

**APPROVED**

**LINCOLN PLANNING BOARD**  
**PUBLIC HEARING**  
**WEDNESDAY, JANUARY 22, 2019 – 6:00PM**  
**LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

**Present:** Chairman Jim Spanos, Vice President Joe Chenard, Selectmen's Representative OJ Robinson, Member Stephen Noseworthy, Alternate Paul Beaudin,

**Members Excused:** Member Mark Ehrman, Alternate Deanne Chrystal

**Members Absent:** None

- **Staff Present:** Town Planner Carole Bont, Fire Chief/Forest Fire Warden/Code Enforcement Officer/Health Officer Ronald R. (Ron) Beard
- **Staff Excused:** Recording Secretary Kristyn Daigle-Brophy.

**Guests:**

- **Susanne (Susan) A. Chenard**, resident of 11 Liberty Road, Lincoln NH 03251 (Map 107, Lot 061) and Realtor for Loon Reservation Service, 264 Main Street, Suite 12, PO Box 785, Lincoln, NH 03251-0785, and owner of 19 Maple Street (Map 118, Lot 069). Alternate member of the Zoning Board of Adjustment.
- **Morgan Cramer**, 59 Main Street, PO Box 1484 Lincoln, NH 03251-1484
- **Minh Nguyen**, 59 Main Street, PO Box 1484 Lincoln, NH 03251-1484, Owner & Operator of Lincoln Nail Salon, 31 Main Street, Lincoln, NH 03251-1484
- **Michael Hyland**, nonresident, 26 Profile Lane, North Woodstock, NH 03262, Manager of Merland Group LLC. Merland Group LLC owns the property with an address of 437 US Route 3, (Map 105, Lot 022) and 25 Main Street, (Map 112, Lot 024), with a mailing address of PO Box 5, Lincoln, NH 03251-0005, owner of White Mountain Bagel Co., at 25 Main Street, and White Mountain Bagel North at 437 US Route 3.

- I. CALL TO ORDER** by the Chairman of Planning Board (PB); announcement of excused absences, if any, and seating of alternates(s), if necessary.

*Chair Spanos excused Member Mark Ehrman, Alternate Deanne Chrystal and appointed Alternate Paul Beaudin to sit for Member Mark Ehrman.*

- II. CONSIDERATION** of meeting minutes from:

- January 08, 2020 (Chairman Jim Spanos, Vice Chair Joseph Chenard, Selectmen's Representative OJ Robinson, Member Stephen Noseworthy, and Alternate Paul Beaudin)

Selectman's Representative Robinson proposed a change on line 160: The words "occupancy rates" should be "occupancy capacity"

Alternate Beaudin proposed a change on line 700: the words, “occasional” and “periodically” should be included in words that need defining for the Town Ordinance. He also proposed a change on line 744: The sentence "Alternate Beaudin said, “I have looked at it. I have no interest in it at all.” should read “Alternate Beaudin said, “I have looked a copy of the draft. I have no interest in it at all.”

Chairman Spanos proposed a change on lines 680 & 682 “Clark’s Trading Post could apply for a waiver of Site Plan Review regarding specific details” should read “Clark’s Trading Post could apply for a Site Plan Review with a waiver regarding specific details”

**Motion to accept meeting minutes from January 08, 2019 as amended: Chenard**

**Second: Robinson**

**All in favor: 5-0, Abstentions: 0**

**Motion carries with edits**

### **III. CONTINUING AND OTHER BUSINESS (Staff and Planning Board Member/Alternates).**

#### **A. 6:00 PM**

##### **A. 6:00 PM Conceptual:**

##### **Applicants & Business Owners/Operators of the business known as “Lincoln Nail Salon” and tenants of 31 Main Street (Map 112, Lot 027):**

Morgan Cramer as agent for Minh (a/k/a “Megan”) Nguyen  
59 Main Street, PO Box 1484  
Lincoln, NH 03251-1484

##### **Property Owner:**

Herbert J. Lahout  
64 Sunset Hill Road  
Sugar Hill, NH 03586

**Property Location:** Tax Map 112, Lot 27 (31 Main Street)  
(Village Center District)

##### **Proposal:**

Morgan Cramer and Minh Nguyen would like to change the use of the rear portion of the building currently used as a customer service/retail use (i.e., a Nail Salon) into a residential use – a residential 2-bedroom, 1-bathroom apartment – so they can live behind the Nail Salon. The building is currently subject to a Site Plan Review approval from 2014. Renters are seeking a Conceptual to discuss the possibility of a Waiver of Site Plan Review approval to convert a portion of customer service (nail salon) space to residential space.

