

**PLANNING BOARD**  
**27 School Street**  
**HILLSBOROUGH, NH**  
**October 05, 2022**

**TIME:** 7:04 p.m. – 8:00 p.m.

**DATE APPROVED:** 10/19/2020

**MEMBERS:** Susanne White- Chairperson, Melinda Gehris -Vice Chair, Adam Charrette, Ed Sauer, Steve Livingston, Nancy Egner

**EX-OFFICIO:** James Bailey III

**PLANNING DIRECTOR:** Robyn Payson

**ALTERNATES:** Kim Opperman, Dana Clow

**Excused:** Kim Opperman, Nancy Egner

**Public:** Mike Kirouac, Kyle Tyrrell, Mike Kim, Keith Cobbett

**Call to Order:**

Chairperson Susanne White called the meeting to order at 7:04 PM.

Susanne White called the roll; she appointed Dana Clough to sit in place of Nancy Egner.

**Minutes:** 09/21/22 Ed Sauer made a motion to approve the minutes. Dana Clow seconded the motion. The motion carried with Jim Bailey abstaining.

**Change of Use Waiver of Site Plan Review**

126 West Main Street Map 11P Lot 345

HK Hillsboro LLC.

Susanne White asked Planning Director Robyn Payson if she had any comments about the application.

Robyn Payson said she received the marked-up photographs requested by the Planning Board and forwarded them to the Board last week. Otherwise, she had no additional comments.

Susanne White asked if any of the Board members wanted to discuss anything before the public hearing was opened.

Ed Sauer said in the minutes from the previous meeting, it was said that if they got a letter from Mike Borden, they could reasonably grant a waiver on the site plan and then move on to the hours of operation on music. He said Robyn sent a note to Mr. Borden. She said in the letter:

“At the Planning Board meeting last night the people from Angus Lea said they spoke to you yesterday and you said there was no Change of Use. The Board asked for a letter from you stating that for the file.”

His answer was:

“Robyn, I have no Knowledge of whether there is a change of use or not. I never seen a wedding there. I’m not comfortable with that statement. I may have said if it were so what’s the difference, but I don’t have any history.”

Ed Sauer said that a note was written and that he wanted both sides to know what was said.

Adam Charrette said he saw in the minutes from the last meeting that Kyle Tyrrell said “He said he spoke to Mike Borden today and he said he couldn’t think of anything they needed.” Adam Charrette asked if that was regarding the Change of Use.

Ed Sauer said he was just reading the question and the answer for the Board.

There being no other discussion from the Board, Susanne White opened the Public Hearing.

Michael Kirouac said they had spoken with a state representative and listened to the recording, and it came to their attention that one of the Board members operates a wedding venue. He said he thinks that is a big conflict of interest. He said it was disappointing that this was not brought to their attention.

An applicant said they are asking for that member to recuse themselves because it is a blatant conflict of interest. He said it is reasonable for someone to sit in for him or have his vote not count. He said this person has had the biggest issue with them doing this. He said as far as the e-mail to Mike Borden, they didn’t ask for that and there was some confusion about it. He said the biggest issue is that they have given the Planning Board everything they have asked for and that they were looking for a vote so they can move forward. He asked if the vote was “majority rules”.

Susanne White said it was “majority rules”.

An applicant said they went through the town code and there is nothing about parking, there’s no noise ordinance for music. He said the town code was pretty small and that is not their concern. They want the Board to take that into consideration and take a vote so they can be on their way so they can start doing things that are good for the Town.

Melinda Gehris said she was ready to make a motion.

Dana Clow suggested that the Board would address the conflict of interest first.

Ed Sauer said that would be he that the applicant is referring to. He said that many times he has said that this is a good thing, and he is in the minutes saying that. He said if he were to recuse himself, he would ask another member of the Board to recuse themselves because they operate a potential wedding venue.

Susanne White said there is no requirement that a member recuse themselves. It’s the individual’s decision, and if they feel they can make an unbiased decision then they don’t need to recuse themselves.

