Lancaster Zoning Board
Location: Lancaster Town Hall
May 29, 2024

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

Roll Call:
Regular Members Present: Chair Tricia Frenette, Steve Young, Vice Chair Nate Kenison, Les Hilton
Absent: None
Alternate Members Present: Donald Freddette, Robert Cass, Eric Livingstone
Absent: None
Others Attending: Land Use Coordinator Robin L Irving, Thomas Anderson (Applicant), Karen Anderson (Applicant), Kevin Whiting (Abutter), Joann Whiting (Abutter), Andrew Nadeau (Abutter)

QUORUM

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

Minutes:
Don Freddette moved to approve as written the March 27, 2024 meeting minutes. Les Hilton seconded the motion. All members voted to approve as written the March 27, 2024, meeting minutes, no objections. *Motion passed.*

Appointments: None

Public Hearings:

Chair Frenette **OPENED the PUBLIC HEARING** for ZBA Case #552:

Case# 552—Anderson, Thomas C. & Karen B. for a Variance (Area) concerning Article 5, Section 5.04, "Agricultural District-Setbacks and Frontage." Owner(s)/Applicant(s) wishes to expand the existing single-family home 30' from the Buffalo Road frontage when 50' is allowable and 20' from the rear ravine when 40' is allowable. All other setbacks will be met. Land Zoned Agricultural. [Tax Map R15-Lot 053, 2.57 acres (111,949.20 sf) 69 Buffalo Road].

Applicant Thomas Anderson explained that the recommendation at time of site plan was to build the home snugged up against the setbacks in order to get the best view and best use of buildable land. It seemed like a good idea at the time, especially because the house was intended as a vacation getaway. Circumstances have changed and the Andersons want to move into the home permanently following retirement next year. The home is not large enough for them to live in permanently so they propose an expansion that would require a variance on the setbacks. Without a variance, the only way to expand is down the hill where the septic tank and leach field are situated; redesign and relocation of the septic and leach field is not feasible. The well is

situated uphill from the house on the opposite side to create the separation from the septic. The main part of the house is 25'x25' and there is a 14'x16' 4-season porch on piers. The expansion is for more common living space and not necessarily an additional bedroom (there are already 2 bedrooms), so there should be no impact on septic capacity.

Chair Frenette read the Applicant's Variance Application:

A variance is requested from *Article 5, Section 5.04, Agricultural District Setbacks and Frontage* of the zoning ordinance to permit: *"expansion of the Anderson's home. Request reduction in setback surrounding house, to thirty (30) feet in the front yard (street side) and to twenty (20) feet in rear yard (ravine side)."*

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

   Applicant's Response: "*Significant setbacks would still be observed.*"

All members of the Board agreed that the proposed setbacks are not in line with those for the Agricultural District. All members of the Board disagreed 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: "*More than residential setbacks would still be observed.*"

All members of the Board disagreed with the applicant's response to question #2 as written, no objections. Same rationale as for #1.

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

   Applicant's Response: "Granting the ordinance [variance] will do substantial justice because *we could then expand our house to meet our needs without harming or inconveniencing our neighbors.*"

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: *"We are not encroaching on usable land (ravine) and we are observing more than residential setbacks."*

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: *"Current setbacks would force us to relocate the septic field."*

AND

ii. The proposed use is a reasonable one because:

Applicant's response: *"Abutters on sides where we are requesting the variance are supportive of our request."*

The best plan is to expand forward and backward; the expansion cannot go up the hill due to the well nor can it go down the hill due to the septic. The lot is triangular and the home is within the narrow corner of the lot. The Andersons are not ruling out building a second story, finishing the basement, and/or building a foundation under the porch. All of these options need to be assessed. All members of the Board agreed to proceed to section B to discuss unnecessary hardship.

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: *"Denying the variance would require us to relocate the septic system, significantly increasing our cost. We built the house ourselves and are very personally invested in it. We are engaging an architect to help us design an expansion that maintains the feel of the house. We want to give her the most flexibility possible and to not drive cost too much given the terrain of the property (significant hill)."*

LUC Irving recommended that the Board focus on what the question is asking—it is asking about characteristics of the lot itself relevant to hardship. Don Freddette noted that the buildable portion of the lot above the ravine is within the narrow, triangular, upper corner; the terrain does not lend to options for building and reasonable use without a variance; he physically inspected the lot to confirm the unfeasibility of building in other directions. Steve Young noted that relocation of the septic is unreasonable. All members of the Board agreed that strict conformance with the ordinance would create an unnecessary hardship. Les Hilton mentioned that approval of a variance would be supported by abutter support for the proposal. There were no further questions for the applicant.

