

**PLANNING BOARD  
27 School Street  
HILLSBOROUGH, NH  
November 16, 2022**

**TIME:** 7:00 p.m. – 8:50 p.m.

**DATE APPROVED:** 12/07/22

**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, Ed Sauer, Adam Charrette

**Public:** Anthony Lentini, Crystal Tocci, Zach Whitney, Tia Whitney, Corey Crossman, Leigh Bosse, Richard Head, Peter Mellen LLS., Stephan and Heather Ellis

**Call to Order:**

Chairperson Susanne White called the meeting to order at 7:00 PM.

Susanne White called the roll and appointed Dana Clow to sit in place of Ed Sauer. Melinda Gehris is attending the meeting by phone because she is out of state.

**Minutes:** 10/19/22 Nancy Egner made a motion to approve the minutes. Jim Bailey seconded the motion. The motion carried unanimously.

**Application**

**Change of Use/Site Plan Review**

206 Henniker Street

Anthony Lentini, Lentini Motors LLC.

Steve Livingston made a motion to accept the application. Jim Bailey seconded the motion. The motion carried unanimously.

Susanne White discussed the site visit which showed 20 spaces laid out for car sales.

Melinda Gehris confirmed that the parking spaces would not be the size required for public parking, but they would be sufficient for 20 cars for sale and 4 customer spaces.

Nancy Egner made a motion to approve the application with the following conditions and in accordance with the Findings of Fact (See attached):

1. Compliance with all local, state, and federal laws and regulations.
2. All vehicles for sale must be displayed in a neat and orderly condition.
3. There shall be no more than 20 spaces allotted for vehicles for sale.
4. There shall be 4 spaces allotted for customer parking.

Jim Bailey seconded the motion.

Dana Clow said its clear that the Board should be supporting bringing business into town. Nonetheless, the Board is charged with reviewing those proposals before them. He said they are spending a lot of time looking at the regulations, changing them, adding to them, and clarifying them. He said they have regulations that deal specifically with issues like lighting.

Susanne White said they complied with the regulations.

There was discussion about the lighting, and landscape requirements. There will be no change to the existing lighting and none of the existing arborvitae at the front of the site will be removed.

Mr. Lentini said they would be taking two trees on the back side down but otherwise there will be no removal of existing vegetation.

Dana Clow said that should be documented as a condition of approval. He said he was concerned about the lighting as it would affect the mobile home directly behind the site. If the lighting on the pole is sufficiently shielded it shouldn't affect the residential use that is not 30 feet behind the site.

Susanne White said that the lights are in place and are not changing.

Dana Clow asked Mr. Lentini if he could operate his business with the lighting that is in place now.

Mr. Lentini said he could.

Dana Clow said he found the lack of detail and specific information difficult as far as making a determination that supports the application and protects the interests of the community. The last thing he had concerns about was the lack of pavement. He said Mr. Lentini said he would be putting in asphalt "millings". Dana Clow said it is going to snow and the millings are going to get plowed up just like gravel would. It is not a durable surface. He said a gateway to Hillsborough is Henniker Street. That is what everyone sees when they drive into Hillsborough. He said other than Kelley Automotive and Livingstons, what you see are dilapidated derelict buildings and junkyards. It has been like that for many years and the only opportunity you have to change that is through site plan review. There are standards that you can implement if you choose to. He said what he is sensing is the Board's inclination to require nothing. He said he is distressed by that. He said the Board spent a lot of time enhancing the regulations and what's the use if you aren't going to follow them.

There was discussion about the development of the Findings of Fact.

Steve Livingston said he appreciated being told that his new building looks nice, but Livingston's didn't start that way. He said Livingston's started with a dirt parking lot and not a lot of money and one guy working. He said its nice to have pavement but that's not how things work when you start out. You start at the bottom and work your way up to the top. If the

business does good, then you can afford to add things to it. It doesn't magically appear. He said he hopes that the Lentini's do great and that 50 years from now they have a massive complex there. But starting out, if grindings are what it takes to get business in there then it works for him.

The Board developed the Findings of Fact (See decision below)

Roll Call Vote: Susanne White-Yes, Melinda Gehris-Yes, Steve Livingston-Yes, Adam Charrette-Yes, Nancy Egner-Yes, Dana Clow-Abstained.

The Site Plan/Change of Use application was approved.