Melinda Gehris made a motion to approve application for a Change of Use/Waiver of Site Plan Review application submitted by Michael Kirouac of HK Hillsboro LLC. in accordance with the application filed on August 16<sup>th</sup> 2022 with the following conditions and in accordance with the Findings of Fact.

**Findings of Fact**

Based on the application, testimony, and additional documentation given to the Board at the hearing the Board hereby makes the following findings of fact:

1. The property is located at 126 West Main Street.
2. The lot is located in the Commercial District and commercial uses as shown in the Table 4 Chart of Uses in the Hillsborough Zoning Ordinance are allowed in the district.
3. The applicant is Angus Lea Golf Course, company name HK Hillsboro LLC., Michael Kirouac is the applicant and owner of the property.
4. Michael Kirouac filed the application for the Waiver of Site Plan Review/Change of Use to include the hosting of events “ranging from weddings to golf tournaments and everyone in between” on August 16, 2022. The applicant has repurposed the unused tennis court area to serve as the event space.
  - a. The applicant plans to operate the venue space seasonally, concurrent with golf season for events (April-October).
  - b. The applicant requests “an open approval with no limitation on number of events as [they] are unable to determine the demand for outdoor space currently....perhaps 10 per month would be allotted to start...”
  - c. The applicant states that “events will be scheduled and planned to be during off business hours for the golf course or, if necessary, would require the operations to be closed for the day to have no impact on parking.”
  - d. The applicant requests a waiver of the site-plan review stating that because such review was not required for a change from season to year-round restaurant service, therefor it should not be required for use of the property as an event space.
5. There is no site plan approval in the Town records.
6. The only site plan is hand drawn and in the Town Planning Office 1983 file.
  - a. Applicant submitted with the application a hand drawn map with outdated abutter information.
  - b. Applicant submitted on September 21, 2022, a color drone photograph

taken in low light with no indications of buildings, parking or proposed use space.

c. Applicant has since updated those photographs.

7. The existing use of the property is golf course/restaurant. Hosting events is a reasonable accessory use to the current use. The applicant stated that it will advertise Angus Lea as an event venue in the future.

Pursuant to Sec.185-5.1, the criteria for Exempt Changes of Use are discussed below.

A. The change requested does not expand the floor area more than 200 sq.ft. and there will be no additional construction of a building with a floor area greater than 200 sq.ft. on the site which exempts the application from site plan review provided that there are no:

1. Adverse impacts beyond the site boundaries due to:

a. Increased traffic

i. *Events including weddings and concerts may result in increased parking and additional traffic. The applicants have stated that they will close the golfing portion of their business during events and they have made additional parking arrangements which can be fulfilled by using the golf course*

b. Groundwater and Drainage

i. *No impacts will result from the proposed use*

c. Sanitary and solid waste disposal

i. *Applicant proposed the use of PortaPotties for outdoor events.*

d. Lighting/glare

i. *Applicant did not address lighting in the application.*

e. Noise

i. *Applicant reported that abutters do not object to live music and no abutters appeared at the public hearing to object to the proposed change of use.*

ii. *Applicant stated that they are willing to work with the Planning Board on the hours of live music.*

f. Fumes, odors, or air pollutants.

i. *There are no expected fumes, odors or air pollutants expected as a result of the requested change of use.*

2. Municipal services, facilities and utilities will not be overburdened or adversely impacted.

The Planning Director has contacted the Chiefs of Police and Fire Department. Both said that the Angus Lea owners were working with them, and they have no objections to the change of use. The Chief of Police asked that he be notified of events with more than a certain number (unspecified) of individuals attending events.

The applicant states that it will be advertising Angus Lea as an event venue which constitutes a change of use. Additional events will result in an increased intensity of use.

Members of the Planning Board, during discussion of the application agreed that:

1. Angus Lea has been operating as a golf course for several decades, holding tournaments and other golf related events on the site.
2. A modified site plan is appropriate in these circumstances.
3. The conditions for live music on the deck should be the same as those for Tooky Mills and Hillsborough House of Pizza.