Chair Frenette **OPENED TO THE PUBLIC** the public hearing for Case #552.

Abutter Andy Nadeau said that his property is situated to the west of the applicant's parcel. The Andersons had originally requested purchase of some land, however, while Nadeau was

agreeable to sale of some land, the property is in Conservation Trust so there can be no lot line adjustments. Because the land is locked up, he recommended to the Anderson's a request for a variance. The house is currently 42 feet from the boundary and there is sufficient land to expand in the back before the land drops down dramatically. He does not oppose expansion toward his boundary line and thinks it is probably the best option.

LUC Irving stated that the State had not been sent notice of public hearing. Nadeau shared communication with the State indicating that the State would likely not oppose because the conservation land itself is not affected. LUC Irving will notify the State.

Abutters Kevin and Joann Whiting live directly across the street from the Andersons. They know the lay of the land and agreed that the Andersons have little to no options with the steep hill. They do not oppose the request for a variance.

Chair Frenette **CLOSED TO THE PUBLIC** the public hearing for Case #552.

Don Freddette said that he thought it was very important that the Board ensures that the applicants have the proper septic, especially if they add on another bedroom. Les Hilton responded that calling it a bedroom does not necessarily make it a bedroom. LUC Irving commented that it will be classified by the assessor. LUC Irving explained 1) the septic approval in the packet is for 2 bedrooms at 300gpd, and 2) she can always impose a condition of approval on the building permit to construct to septic capacity or upgrade the septic if required.

Les Hilton moved to APPROVE with NO conditions the application for variance. Don Freddette seconded the motion. All members of the Board voted to APPROVE with NO conditions the application for variance, no objections. *Motion passed.* There are no conditions of approval. LUC Irving shall notify the State of the decision.

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

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) #24-028, Revision Energy Inc (Applicant)/Cabot Hill Properties dba Dental Herb (Owner), 62 Bridge St., for installation of a roof mounted solar array, 2) #24-009, Evan Doyle dba Main's Electric (Applicant)/Jonathan & Joy Quay, Trustees of The Quay Family Trust (Owners), 245 North Rd, for installation of a ground mounted solar array, 3) #24-010, St. Paul's Episcopal Church, 115 Main Street, for installation of a roof-mounted solar array. Don Freddette asked if homeowners are given an incentive for solar? LUC Irving said that there is a solar exemption application through DRA, but it is not automatic. The federal government has solar tax credits, around 30% off cost of installation, 4) #24-011Y, Alan Brasseur dba Northern Woods Garden Center (Applicant)/Rhodes Colossus 1 LLC dba Lancaster House of Pizza, 281 Summer St., construction of seasonal, temporary plant stands. Brasseur struggled with finding a new location, 5) #24-012, Greg & Lynette Westcott, 1 (& 3) Foss Place, construction of pre-fab apartment

buildings, 6) #24-013, Jude Gesel, 70 Main St. (Granite Grind building), construction of 2-story tiered egress stairwell on side of building. LUC Irving later amended the permit in #24-019A to clarify the location as rear of the building. The alleyway is a shared access. Gesel has requested from Land Use permission to construct a ramp extending from the rear egress to the parking lot on Town land. The issue has been referred to the Board of Selectmen. 7) Garland Mill (Applicant)/Pancras & Lowri Van der Laan, 53 Arthur White Rd., for demolition and reconstruction of bathroom, addition for a bedroom, 8) #24-015, Brook Field Services dba Vermont Power Technologies LLC (Applicant)/Timothy & Lisa Glynn, 19 Pleasant St., for installation of a generator on a pad. Generators must be installed per electrical code, 9) #24-017R2, Paul & Jill Martin, 131 Pleasant Valley Rd., a renewal for construction of post & beam single family home, 10) #24-018R2, Derek Champagne, 1936 Prospect St., renewal for demo of deck and replacement with mudroom, radiant heat, and paving the driveway, 11) #24-020, Matt & Kathy Treamer, 96 Bunker Hill St., for construction of a rear addition on sona tubes, 12) #24-021R, Eric & Sally Livingstone, 6 Grandview Dr., renewal for construction of a carport, 13) #24-022, Rick & Joyce Bernier, 11 Page Hill Rd., for construction of a concrete pad intended to be used as a basketball court. This property is situated in the Agricultural District so technically the pad should be 40 feet from the boundary, however, the parties agreed on its current location. The original home was permitted but there are no other permits on file for the number of additions and miscellaneous accessory use structures including the pool, 14) #24-023, Max & Kirsten Hodgdon, 7 Pine Haven Rd., for construction of an open deck on piers, 15) #24-061D, Ben Southworth dba 79 Main Street LLC, 79 Main St., for demolition of interior to the frame. This demo permit was required so that Southworth would be eligible for the Municipal Demolition Grant from InvestNH, 16) #24-024, Robert & Patricia Cotter, 13 Wolcott St., for construction of a stick-built open deck on piers, 17) #24-025, Peter Bornstein & Linda Upham Bornstein, 185 Mt. Prospect Rd., for demo of inactive fireplace and chimney, repair finish work, 18) #24-026, Lori Summa & David Awwiller, 92 Rowell Rd., for demo of a shed and reconstructions of a 2-bay detached garage on a slab, 19) #24-028, Cabot Hill Properties dba Dental Herb, 62 Bridge St., for installation of a roof mounted solar array.

