Baker, and Koval) stated that streetside parking and access to their business was disclosed and agreed upon prior to closing on the property. LUC Irving and Maggie Baker had previously discussed that the shop's open hours were scheduled during Geo. M. Stevens off-hours and GMS is allowing parking/access during these off-hours; this situation essentially mirrors that of its previous use as a church and cooperative access between GMS and the abutters. Baker clarified that those hours were

primarily for pre-Christmas business and that they will likely close for the winter, renovate the building, and re-open with more traditional business hours in the spring.

LUC Irving explained that Condition #1 of the variance approval basically requires 2 things: first, that the parties request a review--their appearance today is that request, and second, the Planning Board needs to decide whether or not they feel it is necessary to conduct a formal review of the lot line adjustment from Case #818. Following some discussion, the Board members agreed that conducting a public hearing on the lot line adjustment would not result in a different outcome and the Zoning Board addressed any issues regarding access to the property.

Mark St Pierre moved to not proceed with a formal review of the lot line adjustment in PB #818 pursuant to Condition #1 of the Lancaster Zoning Board Approval of Variance in ZB Case #541. Maggie Jones seconded the motion. All members voted to not proceed with a formal review of the lot line adjustment in PB Case #818 pursuant to Condition #1 of the Lancaster Zoning Board Approval of Variance in ZB Case #541, no objections. *Motion passed.*

LUC Irving explained that, with this decision, both conditions of the ZBA's Approval of Variance in ZB Case #541 have been satisfied and that variance is the controlling one. She thanked Maggie Baker, Toni Koval, and Jeff & Jane Gilman for travelling to appear before the Planning Board to finalize the decision. Chairman Nadeau was pleased to have a business at that location. Jeff Gilman stated that the sale to Baker and Koval was opportune and beneficial to the community having preserved such a beautiful asset that enhances Main Street. Everyone was invited to visit the pottery shop and support a local new business.

Public Hearing(s):

Chairman Nadeau announced that Regular Member/Selectman's Representative Leon Rideout arrived at the meeting at 1842H immediately preceding the public hearing. Chairman Nadeau recused as Surveyor and Applicant Representative. Acting/Vice Chair Maggie Jones appointed Alternate Members Gregory Westcott and Ericka Canales as regular voting members for Case #840. Acting/Vice Chair Maggie Jones opened the public hearing for Case #840 and read the case description:

Minor Subdivision

Case# 840 – Bartow, Anna K., Trustee of the Anna Key Bartow Revocable Trust Agreement–
Applicant(s)/Owner(s) request a minor subdivision to divide one lot, Lancaster Tax Map R16, Lot 034, more particularly described as land off Reed Road, into 2 lots. Said minor subdivision will result in one lot totaling approximately 12.00 acres with the remaining lands totaling approximately 98.60 acres. Land Zoned Agricultural. (Tax Map R16-Lot 034 (~114.00 acres), off Reed Road).

Acting/Vice Chair Maggie Jones recited each requirement on the checklist for a minor subdivision: The proposed subdivision name or identifying title, the names and addresses of the owners of record and subdivider, the name and license number and seal of the surveyor, a list of abutters and names of abutters on the plat, and holders of conservation and other restrictions are provided. Payment is invoiced. There is an application for subdivision and at least three paper copies of the plat. The boundary survey includes bearings, distances and location of permanent marker as well as date, scale and north point. The tax map and lot numbers, lot lines, dimensions, acreage, numbering, setback lines and zoning district classification, topography from field data at 5-foot contour intervals and at 2-foot contour intervals when conditions warrant, existing and final proposed lines of streets, ways, lots, and easements for utilities and drainage and public areas within the subdivision are all provided. Existing and proposed streets and rights of way are not applicable. Final cross sections and profiles are not applicable. Final drainage system certified by a licensed professional engineer is not applicable. There are no building or other man-made

features. Open space and flood-prone areas are not applicable. A time schedule including the anticipated starting and completion dates of the subdivision are not applicable. Finally, deed restriction including drainage easements for each parcel are not applicable.

