

**PLANNING BOARD
27 School Street
HILLSBOROUGH, NH
December 20, 2023**

TIME: 7:00 p.m. –8:15 p.m.

DATE APPROVED: 1/03/2024

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: Kim Opperman, Nancy Egner, Jim Bailey

Public: Joe Kelley, Chantel Kelley, James McDonough, Andrew Morris, Michael Sambuceti, Eamon Moran, Michael Mare, Doug Grunert, Dennis Yeaton, Matthew Bombaci, PE, Richard and Stephen Miller, Riche' Colcombe

Pledge of Allegiance

Call to Order:

Chairperson Susanne White called the meeting to order at 7:00 PM and called the roll. She appointed Dana Clow to sit in place of Jim Bailey and Morgan Tanafon for Nancy Egner.

Minutes

12/06/23 Steve Livingston made a motion to approve the minutes. Bryant Wheeler seconded the motion. The motion was carried with Ed Sauer and Morgan Tanafon abstaining.

12/08/23 Steve Livingston made a motion to approve the site walk minutes. Bryant Wheeler seconded the motion. The motion carried with Adam Charrette, Ed Sauer and Morgan Tanafon abstaining.

Public Hearings

Site Plan Review

Henniker Street (Map 12 Lot 113)
Joseph Kelley

The first matter to be addressed is Mr. Kelley's request for a waiver of a fully engineered site plan.

Susanne White asked the Board if they had any comments about the site walk or the waiver.

Dana Clow said at the previous meeting the Board had decided that there needed to be some form of a site plan as a part of the application. Dana Clow referred to the hand drawn site plan

that the Board received and said it was not adequate. He said he did not think there needed to be an engineered site plan, but what was submitted was not to scale and the details were not clear. He suggested, in the interest of Mr. Kelly going forward, authorization for storage of up to 30 vehicles on the site, and then if Mr. Kelley wants to store more vehicles, he can come in with a plan that accurately shows what he has. He said he thinks it is something the Board should consider, considering their inclination to require a site plan. He said a site plan showing existing conditions is not expensive (approximately \$1,500.00). He said he was not talking about a fully engineered site plan with drainage etc.

Mr. Kelley said he didn't understand the difference between 30 cars and 100 cars.

Dana Clow said the difference is the requirement of a site plan.

Mr. Kelley said he was asked to do that drawing and submit it. He said he was led to believe that it would satisfy the Board. He said 30 cars doesn't work for him.

Steve Livingston said every property is different. If a site is going to have new construction on it, it does need a site plan. He said this is a dirt parking lot with a fence around it that he bought that way. He didn't change it in any way. When we went down and looked at it we pretty much agreed nothing is going to change and you can't really build on it. He said it's kind of making a mountain out of a mole hill. It's never going to be anything but a dirt parking lot.

Adam Charette asked if there was going to be any lighting or paving or water and sewer?

Mr. Kelley said no.

James McDonough of the Conservation Commission said their challenge is the lot's proximity to the river. He said he was down on Monday after the rain event and the water was "lapping" at the edge. He said they have no information about the depth of the water table, where this is in reference to the floodplain. He said the event last spring that took out his road would certainly impact this property. He said the water is probably higher today than it was when he last looked at it.

He said the Conservation Commission feels an engineered plan with water table and floodplain because if something should happen with one of these used vehicles who's responsible? Is it going to be the landowner or the town because they didn't do proper research on the potential of this particular site. He said he knows the landowner bought it as it is but that doesn't make it correct. The property is 1000ft from the river. The Conservation Commission urges the Planning Board to go deeper on this particular property because of its proximity to the river. All of the surrounding land floods so he can only assume that land will flood also.

Mr. Kelley said he disagrees that it is 1000 feet from the river.

James McDonough said the property is 1100ft from the Contoocook River. He said there is a 1300ft recommended buffer in the floodplain.

