

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **JANUARY 11, 2018**

4 **PRESENT:** Peter White, Chair; Donna Davis Larrow, Vice Chair; Joseph Butler; Randy Clark; Michael
5 Marquise, Planner

6 **ABSENT:** Richard Osborne; Joseph Furlong; Shane Hastings, Ex-Officio Member; Suzanne Gottling,
7 Alternative Ex-Officio Member

8 **See attached sign in sheet**

9 Chairman White called the meeting to order at 7:00 pm.

10 **MISCELLANEOUS**

11 Mr. Marquise explained that Mr. Clark and Mr. Osborne both have terms that are up this year.

12 Mr. Marquise said that he'd like to do some updates to the Subdivision and Site Plan Review Regulations
13 this year and the changes can be done via public hearing as opposed to having to go on the Warrant.

14 **ZONING AMENDMENT PUBLIC HEARING – FULL TEXT ATTACHED**

15 There was a brief discussion regarding how the Amendments are shown on the Warrant and that
16 Amendments require a simple majority to pass.

17 Amendment #1

18 Amend Article II, Section 2.30 and Article III, Section 3.10 and Article IV, Section 4.10 - to create a new
19 low-density residential/moderate intensity commercial zoning district defined as Mixed Use III that will
20 encompass an area 700' either side of Route 11 from Browns Hill Road to Trow Hill Road and 700' on the
21 easterly side of Route 11 from Trow Hill Road to Jobs Creek Road in Georges Mills.

22 Chairman White read the full text of the Amendment.

23 Mr. Marquise explained that there have been two alterations to this Amendment since the first hearing.
24 The distance has been changed to 700' on either side of Route 11 and under Special Exceptions they
25 have added High Tech Research and Development Firms.

26 Chairman White asked and there were no questions or comments from the Board or from the audience
27 regarding this Amendment.

28 Chairman White said that he is concerned with the setback issue, however, he understands it does not
29 necessarily just pertain to this District. Mr. Marquise said that he believes that the Board will be
30 addressing the setback issue in the future for all the Districts.

31 Mr. Butler asked and Mr. Marquise explained that the change to 700' was to ensure that lots that were
32 50/50 would be included in this District.

33 David Beardsley said that Chairman White stated his opposition to this Amendment at the last meeting
34 regarding how it pertains to residential lots versus commercial lots. He looked into this further and
35 found that driveways do not have setbacks so it could be worse for a residential lot next to a commercial
36 lot because the parking lot or driveway could be right at the property line. Mr. Beardsley continued that
37 he thinks that needs to be addressed and asked if there would be anything the Planning Board could do
38 to stop something like that from happening such as a buffer zones between driveways and parking areas
39 and property lines. Mr. Marquise said that at the Site Plan Review process the Board could recommend
40 a buffer zone, however, it would not be required. There was further discussion regarding this matter.

41 Dan Schneider said that he thinks that signage should be addressed as the current regulations allow for
42 “48 square per side”, which seems like a typo. Additionally, the Board might want to look at the
43 maximum allowed square footage for this District as it seems high. There was continued discussion
44 regarding this matter.

45 Vice Chair Larrow made a motion to forward Amendment #1 to the ballot. Mr. Clark seconded the
46 motion. The motion passed with three in favor and one opposed (Chairman White).

47 Amendment #2

48 Amend Article VI, Section 6.12 – Reconstruction, Article XI – Definitions and add Article VI, Section 6.13 –
49 Expansion - by changing Section 6.12 to discuss structure reconstruction only and adding Section 6.13 to
50 define expansion of non-conforming structures with new definitions for Reconstruction, Envelope and
51 Expansion.

52 Chairman White read the full text of the Amendment.

53 Mr. Marquise explained that the changes to this Amendment since the last meeting is that the term
54 “pre-existing” has been added to Article 6.12 along with the date of March 10, 1987. The last line of this
55 Article that says “the reconstruction of any other non-conforming structure requires a Variance or
56 Special Exception of the ZBA” has been added. Under Article 6.13, instead of “setback” they have
57 changed the term to “dimensional control”.

58 Chairman White asked if there were any comments or questions from the Board. Mr. Butler said that he
59 believes that this makes sense. Mr. Clark asked and Chairman White said that he believes that this is
60 close to what the Zoning Board was recommending regarding this Amendment.

61 Mr. Schneider said that he has a couple of concerns regarding this Amendment. The first is that they are
62 differentiating between a non-conforming structure and a pre-existing non-conforming structure. If
63 someone purchases a house and discovers that it is non-conforming, the burden is then on the new
64 owner to determine if the footprint was existing prior to 1987. Mr. Marquise said that there are
65 assessing records that go back to the late 80’s.

