Lancaster Zoning Board
Location: Lancaster Town Hall
March 27, 2024

Call To Order: Acting Chair Tricia Frenette opened the meeting at 1830H and led the Pledge of Allegiance.

Roll Call:
Regular Members Present: Acting/Vice Chair Tricia Frenette, Steve Young, Nate Kenison, Les Hilton
Absent: None
Alternate Members Present: Donald Freddette
Absent: None
Others Attending: Land Use Coordinator Robin L Irving, Applicant Agent Ben Southworth and Crystal Shallow, Zoning Candidate Robert Cass

Acting Chair Frenette moved Don Freddette to a voting member for the meeting.

Minutes:
LUC Irving pointed out that the Planning Board already approved their section of the minutes, so the ZBA is approving only their section. Les Hilton moved to approve the January 31, 2024 meeting minutes as written. Steve Young seconded the motion. All members voted to approve the January 31, 2024, meeting minutes as written, no objections. *Motion passed.*

Appointments: Acting Chair Frenette announced that Robert Cass and Eric Livingstone have submitted letters of interest to sit on the Zoning Board. Eric Livingstone is a long-time resident of Lancaster and Bob Cass bought the home situated behind David and Carol Haas on Grove Street. Both are interested in contributing to the community. The parties introduced themselves and the Board discussed their candidacies.

Don Freddette moved to recommend to the Board of Selectmen appointment of both Eric Livingstone and Robert Cass as alternate members of the Lancaster Zoning Board of Adjustment. Steve Young seconded the motion. All members of the Board voted to recommend to the Board of Selectmen appointment of both Eric Livingstone and Robert Cass as alternate members of the Lancaster Zoning Board of Adjustment, no objections. *Motion passed.*

Public Hearings:

Acting Chair Frenette **OPENED the PUBLIC HEARING** for ZBA Case #551:

Case# 551—79 Main Street LLC for a Variance (Area) concerning Article 5 "Districts," Section 5 "Central Business District Regulations," Subsection Lot Dimensions: Density "6 units per 10,000 sf." Owner(s)/Applicant(s) request approval to construct four (4) studio/1-bedroom affordable housing units when one (1) would be allowed. Land Zoned Central Business District South. [Tax Map P07 Lot 040 (0.04 acres; 1,742.4 sf; 79 Main Street].

Applicant Ben Southworth presented the proposal. Southworth is part of Garland Mill in Lancaster; Garland Mill designs and constructs both residential and commercial buildings. Garland Mill recently built and managed the construction of the PJ Noyes building. After completion, the company wanted to engage in another renovation project focused on affordable housing. When the Coos County Democrat building became available last spring, Southworth and Shallow consulted with both Town Manager Ben Gaetjens-Oleson and Planner Robin Irving to discuss feasibility of construction of the proposed housing units. The Town referred the Applicants to the 2023 Lancaster-specific Housing Needs Assessment that concludes that the Town is in need of 1BR apartments. The layout of the building works well with this model. The request for a variance is due to the square footage of the lot being essentially the same as the dimensions of the building; this square footage does not permit the extra units. Southworth understood that, because it will be affordable housing, the new ordinance amendment that passed at Town Meeting creates a density bonus of one unit, therefore the variance is a request for two additional units. LUC Irving clarified for the Board that density is based on the square footage of the lot and not the buildable square footage which would be two (2) times the dimensions for the 2nd and 3rd floors because the ground floor must be dedicated to commercial purposes. Southworth said that they are working toward grant funding and other financing in preparation for final design. The anticipated start date would be late Fall 2024.

Southworth showed the Board a conceptual rendering of the final design. The main entrance was anticipated to be situated in the middle of the building lengthwise; additional entrances would be on each end. The roof height would stay the same but there would be construction of dormers for expanding headroom and addition of more light. A trash receptacle was on the rear of the building, but it was destroyed to allow the Commonwealth to install underground power lines. A dumpster or similar receptacle will likely be situated in the same spot. The location will depend upon what is the best access for trash pickup. A roof might be over it. The front of the building would basically be the same. The ground floor is currently permitted for one commercial entity; like LRH did for the Chesley Block building, the Applicant would have to get a variance for an 'additional' commercial unit.