Mark St Pierre moved to accept the application for subdivision as complete. Vicki Gibbs seconded the motion. All Board members voted to accept the application for subdivision as complete, no objections. ***Motion passed. Application for subdivision accepted as complete.***

Surveyor Nadeau explained that the proposed subdivision is straightforward wherein a 12-acre lot will be carved out of a larger 100+-acre parcel sandwiched between Mt. Prospect Road and Reed Road abutting the State Park. The property is within the agricultural district. The subdivided lot does not require any DES review nor does it require test pits. Colin Sutherland had surveyed the property around 1982 when he subdivided the westerly lots that Sally Craft now owns. LUC Irving pointed out that she had provided the Board with chain of title deeds in a limited title search and the Sutherland plan so the Board could follow the changes in the metes and bounds of the parcel. Surveyor Nadeau explained that Colin Sutherland had not surveyed the entire property but just enough acreage to carve out the proposed subdivided lots. In this case, Surveyor Nadeau surveyed the entire 100+ acres and there was some difference, smaller than what is assessed. There were no questions from the Board.

Acting Chair Maggie Jones OPENED TO THE PUBLIC the hearing.

Abutter Sally Craft (120 Reed Road) expressed concern regarding the disposition of the remaining large parcel abutting her land especially if it is sold. She wanted to know if there were provisions that would stop a new landowner from constructing a housing subdivision, destroying the natural beauty and pristineness of the area. She wanted to know if this was prohibited in the agricultural zone or if someone could come to the Board and request a rezoning. Surveyor Nadeau responded that spot zoning by the Board is not permitted and rezoning would have to have a series of public hearing and be presented at town meeting. Craft was extremely concerned that, despite a 40-foot setback, a home would be built at the setback right next to hers. Vicki Gibbs said that Ms. Craft's concerns about loss of privacy and destruction of view were understandable, however, the Board's role at this level is to ensure that this particular subdivision complies with the rules and regulations. Gibbs went on to say that any future landowner who may want to further subdivide would have to come before the Planning Board, and depending on the plan, an application for a minor or major subdivision. The current task before the Planning Board is to determine whether the proposed plan to separate a 12-acre parcel from the larger parcel conforms to the zoning ordinance while reviewing setbacks, frontage, minimum lot size etc. In this case, several of the checklist items were not applicable, however, if this were a major site plan wherein a road were to be constructed and several lots were to be created, then engineering, soil testing, wetlands permitting, stormwater and drainage assessments would be required because a major site plan is subject to a higher level of review. Gibbs emphasized that, so long as a structure is built on the land within the setbacks, the Board would not have any control over its land use permitting so any abutter with an objection to its construction would need to approach the landowner. Craft had interpreted the term 'subdivision' as meaning a housing development. Surveyor Nadeau clarified that a subdivision includes the division of property into two (2) parcels or more. Craft mentioned that it is steep off Reed Road and felt that a development wasn't really feasible.

Abutter Joshua Wilds asked if there was any subjectivity in the Planning Board process, for instance, even if a subdivision meets all of the land use regulations, can the Planning Board still vote no? Acting/Vice Chair Maggie Jones responded that the Planning Board cannot vote down a proposal just because they don't like it; a denial has to be justified and the valid reason must be clearly outlined in a decision as to why the proposal does not meet zoning and site plan requirements. Given that a proposal is controversial, Jones said that the Planning Board is authorized to impose conditions/restrictions. Vicki Gibbs stated that

the Planning Board can also comment in a decision that a proposal that meets regulations is contrary to the Lancaster Master Plan guidelines. Greg Westcott emphasized that the Master Plan is just guidelines, however, and is not controlling legal authority. Craft wanted to know if someone could build a grocery store or a used car lot? Vicki Gibbs responded that, if the uses are permitted in the zoning ordinance, the Planning Board has no authority to prohibit its use. Surveyor Nadeau added that if the use is not specifically permitted, a landowner may submit a request for a special exception to the Zoning Board and the Zoning Board would have to determine if the use is consistent with the purpose and intent of the ordinance and zoning district.

No further comments from the public. **Acting/Vice Chair Maggie Jones CLOSED TO THE PUBLIC the hearing.**

Surveyor Nadeau indicated that the pins need to be set and the mylar would be submitted to LUC Irving in approximately a week.

There was no further discussion from the Board.

Mark St. Pierre moved to approve the minor subdivision. Greg Westcott seconded the motion. All Board members voted to approve the minor subdivision, no objections. *Motion passed.* **MINOR SUBDIVISION OF Tax Map R16-Lot 034 off Reed Road INTO 2 LOTS APPROVED.**

Public Hearing Case #840 Closed.

