

LANCASTER ZONING BOARD OF ADJUSTMENT
December 18, 2019
6:30 PM

CALL TO ORDER:

The meeting was called to order at 6:30 pm by Chairman Rick Bernier.

ROLL CALL:

Regular Members Present: Rick Bernier, Steve Young, Tricia Frenette, Chris McVetty and Les Hilton

Alternate Members Present: Linda Ogle, Nathan Kenison and Don Freddette.

Others Attending: Ben Oleson, Zoning Advisor, Jeff and Jane Gilman, Lisa Lavoie and Troy Merner.

APPROVAL OF MINUTES:

Moved by Linda Ogle and seconded by Les Hilton to approve the minutes of the September 25, 2019 meeting. Motion carried.

PUBLIC HEARINGS:

Case # 522 – George M Stevens Real Estate, LLC for an Area Variance concerning article 5.05, "Setbacks and Minimum Lot Size in the Central Business District – Middle". Applicant/Owner wishes to receive approval for a Technical Subdivision/Lot Line Adjustment with an abutting parcel of land they also own. Said subdivision would bring the property line closer to the building on the subject parcel than the 10' allowable setback as well as reduce the lot size further below minimum. Lot Zoned Central Business District-Middle. (149 Main Street, Tax Map P06-Lot 042, 0.28 acres).

Notices were sent to all known land abutters. No abutter present.

Jeff Gilman was present to represent the request. He explained that the request is made in an effort to establish the lot line to what it was thought to be for the last 50 years. The area in question is the parking area. He said that GMS has always maintained the parking area and shared it with the church. The church property is now owned by GMS. Mr. Gilman said there will be no change in the use and no effect on the surrounding properties. Mr. Gilman was asked if there are any plans for the use of the church. He said there have been a couple inquiries about moving the building which is what he would like to see happen. If it were moved it would provide more parking. Mr. Gilman said nothing will be done until spring.

As there were no abutters or members of the public present to speak for or against the request Chairman Rick Bernier closed the hearing to the public and opened it only to the Board.

Moved by Chris McVetty and seconded by Steve Young to approve the request as presented. Motion carried.

Ben Oleson explained the 30 day appeal process.

Case # 523 – North Country Charter Academy & CD Cairns Irrevocable Trusts for a Special Exception concerning article 5.03, "Uses Permitted by Special Exception in the Commercial/Industrial District". North Country Charter Academy seeks special exception approval to operate a grades 7 through 12 charter school on property along Summer Street in the Commercial/Industrial Zoning District. Land Zoned Commercial/Industrial. (281 Summer Street, Tax Map P02-Lot 008, 0.39 acres).

Notices were sent to all known land abutters. No abutter present.

Lisa Lavoie, Superintendent of North Country Charter Academy, was present to explain the request. Also present was Troy Merner, member of the Board of Trustees. Ms. Lavoie stated that the academy has been in existence for 16 years and currently is located in the basement of the USDA building on Route 3 North. She said she would like to see it moved closer to town and to remain in Lancaster. Faculty would like students to participate in more community service projects. Mr. Oleson added that there are some fire and life safety concerns at the current location. The proposed new location would be an improvement and address the life safety issues.

Ms. Lavoie noted that the school is endorsed by the NH Dept. of Education and helps to decrease the dropout rate by providing an alternate plan to get a high school diploma. She said there are 2 sites, the other is in Littleton, both service students from LinWood to West Stewartstown. Between the 2 sites, 524 students have graduated since it was established. She said 110 were former high school dropouts.

As there were no abutters or members of the public present to speak for or against the request Chairman Rick Bernier closed the hearing to the public and opened it only to the Board.

Moved by Steve Young and seconded by Les Hilton to approve the request as presented. Motion carried.

Mr. Oleson explained the 30 day appeal process.