### **Approval with Conditions**

October 5, 2022, at a duly noticed Public Hearing, the Hillsborough Planning Board voted to approve the application for a Change of Use/Waiver of Site Plan Review submitted by HK Hillsboro LLC. to allow weddings and other events to be held at the Angus Lea Golf Course located at 126 West Main Street (Map 11P Lots 345).

1. Live music permitted on the deck from Memorial through Columbus Day
  - A. No more than two days a week Thursday-Sunday
  - B. Performances shall last no more than six hours
  - C. All live music shall end no later than nine P.M.
2. Conditions for outdoor events to be held from Memorial Day through Columbus Day
  - A. No more than two days a week Thursday through Sunday.

- B. Live music or Performances shall last no more than six hours
- C. All live music or performances shall end no later than ten P.M.

3. General conditions.

- A. Events with an attendance of more than one hundred (100) people require written notice to the Hillsborough Police Department at least seven (7) days in advance.
- B. All events must comply with the then applicable certificate of occupancy.
- C. Lighting shall adhere to the Site Plan Regulations chapter 185-6 "Requirements for Site Plan Approval" letter H, "Adequate provisions are made for outdoor lighting", subsection 1 which reads:

"All new or replacement lighting fixtures will be of a fully shielded design, which means that the light fixture is constructed in such a manner that all light emitted by the fixture is projected below the horizontal plane from the fixture's lowest light emitting part."

- D. This approval is subject to all local, state, and federal laws and regulations.

Steve Livingston seconded the motion.

There was a brief discussion about the hours that the outside music will be allowed on the deck and for events.

Mike Kirouac said that the 9:00pm time was fine for the deck. He said the "Thursday-Sunday" two days thing was "kind of weird" because they had music in Pittsfield on Tuesdays. He said they would start with that and then come back for discussion at a later date. He said that they were planning on having more than one or two events a week there. As far as the outdoor events go, if a wedding starts at 3:00-5:00 pm the six-hour window is not going to be enough time. He said most weddings go until 11:00pm or 12:00am, but that can be discussed later.

Melinda Gehris said the live music on the deck is the six hours ending at 9:00pm. Then there's the events. The events are a separate category and that's the one where they said six hours and 10:00 pm. She said the reason it is proposed this way is because it matches what the Board has granted to Tooky Mills and Hillsborough House of Pizza. She said if the Board allows them to go until midnight you know very well what is going to happen next week. She said that does not mean you can't come back and ask for something different.

Mr. Kirouac said they can come back and ask permission for a specific event.

Melinda Gehris said they can also come back and ask the Board to reconsider parts of this. She said what the Board wants to do is get them going.

Susanne White called for a vote. The motion carried unanimously.

### **Dark Skies Update**

The Lighting Level town map was distributed to the Board showing the lighting allowed under the Dark Skies ordinance.

Adam Charrette gave a demonstration of different Dark Skies compliant lighting. He demonstrated the types of lighting that would be allowed in each lighting zone.

Adam Charrette said that “Low Voltage Landscape Lighting” should be removed from the ordinance.

Melinda Gehris said it made a lot of sense to remove the “Low Voltage Landscape Lighting” from the ordinance.

The Board reviewed the map and following discussion, the consensus of the Board was to include the upper village in the L1 (Low Ambient Lighting) zone.

There was discussion about different types of lighting and whether or not they would be considered Dark Skies compliant.

Dana Clow asked if there were waivers included in the ordinance.

Adam said there were provisions for Special Exceptions.

### **Other Business**

Robyn Payson distributed a map showing the location for the proposed Gateway.

Robyn also passed out a copy of the proposed definitions to be added to the Zoning ordinance and asked the Board to review the definition of Manufacturing and asked them if it was sufficient.

Robyn Payson asked the Board how they wanted to handle the change to Minimum Dwelling Size. She asked if they wanted to see it as a stand-alone section or change the dwelling size shown on Table 4.

There was a brief discussion on “tiny homes”.

### **Next Meeting**

Matt Taylor will be coming to discuss the proposed Gateway zone.

There being no other business Melinda Gehris a motion to adjourn. Ed Sauer seconded the motion.

### **Meeting Adjourned 7:57 pm**

Respectfully Submitted,

Robyn L. Payson, Planning Director