**Discussion:**

Morgan Cramer reminded the Planning Board of their meeting on December 11, 2019 when he and Minh Nguyen came to request the Planning Board's guidance about whether he and Minh Nguyen would be able to renovate the rear portion of the property where their Nail Salon business operates to use as a residential apartment due to current unlivable conditions in their current residence (i.e., mold affecting the asthma of his son). He then informed the Planning Board that his family received an eviction notice to vacate their residence as of March 1, 2020, which has heightened their need for emergency living quarters. He asked the Planning Board to consider allowing them a short-term residency on a temporary basis within the business, as they are no longer looking to heavily renovate the rear of the business at all to accommodate them.

Chairman Spanos asked what kind of renovations they were looking to perform. Cramer stated they are looking for minimal changes; they are no longer intending to add a kitchen as they have friends who can accommodate their cooking needs.

Alternate Beaudin inquired how long they intended to stay there if the board were to allow them to temporarily reside there. Cramer replied they would like to stay until the middle or end of June to allow their daughter the ability to finish out the school year at Lin-Wood.

Alternate Beaudin asked what amenities were currently in the building. Is there a bathroom and enough area for sleeping? Cramer responded that there was.

Alternate Beaudin then asked Fire Chief Beard (in his role as the Health Officer) if there were any health issue requirements that needed to be met in order to accommodate their stay. Fire Chief Beard responded that a shower or a tub is needed. Minh Nguyen informed the Planning Board that they have a portable tub they can utilize as there are water hook-ups and drainage capabilities in the building already that they do not currently use. There is enough room to use the other two (2) spaces for sleeping.

Chairman Spanos asked Cramer if they were looking to add a refrigerator and a hot-plate, to which Cramer responded that they already have two small refrigerators on site.

Alternate Beaudin suggested that, as Fire Chief Beard is also the Health Officer, Fire Chief Beard should inspect the property to ensure there are no life safety issues. He continued on to say that he would hate for anything to happen to the family if the Planning Board allowed them to stay temporarily and there is cause for concern over life safety.

Cramer asked Fire Chief Beard if any life safety issues arose when he did his previous inspection of the property, to which Beard responded that his last inspection was conducted based on the assumption that Cramer & Nguyen were looking to renovate the property. Fire Chief Beard also noted that there are regulations requiring separate bedrooms for children of different genders that must be met based on the children's ages. Cramer responded that his children's ages are three (3) and six (6), and the threshold for requiring separate bedrooms for the children had not been reached yet. Fire Chief Beard stated he would look up the codes regarding those regulations.

Alternate Beaudin inquired whether they need smoke and fire protection, to which Fire Chief Beard responded that they do currently have signaling devices in place.

Chairman Spanos asked whether the occupant's intent is to remove all of the improvements at the end of June, to which Cramer confirmed.

Alternate Beaudin asked if the Town Staff had any reason to approve or disapprove, or what their thoughts were on the proposed. Town Planner Bont informed the Planning Board that David Rodgers had stopped by the Town Office to ensure the staff knew about a deed restriction currently was in place for the property owned by Herbert Lahout Shopping Center, LLC restricting the types of uses for the property. David Rodgers spoke with Linda McIntyre.

