

**PLANNING BOARD
27 School Street
HILLSBOROUGH, NH
February 1, 2023**

TIME: 7:00 p.m. – 8:50 p.m.

DATE APPROVED: 02/15/23

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: Kim Opperman

Public: Heather Ellis, Consuelo B. Carver, Stephen Mayer, Anthony Costello, Dan Higginson, Peter Mellen LLS., Zach Whitney, Riche Colcombe

Call to Order:

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

Minutes

01/18/2023 Adam Charrette made a motion to approve the minutes. Nancy Egner seconded the motion. The motion carried unanimously.

Amend Minutes 09/07/22 to include the name and address of the property of the survey that was accepted at that meeting. Melinda Gehris made a motion to approve that amendment. Nancy Egner seconded the motion. The motion carried unanimously.

Old Business

Subdivision

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

Susanne White asked the Board if they have any questions. They did not.

Susanne White read the Public Hearing Rules and opened the public hearing.

Susanne White asked Robyn Payson if she had anything to say.

Robyn Payson said Highway Director Earnie Butler had planned on being at the hearing but was under the weather. He called her this afternoon and told her that the road is 18ft wide, and what he wanted the road to be 20ft wide with 2ft shoulders and he wanted the wetland in the center of the cul-de-sac filled in.

Anthony Costello said he reviewed the plans with Ernie who told him he wanted the 20ft road

with 2ft shoulders Mr. Costello said that he explained to him that the regulations required an 18ft road when you have under 50 car trips per day. As far as the cul-de-sac issues, their concern is getting the plow around the cul-de-sac. Because the plows are wide, they dig into the grass. With this cul-de-sac, the road is higher, and the center of the cul-de-sac is lower so he didn't think they would have the issue with the plow hitting the grass.

Jim Bailey said Ernie Butler had a lot of concerns about the 18ft roadway and wanted to see the center of the cul-de-sac filled in.

There was discussion about when the information was presented on the plans.

Peter Mellen said that the Board had the plans with all of the information since November and the Highway Director submitted comments but did not comment on the width of the road at that time. He said they could submit an application to the state to fill in the wetland but he did not think it would be granted because they have a plan that doesn't affect the wetland.

Dana Clow said Ernie Butler's comments were not unreasonable. He asked Mr. Bosse how he felt about having 20 ft of pavement?

Mr. Bosse said he has an objection and that they will build the road to the 18 ft Town specification. He said he doesn't think the Board has the authority to do otherwise. He said they aren't going to go beyond what is required in the regulation.

Ed Sauer asked if the road will have 2ft shoulders on each side.

Peter Mellen said it would.

Mr. Bosse said it would meet the requirements in the regulations.

Zach Whitney of 84 Myrtle Street asked if this was the appropriate time to discuss his driveway. He said his understanding is that Mr. Bosse doesn't have a preference as to where his driveway is. He asked if the discussion should be had if the Town takes over the road. He said he was looking for clarification so he wouldn't lose his access.

There was discussion about the location of the driveway.

Dana Clow said there has been a lot of discussion about their driveway. He said the Board has no authority to tell the Whitney's that they have to move their driveway. He said Town Counsel has provided language to protect the Town of Hillsborough in respect to the location of the driveway and the road. The hazards that have been discussed will remain but there will be no liability on the Town.

Heather Ellis of 76 Myrtle Street asked if they would need to know where Mr. Whitney's driveway was before they built the road?

Robyn Payson said that Mr. Whitney's driveway is shown on the plan.

Dana Clow said when they met at the last meeting over this subdivision the applicant and his engineer was tasked with addressing storm water management. He asked if the applicant's team wanted to make a presentation of the updated stormwater management plan.

Mr. Costello reviewed the updates to the stormwater management plan with the Board.

There was further discussion about the road width and conditions that the Planning Board could attached to the approval.

Melinda Gehris said that she agreed with Mr. Bosse that the Planning Board could not require him to build the road wider than the regulations.

Steve Livingston said that he agreed with Melinda and that this application needed to be approved tonight. Mr. Bosse has done everything asked of him.

Jim Bailey asked where the road width was shown on the plan. Peter Mellen showed him.

There was discussion about the plans that were submitted to the department heads.