Southworth acknowledged the potential issue revolving around off-street tenant parking. There is no land on the lot to create dedicated parking, so tenants would have to take advantage of the approved parking lots, primarily the Canal Street lot. From a property management perspective, one solution would be to include a restrictive provision in the lease agreement e.g. to restrict parking in the Main Street parking spaces during business hours. There would also have to be a provision explaining where they can park and a condition to comply with all bans and plowing schedules etc. For site plan review, Southworth explained that he will coordinate with Super. Tim Bilodeau to devise a stormwater plan for the water coming off the roof. There is a line that goes down the alleyway between the old Kilkenny building and the sandwich shop that dumps out into the river. Southworth thought that Bilodeau would want to target that basin, however, an inlet would need to be provided.

Acting Chair Frenette read the Applicant's Variance Application:

A variance is requested from *Article 5, Section 5.00*, Central Business District South Standard Sheet of the zoning ordinance to permit: *"construction of four (4) apartment units on the second and third floors of 79 Main Street, the "Democrat Building" when two (2) units are permitted.*

1. Granting the variance would not be contrary to the **public interest** because:
   Applicant's Response: "*Granting the variance would not be contrary to the public interest because it provides much needed housing in the town of Lancaster as outlined in the town's recent housing study. In addition, the project will augment the historic downtown by refurbishing another older, worn-out building on Main Street. Finally, the project will contribute to the local economy by being built with local labor and provide a boost to the town's tax revenues by dramatically increasing the valuation of the building and those around it."*

   "One concern that could be raised about the project is a lack of parking spaces on the building's lot. Lancasters prides itself by being a livable, walkable community and has a number of public parking spaces that can be used by the proposed tenants. As in most towns and cities in the United States, apartment tenants are expected to park remotely and walk a short distance to their apartments. The Canal Street parking lot is a short walk from the units and could be included in the rental agreement as the preferred overnight winter parking location. It is not closed to overnight parking in the winter and would work well for the proposed tenants."

All members of the Board agreed with the applicant's response to question #1 as written, no objections.

2. If the variance were granted, the **spirit** of the ordinance would be observed because:
   Applicant's Response: "*The requested variance meets the spirit of the ordinance for a variety of reasons. If the building were almost anywhere else in town it would be on a substantially bigger lot, thus meeting the zoning requirements of square feet per unit. However, this historic building was built long before the zoning laws were applied, resulting in it being unreasonably penalized through the current zoning unit calculation. Furthermore, all of the buildings' neighbors, in agreement with the zoning laws, have commercial tenants on the first floor and multiple residential units on the floors above. The variance we request will allow us to legally follow this successful downtown pattern and best bring 79 Main St. back to life."*

All members of the Board agreed with the applicant's response t9o question #2 as written, no objections.

3. Granting the variance would do substantial **justice** because:
   Applicant's Response: "Granting the ordinance [variance] will do substantial justice because *there is a currently a housing shortage not only in Lancaster but through all out of Coos County, and the Town of Lancaster will benefit from the added quality housing and the additional associated tax revenue. The variance will include our building with its neighbors in offering commercial rental on the first floor and residential units upstairs."*

All members of the Board agreed with the applicant's response to question #3 as written, no objections.

4. If the variance were granted, the **values** of the surrounding properties would not be diminished because:
   Applicant's Response: *"If the variance were granted, the values of the surrounding properties would not be diminished the neighbors and the residents of Lancaster's view the 79 Main building as beloved and would be value seeing it improved and refurbished. Currently, the 79 Main building is in considerable disrepair. Our improvements, similar to the improvements we implemented at PJ Noyes, would renew this hidden gem in our downtown space. We expect the property value to increase seven to eight times what it is currently valued at and will have a very positive impact on its neighbors' property values."*

All members of the Board agreed with the applicant's response to question #4 as written, no objections.