66 Mr. Schneider said that if you combine Article 6.12 and 6.13 and someone has a structure that is non-
67 conforming they can expand it into an area which is conforming but they cannot replace the non-
68 conforming part. He asked how much of the building would have to be left before it is considered a
69 replacement. He does not understand the rational in differentiating between pre-existing non-
70 conforming structures and non-conforming structures as there are only a couple of reasons a structure

71 can be non-conforming. Mr. Marquise said that, as it stands right now, any change to a structure must
72 go before the Zoning Board so this has evolved to try and be less burdensome on the applicant. The
73 concern was that if someone had received Variances to make a structure bigger then they could use this
74 new footprint to rebuild rather than try and move to a more conforming area. That was why they
75 decided to differentiate between pre-existing and not pre-existing. If someone is just expanding, then
76 they do not have the luxury of tearing down and rebuilding. There was further discussion regarding this
77 matter.

78 Betsy Lyons said that she purchased a property with a pre-existing non-conforming structure and tore it
79 down and rebuilt it so that it was conforming. One of the things that Sunapee lacks is that when you go
80 to the Town Office you do not get told what needs to be done to comply with both State and local
81 regulations. Mr. Marquise said that on the front of the Zoning Compliance application there is a
82 checklist of all the State and local permits and the Zoning Administrator should be reviewing that with
83 people.

84 Mr. Butler said that he thought that the Zoning Board brought this Amendment to the Board and the
85 only change was adding the term “pre-existing” so he does not understand the issue Mr. Schneider has.
86 Mr. Schneider said that it is a potential concern as it is different from what the Zoning Board proposed
87 and it could cause some uncertainties. Mr. Marquise said that except for the “pre-existing” concern, he
88 believes that everything else the Zoning Board wanted has been addressed. Mr. Schneider agreed with
89 Mr. Marquise.

90 Mr. Clark made a motion to forward Amendment #2 to the ballot as written. Mr. Butler seconded the
91 motion. The motion passed unanimously.

92 Mr. Butler asked and Mr. Marquise said that each Amendment will have the vote total, at least in the
93 Deliberative Session Book and the Town Report.

94 Amendment #3

95 Amend Article X, Section 10.42 – Variance - by making reference to the statutory definition per the New
96 Hampshire RSA's as may be amended from time to time.

97 Chairman White read the full text of the Amendment.

98 Chairman White asked and there was no input on this Amendment from the Board nor the audience.

99 Vice Chair Larrow made a motion to forward the Amendment to the ballot. Mr. Clark seconded the
100 motion. The motion passed unanimously.

101 Amendment #4

102 Amend Article X, Section 10.43 - Equitable Waivers – by making reference to the statutory definition per
103 the New Hampshire RSA's as may be amended from time to time.

104 Chairman White read the full text of the Amendment.

105 Chairman White noted that the RSA should be 674:33-a.

106 Mr. Clark made a motion to proceed with Amendment #4. Mr. Butler seconded the motion. The motion
107 passed unanimously.

108 Amendment #5

109 Amend Article XI, Definitions – Structures by adding to the definition such items as houses, garages,
110 decks and sheds and including exemptions for landscaping features such as driveways, walkways, patios,
111 rockwalls, and retaining walls less than 42” in height.

112 Chairman White read the full text of the Amendment.

113 Mr. Marquise explained that the term “in height” has been added since the last hearing.

114 Ms. Lyons said that she has a problem with patios not being a structure as they can vary greatly. A
115 larger type patio can create a potential conflict with abutting properties if they are not being reviewed.
116 Chairman White said that as a use perspective the Board may need to look next year at having a setback
117 for a patio. The Town has been asked twice and has been clear about not wanting any controls for
118 patios. The use of a patio can have a negative impact on abutting properties. Ms. Lyons said that patios
119 can be impervious, which can increase runoff on a property. It would be nice if the Zoning Ordinance
120 would require when someone does landscaping changes that stormwater runoff has to be addressed so
121 that it does not impact neighboring properties. Chairman White said that he thinks that is a
122 requirement, however, he does not know if a plan is required.

123 Mr. Schneider said that it might be preferable in the future to add the word “uncovered” before
124 “walkways” and “patios”.

125 Mr. Clark made a motion to proceed with Amendment #5. Vice Chair Larrow seconded the motion. The
126 motion passed unanimously.