Mr. Kelley said when we are talking about used vehicles, any vehicle has the potential to leak oil. If a vehicle leaked on his property, he would be responsible for it. There is a Code Enforcement Officer who can come out and check them. He said if anyone has the opportunity to come down to his business, he said he keeps a very clean operation. He said he is not going to say that cars don't leak oil but if they do we remediate that and fix the vehicles. If there is something that we missed it wouldn't be the responsibility of the town to fix it. If he polluted the ground, he would be responsible for it.

Mr. Kelley asked if Dana Clow if as an alternate, was a voting member on the Board.

The response from the Board was that yes, he was.

Dana Clow said in response to Steve Livingston's comments, there is not a building proposed on the site due to the flood plain regulations. He said his interest in having a site plan is to have a clear and concise record. He said at the last meeting it was said that Mr. Kelley could not make changes to that site without a site plan. The alternative is to not allow this property or any number of other properties in this area to be utilized. He said that does the community a disservice and Mr. Kelley a disservice. He said he is definitely in support of this project because it is a reasonable use of the property. He said he also understands the concerns of the Conservation Commission

James McDonough said the Conservation Commission is not averse to this project. All they are looking for is information so that we know that the river and the wetlands are protected. He said he couldn't walk through the property because of the water. There is water surrounding it on three sides. He said without a proper survey from a wetland scientist, there's hydric soils right there which should be respected. He said he doesn't have a problem with the project. He has a problem with the site plan. He said the Conservation Commission did not think it was adequate and you don't want these impacts in wetlands. He said with climate change there will be more storms that will result in flooding.

Mr. Kelley said Mr. McDonough said he could not walk out to the site and that is completely untrue. He said his property is all fenced in, you can walk to it, it is completely level.

Steve Livingston said that was his property and not Mr. Kelley's that was being referred to.

Bryant Wheeler said this property is at the same level as Henniker Street or West Main Street. He said the only time he has ever seen water come across the road is at the High Tide Restaurant. Since they took the dam out it's not nearly as bad as it used to be.

Dana Clow said he did participate in the site walk and there is water surrounding the property. His observations during the site walk was that there was no water approximate to the fenced area. He said he doesn't know where the fence is in relation to the property line, but there was definitely no water within the project area. He said climate change is real, but it should not prevent viable projects.

Steve Livingston said what Dana Clow said was well said. He said to James McDonough he understood what he was getting at but it's not new. It was already there. It's surrounded by water on his property, and the High Tide parking lot which is much lower than Mr. Kelley's lot. He said it's the same with Agway. When that flooded (1988 was the last time that flooded and 1986 was the time before), he road his boat down West Main Street. Rhymes Fuel is also lower than that property. Again, it's a mole hill being turned into a mountain and it's wrong.

James McDonough said that the Conservation Commission's only issue is that the Planning Board keeps in mind that this stuff is going to happen. He said he didn't think that the water will ever go over the site, it's that there is a 75ft setback from wetlands (RP Note: setback requirement is only for bodies of water, streams, and river's not wetlands) James McDonough said erosion by increments is what happens, and he has pictures of water "lapping" against this property. The Conservation Commission would like to see a better site plan.

Dana Clow said he didn't want to make a mountain out of a mole hill he just offered a compromise for an existing conditions plan.

Steve Livingston asked James McDonough if the Conservation Commission would be willing to pay for a site plan because it would be about \$25,000.00.

James McDonough said no, because it isn't their property.

Steve Livingston said he understood that but the things they are asking for are expensive.

James McDonough said if it was a Town property the absolutely would pay for it.

Morgan Tanafon said he understands Dana Clow's comments about the record, but if they have walked the land and the land's been the same, and the project isn't going to make any changes, he said he doesn't believe in meeting requirements for the sake of requirements. He said it made no sense to him at all. He said we have a record, we have this discussion, we have the site walk and we have the minutes. He said for him that is enough.

Adam Charrette said he doesn't disagree with Morgan, but he sees this as a receipt for the project. The purpose of the Board isn't to tell Mr. Kelley what to do or not to do, but we have seen a lot of projects in town that can or may go wrong.