Planner Bont then asked Cramer if he had a conversation with Rodgers. Cramer informed the Planning Board that a conversation between he and David Rodgers had taken place before he was able to “acquire this” because they had to go through the Grafton County Register of Deeds to get a copy of the easement deed and had issues. Cramer continued that he would like to speak to Rodgers after the conclusion of this Planning Board meeting if the Town supports the proposal, and have the same discussion with Rodgers, he hopes Rodgers would find it in Rodgers’ heart to allow them a temporary stay. He feels as though this would garner forward movement, as opposed to have been given the short end of the stick and have only been able to make a lateral move, and that this allowance would very much help his family out. He also stated that if Rodgers were to allow it, that he would bring in a signed document stating so.

Alternate Beaudin iterated that the Planning Board cannot decide to allow this as the deed states it is not allowed. Planner Bont informed the Planning Board that the Easement Deed is the result of a private legal settlement between two private parties.

Alternate Beaudin clarified stating the Rodgers is an abutter, and if this is a change of use, then the abutters need to be informed, based on the Site Plan Review Regulations. He agrees that if you look at the heart felt matters, and these people need a place to stay, he would love to allow the business owners the ability to reside on the property short-term, but if the Planning Board decided to allow it, and Rodgers files a complaint, the Planning Board cannot turn around and say it is allowed, because it is not. Planner Bont stated that it is her understanding that Rogers did not specifically complain, but he spoke to Linda McIntyre to give the Town information about the easement deed restriction.

Cramer then asked if they had extenuating circumstances would the Planning Board allow them to stay in the building temporarily if it is approved by Rodgers. Chairman Spanos explained that the only way the Planning Board can grant a Waiver of Site Plan Review is via the Site Plan Review process, which requires a public hearing and notice to abutters.

Planner Bont suggested scheduling a Request for a Waiver Site Plan Review for June 25, 2020. Selectmen’s Representative Robinson pointed out that there are deadlines associated with applications for Site Plan Review approval or a Waiver of Site Plan Review. Vice President Chenard pointed out that they the tenants will already be out of their current property and that it would be too late.

Alternate Beaudin asked if there have been any formal complaints about them living in the business property, and if not, he feels as though they are putting the cart before the horse. Until the Planning Board or Board of Selectmen get a formal complaint, “why are we acting on it”. Chairman Spanos responded that Cramer and Nguyen are not living there yet. Alternate Beaudin stated that sometimes it is easier to ask forgiveness than permission.

Representative Robinson reiterated that Herb Lahout has already stated he does not want to come in before the Planning Board for Site Plan Review. He stated he thinks that the Planning Board will

get into legal trouble if the Board gives an official sanction to do something that is against our zoning laws without including abutters.

Alternate Beaudin stated it goes against the easement deed restrictions as well. Representative Robinson stated that the deed restrictions go outside of the Planning Board's purview, and they are looking at the use of a property. If the use of the property goes against the town rules, which in this case it would, the Planning Board would then be liable, and there would be the possibility of a lawsuit. If the decision goes against a deed provision then it is between the land owners and a court would have to settle that. He states the board knows that it is not compliant with the current use, and it should go before Land Use to convert it, but Lahout has already stated applying for Site Plan Review is not preferable, not doing so would not allow for abutters to weigh in. Robinson feels as though the board is in agreement that they would like to see the applicants to go forward. If the business owners move in, against regulation and the board receives a complaint, a six (6)-months-notice could be given to the tenants to evict them.

Vice Chair Chenard added that the Master Plan encourages home-based businesses.

Representative Robinson continued that within the Master Plan there is no rule stating it cannot be done, just that it has to be presented for Site Plan Review. If a six (6)-months-notice were to be given after receiving a complaint, it would allow the family enough time to stay through the end of the school year. If there is a complaint, it would be out of the hands of the Planning Board and have to be addressed by Town Administration and the Board of Selectman. Alternate Beaudin stated he would be fine with that.

The Planning Board has not decided to make a decision, but advised the applicants to heed their advice, and the Planning Board will inform Fire Chief Beard of any notice.

Planner Bont provided NH Bar Association contact information and Welfare Director Jane Leslie's contact information to Nguyen.

Cramer thanked the board.

