Lancaster Zoning Board
Location: Lancaster Town Hall
August 28, 2024

Call To Order: Chair Tricia Frenette opened the meeting at 1832H and led the Pledge of Allegiance.

Roll Call:
Regular Members Present: Chair Tricia Frenette, Steve Young, Les Hilton
Absent: Vice Chair Nate Kenison
Alternate Members Present: Donald Freddette, Robert Cass, Eric Livingstone
Absent: None
Others Attending: Land Use Coordinator Robin L Irving, Applicant Ben Southworth

Chair Frenette moved both Eric Livingstone and Robert Cass to regular voting members for the meeting.

QUORUM

Minutes:
Steve Young moved to approve as written the May 29, 2024 meeting minutes. Les Hilton seconded the motion. All members voted to approve as written the May 29, 2024, meeting minutes, no objections. *Motion passed.*

Appointments: None

Public Hearings:

Chair Frenette **OPENED the PUBLIC HEARING** for ZBA Case #553:

Case# 553—**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 a second commercial unit on the ground floor in addition to the previously approved on March 27, 2024 variance for four (4) residential units on the 2nd and 3rd floors when five (5) units would be allowed per Case #551 variance. Land Zoned Central Business District South. [Tax Map P07 Lot 040 (0.04 acres; 1,742.4 sf; 79 Main Street].

Applicant Ben Southworth displayed the plans and explained that nothing changed for the residential units since the last time he came for a variance, but the floor plan has made it tight for the commercial unit to be a practically laid out single space. The original intent was to have one commercial unit on the ground floor, however, when looking at the entry way (in the middle of the floor plan), there is not enough room without being awkward for doorway of tenant #1 to be into the hallway of the entrance to the units above as well as having a door going into tenant #2. It is not the best use of the space and one of the goals was to preserve the privacy of the units above so that there are not people off the street entering this area to go into the commercial

space. Given this scenario, closing off the doors technically creates two commercial units. Nothing is being added, it is just that they are not connecting the east and west sides of the commercial space. This configuration allows each commercial unit to have their own entrance and have it be private from the residential entrance. The doorways already exist on both ends of the building. Southworth pointed out the emergency egress for the units. The box in the rear of the building has already been removed because Commonwealth had to run a power line underground to the pole and the box obstructed the path. Robert Cass visited the site and noticed four (4) propane tanks along the side of the building and asked if these needed to be moved? Southworth responded that they cannot be removed because they are not situated on the applicant's property. Chair Frenette emphasized her ongoing concern about parking, especially in the winter, especially after the Chesley Block apartments are occupied.

LUC Irving explained that the application narrative was the same as the previous variance application except that the applicant appended responses specific to the commercial unit being considered in this application. The Board agreed to stand by their responses to the previous application and consider only the new information. LUC Irving said that the whole answer will be typed into the minutes and the amended responses will be in bold type and underlined.

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 an additional ground-floor commercial unit in addition to the previously approved four (4) residential units on the second and third floors of 79 Main Street, the "Democrat Building" when two (2) total 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. ***Smaller more private commercial spaces for professional offices provide diversity to the commercial offerings currently on Main Street.****"*

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.*" ***(No change.)***

All members of the Board agreed with the applicant's response to 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**(s)** on the first floor and residential units upstairs.*" ***(No change in content but plural added.)***

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.*" ***(No change.)***

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."* ***(No change.)***

The Board considered whether an alternative configuration would be feasible given the size of the building and the lot (the building and lot are essentially the same). If two stairwells were constructed on either end of the building, the unit sizes would change, and they are already small 1-bedroom apartments. Because there is no additional land outside the perimeter of the building and the goal is to provide quality affordable housing (the commercial units are not the primary focus), the proposed configuration is what maximizes use and best accomplishes this goal. Based on this information, the Board agreed that there would be an unnecessary hardship if denied a variance, no objections.

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."* ***(No change.)***

All members of the Board agreed with the applicant's response to question #5(A)(ii) as written, no objections.