### **Subdivision**

Dascomb Road and Myrtle Street Map 11P Lots 191 and 400, Map 23 Lot 113  
Dascomb Associates

Robyn Payson introduced the application for the seven-lot subdivision.

Steve Livingston made a motion to accept the application. Dana Clow seconded the motion.

Roll Call Vote: Susanne White-Yes, Melinda Gehris-Yes, Steve Livingston-Yes, Adam Charrette-Yes, Nancy Egner-Yes, Dana Clow-Yes.

Peter Mellen presented the application. He said lot 7 was designated as a non-building lot because it will be the location of the approved cell tower. He said the state changed its definition of a non-building lot to a lot that has to be dedicated to public use. The designation on the plan does not meet that criteria so it has to be classified as a building lot. He handed out test pit data for the lot and will be changing the plan to reflect the building lot status. The State has also requested a copy of the infiltration pond easement on lot 5. Mr. Mellen submitted it to the Board for the file.

Mr. Mellen presented the plans for the proposed road.

Peter Mellen said one of the things they planned which is shown on the road plans concerns a couple of houses on Myrtle Street on either side of the entrance to the development. Peter Mellen pointed out the location of the driveway on Map 23 Lot 15. He then pointed out a strip of land that Tax Map 23 Lot 16 has been using as a driveway. What was proposed was constructing a gravel parking area for Lot 16 behind the house and Mr. Bosse has had conversations with Mr. Troyzso, who is the owner of the property.

Leigh Bosse said he had cordial conversations with Mr. Troyzso offering to run the line 40ft, leaving him an additional 40ft of road frontage at the top. They also proposed giving him a stub to put a parking lot at the back. The third alternative that they both agreed was impractical, was that the Town requires a 40ft right of way, 22ft of pavement. Ideally that leaves 9ft on either side. He proposed to him if the Planning Board was ok, to bring that to the other side to 2ft, making a 2ft easement making it 24ft giving him more that he would deed over to him. He said

that was cordial up to the other day.

He said he received an e-mail from him that said unless the Board gives him at least a 24ft driveway out of that 40ft easement or Mr. Bosse constructs a full 24ft parking area for him in the back that he was going to bring him to court and claim adverse possession of the property because he and his tenants had been parking there. With that in mind, he traced down Mark Tanzer and he has his affidavit that says from April 15<sup>th</sup> 1987 – April 13, 2007 they owned the property at 80 Myrtle Street. “During that time, they never used or occupied the adjacent property (Map 23 Lot 13) They said they never claimed ownership of that land either actual or by adverse possession.” Mr. Bosse said this negates any claim for adverse possession which requires going back 20 years. He said he is hereby withdrawing all offers made except they will provide him with a stub to park his cars behind the house.

Mr. Mellen said on the other side they had proposed a driveway for lot 15 opposite Lot 16. Since that time Mr. Mellen has discussed this with the owners, and they would prefer to keep the driveway where it is. So its in the Planning Board’s hands to deal with that.

Mr. Mellen addressed the comments by Highway Director Ernie Butler. Mr. Mellen said first, as can be seen in the plans, they were not going to be taking half the deck. This is a 40ft stub that was created back in the late 50’s or early 60’s when his father did the Myrtle Street subdivision. The requirement at the time was 40ft, but the remainder of the road has been expanded to 60ft as is required now. He then addressed the comments from the Fire Chief who said there needs to be a hydrant added to the subdivision. He wanted to know where that hydrant was going to go.

Leigh Bosse said he had had conversations with the Fire Chief and he would like to see them extend the water line and add a hydrant which will serve the development.

Dana Clow asked why they are doing wells when the water line is coming up to Myrtle Street.

Mr. Bosse said when this project came up originally there were plans for sewer and water lines up Dascomb Road. Mr. Bosse found that it would be cost prohibitive.

Peter Mellen discussed lot sizes. Bringing in Water and Sewer was not going to generate more houses. Dascomb is gravel so they might have had to pave the whole street. The costs were high, and they didn’t think they were going to get that many more lots. He said the cell tower lot takes up a lot of space.

Dana Clow said bringing in town water and sewer would have been more costly, but it would have brought in domestic water supply and fire protection.

Mr. Mellen said the Water and Sewer Commission wanted the line to loop through Dascomb Road.

Jim Bailey asked where the fire hydrant was being located.

Mr. Mellen pointed it out on the plan.