OTHER BUSINESS:

Zoning Board of Adjustment Rules of Procedure:

Approve proposed amendments to Board's Rules of Procedure: The amendments proposed are only to add a formal determination process on whether a proposal meets the definition of a Development of Regional Impact (DRI). Mr. Oleson reminded the Board this change was agreed upon by the Board at the September 25, 2019 meeting. If approved the change will be in the Board's Rules of Procedure under Public Hearings, Section 4a. The change would require the Board to always take a vote on whether a proposal is determined to be a DRI or not before the public hearing begins. If it is not felt to be a DRI the hearing can begin immediately, if the vote is that the proposal is a DRI the hearing must wait until a later date so additional noticing can be completed pursuant to NH RSA 36:57. Mr. Oleson explained regional impact relates to surrounding communities not regionally within town.

Moved by Chris McVetty and seconded by Steve Young to approve the amendments to the Zoning Board of Adjustment Rules of Procedure. Motion carried.

Announcement(s)/Correspondence(s):

Master Plan Update:

Mr. Oleson advised that there was not a December meeting. He said he is finalizing the survey and it will be ready for review at the January meeting. Then it will be ready for distribution.

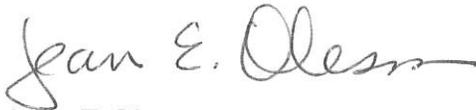
Mr. Oleson explained the Planning Board has added Pre-Planning Board Consultation to its Site Plan and Subdivision Regulations. This step requires a developer to meet with town department heads before developing any plans to present to the Planning Board. Mr. Oleson will determine who will have to do this. Mr. Oleson explained that the first use of this step was earlier in the day when Aubuchon Hardware met with the Department Heads to discuss placing another building on its property to lease out to another commercial entity.

Mr. Oleson provided updates on the PJ Noyes Building (formerly Parkers Jewelry).

Moved by Les Hilton and seconded by Chris McVetty to adjourn the meeting. Motion carried.

Meeting adjourned at 7:32 pm.

Respectfully submitted,



Jean E Oleson
Clerk

Approved: 01/29/2020



Rick Bernier
Chairman

TOWN OF LANCASTER - *New Hampshire*



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03584

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25 Main St.
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NOTICE OF DECISION ZONING BOARD OF ADJUSTMENT LANCASTER, NEW HAMPSHIRE

COPY

Case No. 522

You are hereby notified that the appeal of George M. Stevens Real Estate, LLC (147 Main Street, Tax Map P06-Lot 042) for an **Area Variance** regarding Article 5.05 of the Zoning Ordinance, "Setbacks and Minimum Lot Size in the Central Business District-Middle", has been **APPROVED** by the affirmative vote of at least three members of the Zoning Board of Adjustment.

CONDITIONS:

- N/A.

Rick Bernier, Chairperson
Zoning Board of Adjustment

12/18/19
Date of Hearing

Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Town Office. This notice has been placed on file and made available for public inspection in the records of the ZBA on 12/23/19. Copies of this notice have been distributed to: the applicant, abutters, Planning Board, Board of Selectmen and Town Clerk as well as posted at the Town Hall and Weeks Memorial Library.

COPY

**Statement of Reasons
Zoning Board of Adjustment
Lancaster, New Hampshire
Date: December 18, 2019**

RE: Petition for a variance of: AREA

**Name of Applicant: George M. Stevens Real Estate, LLC
Property Location: Tax Map P06 & Lot Number 042
Street Address: 147 Main Street**

After reviewing the petition and after hearing all of the evidence and by taking into consideration the personal knowledge of the property in question, the Lancaster Board of Adjustment has determined the following:

1. Granting the variance would not be contrary to the public **interest** because:

The public has assumed, much like the all the past and present owners, that the property lines we wish to establish were the actual ones. Both properties have been used cooperatively for many decades with this assumption and are expected to do so in the future.

2. The **spirit** of the ordinance would be observed because:

There will be no change in the use of either property or the land to be conveyed with or without the lot line adjustment. The church property does not currently comply with other setback requirements. Moving this lot line will not cause a safety issue as the access from the north side will remain open as it has been for many years.

3. Granting the variance would do substantial **justice** because:

The applicant, and community, has assumed the land proposed for conveyance was theirs and has been responsible for its maintenance over the years. Adjusting the lot line to reflect the universal assumption would be justified and confirm what could be considered our prescriptive right.

4. For the following reasons, the **values** of the surrounding properties would not be diminished:

Values of surrounding properties would not be diminished if approved because the configuration of land proposed is what has been assumed for decades. This request would bring what has always been assumed to a reality. Denial of the variance could diminish our primary property by eliminating land that has been assumed for a long time to be ours.