Robyn Payson said that the 11x17 copies were submitted to the department heads, but she could make sure Highway got a full-size set of plans from now on.

Dana Clow brought up the question of sending the updated stormwater management plan out for third party review.

Susanne White said the Board had decided not to.

Melinda Gehris said that the Board never made a formal decision on that.

Susanne White said it was not a motion but there was discussion about it. She said in her opinion this was not the time to send it out for third party review. If there is an issue that needs to be addressed, it should be identified. She said that the Board needs to move forward.

Steve Livingston said that they should not forget there is a safety built in to all of this. If the road doesn't meet the specifications, it simply does not get adopted by the town.

Susanne White closed the public hearing.

Melinda Gehris made a motion to approve the application with the following findings of fact:

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

1. The Applicant's Surveyor Peter D. Mellen LLS ("the Surveyor") was acting on behalf of property owner, Leigh Bosse, who is the owner of record of the lots made the subject of the Application, (hereafter the "Developer").
2. The Surveyor presented the Developer's Subdivision Application.
3. The Property is in the Village Residential District where subdivision of land is allowed.
4. The Developer has submitted a complete subdivision plan dated September 22,, 2022, road construction plan dated December 20, 2022, and drainage report dated January 6, 2023 (collectively "the Plans").
5. The subdivision will be accessed by Myrtle Street Extension and serviced by Cardinal Circle which will initially be a private road with a cul-de-sac, intended by the Developer to become a Town owned public way.
6. The subdivision meets the following criteria of section 201-6 Design Standards of the Subdivision Regulations.
 - a. The subdivision satisfies the requirements of layout of lots and sites because the lot is appropriate for subdivision and for a residential subdivision. The lots are all accessible by Cardinal Circle and have safe and convenient access. In addition, conditions for the subdivision include controlling surface water runoff from the driveways so that it doesn't damage Cardinal Circle or Myrtle Street Extension.
 - b. The subdivision satisfies the on-site sewer disposal design standards because the Plan submitted meets the minimum design standards for on-site sewage disposal and water supply imposed by the State of New Hampshire Water Supply and Pollution Control Division and the Town regulations.
 - c. The subdivision satisfies the requirements for street design because the proposed Cardinal Circle is in harmony and conformance with existing streets and the Town Master Plan and Official Map, provided all conditions below are met.
 - d. The Plan shows the work necessary to connect and complete improvements and utilities between Myrtle Street Extension and Cardinal Circle.
 - e. The subdivision meets the criteria for a cul-de-sac because Cardinal Circle is proposed to not exceed 1000 feet and terminates in an appropriate turn around. In addition, the cul-de-sac turn around is located so that it drains toward the entrance and to the side of the road.
 - f. The subdivision satisfies the requirement for pedestrian access ways because Cardinal Circle and the cul-de-sac allow ample room for pedestrian traffic.
 - g. The subdivision provides adequate provisions for water supply, stormwater, and sanitary sewage, and required utilities and improvements by including provision

for private wells and septic, extension of utilities, building and paving of Cardinal Circle, In addition, all lots are subject to the development of a stormwater and erosion control management plan to be submitted to the Town of Hillsborough Planning Board.

- h. The subdivision satisfies drainage requirements and sedimentation and erosion controls because all lots are subject to the development of a stormwater and erosion control management plan to be submitted to the Town of Hillsborough Planning Board.
- i. The subdivision plan provides adequate fire protection because the Developer has agreed to install a fire hydrant at the end of Cardinal Circle at its intersection with Myrtle Street Extension at the location requested by the Fire Chief.

Conditions of Approval:

- 1. This decision shall run with the land and shall be binding upon the current Developer/property owner as well as its successors and assigns.
- 2. The subdivision shall be built in accordance with the Plan and the Subdivision Regulations of the Town of Hillsborough, except as noted otherwise in this Decision. The approval of said Plan shall not be construed to be an acceptance or dedication of any roadway shown on said Plan. In the event the Town must perform any service, maintenance and/or repair in an emergency, the Town shall not be held responsible for any damage to any property and shall be reimbursed fully by the Developer for any such work performed.
- 3. Prior to the signing of the final plan, the following shall be done:
 - a. The Developer shall make a notation on the Subdivision Plan which references the conditions and date of this Decision.
 - b. Road construction shall begin within 18 months of approval.
 - c. A notation shall be made on the Subdivision Plan that all erosion mitigation measures shall be in place prior to major road construction commencing on the site.
 - d. Any plan amendments shall be submitted to the Planning Board at a public hearing.