Susanne White asked if the cul-de-sac had a sufficient turning radius for a fire truck?

Mr. Mellen said if you have a peer review the engineer would look at that. The radius on that circle is 92 ft.

Susanne White said her concern is coming from Myrtle Street around the corner.

Mr. Bosse said the road will be as wide as every road in town.

Mr. Mellen said he believes it exceeds what is required in the subdivision regulations.

Susanne White said there are three things in front of the Board, drainage review, road review and a site walk.

Dana Clow said based on the comments that were received, perhaps it would be helpful before they make these decisions, they hear from Mr. Head from the Conservation Commission.

Susanne White recognized Richard Head, Chairman of the Conservation Commission.

Mr. Head said, spoke about drainage and impervious surfaces. The drainage report talks about a slight increase in off site drainage. This is a plan to subdivide without taking into account the impacts the built-out development would have. One of the concerns the Commission has is that once this project is built out, adding impervious surfaces and lawns, you are going to have an increase in flow off the property.

There is no accommodation for any drainage devices between the project and the wetland. Once you build out this project the assumption is you are going to be adding impervious surfaces, you are going to be adding lawns, and adding things that will infiltrate into that wetland and not only going into the wetland but flowing off site.

In the Commission's comments they referred to the Alteration of Terrain rules. This is not an Alteration of Terrain project because it is not large enough but one of the requirements that is in those regulations is that wetlands not be used for drainage or pollution control.

It appears that the wetland to the northeast is being used for infiltration and pollution control. They saw this as a concern. He referenced Mr. Livingston's project. The drainage basin was put between the project and the wetland. They didn't see that type of a structure design for this project.

He said he thinks the impact to the wetland and impacts off site will increase once the project is developed. One of the other things is the DES wetlands regulations. (Mr. Head handed them out). The Alteration of Terrain rule that is cited in their comments says, if you are going to use a wetland for drainage or sediment control you need a wetlands permit.

He pointed to DES Wetlands regulation section "Env-Wt 524.04 Design Requirements for

Residential, Commercial, and Industrial Development” It says “in addition to meeting the applicable design requirements established in Env-Wt 300 a residential, commercial, or industrial development project in non-tidal wetlands shall be designed to meet the following criteria.” Letter (b) of that criteria states “The project does not use wetlands or surface waters to serve as stormwater or water quality treatment;” He said the Commissioners are not engineers or in that business but at least reading the report that was submitted with the filing, it appears that wetland to the north east will have that value added to the project which is stormwater control and pollution control. We wanted to flag that as a concern, and they thought it would be appropriate for technical review as to whether or not that is an accurate evaluation contained in that report.

The other item they identified was the stormwater basin. It is similar issue to what they identified in the wetland at the northeast. The drainage report is based upon a project that is not built out. It talks about 5, 10, 25-year storm flows and emergency overflow for any storm in excess of 25 years. It talks about the flow coming out based on the subdivision and not on the build out. His concern was the greater likelihood that the overflow was going to be utilized once the project has built out based on an increase of impervious surfaces.

He said it does appear that there is a grass swale that is part of the emergency discharge. There would be some slowing and treatment of the overflow they just couldn’t evaluate what that meant in the context of the built-out project. He said they thought that was worthy of further evaluation. He said they also noted in the center of the circle there was a wetland. That wetland is pretty much dead once you put a paved circle around it. It does not appear to be a dredge and fill so it does not appear to require wetlands permit because it’s encircled. The affect of that is to kill any value or function of that wetland. He said they added a requested condition for approval. Lot 191-3 has a wetland, they are asking for a condition on the future development of that lot. The condition is:  
“No dredge and fill of the wetland on the proposed Lot 191-3 should be allowed at any time following approval of the subdivision plan.”

Dana Clow asked if the wetland at the center of the circle was a protected resource.

Mr. Head said since it was marked on the plan it is assumed that it is jurisdictional, but his assumption is that it is encircled so it will be segregated from construction so it would not require a dredge and fill or a wetlands permit.

Susanne White asked about the infiltration pond.

Mr. Head said his understanding of the infiltration pond is that it will take surface flow coming off the project, capture that and then discharge it out the lower end.

Susanne White asked about the water flow off the road going into the infiltration pond.

Mr. Mellen pointed out the finished contours of the road and showed how the water will flow down the road and into the pond.

There was further discussion about the water flow off the road.