#### **IV. NEW BUSINESS**

##### **B. 6:00 PM:**

##### **Public Hearing re: Proposed Revision to Definition of Boarding House or Rooming House:**

##### **Proposed changes to LUPO:**

##### **Boarding or Rooming House:**

Revise Article IV, Definitions, the definition of "Boarding or Rooming House" to remove requirement that house be occupied as an owner-occupied private residence in the General Use (GU) District, clarify what a "transient" is, and clarify required parking spaces for Boarding or Rooming House Parking.

**Discussion:**

Town Planner Bont referred to a handout, named **“2020 PROPOSED ZONING CHANGES”**:

**No Longer Require That A Boarding or Rooming House Be an Owner-Occupied Private Residence in The General Use (Gu) District**, specifically the first text box includes the current definition of Boarding or Rooming House.

“Boarding or Rooming House”: A building or premises, other than a hotel, inn, motel, or Bed and Breakfast, where rooms are let which are used primarily for sleeping and toiletry; for not more than twelve (12) persons (not including the property owner and their immediate family) provided that the house is also occupied as an owner-occupied private residence; not open to transient guests; in contradistinction to **hotels and restaurants**, which are open to transients. A Boarding or Rooming House is a business use and requires Site Plan Review approval with a conditional use permit.

The second text box contains some additional proposed language that came from the “Parking Area” in Motel, Bed & Breakfast and Inns which are open to transients versus long-term renters. For the 2020 Town Meeting, the Planning Board proposes to amend the definition of Boarding or Rooming House as follows:

“Boarding or Rooming House”: A building or premises, other than a hotel, inn, motel, or Bed and Breakfast, where rooms are let which are used primarily for sleeping and toiletry; for not more than twelve (12) persons (not including the property owner and their immediate family) provided that the house is also occupied as an owner-occupied private residence; not open to transient guests; in contradistinction to hotel, **inn, motel, or Bed and Breakfast and restaurants**, which are open to transients. **The owner-occupied provision shall not apply in the General Use (GU) District.** A Boarding or Rooming House is a business use and requires Site Plan Review approval with a conditional use permit.

Planner Bont also asked if adding the Boarding and Rooming House to Article V General Regulations, Section A Parking and Off-Street Loading, paragraph 2, subparagraph C. referring to providing one (1) space for each unit would be appropriate.

**ARTICLE V****GENERAL REGULATIONS**

**Section A. PARKING AND OFF-STREET LOADING.** Adequate off-street parking facilities (municipal parking facilities excluded) for employees as well as customers and off-street loading facilities shall be provided whenever a new use is established or any existing use is enlarged in accordance with the following specifications:



1. All proposed new construction shall provide for adequate off-street parking spaces in accordance with the following standards, subject to modification by the approval of a special exception pursuant to Article V, Section A,3. A single parking space is defined as being one hundred seventy (170) square feet in area and having additional adequate area for maneuvering.
- c. Hotel, Motel, Tourist Accommodation, Lodging Unit, Boarding or Rooming House – one (1) space for each unit.

Chairman Spanos asked Planner Bont if the portions of the handout of the proposed changes to the Land Use Plan Ordinance highlighted in blue and the green were in the Public Notices as matters to be discussed during this current meeting, and Planner Bont agreed.

Alternate Beaudin inquired as to why the Planning Board was recommending the Town allow Boarding or Rooming Houses without requiring the house to be owner-occupied only in the General Use (GU) District versus all of the other zoning districts. Planner Bont stated that her understanding was that the intent of limiting the relaxation of the requirement in the General Use (GU) was to allow the Town to have a trial period in one zoning district or area of town and see how it works. If it is successful and boarding or rooming houses can operate without being owner-occupied without complaints then the Planning Board can decide whether or not to relax the owner-occupied requirement for other zoning districts.

Chairman Spanos stated that if there were to be a substantial change to the proposed amendment to the zoning ordinance, it would have to be presented during the Planning Board Public Hearing on January 29, 2020.