Sign Permits: 1) #24-004, Hunter Griswold dba Griswold Logging (Applicant)/Raven Capital LLC (Owner) at 708 Main St. for "Griswold Logging." LUC Irving has an administrative site plan pending for Griswold, 2) #24-005, Town of Lancaster, 121 Water St. for "Town of Lancaster Transfer Station." The sign was not easily seen at its former location so this one will be pole mounted along the street. The sign for open hours will still be mounted on the fence.

Planning Board Decisions: On June 12th, the Planning Board will be having the public hearing on the merits for the Democrat building apartments. The Review for Completeness for a proposed telecom tower is also on the agenda. The balloon test will be conducted on June 12th between 9-12.

Training Topics/Materials: None

Announcements/Correspondence:

1) Colby has not submitted the revised drainage plan nor the agreement with the funeral home to not relocate their service line, 2) The Colebrook Chronicle on May 3rd highlighted economic and housing development in Lancaster, 3) Casey Henry is

proposing construction of dry camps with outhouses to rent as short-term rentals on Kelsea Drive. That will likely be a site plan for the layout and a conditional use permit for the STR. He wants to start with just one and build out later. By doing it this way rather than presenting a site plan, the 'serial' building permits undermines the purpose of site plan and ends up creating a campground. Requiring the site plan up front is the better approach, 4) There are discussions about situating a solar field onto the open land next to the former Lancaster Floral. Irving responded that the Town is looking for land because the current public works building is structurally unsafe. If the notion was to lease the land to a solar company, why wouldn't the owner consider selling or donating with a writeoff to the Town? The Town will continue to seek options.

Other:

Chair Tricia Frenette discussed damaged, unhealthy, and replacement trees throughout town. Last week, Frenette toured with Selectman Shane Beattie, Road Agent Tim Brown, and an arborist, town properties to inventory and assess how to move forward and address the dying tree population. The arborist was even concerned about the trees at Family Dollar; LUC Irving has been trying to get consent from the owner to have them cut. In their case, the site plan requires maintenance and replanting if removed. In downtown areas, there needs to be consideration of the safety of the public from decay and risk of growing into the power lines (all of the Main Street lines are three-phase). It is costly to remove the trees. Is there a procedure or policy that can be implemented to control the types of trees being planted? LUC Irving said that site plan regulations state that native trees are acceptable but there is no list of approved species. The arborist had provided to Frenette a document called "30 under 30" listing thirty types of trees that typically grow under thirty feet. These kinds of trees are less likely to create power line hazards. There are a number of trees that will need to be addressed over the next 5-10 years, so ideas on how to systematically address the trees is needed. LUC Irving said that the intent of the zoning ordinance provisions is to create green space not only for aesthetic purposes but also for ecology and human-tree relationality. It looks pleasing and for some people creates a visceral and intimate connection to nature. Irving felt that there was no controlling documentation under the purview of the ZBA but site plan rules are under the Planning Board. She has plans to start reviewing the regulations again and perhaps there are provisions that can be added or edited—the timeline will be affected by the caseload. Robert Cass mentioned that in the flatlands, trees are cleared in the center of their growth to allow power lines to pass through; he noticed that entire halves of trees are removed for power lines in the North Country. Irving said that the trees have to be manageable, maintainable, hardy, and disease and salt-resistant. Irving will look into a group work session with the Planning Board.

Steve Young moved to adjourn the meeting at 1937H. Nate Kenison seconded the motion. All Board members agreed to adjourn the meeting at 1937H, no objections. *Motion passed.*

Respectfully submitted,

Robin L. Irving, Land Use Coordinator

Date of ZBA Approval: 8/28/2024