

**Lancaster Zoning Board**  
**Location: Lancaster Town Hall**  
**January 25, 2023**

**Call To Order:** The meeting was called to order at 1830H by Chairman Rick Bernier.

**Roll Call:**

**Regular Members Present:** Chairman Rick Bernier, Vice Chair Tricia Frenette, Linda Ogle, Steve Young, Les Hilton

**Absent:** N/A

**Alternate Members Present:** Donald Freddette, Nathan Kenison

**Absent:** Chris McVetty

**Others Attending:** Land Use Coordinator Robin L Irving, Greg Westcott, Lynette Westcott, Scott Forbes (Abutter), Allan Forbes (Abutter)

**Minutes:**

Steve Young moved to approve the minutes from the November 9, 2022 meeting. Linda Ogle seconded the motion. All members voted to approve, no objections. *Motion passed.*

**Public Hearings:**

Chairman Bernier opened the public hearing.

**Case# 543 – Lancaster Main Solar LLC** for a Special Exception concerning Article 5, Section 5.03, “Uses Permitted by Special Exception in the Commercial/Industrial District.” Applicant/Owner seeks special exception approval to construct and operate a 999 KW alternating current, solar energy generation facility having a footprint of approximately 7 acres on land situated in the Commercial/Industrial Zoning District. Land Zoned Commercial/Industrial. (Tax Map R01-Lot 045, 14.20 acres, off Main Street aka Rexford Spreading Field).

Because of the weather and dangerous travel conditions, the Applicant was not present. Abutters Scott and Allan Forbes were present to address the access to the fields in the rear. LUC Irving explained that the zoning hearing would likely not address the access but there is going to be a major site plan review before the Planning Board; at that hearing, the applicant must submit a plan with the relocated access. She told Forbes that they would be getting certified letters for that hearing. Forbes left the meeting.

Les Hilton moved to table and continue Public Hearing Zoning Case #543 until February 22<sup>nd</sup>, 2023 at 1830H located at the Town Hall. Tricia Frenette seconded the motion. All members voted to approve the motion to table and continue Public Hearing Zoning Case #543 until February 22<sup>nd</sup>, 2023 at 1830H located at the Town Hall, no objections. *Motion passed.*

Chairman Bernier closed the public hearing.

### **Other Business:**

Greg and Lynette Westcott have acquired land at the junction off Foss Place (intersection of Foss Place and Railroad Street) and are proposing to build some apartments. Before they invest in an architect, Westcott is seeking guidance on how to proceed given the lot size and zoning; the lot is zoned as Commercial and the lot is 0.3 acres (13,068 square feet). Westcott proposed a few housing type options: 3-single units, two duplexes, or a single 4-plex. There is a strip of unbuildable land between the lot (P05-069) and Depot Street. Westcott mentioned that this strip of land may be adjusted to gain more acreage. Westcott presented alternative diagrams with building(s), parking lot and dumpster configurations. Each design indicated that the structures would be constructed within the 10-foot boundary setbacks and 15-foot frontage setback. Westcott mentioned that the buildings would already be ready for water/sewer hookup because the Town Crew inserted the curb when they did the paving in 2022. The parties pointed out that the area is surrounded by apartment buildings, so this type of housing would be consistent with what exists in the neighborhood. LUC Irving pointed out that an apartment building would likely not prompt any objections, however, this project would be setting a precedent for construction of multiple housing units on a single lot. The zoning ordinance addresses density and does not specifically address separate structures, however, the State statute allows a single ADU associated with the primary dwelling to be on the same lot. The structures are associated with each other, so this interpretation is arguable. Irving stressed that the proposal's issue is really about the density and read the provision in the ordinance:

Permitted Uses in the Commercial District: "Multi-unit housing or mixed-use structures with a density no greater than two (2) dwelling units per 10,000 square feet of land and with a minimum of one off-street parking space per dwelling unit."

Based on this provision, there could be two dwelling units per the square footage. Westcott must submit an application for a variance to increase the density if they want more dwelling units. LUC Irving suggested connecting the duplexes into a U-shape to eliminate the debate about multiple units on one lot.

The Zoning Board agreed that a variance would be required. Lynette wanted to know if this project would be opposed and rejected. Les Hilton clearly stated that the Board could not make a determination regarding approval at this meeting, however, while reviewing whether the project was harmonious and consistent with the character and purpose of the zoning ordinance, in conjunction with the fact that the area has a number of existing apartment buildings, the Board could only recommend moving forward and submitting an application for a variance and proceeding with the public hearing. Tricia Frenette said that, typically, in the event that there are abutter concerns, the Board has the discretion to put conditions on any approval, however, unless the Board determines that the project is not in conformance with the purpose of the ordinance, abutter objections do not automatically mean that the project will be denied.

