

PLANNING BOARD
27 School Street
HILLSBOROUGH, NH
September 4, 2024

TIME: 6:00 p.m. –7:07 p.m.

DATE APPROVED: 09/18/24

MEMBERS: Chairperson Susanne White- Vice Chairperson: -Nancy Egner, Andrew Morris, Adam Charrette, Steve Livingston, Bryant Wheeler

EX-OFFICIO: James Bailey III

PLANNING DIRECTOR: Robyn Payson

ALTERNATES: Kim Opperman, Dana Clow

Excused: Jim Bailey, Dana Clow

Public: Joseph and Chantel Kelley, Cindy Lucas, Kaitlin Lucas, Leigh Bosse

Pledge of Allegiance

Call to Order:

Chairperson Susanne White called the meeting to order at 6:00 PM and called the roll. No one can be appointed in Jim Bailey's seat because only the ex-officio alternate can be seated for the selectman's seat and he is absent

Minutes

8/21/24- Nancy Egner made a motion to accept the minutes. Steve Livingston seconded the motion. The motion carried with Nancy Egner abstaining.

Informal Discussion

Joseph Kelley came before the Board to discuss the Notice of Decision of his storage building approval. He disagreed with the condition that stated if he had a change of use, he would have to have a fully engineered site plan. He also said that the decision should have included his ability to work on his own cars in the storage building.

Susanne White said she understood Mr. Kelley wanted her to recuse herself. She said she wanted to say for the record that neither her familial relationship with his mechanic nor the purchasing of a car from your dealership will impair or influence her decision tonight so she would not recuse herself. She went on to read the e-mail from Attorney Stephen Buckley about disqualification and recusal:

As provided in **RSA 673:14** a member of the planning board, when deciding on the merits of a subdivision or site plan, is deemed to be acting in a quasi-judicial capacity.

“Any member of the planning board would be disqualified from participating in the decision on any plat or plan “if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law.”

RSA 500-A:12 states that a juror would be disqualified (and hence a planning board member would be disqualified) if she/he:

- (a) Expects to gain or lose upon the disposition of the case;
- (b) Is related to either party;
- (c) Has advised or assisted either party;
- (d) Has directly or indirectly given his opinion or has formed an opinion;
- (e) Is employed by or employs any party in the case;
- (f) Is prejudiced to any degree regarding the case; or
- (g) Employs any of the counsel appearing in the case in any action then pending in the court.

Individual members of the planning board who engage in conversations with an applicant outside of public meetings of the board risk being accused of advising or assisting the applicant or giving their opinion on the application. Both of those circumstances could require a member to recuse themselves.”

Susanne White then asked if there was any member that needed to recuse themselves. No one recused themselves.

Mr. Kelley said he had not firmly on the record asked Susanne White to recuse herself. He said there was an issue that put her in a precarious position. However, she made the decision not to recuse herself.

Susanne White asked Mr. Kelley to continue with his belief that the decision was incorrect.

Mr. Kelley said there were two issues that came up. There was a discussion about mechanics working on cars at the building. He said he was going to store and repair his own vehicles

Mr. Kelley discussed the concerns Richard Head about storing oil or hazardous waste in the building, and he said he wouldn't do it. He said that was put in the decision but not that he could repair his own vehicles.

Mr. Kelley said the second issue was “slipped in” by the Chairperson which was that any change of use required a complete engineered site plan. He said he could understand that with further development on the site but not a change of use. He said he didn't have an opportunity to object to that.

He said was concerned that his decision did not include being able to work on cars and that he would have to come in again for that.

Adam Charrette asked Mr. Kelley what he wanted.

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Mr. Kelley said he wanted multi-use. He said there is going to be storage of his vehicles but he will be working on them too.

Steve Livingston said he remembered the Board saying he could work on his own cars.

Robyn Payson said she listened to the recording, and she said there was talking around the issue of fixing cars but there was nothing definitive and there was no motion.

Susanne White asked Mr. Kelley if he intended to install a lift.