5. Unnecessary Hardship

- A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:
- i. there is not a fair and substantial relationship existing between the general public purpose of the ordinance provision and the specific application of that provision to the property because:

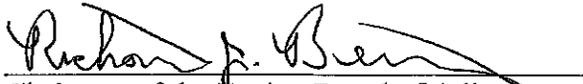
Allowing the adjustment of the lot line would not affect the public as it will establish the line that has always been assumed and agreed upon by the property owners over the years. Denying it would limit what has been our prescriptive right to use and maintain the land in question.

- ii. the proposed use is a reasonable one because:

On the surface nothing will have changed. The property owners and general public has assumed the land is as we are proposing to adjust it.

- B. The criteria in subparagraph (A) having not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. The property cannot be used in strict conformance with the ordinance because:

Denial of this request would create a burden on our primary lot as it would remove control of most of our parking which has been developed over many years of business growth. This could create a non-compliant issue with that piece. Whereas the Church lot is already non-compliant due to setback issues with this variance not causing any issue.


Chairman of the Zoning Board of Adjustment

12/27/19
Date


Clerk

12/30/19
Date

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NOTICE OF DECISION ZONING BOARD OF ADJUSTMENT LANCASTER, NEW HAMPSHIRE

COPY

Case No. 523

You are hereby notified that the appeal of North Country Charter Academy and CD Cairns Irrevocable Trusts (281 Summer Street, Tax Map P02-Lot 008) for a **Special Exception** regarding Article 5.03 of the Zoning Ordinance, "Uses Permitted by Special Exception in the Commercial/Industrial District", has been **APPROVED** by the affirmative vote of at least three members of the Zoning Board of Adjustment.

CONDITIONS:

- N/A.

Rick Bernier, Chairperson
Zoning Board of Adjustment

12/18/19

Date of Hearing

Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Town Office. This notice has been placed on file and made available for public inspection in the records of the ZBA on 12/23/19. Copies of this notice have been distributed to: the applicant, abutters, Planning Board, Board of Selectmen and Town Clerk as well as posted at the Town Hall and Weeks Memorial Library.

COPY

**Sign Special Exception Application
Facts Supporting This Request
Case Number: 523**

Name of Applicant: North Country Charter Academy Tax Map & Lot Number: P02-008

Mailing Address: 4 Mayberry Lane, Lancaster, NH Telephone Number: 603-444-1535

Sketch Included: YES NO

SECTION A:

Special Exception Requirements under State Law:

Would the use be detrimental to the:

1. Public health of Lancaster residents or the general public? YES NO

Explain: The proposed use does not introduce a population into Lancaster that is not already here. Nothing hazardous will be stored on site nor will there be any hazardous activities either.

2. Safety of Lancaster Residents or the general public? YES NO

Explain: Housing a school at this location is a less intensive use than the previous use as a gas station/convenience store/lunch counter. Traffic going to and from the site will be less and also more predictable as it will mostly be a two times during the day-beginning and end of the school day.

3. Character of Lancaster? YES NO

Explain: The subject area is located around many diverse uses. There are single family residences, fuel storage areas, motorsport dealership and other commercial/industrial properties. The low impact nature of the proposed use would hardly be noticeable and would not conflict with the other diverse uses in the area.

4. Welfare of Lancaster? YES NO

Explain: The proposed use would occupy a property that has been vacant for a few years and would introduce a lower impact use than was there previously. It would also reinforce the importance of education in our community and make it more safe and convenient for students to attend.

SECTION B:

Special Exception Requirements: Town of Lancaster Zoning Ordinance - Section 3.48 & NH RSA 674:33 IV

1. Is the granting of this Special Exception in harmony with the purpose of the Zoning Ordinance? YES NO

Explain: The proposed use is compatible with the other commercial and residential uses in the area as it is a low impact use not creating any excessive traffic or collection of people to the site.

2. Is the granting of this Special Exception in harmony with the intent of the Zoning Ordinance? YES NO

Explain: Housing a small school at the site is not incompatible with the other surrounding sites. All activities will be conducted within the building by older students so there is no concern that young children will be playing outside near the road, railroad or neighboring commercial/industrial sites. The use will be similar to a professional office which is completely permitted in this area.