He said it's good to see a collective group that sees things from all angles. He said just a few years ago Wall Street storage was paving their lot, they didn't change anything but because the angle changed a bit it flooded the neighbor's lot. They had to rework the design to make sure the water did not flow on to the neighbor's lot. He said sometimes doing a little due diligence beforehand can save you a lot of money later.

He said there are residential lots on either side of Mr. Kelley, it could be a situation where they don't like something about the project, and they want to be a stickler and go to the Selectmen about it or the Planning Board and bring a lawyer. It could be a headache, so he said if this a proper plan that the Planning Board signs off on there is less of a chance of there being an issue

further down the road. He said his question is, if this is accepted, can it be changed or is it how we accept it.

He said the plan is a little lack luster right now. There is no difference between the driveway and Henniker Street and looking at it, he assumes it is all going to be paved. If you look at it in the future, you can say it has been approved to be paved. He said he thinks the Board could use a little bit more detail and if to save money we are doing the DIY route sometimes that takes more time. It's hard to say yes to this if we are not going to do our due diligence.

Bryant Wheeler said Mr. Kelley bought this piece of property and has done nothing to it. It is the same as when he bought it.

There was discussion about the cost of an "existing conditions" plan.

Ed Sauer asked if there were plans to pave that lot in the future. He asked if that was something that could be added as a condition.

Dana Clow said that would make the project non-viable to pave that entire area. If he was to do that, he would need to come back with an engineered site plan with drainage and more information. By leaving it as it is there are no changes.

Ed Sauer said he wasn't talking about paving 10 or 15 feet off the road, he was talking about the whole thing.

Steve Livingston made a motion to waive the site plan. Morgan Tanafon seconded the motion. The motion carried with Dana Clow and Adam Charrette voting no.

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

Ed Sauer complimented Mr. Kelley on the appearance of his business, and he wished others would follow his example.

There being no further comment from the Board, Susanne White opened the public hearing.

Riche' Colcombe said she didn't think Dana Clow was qualified according to RSA 673:11 to sit in as the alternate for the Selectman because that position needs to be appointed.

Susanne White, Robyn Payson and other members of the Board said he was appointed. Robyn Payson said it was at least a year ago.

There being no further public comment, Susanne White closed the public hearing.

Morgan Tanafon made a motion to approve the site plan application to allow the storage of 100 vehicles on Map 12 Lot 113 with the following condition and in accordance with the findings of fact:

Condition

1. The property owner must return to the Planning Board for permission to pave the site beyond the entrance to the site.

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 on Henniker Street
2. Joseph Kelley Jr. and Chantel J. Kelley are the owners of record of the property.
3. Joseph Kelley Jr. presented the application.
4. The property is located in the Commercial Zone.
5. The applicant was granted a waiver to require a fully engineered site plan.
6. The applicant will be parking up to 100 vehicles on the lot that includes cars, trucks, boats, and Off Highway Recreational Vehicles (OHRV).

Steve Livingston seconded the motion to approve the application. The motion carried unanimously.

Site Plan Review

140 Henniker Street

Aubuchon Realty Company/Ronald E. Pollock

Robyn Payson introduced the application to construct a 10,640 +/- square foot retail building with a new paved parking area, landscaping, and stormwater management. She said she received comments from the Water/Sewer department stating that site plan approval does not constitute approval by the Water/Sewer department and the Fire Chief who said a full set of construction drawings that include fire alarm/ sprinkler system are required.

Robyn Payson said the application was complete and ready to be considered by the Planning Board.

Dana Clow made a motion to accept the application as complete Ed Sauer seconded the motion. The motion carried unanimously.

Mathew Bombaci of Bohler Engineering presented the site plan application to the Planning Board.

Mr. Bombaci reviewed the site plans, drainage, and traffic memorandum.

Doug Grunert of BKA Architects reviewed the building's design.

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Susanne White asked about the gutters on the building. She said that she understood gutters were not a good thing to have.