Mr. Kelley said he may.

Steve Livingston said he thought there was a general agreement that he could work on his own cars. Steve Livingston said he would make a motion that he would be able to work on his own cars.

Robyn Payson explained that in order to do that he would need to make a motion to reconsider the decision and then it would be a second motion to add that in.

Steve Livingston made a motion to reconsider the decision of August 7th and add that Mr. Kelley can work on his own cars.

Adam Charrette asked if abutters would be informed if this happens.

Robyn Payson said if the Board is contending that this was in the meeting and was left out of the decision. She said she didn't recall that.

Adam Charrette said his concern is if an abutter sees that this is storage for cars and then they see repairing cars they wouldn't have their due process to say yea or nay now that they are going to have a full-service body shop next door.

Kim Opperman asked Mr. Kelly if he had done any body work.

Robyn Payson said the application was very clearly for storage. There was no mention of any kind of repair work being done. She said she was approached by the Water/Sewer Commission who wanted her to clarify what was going on because there was a question of their application saying it was a garage or a storage building, they asked Mr. Kelley if he would be washing vehicles, and he said he wouldn't be. She said she told Penny of the Water/Sewer department that what they had was storage. If the Board wants to add to that and if you think that was heard and legally notified...

Steve Livingston said they talked about it for two hours. That seems like a lot for just storage.

Susanne White said they talked about repairs and that Mr. Kelley's son would be there and that there might be some detailing, but you wouldn't be doing major repairs and service on any vehicles.

Andrew Morris said he thought one of the concerns when Mr. Kelley came in with his application was for storage. We met as a Board and the public was here to discuss a storage building, not a repair facility. He said he wasn't saying he was opposed to any of it but this is one of the reasons why he wanted to be on the Planning Board because some of the consensus from the general community was that sometimes something starts out as one thing and then it ends up something else. He said one of the concerns here is that we started out with a storage unit and whether or not we are in favor of it becoming a repair facility or not wasn't the purpose of the meeting that night. The abutters and the members of the public didn't have an opportunity to talk about that (the service station) because they figured it was just a storage unit. He said he is not opposed to either one of them but if we keep extending the use, before we know it we have a storage facility that the public had no input on. He said the Board should consider that before they make any decisions on where we draw the line.

Nancy Egner said she agreed. She said her recollection was that it was a storage facility and then the meeting started, and it was her understanding that the meeting was going to be about that being a storage facility. Then during the conversation this and that was added, and we came out with something that feels different. She said her interpretation was that was part of the confusion. We started with one thing and then we ended up with something else. She said that her recommendation was that they start over, put in a new application for a service center and we can see about that.

Andrew Morris said (in reference to the service station); if that is what the building will be used for that's what the application should state.

Kim Opperman said he is still going to be changing windshield wipers and tires and if someone has a flat tire are we going to make them get a tow truck to go two blocks down to get it fixed? That's what it sounds like.

Mr. Kelley said he has had to come back multiple times for the same stuff meanwhile other businesses don't do anything about them. Anyone who's driven to the other end of town can take a look at that for themselves. The bottom line is that he is not going to withdraw his application and start over he said he is just telling the Board that he is just going to do the repairs over there. If they don't want to take enforcement action don't take enforcement action. I'll fight with the insurance company. He said he thinks there are certain members that are opposed to a service center and have stated their opinions publicly but refuse to recuse themselves. If it's a denial he will deal with that with another aspect in superior court. He said Steve is correct in what he said. He said he has listened to the recording five times and read the minutes. There was talk about this that was brought up by the Chairlady who raised these issues. He said he really didn't think this was going to be an issue but when she raised it I had two choices, be upfront with the Board or do what other people do which is tell you one thing and then do something else. He said he chose to do the right thing which is to say he is going to do that thing. He said the Chairperson has a real thing with "lifts" and he doesn't know what that has to do with anything. I might but I don't want to put in a lift because we are going to say "wait a minute" he is going to fix his cars and that's outside of the thing. This is just a really simple thing. I am just asking to repair my own vehicles.

