

PLANNING BOARD
27 School Street
HILLSBOROUGH, NH
September 20, 2023

TIME: 7:00 p.m. –8:00 p.m.

DATE APPROVED: 10/18/23

MEMBERS: Susanne White- Chairperson, Nancy Egner -Vice Chairperson, Ed Sauer-Second Vice Chairperson, Adam Charrette, Steve Livingston, Bryant Wheeler

EX-OFFICIO: James Bailey III

PLANNING DIRECTOR: Robyn Payson

ALTERNATES: Kim Opperman, Dana Clow, Morgan Tanafon

Excused: Dana Clow, Ed Sauer

Public: Tom Hambleton, Richard Head, John O’Neil, Mary Ellen Bennett

Call to Order:

Chairperson Susanne White called the meeting to order at 7:00 PM and called the roll. She appointed Kim Opperman to sit in place of Ed Sauer.

Minutes

09/06/23 Nancy Egner made a motion to approve the minutes. Steve Livingston seconded the motion. The motion carried with Jim Bailey and Adam Charrette abstaining.

Public Hearing

Lot Line Adjustment

Beard Road (Map 11E Lots 9 and 9-1)

Life Forest/Town of Hillsborough

Robyn Payson introduced the application and told the Board there was a waiver letter that needed to be approved to make the application complete. (see attached)

Jim Bailey made a motion to approve the waivers. Steve Livingston seconded the motion. The motion carried unanimously.

Jim Bailey made a motion to accept the application as complete. Nancy Egner seconded the motion. The motion carried unanimously.

Mary Ellen Bennet presented the application for a lot line adjustment between property owned by Life Forest and property owned by the Town of Hillsborough. This is a land swap with a very minor change in total acreage of the two lots. The Conservation Commission agrees with this proposal.

Before the lot line adjustment:

Map 11E Lot 9 13.12 +/- acres

Map 11E Lot 9-1 24.96+/- acres

After the lot line adjustment

Map 11E Lot 9 13.16 +/- acres

Map 11E Lot 9-1 24.92 +/- acres

Susanne White asked Conservation Commission Chairman Richard Head for his comments.

Richard Head gave a history of the two lots. He said the two lots were originally part of the Old Mill Farm Subdivision. They were supposed to be part of the 50% open space requirement with both lots under a conservation easement. The conservation easements were never recorded.

Life Forest purchased lot 9 without the conservation easement in place. He said after conversations with the developer it was decided that lot 9-1 would be deeded to the Town in its entirety with no buildable lot on it and Life Forest would retain ownership of lot 9. The Conservation Commission was comfortable with this because of the low impact nature of Life Forest's business.

When Life Forest approached them about the lot line adjustment, they were thinking about the use of lot 9-1. He said the property abuts Shed Brook, and they are developing trails on the larger lot which is also Town property. He said there is a Town right of way on the Life Forest property. To use that right of way, people would need to trespass on the Life Forest property to access the Town owned land.

This land swap would provide access to the existing pathway that leads to the large Town owned property. It also provides access to existing paths that come down toward Shed Brook. He showed on the plan the area which would become Town property. They considered the nature of Life Forest's business and their desire to maintain the natural setting. There was an inadvertent wetlands violation shortly after Life Forest purchased the property, but it was corrected quickly. He said that throughout the time the Conservation Commission has been working with Life Forest they have been responsive and willing to work with them.

The Conservation Commission invited Tom Hambleton to come to one of their meetings because when they met with the Selectboard he raised some concerns, and they wanted to make sure he had an opportunity to speak to them. Ms. Bennett also attended that meeting to discuss his concerns. He said the Conservation Commission does not think this transfer will have a negative environmental effect. He said they did ask Life Forest to add some conditions to the plan and those conditions were incorporated into the final plan. Overall, the Town receives a benefit for recreational use of their property by providing public access to some very nice sites and they see potential for developing a trail system. Life Forest maintains public access to the property which makes it a very accessible property, so provides great value to the Town. He said this land swap improves the public access to the property.

Susanne White asked Richard Head where the Town and Life Forest's access was, and he showed it to her on the plan.

Kim Opperman asked why the access was so wide.

Richard Head said it was originally intended to give access to two buildable lots.

There was discussion about the maintenance of the right of way.

Susanne White opened the public hearing.

Susanne White recognized Tom Hambleton, an abutter to the project.

Mr. Hambleton asked about Life Forest being a nonprofit corporation.

Ms. Bennet said they are a registered nonprofit with the State of New Hampshire under the guidance of the Attorney General's office.

Mr. Hambleton asked what would happen if life Forest went out of business.

Susanne White said that was not a Planning Board issue.

Mr. Hambleton asked if the two parcels had the same value. He also asked about a culvert that was to be installed on the property.

Ms. Bennet said they received a permit to install a culvert on the existing Life Forest land to alleviate a muddy spot that the public would need to walk through but that culvert is not in the area of the land swap.