Other Business:

Preliminary Conceptual Consultation(s): Stantec (Environmental) Consulting Services Kara Moody, Surveyor Andrew Nadeau, and Norwich Technologies Martha Staskus & Jeff Martin submitted a proposed plan for a 1-MW solar facility to be located on the 'spreading' field off Route 3. The group intends to submit an application for a major site plan. Kara Moody explained that the proposed system is a fixed tilt solar project wherein the panels are mounted on a racking system at a fixed angle. Other project components include a couple of equipment pads, underground electrical lines, perimeter fencing, and a short stub of a driveway off Old Groveton Road for access. Stantec did a wetland and stream survey a few months ago and there are no wetlands nor streams; there is a stream just north of the project just outside the parcel boundaries. Based on this, wetlands permitting will not be required. The project does require both an Alteration of Terrain permit and a General Construction permit due to the disturbance threshold of 1 acre. The group has coordinated with the refuge manager at US Fish and Wildlife Service regarding the parcel just south of this proposed project that is Silvio O Conte-associated refuge land to make sure that they have no concerns. The group is also consulting with the Natural Heritage Bureau and Division of Historical Resources regarding historical, cultural and archeological assessments. On the west side, there is a farm access to the fields; that access may be relocated to the south. Ericka Canales asked where the energy that was creating will be going? Martha Staskus said that there is an interconnection to a 3-phase power line along Route 3. Canales re-asked her question to inquire whether the community of Lancaster would benefit from the power. Staskus explained that the Lancaster community would benefit from the facility through taxes but as for the electricity, it is going into the Eversource system and not specifically going to another meter. The facility will be privately owned so the power is being fed back into the grid. Greg Westcott asked for an example of what 1 MW would power. Staskus responded that it services approximately 700 residents/150 homes with average use. Troy Merner mentioned that the State just passed a bill so that in order to get subsidies, the facility has to stay under 1MW and if public, could go up to 4.99. There was discussion about the Town's solar facility and how surplus was supposed to be directed to local users. Staskus indicated that the group could certainly discuss credits as they do such kinds of projects in Maine, New Hampshire, and Vermont wherein power is credited to institutions, schools, hospitals, and large consumers (e.g. senior living facilities). Norwich doesn't typically do

residential projects but they do have some community projects where they will aggregate residential properties. Acting/Vice Chair Maggie Jones asked if the project would have any impact on the aquifer under it. Staskus replied that the facility would have no impact but there is the potential for spills etc. as a construction hazard impact but this potential is no different from regular activity considering most of downtown Lancaster is situated over the aquifer; these issues should be covered by the General Construction permit and the Stormwater Pollution Plan. Canales asked whether there is a decommissioning plan. Staskus explained that a plan depends on the State, for instance, Vermont has a standard decommissioning plan and Maine has different decommissioning plans per location. Equipment panels can be removed from the racking system in rows; all of the rows are electrically connected to one underground line. This conduit and racking system are the basic infrastructure. Panels are what require maintenance and replacement. Troy Merner stated that the State passed a bill for the recycling of panels; their study indicated that there is not a high demand for replacement due to the useful life of the panels. Staskus stated that the life cycle of the panels is around 25 years. Norwich will be the operator and maintainer of the system and will monitor the project remotely via RunTime Solar. When a panel is performing properly or optimally, that panel would be replaced. The panels do not need to be cleaned. There is a patented technology called Snow Shedder that improves the ability of the snow to slide off the panels. LUC Irving asked who the land holding entity was? Staskus said that the land holding entity is the landowner; Norwich Technologies will have a purchase and sale agreement in place. It will be a special purpose entity with the array and its assets which are the array itself and the permit that go along with it, the contract to sell the power etc., and a lease to the landowner. Norwich Technologies is the managing member of the LLC for the project and once it is permanently installed and ready to send power to the grid, the entity will be sold to an investor. Norwich typically erects a black, 8-foot high, coated wire, wildlife fencing perimeter (with big openings) for security. In some cases, the fencing is raised off the ground so smaller critters can get under. Because this is a generation facility, they might install a gate on the fence with a Knox box for public safety.