SECTION C:

Pursuant to Section 12.02 of the Zoning Ordinance, the **applicant** must introduce **clear and convincing evidence** in resolution of the following queries:

1. Will the "character of the area" be adversely affected? YES NO

Explain: The low impact nature of the proposed use will not change the character of the at all as it adds an additional use to an already diverse area. The access to the site is good and there is ample parking for the both students and staff. As this is not a traditional school requiring outdoor activity areas the property will appear as a professional office.

Clarifying Language from the Zoning Ordinance: The proposed site should be an appropriate location for the use. Among the factors the Board of Adjustment will consider are: topography, soils, water resources, road access and locations of driveways, condition of existing structures and other relevant characteristics such as whether the proposed use is compatible with surrounding land uses.

2. Will the value of adjacent property be adversely affected? YES NO

Explain: Redevelopment of the site will only increase the value of the subject property as well as neighboring properties. Every year a property is left vacant it decreases its value and that of the neighborhood. Also the use is so low of impact there would not be any negative impacts to abutting parcels.

Clarifying Language from the Zoning Ordinance: The proposed use should not adversely affect the value of adjacent property. An adverse effect on adjacent property is one that would limit the use of neighborhood property by causing such problems as excessive noise, traffic, dust, fumes, glare or other conditions that are associated with the intended use but are not typical of permitted uses in the area.

3. Will the character of the lot be adversely affected? YES NO

Explain: With no substantial changes proposed for the exterior of the property there would not be any adverse effects to the properties character. Parking will not be an issue as those driving for work or instruction would be cumulatively less than what the previous se attracted.

Clarifying Language from the Zoning Ordinance: The lot must be of a size and configuration, slope and soil type such that the proposed use is able to comply with all requirements of the Lancaster Zoning Ordinance.

4. Will hazardous waste be disposed of on the property? YES NO

Explain: There will be no hazardous waste created on site and all regular garbage will be disposed of as any other residence or commercial business.

Will provisions be made for disposition of all waste without jeopardy, financial or otherwise, to the Town of Lancaster? YES NO

Explain: There will be no hazardous waste created on site and all regular garbage will be disposed of as any other residence or commercial business.

Clarifying Language from the Zoning Ordinance: No hazardous waste shall be disposed of on the property, and provisions for disposition of all waste made without jeopardy, financial or otherwise, to the Town of Lancaster.

5. Will "traffic in the area" be adversely affected? YES NO

Explain: The subject property is located just off a busy State road. The traffic created by the proposed use will be much less than the previous use and concentrated at 2 times of the day- the morning for the beginning of school and afternoon for the end. Many of the students are transported by bus there will be less of a concern for dozens of individual cars entering and exiting the site and there is plenty of room for buses to operate during drop off and pick up.

Clarifying Language from the Zoning Ordinance: Traffic generated by the proposed use must not represent a hazard to the neighborhood for either vehicles or pedestrians.

SECTION D:

Decision of the Board: The Lancaster Zoning Board of Adjustment shall either approve this request with conditions, approve without conditions or outright deny. Denial of request must have specific reasons included with it.

N/A This permit is **DENIED** based on the reasons below.

Initials of
Chairman

Reasons for DENIAL: N/A

RJB This permit is **ISSUED WITHOUT CONDITIONS.**

Initials of

Chairman

N/A This permit is **ISSUED WITH CONDITIONS LISTED BELOW.**

Initials of
Chairman

GENERAL CONDITIONS: The granting of this Special Exception requires the following conditions to ensure that the use is in harmony with the general purpose and intent of the zoning ordinance:

Explain: N/A

SPECIFIC CONDITIONS: The granting of this Special Exception requires the following conditions to ensure that the use will not adversely affect the "character of the area"; the "value of adjacent property" or "the character of the lot"; or "traffic in the area." In addition, no hazardous waste may be disposed of on the site and provisions must be made for disposition of all waste materials without jeopardy, financial or otherwise, to the Town of Lancaster.

Explain: N/A

Decision of the Board: Date: December 18, 2019



Signature of Chairman