

Lancaster Zoning Board
Location: Lancaster Town Hall
November 9, 2022

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, Chris McVetty

Absent: Chris McVetty

Others Attending: Land Use Coordinator, Robin L Irving, Ryan Scenna (Applicant), Jennilee Scenna (Applicant), Aria Scenna, Joshua Scenna, RJ Scenna, Ives Beaudoin (Abutter), Jamie Mosher (Abutter), Tania Mosher (Abutter), Paul Hayes—Caledonian Record

Minutes:

Steve Young moved to approve the minutes from the August 31, 2022 meeting. Linda Ogle seconded the motion. All members voted to approve, no objections. *Motion passed.*

Public Hearings:

Linda Ogle moved to change Alternates Donald Freddette and Nathan Kenison to voting members for the meeting. Steve Young seconded the motion. All members voted to move Freddette and Kenison to voting members for the meeting, no objections. *Motion passed.* Les Hilton recused as an abutter for Case #542.

Linda Ogle announced the following description of the public hearing for Case #542:

<p>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).</p>

Applicant Kyle Ryan Scenna requested a special exception approval to open a part-time repair shop. Scenna explained that he intends to work at a full-time job and set things up by appointment after work and on weekends to do sales and repair on a small scale. Donald Freddette asked Scenna about the sales aspect of the proposal. Scenna explained that he has a dealer’s license which he does not want to lose, so he plans to sell farm equipment like skid steers and tractors, trucks and cars. Scenna anticipates having for sale only 5-6 automobiles in addition to the farm equipment on the lot. He explained that the location of these vehicles will be on the side of the barn and should not be openly visible from the road. Freddette inquired about demand for services. Scenna responded that the business would be by word-of-mouth for now until he gets an idea of the volume of requests for services. Freddette asked how hazardous waste like antifreeze and used oil would be managed. Scenna said that he will have a container in the barn for storage and he will coordinate with a company to dispose of the stored waste. He was not certain if there were people in the area that utilized used oil, but he knew of a company in southern New Hampshire that took antifreeze. Tricia Frenette wanted to make sure that no cars would be parked alongside the road. Scenna emphasized that, having moved from the bigger-city-feel of Salem, he is very aware of the benefits of a more small-town-feel and he wants to preserve the look of his rural, agricultural property. Jennilee Scenna emphasized how they want to perpetuate the small-town, community attitude and environment by giving back to the community and being known as ‘that local business owner that is willing to be reasonable with pricing, drive to people’s houses to assist on-site, and have pride in the

appearance and maintenance of their business property.’ The Scennas do not want anything to detract from the natural beauty of their lot because there is landscape with apple trees, a barn, and a red farmhouse, all contributing to amazing imagery. Tricia Frenette recommended capping the number of automobiles for sale on the lot and adding more parking space on the side of the barn. Scenna was not opposed to a cap of 6 automobiles in addition to farm equipment. There were no further questions from the Board.

Chairman Bernier opened the meeting to the public:

Abutter Ives Beaudoin expressed his concern regarding the natural buffer that is along the property boundaries and the road and asked if the Applicants intended to remove any of it. Beaudoin had just moved to Lancaster to get away from a similar situation wherein the business owner cleared vegetation on his lot, creating an open and unattractive space. Beaudoin requested that the buffer and view be protected. Scenna asserted that the tree and vegetation buffer will not be removed.

Abutters Jamie and Tania Mosher requested protections of the water as all of the abutters have wells and do not want any contamination. Scenna stated that all hazardous waste would be properly stored and disposed of. Scenna’s prior business only generated roughly one, 55-gallon barrel of waste per year. Board members suggested that Scenna look into the waste oil and antifreeze disposal at the Lancaster Transfer Station as they have accommodations for both.

There were no further comments from the public.