LUC Irving instructed the group to submit for the building permit all of the documentation that they have mentioned and a full spec package. This would include the AoT, Wetlands assessment, historical review, stormwater plan, any easements, all third-party reports, the P&S and lease agreement (can be redacted), etc. The building permit and its documentation is included in the site plan review package. Moody asked if the AoT permit had to be completed or if the application was sufficient. LUC Irving replied that the permit application is sufficient for review and the Board can set a condition regarding attainment of the actual permit. Acting/Vice Chair Maggie Jones asked what the group's timeline was because with a P&S in the pipeline, the owners could change before review. Staskus stated that there was no hard date but typically they have an option to purchase or a purchase agreement that is contingent upon getting a permit—this is because there is no reason to buy the land if they don't get a permit. LUC Irving said that so long as an intent to purchase is filed, the review should be able to proceed. Staskus wanted to make sure that they can coordinate the building permit to coincide with Eversource interconnection without delays. LUC Irving said that the turnaround should be rapid given that all of this information is submitted for site plan review.

Stantec and Norwich will be in regular correspondence with the Land Use Office. No further discussion.

Zoning Board Decision(s):

Case# 542 – Scenna, Ryan M. & Jennilee A for a Special Exception concerning Article 5, Section 5.04, “Uses Permitted by Special Exception in the Agricultural District.” Applicant/Owner seeks special exception approval to operate a business to sell and repair both automobiles and farm equipment/vehicles out of the pre-existing barn on land situated in the Agricultural Zoning District. Land Zoned Agricultural. (Tax Map R24-Lot 053, 10.92 acres, 24 Wesson Road).

LUC Irving stated that the garage was previously used as a blacksmithing shop permitted as a home occupation. She instructed the applicant to submit an application for a special exception to the Zoning Board so that they could make the decision whether this use was a home occupation or a use that should be permitted by Special Exception. the Zoning Board APPROVED WITH CONDITIONS the application for Special Exception.

CONDITIONS:

1. The tree and vegetation buffer along the property boundary and road shall NOT be removed;
2. No vehicles or equipment shall be parked on the side of Wesson Road;
3. All hazardous waste shall be stored, handled, and disposed of pursuant to local, State, and federal regulations;
4. A maximum number of six (6) automobiles for sale, excluding farm equipment, shall be allowed on the property.

A number of abutters appeared for the public hearing. Their concerns prompted the condition to preserve the tree buffer as well as protect well water quality through proper hazardous waste handling. Scenna intends to focus on the rehab and repair of equipment and vehicles and does not intend to sell equipment from a specific contracted vendor. He is a licensed dealer.

Land Use Permit(s):

Land Use Permit #22-071-Residential, Owner(s)/Applicant(s) –Burgess, James , 24 Community Camp Road, to construct an unheated 10’x12’ stick-built mudroom addition on piers.

LUC Irving pointed out that this property has had a number of serial additions to what is supposed to be a dry camp restricted to temporary overnight dwelling. The property is not assessed as having any septic, so LUC Irving imposed a condition to be compliant with the State’s septic rules, especially because it appears that the property is being resided in for extended periods and there is a question whether there is any water to the property.

Land Use Permit #22-070-Residential, Owner(s)/Applicant(s)—Lazott, William R. & Tammy R., 16 Mayberry Lane, to install a flush-mounted BAA Protea Bracket & 16-IronRidge XR100 rail PV Mounting System with 28-400W 74.0”x41.1”x1.26” Hanwha QPeakDuo modules (~600 sf) w/4 Generac PVLInk substring optimizers and 32A PWRCcell inverter connected to 200A Tswitch, Jbox, 28 RSUs, 60A AC disconnects, generator, battery, and 200A service panel with breaker.

Land Use Permit #22-074-Residential, Owner(s)/Applicant(s)—Hartford, Andrew, 93 Bunker Hill Street, to demo the existing garage and replace with a ground-floor radiant-heated stick-built/repurposed lumber 28’x36’x21’6” garage with 2-10’ overhead doors on a full concrete foundation with a frost wall, no water or sewer

Hartford had come to the Land Use Office to discuss an application for a variance because his new garage was thought to be within the setback. Hartford had Don Doolan survey the lot and his survey indicates that the new garage will not be within the setback and he will not need a variance. LUC Irving requested a copy of the survey to attach to the Land Use Permit, however, the applicant is now in a boundary dispute with his abutter. Because the dispute is not likely to resolve anytime soon, LUC Irving imposed a condition on the land use permit that the garage shall be compliant with setbacks.

Land Use Permit #22-072-Commercial, Owner(s)/Applicant(s)—Waterstone NH Retail Properties/MEG Asset Management Inc (Owner and Agent), C.N. Brown Energy (Applicant), 199 Main Street (Shaw's Plaza), to remove existing USTs and install 4-1000 gallon propane ASTs onto 15'x25'x6" concrete slab with 2, 10-foot K-rails, barriers

LUC Irving mentioned that the Town of Lancaster doesn't have a permitting system that is specific to propane/LNG therefore she is drafting a permit. The purpose is primarily to notify emergency response/fire to locations with gas.

