Lancaster Planning Board
Location: Lancaster Town Hall
Wednesday, October 11, 2023

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

Initial Business: Roll call
Regular Members:
Present: Chair Andrew Nadeau, Ericka Canales, Vice Chair Maggie Jones, Mark St. Pierre, Greg Westcott
Absent: Vickie Gibbs
Alternate Members:
Present: Lee Ann Potter, Matthew Treamer, Selectmen's Alternate Representative Shane Beattie
Absent: None
Others Attending: Land Use Coordinator Robin L. Irving, Daniel Benoit (resident), Erin Gilman (Resident), Town Manager Ben Gaetjens-Oleson, Kathy Jean Lavoie (Resident, CC) (arrived 1900H)

QUORUM

Minutes: Chair Nadeau requested status regarding setting of pins for the Langevin/Flores lot line adjustment. LUC Irving stated that 1) Surveyor VanderHeyden called and confirmed that the pin near Route 3 needed to be reset and the other pin was located, 2) Irving notified the concerned abutter, and 3) the abutter walked the boundaries and found both pins. Maggie Jones moved to approve the July September 13th, 2023 minutes as written. Ericka Canales seconded the motion. All members of the Board voted to approve the September 13th, 2023 minutes as written, no objections. *Motion passed.*

Appointments: LUC Irving requested that the Board of Selectmen's Letter re 600 Main Street under "Correspondence" be addressed as an appointment because the property owner, Dan Benoit, was present.

Chair Nadeau read the following September 19, 2023 correspondence from the Lancaster Town Manager addressed to Daniel Benoit, property owner of 600 Main Street:

RE: Site Plan Review—600 Main Street Location

Dear Dan:

Over two months ago Lancaster Law Enforcement personally delivered a letter to you seeking your attendance at an upcoming Selectboard meeting to discuss suspected non-compliance with your previous Site Plan approval. You also had a brief conversation with the Town's Attorney on August 10 where he encouraged you to meet with the Board. Neither of those exchanges has elicited any response from you to schedule a meeting with the Board.

Due to your lack of response and continued enforcement proceedings by N.H. DES the Board is now forced to refer this matter to the Lancaster Planning Board to consider revocation of all Site Plan approvals pursuant to NH RSA 676:4-a.

If you have any questions, you may reach me at 603-788-3391.

Sincerely,
Benjamin S. Gaetjens-Oleson,
Town Manager

Chair Nadeau explained that this is a referral from the Selectboard to review the existing site plan for Mr. Benoit's property on North Main Street and consider whether issues with compliance exist.

LUC Irving shared the following correspondence originating from the State that may assist the Board with their consideration over whether to review the site plan for compliance:

Mr. Benoit was released on bail conditions which required him to initiate cleanup efforts and to complete the cleanup of Area 1 of his auto salvage yard/scrap metal facility no later than January 15th of 2023. DES has conducted regular quarterly inspection and the Court has rescheduled review hearings following each inspection. Mr. Benoit failed to meet the January 15th, 2023 deadline. The Court issued an order on March 7th of 2023 imposing a contempt penalty at the rate of $250/day for each day of non-compliance in the amount of $6,250 and increased the prospective daily contempt penalties to $500/day. On June 5th the Court imposed an additional $46,000 in daily contempt penalties. At the most recent review hearing on October 10th, the State sought an additional $72,000 in contempt penalties based on an October 4th inspection by DES. Mr. Benoit testified that he had brought Area 1 of the site into compliance since the last inspection, so the Court ordered a follow-up inspection and scheduled another review for October 19th at which the Court will decide whether to impose additional financial contempt penalties. Any such penalties would be in addition to the following of civil fines, cleanup reimbursement orders, and contempt penalties: Imposed Contempt fines $120,250. Imposed civil penalties $100,000. Imposed reimbursement $4,433.92 for a total of $224,433.92.

Greg Westcott asked for the location of Area 1. LUC Irving explained that if the Planning Board proceeds to a Review for Compliance, packets of case information will be distributed to members just like public hearings. Because it is a public hearing, the abutters are noticed and Mr. Benoit would be issued a certified letter of notice as well. Chair Nadeau emphasized that the Planning Board should not get into the "weeds of details" at this time, but only consider whether to review past submittals and documentation that were approved, as the Planning Board has the authority to review for compliance cases at any time (RSA 676:4-a). Town Manager Ben Gaetjens-Oleson stated that there is a condition, for example, that the property owner receives the annual auto salvage yard permit, which has not been done. Chair Nadeau further explained that, if compliance with NHDES is a condition of approval, then it is certainly something that is within the Planning Board's purview to review.

