

**PLANNING BOARD
27 School Street
HILLSBOROUGH, NH
December 21, 2022**

TIME: 7:00 p.m. – 8:00 p.m.

DATE APPROVED: 01/04/23

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: Ed Sauer, Steve Livingston, Nancy Egner

Public: Leigh Bosse, Peter Mellen LLS.

Call to Order:

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

Susanne White appointed Dana Clow to sit in place of Ed Sauer and Kim Opperman to sit in place of Steve Livingston

Minutes

12/07/22 Melinda Gehris made a motion to approve the minutes. Dana Clow seconded the motion. The motion carried with Jim Bailey, Susanne White, and Kim Opperman abstaining.

Public Meeting

Subdivision-Board Deliberations

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

Melinda Gehris said that while she was working on the Findings of Fact and Conditions of Approval, she became concerned about pushing the drainage issues on to the purchasers of the properties. She said she spoke with Town Counsel who also had concerns. She asked the Board to consider a non-meeting with Town Counsel to discuss the project.

Dana Clow said the Board is trying to develop a comprehensive approval of the subdivision and Town Counsel has some concerns about the legality or the mechanism being proposed. He said he supports speaking with Town Counsel.

Jim Bailey said he was not at the previous meeting, but the new set of road plans Robyn sent out were not the plans at the public hearing. He said the public did not have the opportunity to see those plans. He said he agreed with Melinda and that the application should be discussed with Town Counsel.

Dana Clow said the changes that were made to the road plans were discussed at the previous meeting.

Susanne White asked Mr. Bosse if he would be amenable to this.

Mr. Bosse said he was highly incensed because this was different treatment than what was given to the subdivision on Bible Hill Road in which the Board deferred drainage to the lot developers. He said it was highly inappropriate to have one member of the Board to confer with legal counsel outside of the Board.

Melinda Gehris said if Mr. Bosse is not willing to agree, she said she would make a motion to deny the application without prejudice.

Mr. Bosse said this was total blackmail. He said there was a great discussion last time at which they agreed to all of the Board's conditions. And to now have a member go outside the Board and talk to Town Counsel is completely different from what was done with the Bible Hill subdivision. He said he deserves the same respect and treatment that was given to the Bible Hill subdivision.

Jim Bailey said the Bible Hill subdivision had everything on the plans. He said the driveways and the locations of the houses were shown and the lots were bigger. He said this is a different situation. He said these lots are smaller so there aren't many places where the houses can be put, and the drainage is important and should be considered.

Dana Clow said he thought it would be imprudent to not talk to Town Counsel. He asked Mr. Bosse if there was a reason, he would not agree to continuing the application in order for the Board to talk to Town Counsel. He said Mr. Bosse shouldn't have a concern that the Board does not want to approve this subdivision. He said it is important that the Board get this right.

Melinda Gehris and Dana Clow said that they had spent many hours working on the conditions and the intention of the Board is to approve the subdivision.

Susanne White said there was nothing personal in this. This was to protect the Town's best interest and the abutters. She said they want to have the best outcome of this development that they can have. She said if the Board needs to discuss this with Town Counsel to get it right then that that is what they should do.

Mr. Bosse said it was inappropriate for a member to go to Town Counsel on their own. He said is going to have to agree but this is total blackmail. He said it was agreed from day one that this subdivision met all of the Board's criteria. He said the Conservation Commission wanted a little more on the drainage. He said they agreed that it was better to do the drainage when the house application comes in because it's more accurate. And now we come in and find out it's going to cost them another 30 days. If it's the 30 days or a denial he will take the 30 days.

Peter Mellen said that the Board had 65 days to act on the application, so he didn't know why Mr. Bosse was being asked for permission.

There was further discussion about the Board conferring with Town Counsel.

There was discussion about the Whitney's driveway. Mr. Bosse said the Whitney's do not have a right of way noted in their deed. It was in the preceding deed but not in theirs. He said in the deed from their predecessor to them does not include the right of way. He said he had no doubt that if they went to court, they would go to the predecessor and have them deed the right of way because in theory he still has the right of way. He said he does not object that the Whitney's having a right of way. He said he has no problem if the Town says their Right of Way is fine.

Dana Clow said the Town was not going to make any judgments on the legal aspect of the Right of Way. He said it is the physical reality of the location of the driveway that the Planning Board will address.

Peter Mellen said one of the engineer's concerns is addressing the issue that runoff could require the construction of some kind of detention area on the lots. He asked if that is something the Town would want to control.

Dana Clow said he didn't agree that the Town would have any participation in that. The road runoff is controlled by the infrastructure that is designed, and that becomes part of the Town's responsibility when they accept the road. He said what happens to the water that is generated on the lots is controlled on the lots.

Susanne White said that discussion needed to end.

Peter Mellen said it was pertinent because they wanted to know how to proceed because they were working within the 65 days. He said he wanted to know how they were going to address keeping the runoff within the subdivision and how is that going to be enforced.

Dana Clow said these are legitimate concerns that the Board will discuss with Town Counsel.

Peter Mellen asked when they could expect information that came from the discussion with Town Counsel.

Melinda Gehris made a motion to continue the subdivision application to January 4, 2023. Dana Clow seconded the motion.

Melinda Gehris said we need to have the conversation with Town Counsel and see what information can be forwarded to the applicant and to Peter as quickly as possible.

The motion carried unanimously.

Following discussion, Robyn Payson said she would reach out to schedule the meeting with Town Counsel via ZOOM for the following week at 5:00 pm.

Work Meeting

Zoning Amendments

Robyn Payson distributed the final version of the warrant articles and asked the Planning Board to vote to post the public hearing for January 4, 2022.

Melinda Gehris made a motion to post the public hearing for the Zoning Amendment warrant articles for the 2023 Town Meeting. Adam Charrette seconded the motion. The motion carried unanimously.

There being no other business:

Melinda Gehris made a motion to adjourn. Kim Opperman seconded the motion.

Meeting Adjourned 8:00 pm

Respectfully Submitted,
Robyn L. Payson, Planning Director