Training Topic(s)/Material(s):

LUC Irving disseminated copies of the Planning Board Rules of Procedure. Prior to Maggie Jones' accepting the Vice Chair position, she had asked if there was a written 'script' on how to formally run meetings; LUC Irving distributed the Planning Board Rules of Procedure to provide the outline.

Copies of the Conservation Commission's Functional Assessment of Wetlands Throughout Northumberland Tributaries Subwatershed and Headwater Area of the Otter Brook Subwatershed (August 2022) were distributed to the Board members as reference materials. Vicki Gibbs stated that the Commission will likely be drafting amendments for the zoning ordinance and/or drafting a separate ordinance to protect the aquifer and other natural resources; other surrounding jurisdictions have such provisions and Lancaster should implement protections for contiguity. Chairman Nadeau explained that this can be done via a natural resource protection overlay zone. The overlay zone can have restriction e.g. no junkyards to prevent pollutants. There would be a higher level of scrutiny for proposals that could contribute to contamination. The Board agreed that it makes sense to have an aquifer protection overlay as most of the Town is on top of either an aquifer or abutting a major water source.

Announcement(s)/Correspondence: None

Other Business as may legally brought before said meeting:

- A) Greg Westcott asked about the status of the Zach Colby proposed restaurant. Chairman Nadeau stated that the proposal is on hold. Leon Rideout mentioned that the Registry is experiencing challenges with requirements imposed by NHDOT for applicants of driveway permits to trace title back to the '70s (another hurdle for the applicant if he pursued an ingress/egress on Route 3). Chairman Nadeau emphasized that this requirement is per RSA.
- B) LUC Irving received a Letter of Interest for the Planning Board from Evalyn Merrick who desired an Alternate position. Merrick had been on the Zoning Board years ago and she was a NH State Legislator for Coos County; she feels that those qualifications make her an excellent candidate. She has lived in Lancaster for the past 29 years, raised her children here, and is a former VP of Weeks Medical Center auxiliary, member of the Colonel Town Players, and a substitute teach in the school(s). One of her accomplishments as a legislator was as a prime sponsor of the Aquatics Wetlands Mitigation Bill. The Board agreed that Merrick would be a good addition to the Board. LUC Irving explained that there are two (2) Regular member vacancies and one (1) Alternate member vacancy. Both Town Manager Ben Gaetjens-Oleson and LUC Irving recommend filling the Alternate position and moving up existing Alternates to Regular positions.

Leon Rideout moved to recommend to the Board of Selectmen for appointment as an Alternate Member of the Planning Board Evalyn Merrick. Vicki Gibbs seconded the Motion. All member of the Bord voted to recommend to the Board of Selectmen for appointment as an Alternate Member of the Planning Board Evalyn Merrick, no objections. *Motion passed.*

Leon Rideout moved to recommend to the Board of Selectmen for appointment as a Regular Member of the Planning Board, Gregory Westcott, serving the remainder of his Alternate term. Mark St. Pierre seconded the Motion. All member of the Bord voted to recommend to the Board of Selectmen for appointment as a Regular Member of the Planning Board, Gregory Westcott, serving the remainder of his Alternate term, no objections. *Motion passed.*

Maggie Jones moved to recommend to the Board of Selectmen for appointment as a Regular Member of the Planning Board Ericka Canales. Leon Rideout seconded the Motion. All member of the Bord voted to recommend to the Board of Selectmen for appointment as a Regular Member of the Planning Board Ericka Canales, serving the remainder of her Alternate term, no objections. *Motion passed.*

Given that these recommendations for appointment are approved by the Board of Selectmen and subsequently appointed, there should be one Alternate member vacancy left.

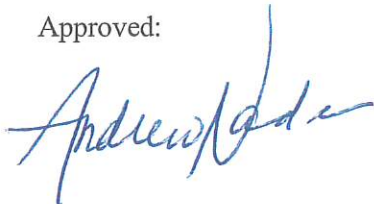
- C) LUC Irving followed up with PlanNH regarding the InvestNH (HOP) Planning & Zoning Grant and the re-submitted application had been overlooked in the submission process. The administrator indicated that the documents will be included in the next round of reviews conducted on Tuesday(s).

Mark St. Pierre moved to adjourn the meeting at 1952H. 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