

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

**TIME:** 7:00 p.m. – 7:57 p.m.

**DATE APPROVED:**10/05/22

**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:** Jim Bailey, Adam Charrette, Melinda Gehris

**Public:** Mike Kirouac, Kyle Tyrrell, Brian Wheeler

**Call to Order:**

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

Susanne White called the roll; she appointed Dana Clough to sit in place of Melinda Gehris and Kim Opperman to sit in place of Adam Charrette.

**Minutes:** 09/07/22 Steve Livingston made a motion to approve the minutes. Ed Sauer seconded the motion. The motion carried unanimously.

Susanne White read the Public Hearing rules.

**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 that the applicant submitted aerial photos this evening before the meeting.

Susanne White said the Board wants to support the applicant's business. She said that what is currently on file for Angus Lea is not sufficient. She said the Board will do everything they can to work with them, but they need to work with the Board as well. She said Robyn Payson sent the applicant an e-mail the previous Friday asking for submissions for the Board, and she didn't receive anything. She said receiving the aerial photos that night was short notice for the Board.

Susanne White asked if the Board members had any questions or comments.

Ed Sauer asked Robyn Payson if everything the Board asked for had been received.

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Robyn Payson said the aerial photo was received right before tonight's meeting.

Ed Sauer asked if there was anything marked up showing the parking.

Steve Livingston said that none of that was asked for by the Board.

Susanne White said it was in the minutes of the previous meeting.

Dana Clow said Robyn Payson sent an e-mail to the Board stating she had had conversations with the Police and Fire Chief's, and it looked like the responses were positive. He asked Robyn Payson to share what was said.

Robyn Payson said she exchanged e-mails with the Police Chief and Fire Chief. The Police Chief said that they have the right to require details if they find it is necessary. The only thing he asked for was the estimated maximum number of attendees that could be at events. The Fire Chief said that he has been working with the applicant and they are aware of the safety issues. He said they would continue working with the applicant through the process.

Dana Clow said that was important because there were questions between what is authorized now and what the Board is requiring of the applicant. He said that public safety is the larger issue. He said that that they have been doing pretty much the same thing all along.

Steve Livingston said nothing is changing, there are just different owners.

Dana Clow said it sounds like everyone is working together with the Fire and Police departments. Referring to the aerial photo, he said this was the beginning of what the Board asked for. He said what they were hoping for was the photo being marked up with notations as to where the tennis court is etc.

Kim Opperman said the Board is here to work with the applicant and they are all on the same team. He said the Board is behind because they don't have a site plan. He said what the Board was looking for is for the applicant to take an aerial photo and draw the property line and indicate how many parking spaces identify the buildings. He said if they do that, they have a site plan.

Ed Sauer said he would like to see the dimensions of the parking area and how many cars will fit. He said he was not sure if there would enough room for cars parking around the perimeter and down the middle of the lot.

Steve Livingston said having played golf there all his life and after 30-year being on the fire department there is enough room with the cars parking down the middle and there is plenty of room for a fire truck.

Kim Opperman asked why they were worrying about fire trucks when the events will be held on the tennis court, he said he has never seen one burn down.

Ed Sauer said the building may be in danger at some time.

Steve Livingston said he thought the only thing that would need to get down there would be an ambulance.

Susanne White said there are several buildings there. There have been some very dry summers and if there is a fire you would need to get equipment down there. She said she was down at the site with her sister a few weeks ago and there was parking down the middle, and it was a “tight squeeze” to get around.

Ed Sauer said he had heard that Angus Lea had permission for staff parking at the armory. He said he had also heard that overflow parking has also been granted there. He said overflow shouldn't be on the road. He asked if that was true.

Susanne White opened the public hearing.

Kyle Tyrrell said Angus Lea has been holding weddings for quite a few years. He said the Board already waived the site plan for the buildings. He said he thinks their mistake was asking for anything. He said they wanted to know if there was anything they needed, and it turns out it shouldn't have been anything. He said he spoke to Mike Borden today and he said he couldn't think of anything they needed.

Ed Sauer asked about the parking situation.

Steve Livingston said it was the same as it was before.

Ed Sauer said that doesn't make it right or wrong.

Kyle Tyrrell said they will just withdraw the application.

Ed Sauer asked if they didn't want to talk about parking.

Kyle Tyrrell said, what if we don't want to do a site plan and we want to continue as it has been for 50 years?

Nancy Egner asked if they wanted to take back the application for a Change of Use.

Kyle Tyrrell said that is where they are right now.