**Land Use Permits:** LUC Irving announced the most recently issued land use permits: 1) Waterstone NH Retail Properties/MEG Asset Management Inc/CN Brown Energy at 199 Main Street aka Shaw's Plaza is removing old tanks and installing 4-100 gallon propane above-ground tanks onto a slab; 2) Forbes Farm Partnership at 36 Grange Road and 305 North Road is

constructing an addition to the existing sugar house and installing 3-1000 gallon propane tanks on blocks; 3) Andrew Hartford at 93 Bunker Hill Street is replacing the garage with a larger footprint; 4) Kathy-Jean and Jay Lavoie at 16 Prospect Street are replacing floors, cabinets and counters in the kitchen; 5) David and Sarah Hill at 71 Rowell Road are replacing the existing sugar house with a 5-bay garage on a slab; 6) Dan-Lynn of New Hampshire/CRS Mechanical LLC obo Walgreen's replaced 3 failed rooftop RTU-HVACs; 7) LRH-2 LLC is renewing their permit to construct 8 affordable housing units/apartments at 55 Main Street; 8) Mark & Diane Olson + Jeffrey & Katrina Olson at 81 Reed Road are constructing a single family home. LUC Irving pointed out that this home is in addition to an existing home, so this situation is similar to the situation presented earlier with the Westcott proposal. This land was also reported to have three (3) RVs on it being used for temporary dwellings. Per the Lancaster Ordinance, an RV that is used more than 2 weeks shall be connected to a septic system. The existing home and the new home max out the capacity of the approved septic design, so no RVs can be connected or used as temporary dwellings. Irving put conditions on the permit to address the septic and RV use; 9) Eric Carrier at 15 Hartco Avenue is installing a roof-mounted solar array; 10) LRH-1 LLC is renewing their permit to construct 6 affordable housing units/apartments at 95-99 Main Street; and 11) Brian Matson at 65 Stebbins Hill Road is installing a ground-mounted solar array. LUC Irving mentioned that the addition to the rear of the house apparently was not permitted.

**Planning Board Decisions:** The Planning Board approved with no conditions a 3-lot subdivision for Allan and Karen Ryder located at 21 Railroad Street and a 2-lot subdivision for Anna K. Bartow, Trustee of the Anna Key Bartow Revocable Trust Agreement located off Reed Road.

**Training Topics/Materials:** None

**Announcements/Correspondence:**

LUC Irving announced the award of \$58,450 from the InvestNH Housing Opportunity Planning Grant Program to hire a consultant to review the housing provisions in all of our regulations, master plan, and ordinance. Irving has a consultant lined up, Steve Whitman from Resilience Planning & Design. Maggie Jones stepped up to attend the Housing Academy as the town's designated volunteer; LUC Irving and Town Manager Ben Gaetjens-Olson are attending as well. Irving reminded the Board that the scope of this work also includes drafting of regulatory language to address short-term rentals, use of RVs as dwellings, and an expansion of the definition of ADU. Nate Kenison asked if there was merit regarding the State's efforts to get rent control implemented by towns through this funding. Irving explained that there is a separate House Bill (95) separate from the InvestNH funding, however, the Capital Grant Program required an agreement between the town and the developer that the developer would adhere to affordable housing rent caps established by HUD for a period of 5 years. Rental agreements with lessees are required to have a covenant addressing the rent cap and period. Irving further explained that building permits were supposed to have a condition that required the 5-year rent agreement; this shifts the responsibility of enforcement from the state grant administration to the town which is an added responsibility that was not anticipated. The Lancaster developers that applied for Capital Grant funding did not get awarded, so the objection to rent oversight is moot at this point, but there may be a second tranche of funding to open up the possibility. The grant committee has been reviewing eligibility requirements in an effort to broaden the range of projects that could be funded, e.g. existing housing stock in the form of a multi-level single

family home converted to multi-dwelling units. The other criterion that may be amended is the requirement for demolition; demolition currently means razing the structure, then constructing something new. The amended criterion will allow internal demolition or gutting, keeping the 'bones,' and restructuring the inside into multiple units. In short, there may be more opportunities for small developers to apply for grant funding.

LUC Irving stated that the Town has submitted applications for both Municipal Per Unit Grant funding and Municipal Demolition Grant funding. The MPUG funding is based on the number of new units being constructed by developers. The MDG funding is awarded to the Town, then distributed to the developer as a reimbursement for demolition-eligible expenditures.

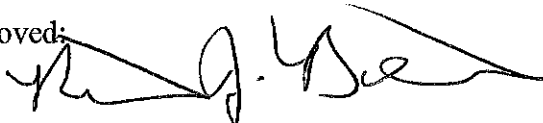
**Other business:**

LUC Irving explained that she had been approached by Joel Dupuis who wanted to know the Board's reasoning for requiring a site plan review for his utility trailer sales lot when the Board did not require a site plan review for the Scenna garage being operated on Wesson Road. Irving said that both lots are located in the Agricultural Zone. After recalling details, the Board said that the Dupuis case involved a use variance to conduct a commercial activity in the agricultural zone whereas the Scenna case involved a special exception to allow commercial activity to perpetuate the agriculture industry. The marketable items in the Dupuis case (utility trailers, cars, trucks, snowmobiles) are completely unrelated to the existing agricultural zoning district; the marketable items and/or service in the Scenna case (sale and repair of farm equipment and vehicles) is directly associated with the existing agricultural zoning district. In the Dupuis case, the lot was being modified by creating a crushed gravel pad for the trailers etc. and moving of the firewood, whereas in the Scenna case, the lot would remain unchanged. Further, the Zoning Board did not put the requirement of a site plan on the Dupuis property as a result of anything that he was conducting as a home business in his garage. The Board members were in agreement that the two cases were distinctly different.

**Les Hilton moved to adjourn the meeting at 1936H. Steve Young seconded the motion. All Board members agreed to adjourn the meeting at 1935H, no objections. Motion passed.**

Respectfully submitted,  
Robin L. Irving, Land Use Coordinator

Approved:



Richard Bernier, Chairman of the Lancaster Zoning Board of Adjustment