Chairman Bernier closed the meeting to the public:

LUC Robin Irving explained that she had provided a copy of the Lancaster Zoning Ordinance sections regarding Agricultural District permissions and home occupations. Chairman Bernier pointed out that the Applicants’ property was previously used as a blacksmithing shop which was considered a home occupation. LUC Irving indicated that she did not feel comfortable permitting the auto/farm equipment repair /sales shop as a home occupation and therefore submitted the case to the Zoning Board for Special Exception. Chairman Bernier stated that the Applicant might have a full-time job, so the nature of the repair/sales shop is a home occupation. LUC Irving pointed out that a home occupation is a permitted use and would not have to submit for a Special Exception and no conditions like the ones that abutters were concerned about would be imposed. Irving asked that, if the Applicant were to operate his proposed business as a full-time operation, would the Board consider imposing a condition for a site plan review or restricting hours of operation? Chairman Bernier stated that he did not agree with setting a condition that would prevent the Applicant from being able to work. LUC Irving responded that the Zoning Board’s duty is to ensure compliance with the Zoning Ordinance, not ensure that the Applicant is enabled to work. Chairman Bernier said that if the situation changes, then the Board will deal with it later, but at this time, the abutters who appeared do not object to a business at this location and he will not have any condition(s) imposed restricting hours or requiring a site plan review. LUC Irving stressed that an increase in hours of operation affect traffic, noise, etc. Bernier expressed that the Board should do what they can to make the project work and he stated that there would be no further discussion. Bernier stated that if anyone disagreed, then they should have him fired, but he is retiring soon. Tricia Frenette stressed that the reading of the criteria is to protect the Board in case of appeal. There was no discussion from the remaining members of the Board.

LUC Irving had provided the Board with a blank Special Exception application to use as a checklist. LUC Irving explained that the Applicants had originally submitted an application for a Variance, however, later found out that a Special Exception was required; LUC Irving transferred the applicable answers to the Special Exception application form and narrative and the Scennas edited and finalized the

forms. Irving pointed out that the Narrative answers the Special Exception criteria item by item. Chairman Bernier did not go through the Special Exception application criteria. Bernier stated that all of the questions were answered through Q&A. Bernier also stated that there is a 30-day appeal period following the approval wherein anyone who changed their mind could appeal the decision.

Donald Freddette moved to impose a condition on approval that the tree and vegetation buffer along the property boundary and road shall not be removed. Steve Young seconded the motion. All members of the Board voted to impose a condition on approval that the tree and vegetation buffer along the property boundary and road shall not be removed; no objections. *Motion passed.*

Linda Ogle moved to impose a condition on approval that there shall be no vehicles or equipment parked on the side of Wesson Road. Nate Kenison seconded the motion. All members of the Board voted to impose a condition on approval that there shall be no vehicles or equipment parked on the side of Wesson Road; no objections. *Motion passed.*

Tricia Frenette moved to impose a condition on approval that all hazardous waste shall be stored, handled, and disposed of pursuant to local, State, and federal regulations. Linda Ogle seconded the motion. All members of the Board voted to impose a condition on approval that all hazardous waste shall be stored, handled, and disposed of pursuant to local, State, and federal regulations; no objections. *Motion passed.*

Tricia Frenette moved to impose a condition on approval that the maximum number of six (6) automobiles for sale, excluding farm equipment, shall be allowed on the property. Linda Ogle seconded the motion. All members of the Board voted to impose a condition on approval that the maximum number of six (6) automobiles for sale, excluding farm equipment, shall be allowed on the property; no objections. *Motion passed.*

Chairman Bernier reminded the Applicants that given a change in the status of hours of operation from part-time/appointment-only to full-time, the Applicants should contact the Planning Office to see if a site plan is required, however, the Zoning Board would not require it as a condition of their approval.

Donald Freddette moved to APPROVE WITH CONDITIONS the application for Special Exception. Conditions are as follows:

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.

Steve Young seconded the motion. All members of the Board voted to APPROVE WITH CONDITIONS the application for Special Exception as moved above; no objections. *Motion passed.*

Training Topics/Materials: LUC Irving provided the Board members with 1) a copy of the adopted Franconia ordinance regarding short term rentals, 2) a copy of Merrimack ordinance definitions of ADUs, 3) a copy of the Zoning Board's Rules of Procedure, and 4) a copy of NHMA's "Rules of the Chair." Because the Lancaster Planning Board wanted to implement a more structured and formal meeting wherein the Chair sets and shares the rules with the public, the Rules of the Chair document outlined how the Chair conducted their meeting at the NHMA Legislative Policy Conference. LUC Irving wanted the Board members to review the Rules of the Chair and Lancaster Rules of Procedure and recommend amendments to the procedural rules if desired. LUC Irving was not inclined to amend the Lancaster Rules of Procedure; she provided it for guidance and examples of how to better control a meeting. Tricia Frenette asked if the Town is going to require people to register their AirBnBs? Irving responded that, as