Mr. Bosse said he had no problem with the one condition Mr. Head Proposed. He said building out the development is not before the Board. Only the subdivision of land is before the Board. Beyond that he wanted to point out in the engineer's report, "the increase is relatively low due to the subdivision design" talking about the subdivision and not building it out. People are going to build houses and that is up to them. The AOT rules do not apply so any of Mr. Head's suggestions should not be discussed. He pleaded with the Board not to send the drainage report and the road off for peer review. There is an engineer that has done this, its been reviewed by the state and approved and received minor suggestions from the Conservation Commission. He said as a general matter, he has been involved with subdivisions since 1975 in this case as a developer he has represented developers, and for several years he represented this Board as its attorney. In all that time he said he has never seen a peer review come back and say this is bad or good. Every peer review comes back and says "we prefer" that things be done differently to justify sending things out to peer review the next time. A registered engineer provided these plans, the highway department approved them in essence the Conservation Commission approves them with a few concerns. He asked the Board to please not make him spend all that money on peer review because they are going to charge him more than the engineer to start with.

Dana Clow commended the applicant and his team for a very comprehensive application. He said he was pleased to see the completeness and the thoroughness and the thought that has gone into the design. He said he has only been on this Board since May, but this is the most complete application that he has seen since he has been here.

That being said, in his 40 years of professional engineering practice with specific expertise in Hydrology and Hydraulics, he has never prepared a design of a subdivision that did not anticipate and take into consideration in the design and the fact that homes and driveways are going to be built on this site and that the storm water by necessity must be addressed.

It is part of the change of character of the land and if and when each of those homes is built. Whether it is a deliberate action on the part of Mr. Costello or an oversite it is incorrect. There will be direct impacts off site by the failure to account for the runoff from those developed homes. We acknowledge that you don't know if someone is going to build a 4,000 sq ft home or a 1,500 sq ft home you don't know if they are going to put their driveway at the back of the lot or if its going to be at the minimum setback. But you make reasonable assumptions at least for the development for the fact that a certain amount of the lot will be planted and become a lawn, and that there will be a house and a driveway. That will change the hydrologic measurement and the runoff characteristics of the site. Part of the development of the infrastructure that addresses that. You've taken into consideration the future development of those homes.

He said he would ask the applicant to have the engineer go back and take that into consideration. Perhaps modify his infiltration basin and come up with a passive concept for intercepting runoff toward the area of concern. There are ways to address it without major expense of constructed infrastructure, but it needs to be addressed. He said the Board would be remiss not to consider that you are building a road with the intent of selling the lots with the people buying them intending to build homes and that it needs to be addressed properly. He said he is sure that the

engineer is very creative and very capable of finding ideas to mitigate. In the report there were minimal increases in runoff. But when you start building homes and planting lawns and driveways that increase is going to be significant.

Mr. Bosse asked if it was clear from the drainage report that he has not anticipated that?

Mr. Head said the drainage report does not reference in any way additional impervious surfaces or building. He said he looked for it and did not see anything.

Dana Clow said it is not only that, the westerly half of the road is not going into the infiltration pond, its running off. It's inappropriate not to take the development of the property into consideration. If you elect to have him do that and come back with a modification rather than sending it out for a peer review initially, because it is going to come back and say the same thing. He said he would support waiting and having him come back with something that addresses those issues.

Mr. Bosse said if that is the pleasure of the Board, he has no objection to going back and talking to his engineer.

Mr. Mellen asked if it is specifically spelled out in the subdivision regulations for the stormwater analysis to take into account post development or is it street design.

Robyn Payson said she would not be able to find that right now, but the Planning Board has the right to ask for additional things.

Susanne White said the Planning Board, in protecting the Town of Hillsborough it is part of their responsibility to take that into account.

Peter Mellen said there was a recent subdivision that was approved that required stormwater management plan when the lots were developed.

Dana Clow said there have been subdivisions where each individual lot had to come in for site plan review.

Mr. Head said the wetland that is being impacted is largely off the property, so you are beginning to affect an abutter. Its not just wetlands that are contained within the project itself. Even as designed with the subdivision only, the small impact going off the property will impact an abutter. Once you build it out how do you protect the property line, so you are not increasing the flow off the property and on to an abutter's property.