4. No rights under this approval may be exercised unless the Developer obtains all necessary permits and/or zoning relief for the project as determined by the Building Inspector/Code Enforcement Officer.
 - a. An electronic copy of the final plans shall be submitted to the Planning Department for the Town's records.
 - b. The Planning Board shall select an engineering firm who shall be responsible to provide construction oversight on the proposed "Cardinal Circle" in accordance with the Town of Hillsborough's Subdivision Regulations §201-4 D (9) (a-d). A pre-construction meeting shall be held with the Developer, the engineering firm, the Building Inspector, and the Town Planner prior to start of roadway construction. A Bond will be required of the Developer for construction oversight purposes. Review services terminate once the road has been completed and approved by the engineering firm.
 - c. Signed deeds for all land and/or easement donations necessary for the Town to maintain the site utilities proposed for the project shall be provided.
5. The Developer, its successors and assigns assume all liability and agree to hold the Town harmless from any and all damages that may result from the configuration of the roadway and the "Whitney" driveway located on Map 23 Lot 15 regardless of whether the Town accepts the roadway "Cardinal Circle" as a town-maintained highway in the future.
6. The Developer shall install erosion control devices prior to the start of any other work on-site.
7. Suitable steps shall be taken to preserve and protect features, such as trees, scenic points, stone walls, rock outcroppings, water bodies, and historic landmarks pursuant to Town Code Section 201-3(C).
8. The road name shall be named "Cardinal Circle". A street name sign shall be installed prior to the issuance of the first occupancy permit.
9. It is anticipated by the Developer that this roadway will become a Town maintained road. The Developer shall reserve the fee interest in the roadway in any deed conveying one or more lots in the subdivision to any other party. Should the Developer wish the roadway to remain private, and not convey the road to the Town, then the Applicant shall be required to apply for a modification of this decision so that additional conditions can be established regarding the proper maintenance, safety, accessibility, and liability of the private road.
10. Granite bounds are to be installed at the following locations:
 - a. At all bend points on Cardinal Circle.
 - b. At all corners and angle points of the drainage easement on Lot 5.
 - c. At all lot corners

11. Snow plowing and all road maintenance shall be the responsibility of the Developer until such time, if any, as the roadway is accepted by the Town of Hillsborough.
12. The construction and installation of all improvements required by the Planning Board shall be completed prior to the issuance of the first Occupancy Permit.
13. All development and construction on lots 191-1 through 191-7 will be developed with no impacts to wetlands on any property.
14. Lot development will not use naturally occurring wetlands to treat or detain stormwater from the developed lots.

Nancy Egner seconded the motion.

Susanne White re-opened the public hearing.

Peter Mellen asked for clarification on condition 10 C. He said the majority of those boundaries are stone walls.

Following discussion Melinda Gehris made a motion to amend condition 10. C as follows:

- c. At all lot corners not otherwise marked with existing monuments.

Nancy Egner seconded the motion.

Peter Mellen asked for clarification on condition 3.a. He asked if the Board was asking for reference to the conditions or having the conditions noted on the plan. Melinda Gehris said a notation on the plan was what they were looking for.

Mr. Whitney asked for condition #5 the condition pertaining to his driveway be read.

Mr. Bosse said this was “shifty” because he said the Town created the problem. The Town approved the 40ft stub specifically to access his lot. He said he assumed Mr. Whitney has a driveway permit, but he wouldn’t be surprised if he doesn’t. He said he thinks it’s ridiculous, but he is not going to object to it. He asked if he and Mr. Whitney could come to some agreement to move the driveway at his cost that the Board would release that condition. He said if he can eliminate the problem the Board should eliminate the condition.

There was further discussion about condition #5.

Melinda Gehris asked Robyn Payson to consult with Town Counsel to find out if that change can be made.

Robyn Payson said Town Counsel was not aware the Board would be reaching out to him tonight but she would try and get ahold of him.

Robyn Payson was able to reach Town Counsel and went into the Selectman’s office to discuss

resolving the issues addressed in condition #5.