part of the InvestNH Planning & Zoning grant that was applied for, she specifically requested assistance with ordinance amendments to control of AirBnBs, STRs, ADUs, RVs, etc. LUC Irving noted that after doing a search for short term rentals on AirBnB, Evolve, VRBO, Vacasa, and Bretton Woods Vacations, she found only 4 listed properties. This number is inconsistent with reports from residents, so perhaps listings are utilizing different social media platforms or booking sites. Frenette said that her business services a lot of short-term rentals and it is shocking how much refuse and damage can be generated in just a weekend. The other concern is notice to neighbors about this kind of use and activity. People who rent these spaces are not even vested in the community. Les Hilton said that this issue is country-wide. Chairman Bernier asked if the Town Manager could publish in the newspaper a notice to landowners that properties utilized as short-term rentals must be registered with the Town. Bernier felt that it is likely that landowners will still not register their properties but a notice would at least prompt neighbors to complain. LUC Irving responded that the Town does not currently have a provision to require registration, and that is why she brought the issue to the ZBA so that the issue can be addressed at the zoning level with authorization and penalty provisions. Tricia Frenette mentioned that the number of occupants should be capped, especially for emergency response purposes and building/ infrastructure capacity reasons. Nate Kenison asked if the Town should review the Conway ordinance. LUC Irving said that she reviewed the Conway draft first, but did not pursue it any further once it was shot down constitutionally for restricting STRs rather than Franconia's ordinance which requires registration for public safety reasons. LUC Irving is still searching for valid precedent to control use of RVs as dwellings. Right now, the Lancaster ordinance requires construction of a DES approved septic system if an RV is used for any longer than 2 weeks. This provision is not clear when it comes to other types of structures like tiny homes. DES requires a septic system if there is ANY water supplied to the structure. There is one such structure on McGary Hill Road—the residents use the building as a dwelling but claim that there is NO water and therefore do not need a septic system. Chairman Bernier recommended that the Land Use Office enforce the removal of a trailer on McGary Hill Road; apparently the son of the landowners had permission to temporarily place the trailer on the lot because the house was intended to be conveyed to him. The abutters are upset that a non-permitted trailer is still located on the agriculturally-zoned lot as it is ruining the value of their surrounding properties. LUC Irving pointed out that the ADU definitions from Merrimack were clarified in response to some conflict between attached versus detached ADUs, their impact on density requirements, use of the property, and capping of the number of structures on a property. LUC Irving requested that the Board members read and review the supplied documentation and email her any suggested or recommended language for a zoning amendment. Because a zoning change is required to be a warrant article, there is not that much time. If the deadline for this year is not met, Irving anticipates that the consultant hired pursuant to the InvestNH Planning and Zoning Grant would have amendment(s) for the 2024 town meeting.

Announcements/Correspondence:

LUC Irving announced the most recently issued land use permits: 1) James Burgess at 24 Community Camp Road is constructing an unheated 10'x12' stick-built mudroom addition on piers. LUC Irving said that the structures have been expanding on this property via a handful of permits, but it is supposed to be a dry camp. Irving imposed a condition requiring compliance with DES septic rules because the property appears to be a summer residence; 2) William and Tammy Lazott at 16 Mayberry Lane are installing a roof-mounted solar array; 3) Bonnie Reynolds at 288 Main Street is demolishing and replacing in-kind the front 4'x41' deck on the existing concrete pad; 4) Guy Consoletti at 20 High Street is demolishing the front porch and replacing in-kind, installing a metal overhang roof, installing additional columns, and improving the drainage; 5) Ronald and Linda O'Clair at 72 Prospect Street are demolishing and replacing in-kind the L-shaped screened porch with a metal roof on piers; 6) John and Deborah Garrison at 194 Elm Street are constructing a 24'x26'x10' detached garage on a concrete slab; 7) Mary Gray at 19 Elm Street in constructing a 24'x24'x16' rear-attached addition on piers, intended use is for the yoga studio. She recently informed the Planning Office that work will not start until next year due to the unavailability of contractors; 8) Matthew Markham/Eric and Denise Crane at 17 Hartco Avenue are installing a roof