Alternate Beaudin stated that if the change does not apply to all of the zoning districts in the entire town, and someone else, in a different district wants to do the same thing, they would have to wait another year to make the change. Planner Bont stated that in previous Planning Board discussions she learned that the initial reason the Planning Board hesitated to make this amendment was the same reason the owner-occupied restriction was created in the first place. Neighbors complained about noise and unruly behavior of tenants of unsupervised boarding houses. The General Use (GU) District section along US Route 3 is the largest General Use (GU) District, is part of the Economic Revitalization Zone (ER-Z) that provides incentives for development along the Route 3 corridor [i.e., eligible for tax credits for businesses along the Route 3 Corridor applied towards the Business Profits Tax and Business Enterprise Tax], and part of a state/federal program [i.e., Federal Opportunity Zone Designation]. The area is not as densely populated as other areas of Town. Neighborhoods in other zoning districts are more densely populated and may have other challenges.

Representative Robinson suggested that in previous discussions about the Rural Residential (RR) District and the General Residential (GR) District, the Rooming or Boarding House could be in a neighborhood like Maple Street, where having a non-owner occupied Rooming or Boarding House would not fit in with the character of the neighborhood, whereas US Route 3 is mainly and generally comprised of businesses and a rooming or boarding house could be seen as more like a

Hotel/Inn/B&B type business where it is non-owner occupied, which would be much less disruptive in a neighborhood in the General Use (GU) District.

Vice President Chenard stated he agrees with Representative Robinson, as there has been a situation at the old nunnery on Pollard Road where the residence's tenants were unruly ("hootin' and hollerin' and using foul language"). The owners were not on the property; the owner is an "LLC" with an out-of-state PO Box.

Chairman Spanos stated the reason this ordinance came about, clarifying the definition of a Rooming or Boarding House, was because neighborhoods were having issues in residential zones. Alternate Beaudin recalled a reason for the Planning Board seeking to allow this change in the requirement that boarding and rooming houses be owner-occupied was due to a need to allow greater opportunities for work-force housing, or employee housing.

Planner Bont stated that there needs to be a balance for those residential neighborhoods where its residents are seeking quiet enjoyment of their property.

Alternate Beaudin agreed with Planner Bont, but stated that any neighbor can be unruly – long term residents or short-term renters; he questioned whether there is really much of a difference between the two.

Planner Bont stated that the proposed amendment allowing boarding and rooming houses in the General Use (GU) District would be a good trial; the ordinance can be changed next year if needed. If all goes well, the Planning Board can discuss expanding the proposed change to the Rural Residential (RR) District.

**Motion to open up for Public Comment: Spanos**

**Second: Chenard**

**All in favor: 5-0, Abstentions: 0**

**Motion carries.**

Non-Resident Michael Hyland thanked the Planning Board for proposing a possible amendment to the zoning ordinance to allow changes in the General Use (GU) District along US Route 3; he feels a boarding or rooming house would be a good use for his property on US Route 3.

Fire Chief Beard asked if Boarding or Rooming Houses without the could be allowed by Special Exception in other districts, that way it leaves the door open before having it put before voters.

Chairman Spanos replied that the Land Use Plan Ordinance as it is now, rooming and boarding houses are allowed by right in the General Use (GU) District, the Village Center (VC) District and the Rural Residential (RR) District; Chairman Spanos said he agreed with Representative Robinson that the change to the owner-occupied provision would only be allowed in the General Use (GU) District.

Alternate Beaudin then asked if it was possible to expand the provision to town-wide if the Town required everyone to get a Special Exception from the ZBA. Alternate Beaudin stated it makes



sense to make this proposed change town-wide, and if they have to get a Special Exception then the abutters can be notified.

Planner Bont stated that if the Planning Board expanded the number of zoning districts where Boarding and Rooming Houses are allowed by Special Exception then the Town might not need the requirement of owner-occupied. As a member of the ZBA Beaudin knows it would be very easy for anyone to obtain a special exception. For example, there is no requirement of “hardship” as required for a variance.

The proposed use meets the Special Exception Criteria in Article VIII, Section A, Paragraph 2 of the zoning ordinance if:

Criteria 1 – The development is architecturally compatible with surrounding residential district.