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. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

   Applicant's Response: *"Normally, the application of the square foot lot size calculation makes sense, but as expressed above, the historic nature of the 79 Main in its unique shape makes it a special case. We would like to be able to add three (3) one-bedroom apartments to the building which already boasts a third-floor living space and a first-floor commercial space. These apartments are in keeping with the character and the spirit of the current downtown zoning which calls for commercial space on the street level and residential units above. Almost every neighbor of 79 Main St. follows this pattern. We are making this request because it is not a new building, but rather a renovation to an existing historic building that is tall and thin on a very small plot of land."*

AND

ii. The proposed use is a reasonable one because:
Applicant's response: *"The variance request is reasonable and in the spirit of the public purpose as we are trying to create more one-bedroom apartments in town, which is a recognized need based on the recent study that the town commissioned on housing."*

B. Explain how, if the criteria in subparagraph (A) are 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.

Applicant's Response: *"Not being allowed a variance will also create a specific hardship for our plans to revitalize the 79 Main St. building. If 79 Main St. was not allowed multiple units, it would be very difficult or near impossible to find a single tenant who could use all three floors. It is in the design and spirit of the ordinance that the building be used for commercial rents on the first floor and residential for the upper two levels in keeping with all of the downtown building stock.*

All members of the Board agreed with the applicant's responses to question #5 and its subsections as written, no objections. There were no further questions for the applicant.

Acting Chair Frenette **OPENED TO THE PUBLIC** the public hearing for Case #551.

There were no comments or questions from abutters or the public.

Acting Chair Frenette **CLOSED TO THE PUBLIC** the public hearing for Case #551.

Acting Chair Frenette expressed her concern about parking, particularly on Main Street—it is always an issue. Currently, now that both the PJ Noyes building and the Odd Fellows Building are fully rented, and there are eight (8) anticipated apartments for the Chesley Block building—that creates 20 cars, and probably more, that are scrambling for spaces and competing with businesses. The Board had raised the same concern about parking when the applicants for the Chesley Block were seeking a variance to increase density, and the resolution at that time was to put restrictions in the lease(s). The parking area behind the Main Street buildings is chocked full day and night. The Canal parking lot, although relatively new, is getting full, especially because the parking is being routed to that lot per the lease restriction. An added four (4) units exacerbates an existing problem. Now that many people work remotely from home, relief from congested parking is not a given. Tenant parking during the day interferes with Main St. employee parking as well as customer parking. Frenette felt that there is a serious downtown parking crisis which needs to be addressed by all of the Boards and department heads; she has a couple of suggestions for the Town and will follow up to see if they are feasible.

LUC Irving spoke on behalf of Road Agent Tim Brown who expressed the Highway Department's concern over parking in the Bunker Hill lot (behind the buildings). The lot is always full and the cars are parked in a way that does not allow another car through let alone a plow truck. He didn't have a strong feeling about the other lot except that vehicles must adhere to the parking bans. Creating a rotating schedule during the winter might help with snow cleanup issues. Town management, however, responded that there IS sufficient parking in town. Day parking can be in the Main (Park) Street, Canal Street, Bunker Hill Street, and Middle Street lots. Winter parking is allowed in the Bunker Hill and Canal Street lots. When taking the Master Plan into consideration regarding the "walkable, livable community," the notion is that a tenant is not necessarily guaranteed a parking spot at their front entrance. Irving emphasized that the Town and Boards can cite their concerns about parking, however, the town cannot resolve in a timely manner so that the applicant can move forward with the project. Given that, a solutions-based response from the applicant was to include a restrictive covenant in the lease. The Boards need to think creatively about other solution(s) that do not involve policing by the Town as opposed to putting the onus of enforcement onto the property manager. Also, it might be prudent to look into

funding options to conduct a parking study. Irving said that some options being discussed were 1) creating public parking on the Welcome Center lot, 2) creating parking spaces along Canal Street on the river side, and 3) converting Bunker Hill to a one-way street with parking on one side.