Mr. Bosse and Mr. Whitney discussed the driveway issue. Mr. Bosse agreed to put in a stub straight off the road at his expense. Mr. Whitney agreed.

Susanne White closed the public hearing.

Following further discussion Melinda Gehris made a motion to amend the condition to read as follows:

5. The Developer will at his expense provide a “stub” to connect the driveway at Map 23 Lot 15 to Cardinal Circle the center of the driveway entrance will be 30 feet from the south side of the right of way and Myrtle Street.

Nancy Egner seconded the motion for the amendment.

Susanne White called for a vote on the first amendment. The amendment was approved unanimously.

Susanne White called for a vote on the second amendment. The amendment was approved unanimously.

Susanne White called for a vote on the motion to approve the application. The motion carried unanimously.

Site Plan Amendment

143 West Main Street (Map 11P Lot 187)

KAB Properties

Robyn Payson said that this application is complete.

Stephen Mayer of Allen and Major Associates presented the application to reduce the size of the previously approved “Dominos” by 1,717 square feet and reduce the number of parking spaces by 15.

Steve Livingston asked if there was going to be pizza delivery. Mr. Mayer said there would be.

Robyn Payson asked if the landscaping was going to be the same. Mr. Mayer said there were changes at the rear of the building, but the majority of landscaping had not changed.

Melinda Gehris said she checked the plantings on the plan and found that they were the same. She said she knew an abutter was concerned about that.

Ed Sauer asked if there was a construction date planned.

Mr. Mayer said there was no date set but they were hopeful that they would be breaking ground

this year.

Susanne White opened the public hearing.

Riche' Colcombe asked Mr. Mayer to repeat the size of the building and the size of the reduction. Mr. Mayer said the building is currently proposed at 1,550 square feet which is 1,717 square feet less than the original building.

Riche Colcombe asked about the number of parking spaces. Susanne White said there were 14 parking spaces.

Susanne White closed the public hearing.

Melinda Gehris made a motion to accept the application. Steve Livingston seconded the motion. The motion carried unanimously.

Melinda Gehris made a motion to approve the site plan amendment:

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 143 West Main Street
2. Keith A. Bell of KAB Properties is the owner of record of the lot.
3. The plan is titled Site Development Plans for Domino's Restaurant Issued for Site Plan Amendment Dated January 10, 2023.
4. Stephen Mayer of Allan and Major Associates Inc. presented the application.
5. The lot is located in the Central Business District.
6. The site plan was originally approved September 15, 2021
7. The amendment is to reduce the size of the building 1,717 square feet and reduce the number of parking spaces by 15
8. The applicant's representative proved that this amendment does not substantially modify the approved plan or modify specific conditions established by the Board because it is a plan to decrease the size of the building and the use on the lot and the modification does not include changes that require adjustment to the prior conditions required by the Board.

Jim Bailey seconded the motion. The motion carried unanimously.

Subdivision

378 Bear Hill Road (Map 12 Lot 145)

Dan Higginson of Higginson Land Services representing Irina Jones

Susanne White asked Robyn Payson if she had anything to say about the application.

Robyn Payson said that the application was complete pending a waiver for requiring wetland boundaries at the rear of the property.

Melinda Gehris made a motion to waive the #20 Wetlands Boundaries requirement. Steve Livingston seconded the motion.

Ed Sauer asked why he was requesting the waiver.

Dan Higginson said it's a 35-acre piece of land with a forested deciduous wetland running through the property. He has delineated the edge closest to the road which gives them their building envelopes. He said the back of the property is not germane to what they are doing. They are doing this to save the homeowner money because they are not going that far into the back.

Susanne White called for a vote on the waiver request. The motion carried unanimously.

Melinda Gehris made a motion to accept the application as complete. Adam Charrette seconded the motion. The motion carried unanimously.

Dan Higginson presented the three-lot subdivision. Regarding drainage, he said the lot is pretty flat and there is a substantial amount of upland where the building sites will be. Because the lots are so big there is a lot of flexibility, so he didn't think there was a chance of any soil getting into the wetland. He said the wetland is a "poorly drained", not a "very poorly drained" wetland. It's one of those wetlands that the average person would not recognize as a wetland. There is not a lot of function as far as wetland habitat and no aquatic activity. It's a flat area of poorly drained soils.