mounted solar array; 9) Alan Savage at 493 Main Street is constructing a self-storage facility. This is a renewal of the permit for the property next to Amerigas. Tricia Frenette stated that Savage has sold his storage properties to Wolf Storage. LUC Irving said that the ownership in the Town's assessing program indicates Savage as the owner so the deed may not have been recorded at the registry if they have sold; 10) Weeks Medical Center at 173 Middle Street is renovating the 1st level shell space located in the professional offices section to create a corridor, in-house pharmacy, and more offices. Some other improvements will be made with HVAC and ceilings. LUC Irving noted that she imposed a condition requiring Weeks to be compliant with third-party requirements for fire flow if additional sprinkling is installed because there have been deficiencies in the past. Tricia Frenette mentioned that the hospital was supposed to install their own storage tanks in response to fire flow failures when the professional office building project was proposed. Frenette said that the hospital will keep expanding and never address this chronic problem. Chairman Bernier emphasized that the Town had pursued a grant to put in tanks on the east side of town and but the application did not get approved. LUC Irving stated that she had drafted an application this year for NBRC funds for the east-side tank installation and requested the match funding from the hospital and they denied the request. Per the NBRC liaison, LUC Irving said that the application would not be funded if the primary beneficiary did not have any skin in the game. Frenette expressed great concern over the lack of water source especially if there were a major fire; she feels very strongly that the Town should revisit this issue and enforce compliance. LUC Irving responded that there was never a condition for water fire flow/pressure compliance on the previously issued permits but now there is; the Town now has some teeth to enforce from the land use end. Frenette would like to see more conditions like this on development projects. The Board continued to discuss the history of Weeks' expansion and repeated failure to address or commit to projects that impact the Town's infrastructure and neighborhood; 11) John and Jason Berube located off Gore Road are constructing a 24'x32'x28' single family dwelling and 24'x26' detached garage on a land lot that they camped on; and 12) Kyle and Jessica Cholewa at 24 Hodge Road are constructing a single-family dwelling and garage. This is the applicant for the special exception on height that the Board previously approved. LUC Irving announced sign permits for 1) Trisha McCabe at MOMENTS for the additional signage above the entry. This was an amendment to a previously issued permit; and 2) TECHPROS Computer Sales & Gun Shop located in the Welcome Center building. Linda Ogle was surprised that this business could be in the Welcome Center building. LUC Irving said that there is no restriction on this type of business in the Central Business District. LUC Irving explained that the applicant originally wanted to set up his business next to his residence situated in the Mary Elizabeth/ Sunny View subdivision, but there are deed restrictions, zoning restrictions as this is not a home occupation, and the abutters strongly opposed the proposed use. Nate Kenison asked if there had been any permits issued for 17 Burnside Street or 49 Williams Street; the Burnside Street project started with some screen replacements and ended up being a whole renovation, and the Williams Street project is some demo and reconstruction. LUC Irving responded that there have been no applications for improvements to 17 Burnside Street or 49 Williams Street. Chairman Bernier said that if there is no change to the footprint, it probably doesn't have to be permitted. LUC Irving responded that it DOES require a permit even if there is no change in footprint; and demolition must also be permitted.

Other business:

Tricia Frenette stated that it is encouraging that there are single family dwellings being permitted but she is disappointed that there are no commercial entities being built or moving into town that can contribute to the tax base. LUC Irving stated that a preliminary conceptual consultation for a solar field to be located on the Rexford field along Route 3 is scheduled for December 14, 2022. Rick McCarten questioned whether the property had been sold, however, LUC Irving responded that as of today's date, the ownership of the parcel was still under Rexford. Frenette asked if the property is within the floodplain; Irving responded that not all of it is within the 100-year floodplain. LUC Irving stated that the new owners of the church next to GMS are slated to appear at the next planning board meeting so that the second condition of the recent variance approval will be satisfied. The new owners operate a pottery store

out of the location. LUC Irving announced that for the December 14, 2022, planning board meeting there will be a public hearing for a minor subdivision of the Bartow property off Reed Road.

Board members asked for an update on the Zach Colby sandwich shop project. LUC Irving outlined that there has not been a resubmission of the application to date. Irving had provided Colby with contact information for a landowner that may subdivide his property creating a lot that was more suitable than the one on Main Street even though there would still be stormwater issues.

Don Freddette moved to adjourn the meeting at 1935H. Nate Kenison 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

DRAFT