The property owner, Mr. Benoit, encouraged the Planning Board members to conduct a site visit. Mr. Benoit asserted that he had not only cleaned up Area 1 (where the vehicles are brought in to be processed on a concrete slab) but Areas 3-5 and felt that the property was 300% improved. He assured the Board that he was addressing the cleanup. Town Manager Gaetjens-Oleson reminded that Board that a group of members constituting a quorum would trigger a public meeting that would require noticing and is open to the public. Gaetjens-Oleson urged the Planning Board to consider public safety concerns when scheduling a quorum to engage in the site visit. He further stated that any site visit would be accompanied by law enforcement. Chair Nadeau said that he could not anticipate how long this review would take and based on its complexity, the review might take more than one meeting; a site walk may be beneficial.

Greg Westcott asked if the contempt fines, civil penalties etc. were accruing pending a decision from the Planning Board? LUC Irving responded that those penalties are accruing pursuant to the State's efforts to enforce and are separate from the Planning Board's decision; they will continue to accrue. Irving explained that she provided the information regarding the State's enforcement to show a pattern of contempt and non-compliance.

Town Manager Gaetjens-Oleson stated that he had corresponded a couple of years ago with Mr. Benoit regarding compliance issues, for instance, construction of a fence to block the view from the public way that has not been built. NHDES has been addressing large-scale environmental infractions, particularly related to fuel and hazardous waste storage and runoff. The issues surrounding this property have the potential to be a severe environmental nightmare, especially with the processing of the vehicles over an aquifer as well as its proximity to the river; NHDES has prohibited intake of new vehicles pending cleanup. The Town was recently encouraged to review at the local land use regulation level and enforce any violations. Aerials of the site indicate other structures strewn throughout the property that were not permitted or allowed as they are not shown on any site plan(s). Further, there is still no public water (over a year) to the site as the water was shut off following a water leak that would constantly drain the Industrial Park reservoir; the property owner has not repaired this service line to date. The curb stop had to be removed because the property owner would impermissibly turn the water on. At the time of this leak, Mr. Benoit was renting apartments; he is currently not allowed to have tenants, squatters or not, due to inadequate public water per the Health Officer. The property owner needs to provide wastewater facilities, e.g. port-a-potties, in order to operate his business with employees, and provide bottled water to his staff as well. Gaetjens-Oleson suggested that there may be some bleed-over from the 600 Main Street property to Mr. Benoit's property on Summer Street which seems to be functioning as an auto salvage yard as well but has never been granted approval for such use. Although Summer Street would not be within the Planning Board's purview of review, the transfer of salvage from 600 Main to the Summer Street property is an extension of the issues of 600 Main Street with no real 'cleanup.' Chair Nadeau requested Town Manager Ben Gaetjens-Oleson's participation in any review for compliance because Gaetjens-Oleson was the Planner and Enforcement Officer at the time of the approval(s). There needs to be some teasing out of the zoning issues, health issues, environmental issues, criminal issues, and site plan issues, so that the Planning Board would focus only on issues that they have authority to address. LUC Irving stated that she was only aware of the salvage yard site plan yet the Selectmen's letter requests consideration of revocation of ALL site plans, however, upon review

of all of the documentation pertaining to the property, she may find more than one site plan given that there are several buildings on the property.

Mr. Benoit stated that he has made efforts to address the lack of potable water but the cost to install over 900 feet of service line is cost-prohibitive, so he dug a well. Mr. Benoit further stated that the penalties have hit him hard, so he is trying hard to address all of the compliance issues so that penalties stop accruing.

Maggie Jones moved to review for compliance all site plan approvals associated with 600 Main Street. Mark St. Pierre seconded the motion. All members of the Planning Board voted to review for compliance all site plan approvals associated with 600 Main Street, no objections. *Motion passed.*

LUC Irving stated that members should receive information packets on the case(s) following the submission deadline on October 19th to be on the November 8th agenda. She encouraged Mr. Benoit to pick up his certified mail.