Melinda Gehris asked if Mr. Higginson had seen the conditions that the Conservation Commission wanted?

Mr. Higginson said he had.

Susanne White opened the public hearing.

There being no comment Susanne White closed the public hearing.

Melinda Gehris made a motion to approve the subdivision based on the following:

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

7. The property is located at 378 Bear Hill Road.
8. The applicants Surveyor is Dan Higginson of Higginson Land Services is acting on behalf of property owner Irina Jones who is the owner of record of the lot.
9. The plan is entitled “Proposed Subdivision prepared for Irian Jones 378 Bear Hill Road Tax Map 12 Lot 145 Hillsborough New Hampshire” The plan is dated January 5, 2023.
10. Dan Higginson of Higginson Land Services presented the subdivision application.
11. The lot is located in the Rural Zone where subdivision of land is allowed with the requirement that each lot be a minimum of 2 acres with a minimum 200 feet of frontage per lot.
12. The applicant has submitted a subdivision plan with a waiver request letter for requiring wetland boundaries other than those at the front of the lot.
13. The subdivision will be accessed by Bear Hill Road which is a class 5 town-maintained road.
14. The new subdivision lots will be serviced by private wells and septic systems.
15. The subdivision meets the following criteria of section 201-6 Design Standards of the Subdivision Regulations.
 - a. The applicant’s representative has proven that this subdivision satisfies the requirements of layout of lots and sites by providing a subdivision plan that demonstrates each of the three new lots conform to the Design Standards of the Subdivision Regulations
 - b. The applicant’s representative has proven that this subdivision satisfies the on-site sewer disposal design standards by designating wells and septic reserve areas.
 - c. The applicant’s representative has proven that the subdivision satisfies the requirement that proposed streets shall be in harmony and conformance with existing and proposed streets and the Town Master Plan and Official Map because there are no additional streets as part of the plan and the three new lots will have road frontage on Bear Hill Road.
 - d. The applicant’s representative has proven that the subdivision satisfies the requirement for pedestrian access ways because this is a rural road and no changes to the road are required by the plan other than adding access for vehicles to enter each of the two new lots.
 - e. The applicant’s representative has proven that the subdivision provides adequate provisions for water supply, stormwater and sanitary sewage, and required utilities and improvements by demonstrating that each lot will have its own well and septic

system. Stormwater will be managed by its being directed to sheet flow upland to the rear of the site.

- f. The applicant's representative has proven that the subdivision satisfied drainage requirements by demonstrating that all of the lots all pitch to the rear of the site. The two proposed lots will sheet-flow across upland to the rear of the site.
- g. The applicant's representative has proven that the subdivision satisfies Sedimentation and Erosion Controls because there will be minimal disturbance of vegetation on the lots.

Proposed Conditions of Approval

- 1. Receipt of all federal and state approvals.
- 2. No development will occur to the north or west of the wetland boundary shown on the plan.
- 3. All lot development will occur in uplands.
- 4. All monuments and boundary markers shall be set on the corners of each lot.

Jim Bailey seconded the motion. The motion carried unanimously.

Other Business

Dark Skies Memo

Robyn introduced a memo that provided information about the proposed Dark Skies Ordinance. Her intention is to circulate it among the department heads and include a copy of the ordinance. She was asking the Planning Board for permission to distribute it in the Board's name.

Ed Sauer asked about the tourism aspect.

Adam Charrette explained what "Astro-tourism" was.

Adam Charette talked about "Night Sky Nerds" which is currently a Facebook group with children and adults who are interested astronomy and the night sky. He said he would like to get feedback from the department heads to find out what concerns they might have about the ordinance. He said even though the ordinance is written there still could be changes made over the next year if it is approved. He wanted this to be a community building project and not have animosity toward it. He talked about changes that could be made to make the ordinance more palatable to those who are not in favor of it. He said International Dark-skies has been looking at Hillsborough and is pleased at the progress being made. The Dark Skies committee has some events planned to highlight the hidden asset of the night sky.

There was discussion about making the document available to the public.

Adam Charrette made a motion to distribute the memo. Nancy Egner seconded the motion. The motion carried unanimously.

Meeting Adjourned 8:50 pm

Respectfully Submitted,
Robyn L. Payson, Planning Director