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.* ***Not allowing the central stair to split the commercial units will require two sets of stairs, increase the cost of construction and reduce the size of the already small apartments which would be detrimental to renters and to the owners."***

All members of the Board agreed with the applicant's response to question #5(B) as written, no objections.

Chair Frenette **OPENED TO THE PUBLIC** the public hearing for Case #553.

There were no comments from the public.

Chair Frenette **CLOSED TO THE PUBLIC** the public hearing for Case #553.

Eric Livingstone moved to APPROVE with NO conditions the application for variance. Robert Cass seconded the motion. All members of the Board voted to APPROVE with NO conditions the application for variance, no objections. *Motion passed.*

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

Chair Frenette **CLOSED the PUBLIC HEARING** for ZBA Case #553.

OTHER BUSINESS:

Land Use Permits: LUC Irving announced the most recently issued land use permits (late May to present): 1) #24-031, Gary & Robyn Baker, 22 Mary Elizabeth Lane, for construction of a storage shed on a gravel pad, 2) #24-030, Coos & Essex Agricultural Society dba Lancaster Fair, 516 Main St., for demolition and reconstruction of the stalls and barn, 3) #24-032, Sharen Robertson, 55 Buffalo Rd., for construction of a single-family dwelling, 4) #24-034, Judith & Michael Fuller, 44 Bridge St., for construction of a lean-to off the garage and widening of the front deck, 5) #24-035R2, Daniel Morris & Megan Jany, 63 McGary Hill Rd., RENEWAL for construction of tiny home onto a slab and installation of septic, 6) #24-036, Emile Jr. & Joyce Dupont, 334 Portland St., for demolition of front porch and construction of roofed porch, 7) #24-033, Jamie & Glenn Robbins, 34 Achorn Hill Rd., for placement of a temporary seasonal RV until home is built, 8) #24-038, Sam Hoehne, 14 First St., for installation of a single wide into Page Hill MHP, 9) 24-039AR, Boo's Storage, 13 Mechanic St., AMENDED RENEWAL for demolition to studs and reconstruction, 10) #24-041R, James Murphy, 23 Prospect St., RENEWAL for construction of capped drive-in garage, 11) #24-042R, Jeffrey & Amalia Carty, 20 Hodge Rd., for demolition of barn & sheds, construction of shed and extend laundry room, 12) #24-043, David & Sarah Hill, off Apple Hill Rd., installation of metal framed greenhouse, 13) #24-044, Global Montello dba Jiffy mart, 202 Main St., installation of EV chargers, 14) #24-040, 79 Main Street LLC, 79 Main St. (Democrat building), demolition of interior and reconstruction into 4 apartments, 15) #24-045D, Crossroads Community Church, 183 Prospect St., demolition of asphalt shingled roof and replacement in-kind. LUC Irving explained that the ordinance does exempt from permitting siding, roofing, and windows BUT, if the applicant intends to bring the waste to the town transfer station who has the authority to refuse receipt without a permit, a demolition permit should be obtained. Chair Frenette said that landfills have restrictions on waste, so the town needs to implement more controls. 16) #24-046, Lee Ann & Melissa Potter, 12 Evergreen Dr., for installation of a roof mounted solar array, 17) #24-037, Scott Lambert, 25 Kelsea Dr., for construction of a walkout basement garage with a living space, 18) #24-027, Michael Johansson & Tracey Tibbetts, 78 Brook Rd., for construction of a timber