Frenette's second concern involved the alleyway from the Polish Princess to the Chesley Block. The alleyway is a nightmare with erratic tenant and contractor parking and trying to get commercial trucks through there, e.g. food deliveries or waste collection, is problematic. Rymes was notified that the alleyway could not be blocked; no vehicles are permitted to park in the alleyway and the trucks are not supposed to park in the parking lot in a manner that impedes the thruway.

Frenette wanted to know if the applicant had spoken to the road agent about the storm drain because she recalled that there were issues with it falling in. The maintenance of the storm drain was controversial because neither the town nor landowner(s) would claim ownership and maintenance. LUC Irving had spoken to both the road agent and Selectman Beattie; their opinion is that the stormwater will not change from the existing building so there is no reason to divert into a storm drain. They did acknowledge that the riser has caved in. Further, this issue would be addressed at site plan review and ownership of any drain will have to be determined. Don Freddette claims that the cross-country pipe that goes under the road and dumps into the river is a State drain, not the Town. Southworth reassured the Board that he will work with the road agent to meet the town's requirements in order to have the site plan approved.

Frenette further said that growth depends on developers who are committed to refurbishing old buildings like the Democrat building and it is important to have more housing. LUC Irving added that the variance and site plan approvals are required for the applicant to be eligible for the InvestNH demolition funding.

Don Freddette moved to APPROVE with NO conditions the application for variance as presented. Les Hilton seconded the motion. All members of the Board voted to APPROVE with NO conditions the variance as presented, no objections. *Motion passed.*

Acting Chair Frenette reminded the applicant that there is a 30-day appeal period post-decision.

Acting Chair Frenette **CLOSED the PUBLIC HEARING** for ZBA Case #551.

OTHER BUSINESS:

Land Use Permits: LUC Irving announced the most recently issued land use permits: 1) #24-002 Donald Lansing at 16 Church Street; demolition of existing garage and reconstruction into an ADU on the same footprint. The application submitted the garage as a "storage-ADU" unit, but the whole structure is the ADU to be calculated into density, 2) #24-003 Joel Tuite (Applicant)/Hometown Properties North LLC (Owner) at 461 Main Street; demolition of 1st FL interior and renovation into eyecare practice. This is the building next to NAPA. LUC Irving explained that there will likely be a site plan for a parking lot as she notified the landowner that she had concerns about interference with the easement to the rear of the NAPA building within

the existing parking area. She recommended building a lot on the north side of the building with access from Summer Street. She also recommended that the corner of the lot be rented to Brasseur—this will not happen in 2024, 3) #24-004 Thomas & Samantha Haskins at 37 Water Street; installation of a metal framed poly covered carport over the existing driveway. This permit arose as a result of the abutter objection that the carport was situated within the setback on the boundary , 4) #24-005R2 Leo Jr. & Michelle Rideout at 36 Causeway Street; 2nd RENEWAL for construction of self-storage facility, 5) #24-006R2 Greg Mitchell (Applicant)/Thompson Mill Properties LLC (Owner) at 65 Main Street; 2nd RENEWAL of renovation of 1st FL into restaurant and lounge (Yellow Deli). The applicants are waiting for a certification in order to open. They will be serving food during the eclipse event, 6) #24-007 Christopher & Ellen St. Cyr at 46 Railroad Street; demolition and reconstruction of gable dormers, 7) #24-008 Dakota Lurvey & Chelsea Jensen at 4 Wesson Road; demolition of front shed and reconstruction of a slightly larger shed over same footprint with extra SF toward the rear.

Sign Permits: 1) #24-001 Kyler Kenison at 405 Elm Street for "Twisted Elm Automotive LLC," 2) #24-002 Leo Enos Sr. at 69 Mechanic Street for "Leo's Mulch." He will have a similar mulch setup with the concrete bins as the former Lancaster Floral property, 3) #24-003 Richard Mattos at the Main Street Municipal Parking Lot for "TECHPROS Computer & Gun Shop." This will be mounted on the existing Welcome Center poles; Ken Crane is finishing the details as instructed by the ZBA.