Mr. Hambleton asked where the culvert was going to be.

Susanne White said it was not going to be on the land that was to be swapped.

Mr. Hambleton asked the Board if they thought the properties were of equal value.

Susanne White said the Board does not have the ability to assess that.

Robyn Payson said she would imagine that issue would have been addressed when the proposal went before the Board of Selectman.

Jim Bailey said the Board of Selectman's decision was based on this being an equal land swap that made the town land easily accessible without trespassing on the Life Forest property. He said he didn't think there was ever a value put on the property.

Richard Head said they did not have the properties appraised. He said these have always been two lots in the development, both of them were supposed to have conservation easements on them and when the developer failed to record the easements, Life Forest became the owner of one of the lots and the Town took the entirety of lot 9-1.

He said when you take the entirety of 9-1 and remove the buildable lot you have the same acreage that would have been in conservation. From an environmental perspective this is a net gain. He said as part of this land swap they did not have an appraisal done because it seemed unnecessary. He said they were looking at it as none of these properties were purchased by the Town, they were looking at it from an access and environmental benefit. The square foot dollar was less relevant to them in terms of the value that was being provided to the Town. He said the public access provides a significant benefit to the Town.

Mr. Hambleton submitted conditions he wanted the Board to consider.

The first proposed condition was about the culvert.

Susanne White said that was not a part of this application.

The second proposed condition was about the easement being open to the public.

Susanne White said the easement was already open to the public.

The third condition was that the deed state no habitable structures shall be built or placed on the lot.

Mr. Hambleton said this was on the plan, but he didn't think it was clear enough.

The fourth condition was if any of the statements at this hearing be found to be untrue or misleading it shall render the approval null and void.

Robyn Payson said that is not the mechanism for enforcement.

Susanne White said none of Mr. Hambleton's conditions could be applied to this application.

Kim Opperman said this was a "win win" for both parties.

Peter Mellen asked if Richard Head could expand on the use of the 50' access and how the public is going to access the 61 acres. He wanted to know if it would be vehicular or walking.

Richard Head said they have been talking with Life Forest about locating a sign directing people to the right of way. He said they will need permission from Life Forest to use their parking lot for the public. He said there will be foot traffic only to Town property.

Peter Mellen asked if the Commission within the next 100-200 years would see if there would be forestry operations there.

Richard Head said that is a Town decision. He said the property was heavily logged before the Town took possession. He said they would have concerns about logging on 9-1 due to its proximity to Shed Brook. He said he didn't know what a commissioner in 200 years would say

about that. He said that property should not be logged, it should be maintained in its current condition.

Peter Mellen said when the subdivision was originally done the plans showed the 50' right of way was to provide vehicular access to the two lots and the Town piece in back. He said his concern is the plan shows a burial area extending into the 50' right of way.

Ms. Bennet said there is no burial on the right of way and there is nothing that will block the right of way.

There was discussion about the "burial area" shown on the right of way.

Susanne White said that the plan shows the burial area overlaps the right of way and he is asking that even though they are not obstructing the right of way he would like the map to reflect that Life Forest will not be doing any burial in that easement.

Following discussion, Richard Head suggested a condition that stated, "This approval is not intended to modify the existing right of way easement on lot 9 to the benefit of the Town."

Susanne White closed the public hearing.

Nancy Egner made a motion to approve the lot line adjustment application submitted by John O'Neil of Life Forest LLC. to adjust the lot lines between Map 11E Lot 9 owned by Life Forest LLC. and Map 11E Lot 9-1 owned by the Town of Hillsborough. Prior to the lot line adjustment Lot 9 was 13.12 +/- acres and Lot 9-1 was 24.96 +/- acres. After the lot line adjustment Lot 9 is 13.16 +/- acres and Lot 9-1 is 24.92 +/- acres.

This approval is in accordance with the application filed on August 28, 2023, and the plan entitled "Lot Line Adjustment Plan For Life Forest LLC. Tax Map 11E Lot 9 & The Town of Hillsborough Tax Map 11E Lot 9-1 Beard Road Hillsborough, New Hampshire" by Joseph M. Wichert LLS., Inc. with the following condition and in accordance with the findings of fact.

Condition

1. This approval is not intended to modify the existing right of way easement on lot 9 to the benefit of the Town.

Jim Bailey seconded the motion. The motion carried unanimously.

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 application was presented by Mel Bennett

2. The owners of record are Life Forest LLC. and the Town of Hillsborough.
3. The application meets the requirements forth in the Subdivision Regulations.

Jim Bailey made a motion to approve the findings of fact. Steve Livingston seconded the motion. The motion carried unanimously.

There being no further business Steve Livingston made a motion to adjourn. Jim Bailey seconded the motion.

Meeting Adjourned 8:00 pm

Respectfully Submitted,
Robyn L. Payson, Planning Director