Steve Livingston said, instead of going down that road, the Board could approve the waiver and then the applicant can write dimensions on the aerial photo. He said the Board can vote on this tonight and then they can get whatever else they need.

Kyle Tyrrell said all of the dimensions of the buildings were on the first waiver application

Mike Kirouac said for weddings they were going to close the golf course.

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Ed Sauer said it didn't look like there were 50 spaces.

Kyle Tyrrell asked if there was a requirement for that. He said they have 30 acres.

Ed Sauer said they couldn't park on the golf course.

Steve Livingston asked why they couldn't?

Kyle Tyrrell said it was their golf course.

Dana Clow said if there is no regulatory requirement, then the operational requirements kick in. He said operationally there is not an issue. If there is a regulatory requirement saying you have to have 50 spaces then that is the case, but this isn't the case. Without a regulatory requirement the Board has no basis for making these demands. He said the only thing he was concerned about was the public safety aspect and that has been addressed. He said they are not really changing anything specific. He said the one thing that is unfortunate. He said there have been a lot of statements made at the last meeting and today that amount to hearsay. If you don't submit something signed by the neighbors saying that they think this is a great idea and they support it, or if you don't submit something from the Fire Department it is hearsay. Now we do have something from the Fire Department and that's good. They have said there have been weddings in the past. Where's the evidence?

Kyle Tyrrell said he didn't understand why they had to come to the Board and ask.

Dana Clow said but you have asked. He asked if they were now going to withdraw.

Kyle Tyrrell asked what rules would they be breaking if they continue business as usual?

Dana Clow said that is where the conversation with Mike Borden is important because he is the Code Enforcement Officer.

Kyle Tyrrell said Mike Borden's one question was about parking and he said if they want to shut down the business and park cars on the green that's their business.

Susanne White asked if they were planning to advertise this as an event venue.

Kyle Tyrrell said they would in the future.

Brian Wheeler said if they can prove what they have had in the past 50 years, they shouldn't have to go for a Change of Use.

Dana Clow said it would be Mike Borden's call.

Robyn Payson said she would have liked to have spoken to Mike about this today. She said her "two cents" was that the Change of Use comes from going from a golf course (which may have had events in the past) to a golf course that is being marketed as an event venue as well.

Kim Opperman said that was what a golf course is.

Brian Wheeler said every golf course in the state of New Hampshire has weddings and they have been doing the same thing for the last 50 years. Not that they have had weddings every weekend, but they have had weddings. Nothing has changed so why should they have to get a Change of Use.

Kim Opperman said he has never seen a golf course that hasn't had weddings.

Ed Sauer asked about outdoor music.

Mike Kirouac said they would be willing to discuss that. He said he saw the minutes on the Tooky Mills music application. He said they want music in the event space and the restaurant area.

There was discussion about the music issue being a part of the current application. Robyn confirmed that it was. Robyn Payson said that in previous cases, adding outdoor music has been an amendment to a site plan, and it falls under the umbrella of a Change of Use.

Susanne White said the town ordinance is for 10:00pm. She asked if that time was given to the Hillsborough House of Pizza.

Robyn Payson said she thought it was 9:00 pm.

Dana Clow asked if Mike Borden was inclined to submit written opinions?

Robyn Payson said she hasn't asked for them in the past, but she could ask him.

Dana Clow said it is important in reference to the site plan and the grey area around the Change of Use. An opinion from Mike saying that he didn't see that anything was changing could be put in the file. He said it would be nice to have a site plan and what they submitted was a good start, but it needed a little more definition. He said it appears that the public safety issue is not a concern to those people who are most responsible for it. He said with the input from the Fire and Police departments the Board can say they have done their due diligence. He said this is a business that has been here a long time and has been doing events for a long time. They shouldn't be penalized as long as the public safety aspect is addressed.

Ed Sauer asked about parking in the armory. He said he understood that there was an arrangement for staff parking there.

Kyle Tyrrell said when they bought the business there was preexisting arrangement to call and get permission to use it for overflow parking. There was no written agreement.

Ed Sauer said he was surprised that there was no written agreement with the state.

Kyle Tyrrell said they never asked for one. They would just make a phone call. They are trying

to get an agreement for staff parking. As far as liability goes, the armory has told them as long as it is only staff parking, they don't have to worry about someone coming from the bar going into their parking lot.

Ed Sauer asked how soon they expected to get paperwork from the state.

Kyle Tyrrell said they haven't asked for it yet because they haven't had an issue with parking. He said as far as the parking lot goes, they have plans to make it so they can fit in as many cars as possible. That is why they have been talking with the Fire Chief.