Mr. Grunert said that is why they have such large overhangs, they are going to provide some waterproofing. It is removed from where the heat is escaping which creates ice dams. Mr. Grunert described the building design in detail.

Ed Sauer asked about the number of employees. He said he saw in the application that there would just be 2.

Mr. Bombaci said at any given time there might be 2 or 3 employees, but not for the entire staff.

Ed Sauer asked what kind of store this will be.

Mr. Bombaci said they are in negotiations with retailers but have nothing final yet.

Applicant Eamon Moran, president of the Aubuchon Realty Company, said the intention is not to be a hardware store. He said they develop real estate for a lot of retailers in the northeast. They include auto parts stores, dollar stores, pharmacy stores and others. He said they have to put these permits and designs in place before he can go and deal with any of the retailers. He said he had a high level of certainty that it would be a retail dry goods store.

Dana Clow asked about emergency access being unavailable on two sides of the building.

Mr. Bombaci said what they typically hear from fire departments as far as access goes is the fire code requirement is one access and they want the ability to access on foot two sides.

Ed Sauer asked if there was a need for fire hydrants for water supply?

Steve Livingston said they have one on the corner of the property.

Dana Clow said they have no on-site hydrants and no certainty that the building is going to be sprinkled.

Mr. Bombaci said typically they want a hydrant within 500ft.

Dana Clow said there was no hydrant on the site, and it isn't sprinkled.

Mr. Bombaci said that the hydrant at the corner of the lot is close enough. He said sprinklers are dependent on size and materials of the building.

Susanne White asked if the wiring was going to be underground.

Mr. Bombaci said it would be.

There being no further questions from the Board Susanne White opened the public hearing.

James McDonough said that the Conservation Commission had looked at the application and they were very impressed with it.

Dennis Yeaton of the Highway Department said they were also very impressed with the plans. He asked that the curbing on the street be pushed back 4ft. Other than that, the drainage looked good, and the elevations looked good. He said he didn't see any issues.

There being no other questions or comments from the public, Susanne White closed the public hearing.

Dana Clow asked if the Board was inclined to require peer review?

Steve Livingston said these are very well engineered plans. He said you don't need two fire chiefs; you don't need two police chiefs; you don't need two engineers. He said in his opinion that is just another person's opinion.

Dana Clow said he was asking as a matter of process if that was something the Board would consider. He said he was not suggesting one way or another.

Susanne White asked the Board for a consensus on third party review. The consensus of the Board was that they would not be in favor of it.

Adam Charrette made a motion to approve the Site Plan submitted by Aubuchon Realty Corporation on behalf of Ronald E. Pollock at 140 Henniker Street Map 12 Lot 321) to construct a 10,650+/- freestanding retail building along with new paved parking areas, landscaping, stormwater management components, and associated utilities with the following conditions and in accordance with the findings of fact.

Findings of Fact

1. The property is located at 140 Henniker Street
2. The property is partially located in the Commercial zone and partially located in the Residential zone.
3. Development will only occur on the Commercial portion of the property.
4. The application was presented by Aubuchon Realty Group on behalf of Ronald E. Pollock
5. The application is for the construction of a 10,640+/- freestanding retail building along with new paved parking areas, landscaping, stormwater management components, and associated utilities.
6. The application meets the requirements for Site Plan Review in the Town of Hillsborough.

7. No waivers were requested as a part of this application.

Steve Livingston seconded the motion. The motion carried unanimously.

Other Business

Susanne White thanked Robyn Payson for her work over the past year and she thanked the Planning Board for participating and asking thoughtful questions and being willing to have some hard discussions. She said they have been a great Board to work with and she appreciates their participation.

Robyn Payson thanked the Board for being so good to work with over the past year. She thanked the Board for the flowers that they gave her. She complimented the Board and said they were a pleasure to work with.

There being no further business Adam Charrette made a motion to adjourn. Steve Livingston seconded the motion.

Meeting Adjourned 8:15 pm

Respectfully Submitted,
Robyn L. Payson, Planning Director