Planning Board Decisions: 1) PB#839 Jesse Picha—APPROVAL WITH CONDITIONS of a subdivision off Stebbins Hill Road. This case was heard by the PB in 2022; the subdivision (for property over 5 acres) was not approved by NHDES until late November 2023, 2) PB#856 Joel & Jean White at 44 Achorn Hill Road—APPROVAL WITH CONDITIONS of an Administrative Minor Site Plan to operate an invasive species control business out of a garage. The Land Use Department imposed conditions of approval that the business is limited to a call-for-service business only and no customers are to travel to the property as it is a Class VI road, 3) PB#853 Zachary Colby at 212 Main Street—DENIAL of a conditional use permit for a dimensional deviation to omit a 10-foot buffer in front of the proposed parking spaces along Grove Street, 4) PB#854 Zachary Colby—DENIAL of a conditional use permit for a dimensional deviation to omit the buffer along Grove Street and to allow more than 25% of the parking to be located along Grove Street, 5) PB#855 Zachary Colby—APPROVAL of conditional use permit for a dimensional deviation to reduce the 30 foot setback along Grove Street to 25 feet, 6) PB#577 Zachary Colby—APPROVAL of conditional use permit for a dimensional deviation to reduce the 30 foot setback along Grove Street to 20 feet. This setback is to accommodate the amended plan's building. This approval supersedes the decision for PB#853 (25 feet), and 7) PB#846 Zachary Colby—APPROVAL WITH CONDITIONS to construct a 40'x62'/2,480 sf commercial building intended to be used as a 39-seat maximum restaurant with an app-preorder/pickup & pay lane and a proposed 34'x18' outside dining patio, 13 parking spaces including 1 ADA space, landscaping including an 8-foot arbor vitae along Tax Map P04-Lot 032 (currently Haas), and an approved stormwater drainage system. Other conditions included submitting the recorded easement, relocation of the funeral home service line if required by the Department, restriction of a single window for pickup and no order window, order microphone, or outside menu board, no queuing onto Grove Street and no on-street parking

on
Grove Street and Main Street. All local and State driveway permit conditions must be in compliance including installation of signage and curbing. LUC Irving stated that the patio, as an extension of the building, creates a footprint that should not be within the setback, however, with the post-COVID encouragement of outside dining options, the Land Use Office will permit the patio with a restrictive condition that no canopy, roof, walls, or any enclosure of the patio shall be permitted—only portable table umbrellas can be used. This will ensure that this facility will not expand in the same way that Scorpio's has.

Training Topics/Materials: None

Announcements/Correspondence:

Don Freddette moved to approve Tricia Frenette as Chair and Nate Kenison as Vice Chair of the Lancaster Zoning Board of Adjustment. Steve Young seconded the motion. All members of the Board voted to approve Tricia Frenette as Chair and Nate Kenison as Vice Chair of the Lancaster Zoning Board of Adjustment, no objections. *Motion passed.*

Other:

Nate Kenison asked if the space (88-90 Main Street owned by Brickyard Road R/E Store that Jamie/Bouquet Boutique had been inspected by Lancaster Fire Department? LUC Irving responded that it had not been inspected despite requests from LFD to do so. Irving has contacted Jamie and informed her that the same conditions on her current permit would be applicable (no extension cords, hard-wired only, smoke/CO detectors) and that the Chief is required to do a walk-through.

LUC Irving announced enforcement letters: 1) Family Dollar—trees need to be maintained per site plan conditions of approval. Asplundh was granted permission to cut the dead trees down. The letter is a notice that they must re-plant maples. 2) Shaw's—requested permission to eliminate the remaining curbed barriers. Land Use notified them that the request would require submission of an amended site plan and the Town opposes this proposal.

Don Freddette moved to adjourn the meeting at 1944H. Steve Young seconded the motion. All Board members agreed to adjourn the meeting at 1944H, no objections. *Motion passed.*

Respectfully submitted,

Robin L. Irving, Land Use Coordinator

Date of ZBA Approval: 5/29/2024