Kim Opperman said the Board is forgetting about who these guys are. They have an asset and are part of the community. He said this is probably the only place in Hillsborough where someone could have a 300-person wedding. They could use that whole tennis court and they have 30 acres to park on. He said they will figure it out. They have been operating without problems and we are trying to fit them into our planning things.

Steve Livingston said he has never seen anyone park in the armory, and he has been golfing there for a long time.

Ed Sauer said he didn't know how many would be parking on a busy golfing day.

Steve Livingston said when they are full, they don't play.

Kyle Tyrrell said if there is an issue with the Fire Department they would work it out. He said they were only planning on making the parking lot better.

Ed Sauer said they seem to have a free idea that they can do anything they want. Someday we could see 75 cars over in the armory maybe you won't have permission to do that. But if they get something written from the state about parking in the armory it will clear up and solidify a lot of questions for the future.

Kyle Tyrrell said if they did have 75 cars parked at the armory, why would the town be involved?

Ed Sauer said he doesn't like to see people taking advantage of things without permission.

Steve Livingston said to forget about the armory because he has never seen a car there.

Kyle Tyrrell said parking would be between them and the armory. He said two of their partners are from the armory.

Brian Wheeler said it isn't that they have a "we will do whatever we want" attitude. He said their issue comes from the fact that they have what has been there before so there is not a Change of Use.

Ed Sauer said he is starting to understand that concept, but today's use compared to 10 or 15 years ago is a lot bigger scale. He said they have the facilities to become bigger with the tennis

court, which never happened before.

Susanne White asked what happens if it rains and you have two hundred people, and what's your capacity in the restaurant?

Ed Sauer said they will be in a tent.

Susanne White said there will never be an occasion like thunderstorms where people need to go inside?

Michel Kirouac said they would have to deal with that if it happens.

Ed Sauer said there has to be some capacity.

Susanne White asked where everybody is going to go if they need shelter. She asked them if they have a plan for that.

Michael Kirouac said if they had a wedding with 200 people, they would have a tent to accommodate them. He said the parking lot limits them to the number of people they can have. He said they would not put themselves in the position of having a horrible wedding and then have to refund it.

Dana Clow said if they got a letter from Mike Borden that said in his opinion that there was no meaningful change of use in respect to the venue aspect then he thinks it would be reasonable to say they can waive the request for a site plan because Mike Borden is saying nothing has changed.

Robyn Payson said the Board could vote on it and add a letter from Mike Borden as a condition.

Dana Clow said that would be putting the cart before the horse. There are things you can condition that you can expect will be addressed. There are other situations where you make a condition, and it can go haywire, and then you have an approval with a condition that can't be met because they can't control it. They can't control getting a letter from Mike Borden or the Fire Chief. He said if the Board got a letter from Mike Borden, they could reasonably grant a waiver on the site plan and then move on to the question of music and hours and the operational aspect. He said they have one application and if the applicant wants to talk about withdrawing it and then submitting a new application they can. If they want to move ahead on this application, they can do that although it will be another two weeks before they can get a decision.

Ed Sauer said a letter from Mike Borden would clear it up dramatically.

There was discussion about the restaurant and when it would be opening.

Susanne White asked if Mike Borden could give them a building capacity.

Robyn Payson said she thought that was the Fire Chief, but she would find out.

Steve Livingston said that number was included in the first application.

There was discussion about the method of determining the “Findings of Fact”.

There was discussion about the Police Chief’s interest in the estimated maximum of attendees to the events.

Dana Clow said where you could have as a condition of approval a requirement that they advise the police chief that they are anticipating a party with over “x” amount of people and then he can talk with them about it in advance of a possible problem. There could be a condition of approval that at some threshold they are obligated to notify the police department, and they can work it out.

Kim Opperman said with a restaurant, this is really a Country Club. He said he couldn’t tell you how many weddings that he has been to at Country Clubs. He said it’s a natural progression. He said that is all country clubs do is food and beverage functions and events and tournaments.

Dana Clow said that’s how golf courses stay in business.

There was discussion about the conditions for the outside music.

Dana Clow made a motion to continue the hearing in order to receive some feedback from Mike Borden about this question of Change of Use which will allow the Board to move forward with their decision. Dana Clow amended his original motion to include that the applicant needs to enhance the photographic image showing detailed information on the subject area. Ed Sauer seconded the motion on as amended. The motion carried with Steve Livingston voting no.

There being no other business Ed Sauer made a motion to adjourn. Nancy Egner seconded the motion.

**Meeting Adjourned 7:57 pm**

Respectfully Submitted,

Robyn L. Payson, Planning Director