Dana Clow said they would take a little drainage modification and call it a day. It can be very easily addressed based on the natural topography. It doesn't look like the infiltration pond is going to be affected either way. Its going to be something more around the perimeter to capture it and detain it with water quality swales. It can be very easily done. If you have conditions where a lot buyer is to come before the Planning Board for site plan that doesn't make your sales easier. If its all addressed as part of this its pretty straightforward.



Jim Bailey said they want to avoid a problem that is going on Old Mill Farm Road. The subdivision was done 12-15 years ago, and he does not know what was done with drainage but there are problems with water running into people's yards and they are up in arms.

Nancy Egner made a motion to continue the hearing to December 7th. Steve Livingston seconded the motion.

Roll Call Vote: Susanne White-Yes, Melinda Gehris-Yes, Steve Livingston-Yes, Adam Charrette-Yes, Nancy Egner-Yes, Dana Clow-Yes.

Nancy Egner made a motion to hold a Site Walk at the Myrtle Street access point of the development on Saturday December 3, at 8:00 am. Dana Clow seconded the motion.

Roll Call Vote: Susanne White-Yes, Melinda Gehris-Yes, Steve Livingston-Yes, Adam Charrette-Yes, Nancy Egner-Yes, Dana Clow-Yes.

## **Work Meeting**

### **2023 Meeting Schedule**

Robyn Payson distributed the proposed meeting schedule for 2023.

Nancy Egner made a motion to approve the schedule. Steve Livingston seconded the motion.

Roll Call Vote: Susanne White-Yes, Melinda Gehris-Yes, Steve Livingston-Yes, Adam Charrette-Yes, Nancy Egner-Yes, Dana Clow-Yes.

### **Historic District Amendments**

Melinda Gehris said she did not have any amendments to propose.

### **Tiny Homes**

Robyn informed the Board she had been at the first day of the Municipal Association conference and found out that because there is no minimum dwelling size in town Tiny Homes are allowed. She said she would like to take a look at modifying the Mobile Home Park ordinance to work for Tiny Homes and considering Detached ADU's

### **Water/Sewer**

Kim Opperman has applied to fill the vacancy on the Water/Sewer Commission.

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There being no other business:

Nancy Egner made a motion to adjourn. Jim Bailey seconded the motion.

**Meeting Adjourned 8:50 pm**

Respectfully Submitted,  
Robyn L. Payson, Planning Director

	Town of Hillsborough Planning Board 27 School Street P.O. Box 7 Hillsborough, NH 03244 (603) 464-3877
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**NOTICE OF DECISION**  
**November 16, 2022**

Case No. 2022-13

On November 16, 2022, at a duly noticed Public Hearing the Hillsborough Planning Board voted to approve the Change of Use/Site Plan Review to allow the sale of used vehicles at 206 Henniker Street (Map 12 Lot 90) 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 206 Henniker Street
2. The applicants are acting with the permission of Jeff Abrams who is the owner of record of the lot.
3. Anthony Lentini presented the application for the Site Plan Review/Change of Use
4. The lot is located in the Commercial District and Motor Vehicle sales are allowed in the district.
5. The applicant has submitted an abbreviated site plan with aerial photos including markings indicating the details of a site plan.
6. There is no site plan on file for the property
7. There is adequate traffic access to the site from the Town streets to ensure the safety of vehicles and pedestrians because the east end of the parking lot will be opened for traffic circulation.
8. There are adequate provisions for improvement to existing streets, including traffic control devices and signs necessary because the increased traffic generated by the development is insignificant.
9. There is adequacy of circulation, both vehicular and pedestrian, and parking including

loading facilities, to ensure the safety of vehicles and pedestrians on the site because cars will be brought to the office by employees.

10. There is an adequacy of landscaping and screening of adjacent properties, the public highway and within the site, including interior landscaping of large parking areas because there is existing vegetation that will remain in place.
11. There are adequate provisions for storm drainage of the site because the drainage patterns on the site will not be changed.
12. Adequate provisions are made for snow removal and storage during winter months because the snow will be plowed to the east end of the parking lot.
13. Adequate provisions are made for the site to be serviced by necessary utilities because the utilities are already in place.
14. Adequate provisions are made for sign and outdoor lighting because all lighting will comply with the current town standards.

**Conditions of Approval**

1. Compliance with all local, state, and federal laws and regulations.
2. All vehicles for sale must be displayed in a neat and orderly condition.
3. There shall be no more than 20 spaces allotted for vehicles for sale.
4. There shall be 4 spaces allotted for customer parking.