Criteria 2 – Traffic access to and from the development will not alter the character of the district.

Criteria 3 – Lighting and noise levels will be of such design as not to disturb the tranquility of the district.

Criteria 4 – The proposed use will not be incompatible with, or undesirable in relation to existing uses in the area.

Chairman Spanos then asked members of the Planning Board, because a Boarding or Rooming House is considered a business, should a Boarding or Rooming House even be allowed in any residential districts like the Rural Residential (RR) District? Chairman Spanos stated a Boarding or Rooming House is still considered a business and they would still have to come in for Site Plan Review, just with the no owner-occupied provision if it gets passed in the General Use (GU) District.

Chairman Spanos asked members of the public, Resident Susan Chenard if she had any comments. Resident Susan Chenard stated that she would like it to be easier to develop and provide work-force housing along US Route 3, as there is space for it. She is okay with the proposed provision for the General Use (GU) District.

Hyland asked what the next steps were. Planner Bont stated that the proposed amendment to the zoning ordinance (Land Use Plan Ordinance) would have to pass by a vote on the official ballot at the Annual March Town Meeting (March 10, 2020), and if the warrant article passes, he would have to apply for Site Plan Review approval and if approved, get a Land Use Permit to make the renovations.

Hyland asked what the conditions needed to be for the proposed Amendment to the Land Use Plan Ordinance to pass. Members of the Planning Board stated that the Amendment has to pass by a majority vote – a majority vote by anyone who shows up during the day to vote by ballot.

Alternate Beaudin stated that when the Planning Board votes to recommend something, there is typically not much resistance with the residents who vote. The voting by ballot includes a vote for town officials like members of the Board of Selectmen, the Planning Board, the ZBA, etc.) held during day-time, on the second Tuesday in March, at the Lin-Wood Public School.

**Motion to close Public Comment: Spanos****Second: Chenard****All in favor: 5-0, Abstentions: 0****Motion carries.**

Vice President Chenard stated that if he had to live in a Rural Residential (RR) District, he expects his neighborhood would be much safer if the neighborhood housed only long-term tenants as opposed to short-term renters – people who only visit for a few days and leave.

Alternate Beaudin disagreed, clarifying that the property next to his has sold (his nephew Taylor Beaudin) and has been in a transient position, and thus far has had no complaints.

Chairman Spanos asked if the board would like to make any changes, or make a motion to approve as is.

**Motion to Approve as Proposed: Beaudin****Second: Robinson****All in favor: 5-0, Abstentions: 0****Motion carries.**

**V. PUBLIC PARTICIPATION AND OTHER BUSINESS:** Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

Chairman Spanos announced the sign-up sheet to acknowledge that each individual Planning Board member has read and acknowledged the Code of Ethics policy, is at the head of the table.

Planner Bont stated that there are a lot of items on the agenda for the next Planning Board Meeting scheduled for Wednesday January 29, 2020.

Vice President Chenard mentioned the parking situation for the hotels, and asked if the Planning Board was going to move forward and address the issue, or let it go.

Chairman Spanos stated that it was too late to be brought to Town Meeting.

Vice President Chenard insisted that was incorrect and although he did not bring a copy, it is stated in the RSAs that a public hearing can be held during the Town Meeting, allowing for a vote, and if it passes, it will allow it to become law until March 2021.

Chairman Spanos stated that there is a specific time-line that needs to be met, and requested Planner Bont to research the matter.

**VI. ADJOURNMENT**

**Motion to Adjourn at 6:43 pm: Beaudin**

**Second: Robinson**

**All in favor: 5-0, Abstentions: 0**

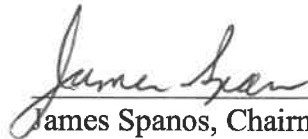
**Motion carries.**

Respectfully submitted,

*Kristyn Daigle-Brophy*  
Recorder

*February 21<sup>st</sup> 2020*

Date Approved: January 29, 2020

  
James Spanos, Chairman