Steve Livingston said he agreed with Andrew Morris he said the public should be able to listen to the hearing. He knew the number of people who showed up last time and it will probably be the same that will show up this time. He said he doesn't think he should have to write up the whole application again. If you want to table it and have another meeting that is what he would do.

Andrew Morris said that it is true some things are a mess in town but going forward, we're going to try and make everything consistent because we are here to represent the public. The community is relying on us to make decisions that are the best for the community. He said he encouraged Mr. Kelley to consider what the end game will be and talk about that. He said he isn't opposed to any of it he just wants to know what we are going to get when it's done.

Mr. Kelley said he is going to store, wash and repair his vehicles in there. He said this has been a burdensome thing to do. He asked if he does this, is his current site plan null and void.

Robyn Payson said no. He would only be addressing the car service aspect.

Mr. Kelley asked about the fully engineered site plan for any change of use.

Robyn Payson said this was not changing the use, it is fleshing out the use this is an accessory use.

Steve Livingston rescinded his previous motion.

Following discussion, Steve Livingston made a motion wave all the application fees including abutter notification and the advertising. Nancy Egner seconded the motion. The motion carried unanimously.

PUBLIC HEARING

Home Business/Exemption from Site Plan Review

27 Dascomb Street (Map 11P Lot 192)

Kaitlyn Lucas

Kaitlyn Lucas came before the Board for permission to open a small home daycare. She is looking to get licensed for 6 children. She is on the dead end of her street.

Robyn Payson said the application is ready to be accepted.

Ms. Lucas said she was going to change the name of her daycare from what was put on the application. It will now be known as "Into the Woods".

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

Andrew Morris asked if she chose that number of children because of the size of the space.

Ms. Lucas said because it is just her and there are state regulations she must follow about the number of kids at a daycare. She is allowed 6 young children and up to 2 older kids for before and after school care.

Robyn Payson said Ms. Lucas would be going to the ZBA for a Special Exception.

Susanne White opened up the public hearing.

Leigh Bosse brought up a property dispute with the applicant that was not relevant to the application.

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

Steve Livingston made a motion to approve the application for a Home Business/Exemption of Site Plan Review submitted by Kaitlin Lewis at 27 Dascomb Street (Map 11P Lot 192) to have a small family Daycare for six preschool age children open Monday through Friday as stated in the application and in accordance with the Conditions of Approval and the Findings of Fact.

Conditions of Approval

Obtaining a Special Exception from the Zoning Board of Adjustment.

Findings of Fact

1. The property is located at 27 Dascomb Street
2. The property is located in the Village Residential Zone.
3. The application was presented by Kaitlyn Lucas
4. The application is to convert a portion of her home into a daycare facility.
5. No waivers were requested as a part of this application.
6. This application conforms with section 185-5.1, A, 1 and 2 of the Site Plan Regulations.:
 - A. A change of use which does not expand the floor area of a building by more than 200 square feet or involve construction on the site of a building with a floor area greater than 200 square feet is exempt from Site Plan Review, provided that: [Amended 10-2-2002]
 - (1) No adverse impacts beyond site boundaries will occur, due to:
 - (a) Increased traffic.
 - (b) Groundwater and drainage.
 - (c) Sanitary and solid waste disposal.
 - (d) Lighting/glare.
 - (e) Noise.

(f) Fumes, odors or air pollutants.

(2) Municipal services, facilities and utilities will not be overburdened or adversely impacted.

Nancy Egner seconded the motion. The motion carried unanimously.

WORK MEETING

Robyn Payson distributed the updated Subdivision Regulations with the scrivener's error corrected.

Robyn Payson distributed the Avanru Phase II application.

There being no other business Adam Charrette made a motion to adjourn. Nancy Egner seconded the motion. The motion carried unanimously.

Meeting Adjourned 7:07 pm

Respectfully Submitted,
Robyn L. Payson, Planning Director