Public Hearing(s): None

Other Business:

Preliminary Conceptual Consultation(s): None

Merger of Lots: None

Land Use Permit(s):

1) **LUP #23-085R-Residential, Owner(s)/Applicant(s)-Mollie Ann White & Michael R. Fahey, 15 Church Street**, conversion of existing garage and first floor off deck into a 1-bedroom ADU with kitchen and living room; convert SFD into 2 BR rental units on 1st and 2nd floors. Plumbing, electrical upgrades. No change in footprint. RENEWAL
The property owner intends to reapply for InvestNH capital grant funds and demolition grant for creation of affordable housing.
2) **LUP #23-074—Residential, Owner(s)/Applicant(s)—Petros Hatzigeorgiou, Christopher & Nichole Miles, 76 Third Street,** installation of a mobile home onto an existing slab; construction of an entryway deck on blocks; construction of an addition to the mobile home on piers.
3) **LUP #23-081—Commercial, Owner(s)—CN Brown Company, Applicant(s)—CN Brown Energy, 215 Main Street,** removal of an underground storage tank and installation of an above-ground storage tank on a slab. This is located behind the Big Apple.
4) **LUP #23-087—Commercial, Owner(s)/Applicant(s)—Leo Enos Sr., Trustee of the Leo J. Enos Sr. Revocable Trust, 69 Mechanic Street,** construction of concrete block storage bins. These bins are similar to the ones located at the former Lancaster Floral property. The problem that triggered a permit was that the proposed location was within the shoreland permit area so he file a permit by notification.

5) **LUP #23-088—Commercial, Owner(s)/Applicant(s)—Lancaster Rotary Club Charities Inc., 56 Main Street,** construction of a gazebo/pavilion for the Greg Cloutier Memorial and park.
6) **LUP #23-089—Residential, Owner(s)/Applicant(s)—Michale Johansson & Tracey Tibbetts, 78 Brook Road,** construction of additional bay onto existing garage, radiant heat. The property owner collects and restores antique vehicles so the use is for storage.
7) **LUP #23-090—Residential, Owner(s)/Applicant(s)—Donald Freddette, 166 Portland Street,** repair of house sills, demo existing deck off rental unit and replacing with a smaller deck
8) **LUP #23-091—Residential, Owner(s)/Applicant(s)—Brenda Stewart, Trustee of the Brenda D. Stewart 2022 Revocable Trust, 143 Stebbins Hill Road,** construction of stick-built 2-bay garage on concrete slab, no utilities or heat.

Zoning Board Decision(s): None

Other permits: None

Training Topic(s)/Material(s): A link to the scheduled one-hour training video on capital improvement plans will be sent via email to the Board members; discussion of the video will be on a later agenda. LUC Irving explained that the Budget Committee has requested a CIP for some time. Irving has been engaging in webinars and other training and her feeling is that the task is requiring more than can be provided in her individual capacity. Under the statutes, the Planning Board is responsible for the CIP, so Irving plans to engage the Planning Board and draw on members' skillsets. Irving has generated an amortization of small assets but there is no bonded project(s) schedule incorporated. The annual investments need to be converted to tax impact dollars.

Announcement(s)/Correspondence:

LUC Irving said that the November agenda will include the Benoit Review(s) for Compliance and a consultation with a developer from the Bronx who is affiliated with a conglomerate of investors who want to repurpose the Cabot Inn into an assisted living facility. Irving said that the developer should be going to the ZBA as well because it is a change of use, possible density restrictions, etc. The developer was insistent that "he needs to feel the temperature of the Board on whether they are going to approve the site plan." The developer does not want to move forward with the purchase and sale and get a mortgage for a project that will not move forward. The Board members agreed that they could not provide this opinion to the developer but can only provide guidance on the process. Irving also anticipates that the Colby Site Plan will be on the agenda. Colby provided short notice to Brasseur to vacate the property—the North Woods Garden Center is now situated on the Historical Society land. She was somewhat concerned with the ingress and egress to the site because the pull-in is immediately off the rotary exit, and the turn onto Route 2 travels into the convergence area. If there are any traffic incidents/accidents, this may impact permitting for next year, however, she anticipates that issues arising from a plant stand will not be worse than those arising from the haphazard on-and-off-street parking and traffic from the flea market(s).

Maggie Jones asked if there was any more information on the alleged tower construction on the Spearin land/Mayberry Lane. Irving said that she checked their file and there is information of an old agreement with AT&T; Irving also confirmed this with the assessor. She was not sure whether the agreement was owner-specific as the Spearins bought the land in 2021 when the tower provision of the ordinance was in effect. Further follow-up is needed.

About 3 weeks ago, Town Manager Gaetjens-Oleson had been in contact with Norwich Solar regarding the PILOT agreement for the anticipated solar facility on the Rexford lot. Although development has been delayed, Norwich Solar still indicated moving forward with the project.

Other Business as may legally brought before said meeting:

Mark St. Pierre moved to adjourn the meeting at 1911H. ~~Mark St. Pierre~~ [RLI] Maggie Jones seconded the motion. All members voted to adjourn at 1911H, no objections. *Motion passed.*

Respectfully submitted,

Robin L. Irving, Land Use Coordinator

Approved:

RLI

Andrew J. Nadeau, Chair