framed single family home. There is a 4-bay garage on the property and the applicant had originally applied for a permit to construct an additional heated bay, but is now scratching that project and building the home, 19) #24-047, Richard & Diantha Rochefort, 55 Stockwell Rd., for construction of a porch, addition, and dormer, 20) #24-001, John & Jodi Rooney, 41 Elm St., for construction of a covered deck, 21) #24-048, Blue Sky Towers/Mt Orne Enterprises, 246 Stebbins Hill Rd., for removal and replacement of upgraded antennae and other equipment, 22) #24-049A, Thompson Mill Properties, 65 Main St., AMENDMENT for construction of ADA access ramp along alleyway, and conversion of bay abutting the alley into a market, 23) #24-050R2A, James & Robie Collins, 131 Elm St., AMENDED RENEWAL for construction of single family home and optional garage. This changed owners; the previous owner started construction and this owner will finish the plan without the garage, 24) #24-051R, Candy & Thomas Anderson, 8 Mary Elizabeth Lane, RENEWAL for construction of single family home, 25) #24-052D, Gary & Marissa Rexford, 26 Pleasant St., demolition of interior of building, 26) #24-053, Stephen Rodrigues & Rachel Baldi, 43 Railroad St., for conversion of 2-story home into downstairs home and upstairs ADU, 27) #24-054, Marcella & Katherine Coughlin, 41 Second St., for installation of a barn-style shed in Page Hill MHP, 28) #24-053, Cabot Hill Properties LLC, 83 Rowell Rd., for construction of a heated 3-season structural steel greenhouse. LUC Irving notified the Board members of the definition of agritourism and how broad it is. If there is a commercial activity that attracts people to a farm or attracts people to a building associated with a farm, that is considered agritourism. She cited the Newfields issue with Vernon Family Farm that is having concerts, festivals, and other events on the farm; these activities have upset the abutters, however the court decided these types of activities are exactly what was intended by the definition of agritourism. Because farms are exempt from site plan, there is no notice to abutters. If and when similar events occur on Rowell Road, the Board will need to get acquainted with the regulations, 29) #24-056, Wayne & Tricia Frenette, 87 Summer St., for construction of a single-family home with a deck, 30) #24-059, Zachary Colby, 212 Main St., for construction of a restaurant, 31) #24-058, Ray Jr. & Susan Kingston, 30 Depot St., for demolition, renovation, and conversion of former dojo into a tool supply store. Chair Frenette thought that they were already open, and 32) #24-061ARSF, Daan Vondell, 112 Wesson Rd., 5th RENEWAL for construction of a dry camp and hoop shelter.

Eric Livingstone asked what the status of the solar array at the former Lancaster floral property was? LUC Irving responded that the property is for sale and that no one has sought a permit for a solar array.

Sign Permits: #24-006, Jeffrey & Amalia Carty at 20 Hodge Rd. for "Amalia M. Carty, Esq." She focuses on estate planning.

Planning Board Decisions: There was no public hearing for the Planning Board in August but there will be a merger of lots for the September meeting on 9/11/24.

Training Topics/Materials: None

Announcements/Correspondence:

LUC Irving explained that the Planning Board has been seeking funding for the Capital Improvement Plan. For all of the housing grants that the town has been awarded, LUC Irving has

been charging a fee for her time on administration of those grants. That money has been reimbursed and is allocated to a Land Use checking account. Irving requested an expenditure of $2500 for a cloud program called EasyCIP for the Capital Improvement Plan. Because the ZBA can expend from the Land Use account as well, Irving is requesting a vote for permission to withdraw the CIP program invoice amount. Irving also asked for a vote for permission to withdraw $1000 as match funding for a Road Surface Management Study conducted by North Country Council. During this study, a camera is attached to a vehicle that drives town maintained paved roads to catalogue road condition. The assessment report ranks roads for priority maintenance.

Steve Young moved to withdraw $2500 from the Land Use checking account for the purposes of purchasing a Capital Improvement Plan cloud software program. Robert Cass seconded the motion. All members of the Board voted to withdraw $2500 from the Land Use checking account for the purpose of purchasing a Capital Improvement Plan cloud software program, no objections. *Motion passed.*

Les Hilton moved to withdraw $1000 from the Land Use checking account for purposes of matching a Road Surface Management Study grant from North Country Council. Eric Livingstone seconded the motion. All members of the Board voted to withdraw $1000 from the Land Use checking account for purposes of matching a Road Surface Management Study grant from North Country Council, no objections. *Motion passed.*

Other:

Steve Young moved to adjourn the meeting at 1920H. Robert Cass seconded the motion. All Board members agreed to adjourn the meeting at 1920H, no objections. *Motion passed.*

Respectfully submitted,

Robin L. Irving, Land Use Coordinator

Date of ZBA Approval: 11/27/2024