127 Amendment #6

128 Amend Article XI - Definitions – by adding a new definition of Impervious Surface per the State
129 Shoreland Protection Act.

130 Chairman White read the full text of the Amendment.

131 Mr. Marquise explained that the only change that was made was to add the term “per the State
132 Shoreland Protection Act” so that it was clear on the ballot.

133 Mr. Clark asked if this definition can change over time at the State level and Mr. Marquise said that the
134 definition would need to be changed each time if it does. Chairman White said that this definition is less
135 likely to change as it is more technical though they may change the legislation regarding impervious and
136 pervious surfaces.

137 Vice Chair Larrow made a motion to move Amendment #6 forward to the ballot. Mr. Butler seconded
138 the motion. The motion passed unanimously.

139 Amendment #7

140 Amend Article XI - Definitions – by adding a new definition of Pre-Existing, Non-Conforming Structure
141 that defines such as any structure existing at the time of passage of this ordinance (March 10, 1987) that
142 does not conform to the dimensional controls set forth in Article III or IV of the Zoning Ordinance and
143 adding a new definition of Non-Conforming Structure that defines such as any other structure that does
144 not conform to the dimensional controls set forth in Article III or IV of the Zoning Ordinance.

145 Chairman White read the full text of the Amendment.

146 Mr. Marquise explained that the alteration was adding the date of March 10, 1987 and adding the
147 definition of a non-conforming structure.

148 Chairman White asked and there were no comments or questions from the Board nor the audience.

149 Mr. Butler made a motion to move Amendment #7 to the ballot. Mr. Clark seconded the motion. The
150 motion passed unanimously.

151 Amendment #8

152 Article XI - Definitions – by changing the heading of Height to Maximum Structure Height

153 Chairman White read the full text of the Amendment.

154 Mr. Clark asked if they were removing “etc.” from the wording. Vice Chair Larrow said that at the last
155 meeting Mr. Marquise said that it is currently part of the definition. There was further discussion
156 regarding this matter.

157 Mr. Marquise said that taking out cupolas or weathervanes would change the intent, however, they
158 could take out “etc.” without changing the intent. There was further discussion about what could fall
159 under the “etc.” category such as chimneys, weathervanes, and ventilation spires.

160 Mr. Clark asked and Mr. Marquise explained that this changes “height” to be called the same that it is in
161 Section 3.10, which is “maximum structure height”; the wording of the definition is the same. Mr.
162 Schneider explained that height is used in various places in the Ordinance and in other places it is meant
163 to be the measured distance from a point and in Section 3.10 it is meant to be the maximum structure
164 height. He believes that the Zoning Board also recommended a definition of “height” but that was not
165 done.

166 The Board determined to leave this Amendment as written.

167 Mr. Butler made a motion to move Amendment #8 to the ballot. Vice Chair Larrow seconded the
168 motion. The motion passed unanimously.

169 **MISCELLANEOUS**

170 There was a discussion regarding if there can be a map for the first Zoning Amendment. Mr. Marquise
171 said that it cannot be at the polling place; it must be outside as it is considered electioneering.

172 Mr. Butler asked if in previous years the Zoning recommendations come from the Zoning Board. Mr.
173 Marquise explained that typically 80-90% of them come from the Zoning Board or Zoning Administrator.

174 Vice Chair Larrow said that on Amendment #2 the Zoning Board of Adjustment (ZBA) is not spelled out
175 and she was wondering if it can be spelled out to make it consistent.

176 **MINUTES**

177 Changes to the Planning Board minutes from December 7, 2017: There were no corrections to the
178 minutes.

179 Vice Chair Larrow made a motion to approve the minutes as presented. Mr. Butler seconded the
180 motion. The motion passed unanimously.

181 **MISCELLANEOUS**

182 There was a brief discussion regarding the next meeting.

183 There was a brief discussion about pre-existing structures, such as boathouses, because if owners want
184 to tear them down they have to do research to prove what existed before the existing regulations.

185 Mr. Clark made a motion to adjourn the meeting at 8:16 pm. Mr. Butler seconded the motion. The
186 motion passed unanimously.

187 Respectfully submitted,

188 Melissa Pollari

189

190 Planning Board

191 _____

192 Peter White, Chairman

193 _____

194 Richard Osborne

195 _____

196 Joseph Furlong

197 _____

198 Shane Hastings, ex-officio member

199

Donna Davis Larrow, Vice Chair

Joseph Butler

Randy Clark

Suzanne Gottling, ex-officio alternate member