

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **OCTOBER 5, 2017**

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

6 **ABSENT:** Randy Clark; 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 Chairman White explained that he asked Vice Chair Larrow to run the meeting.

11 **PARCEL ID: 0225-0027-0000: FOUR (4) LOT SUBDIVISION, YOUNGS HILL RD, ROBERT GALLUP.**

12 Robert Gallup presented the merits of the case.

13 Mr. Gallup explained that he would like to subdivide the lot into four building lots. There is a driveway
14 on the lower side that he used for logging and would be for the first lot. He would like to create two 1.5
15 acre lots, a 6 acre lot, and a 3.38 acre lot. He would like to build a house for himself, sell that house, and
16 work his way building houses up the hill.

17 Mr. Marquise said that the application was filed in advance, fees were paid, abutters were notified, and
18 notices were posted. The application falls under Article 6.04 in the Subdivision Regulations and is a
19 major subdivision so waivers do not apply. The only thing that is not on the plan, which may not apply,
20 are the drainage calculations. A State permit will be required for Lots 1, 2, and 4 because the lots are
21 under five acres. He received a notice that the State has gotten the application but he does not think
22 that they have approved it yet. Mr. Gallup explained that they still need to get the State wording for an
23 easement for the well radius from Lot 1 to Lot 2. Mr. Marquise said that he thinks that the application is
24 complete.

25 Mr. Osborne made a motion to approve as complete the application for Parcel ID: 0225-0027-0000, a
26 four lot subdivision on Youngs Hill Rd for Robert Gallup. Mr. Butler seconded the motion. The motion
27 passed unanimously.

28 Mr. Osborne asked and Mr. Gallup explained that he needs to get the deed written up for Lot 2 granting
29 an easement for the well radius for Lot 1 as it is not quite wide enough for the required 150 ft.

30 Mr. Butler asked and Mr. Gallup explained that the lower stone wall is one of the boundaries for Lot 1
31 and then the upper back line on the plan is the upper bound between Lots 2 and 3.

32 Mr. Marquise said that he visited the property and has a question regarding the drive access. It appears
33 that the shared drive for Lots 3 and 4 is at the peak of the hill and he had a hard time imagining the sight
34 distance both ways. Mr. Marquise asked if Mr. Hazelton has looked at that driveway yet. Mr. Gallup

35 said that Mr. Hazelton has been to the site, however, he does not know if he's reviewed that driveway
36 access. The sight distance on the low side just makes what is required and the upper side toward Pine
37 Ridge Rd is fine. He put the driveway there because if the banks on each side are lowered he can extend
38 the visibility.

39 Mr. Butler asked and Mr. Gallup said that he wants to build on Lot 1 first.

40 Mr. Osborne asked if Mr. Marquise does not think a drainage plan is required because a new road is not
41 being built. Mr. Marquise said that if impervious surface is not being created then they don't require a
42 drainage plan but it can be discussed. There are some steep slopes and Zoning limits putting anything
43 on the steep slopes. Mr. Osborne said that the proposed house locations are not on the steep slopes so
44 they would not be affected. He is not sure that a drainage plan is necessary at this point.

45 Mr. Osborne asked and Mr. Gallup confirmed that he needs approval of the subdivision before deeds
46 can be written for the State permit. He needs to create a fake deed for the lot so they can see the
47 language for the easement; then the State can grant their approval. Mr. Osborne asked and Mr.
48 Marquise confirmed that the Board can grant approval conditional on the State permit.

49 Vice Chair Larrow asked if there was anyone in the audience with questions or comments and there
50 were none. Vice Chair Larrow closed the meeting to public comments.

51 Mr. Butler asked for an explanation regarding the procedure for septic systems on the lots. Mr.
52 Marquise explained that the sites have been perc tested as they need to be for the State permit.

53 Mr. Marquise asked the Board how they would like to handle the issue with the sight distance with the
54 driveway. He brought it up in the peer review meeting and Mr. Hazelton said that he would look at it
55 but he has not received any comments. It is a shared drive and there is a severe crest there. Vice Chair
56 Larrow asked about the shared driveway and Mr. Marquise said that he thinks that it is preferable in this
57 instance. He just wants to know Mr. Hazelton's thoughts about the sight distance. Vice Chair Larrow
58 asked and Mr. Marquise confirmed that the Board could approve the plan pending Mr. Hazelton's
59 approval. There was further discussion regarding this matter and the possibility of moving the driveway
60 and the possible sight distances if it is moved.

61 Mr. Marquise said that the large lot includes a lot of the unbuildable areas that are too steep. In this
62 Zone at least one acre must be buildable and there is plenty of space. Chairman White asked if Lot 3 can
63 be further subdivided. Mr. Gallup said that there is enough acreage and road frontage to be further
64 subdivided but the terrain is not conducive to allowing more than one access because the steep slopes
65 encompass the western side.

66 Mr. Osborne made a motion to approve the subdivision, pending State approval of the well radius
67 easement and Highway Director approval of driveway sight lines for Parcel ID: 0225-0027-0000. Mr.
68 Butler seconded the motion. The motion passed unanimously.

69 **PARCEL ID: 0210-0061-0000 & PARCEL ID: 0210-0061-0001 & PARCEL ID: 0210-0062-0000:**
70 **SUBDIVISION / LOT LINE ADJUSTMENT: ANNEX 1.23 ACRES FROM 0210-0061-0001 (BELL) TO 0210-**
71 **0062-0000 (TALLARICO) AND ANNEX 0.11 ACRES FROM 0210-0061-0000 (BELL) TO 0210-0061-0001**
72 **(BELL). TROW HILL RD, LYNNE BELL TRUST.**

73 Mr. Marquise said that the application was filed in advance, fees were paid, abutters were notified, and
74 notices were posted. The application falls under Article 6.04 of the Subdivision Regulations and is
75 eligible for waivers as it is a subdivision / annexation. This was previously subdivided so this is
76 somewhat an amendment to an approved subdivision. The application requirements are met, subject to
77 the following possible waivers: existing and proposed contours, existing and proposed utilities, and
78 plans for storm water drainage. Mr. Marquise continued that he thinks that it is appropriate to waive
79 those items as there is no proposal to do anything but exchange the land.

80 Mr. Osborne made a motion to approve as complete the application for Parcel IDs: 0210-0061-0000,
81 0210-0061-0001, and 0210-0062-0000 with the waivers for existing and proposed contours, existing and
82 proposed utilities, and the existing and proposed storm water drainage. Chairman White seconded the
83 motion. The motion passed unanimously.

84 Jason Bell presented the merits of the case.

85 Mr. Bell explained that the lots were previously subdivided and they were going to sell the upper parcel
86 to a neighbor but they found out when they bought the larger parcel in the mid 80's that there was a
87 right of first refusal that was missed on all the deeds dating back to the 1960's, which was then inherited
88 by Ms. Tallarico. The language for the right of first refusal was vague but it alluded to approximately
89 two acres to the west of Ms. Tallarico's property surrounded by stone walls. This subdivision is to sell
90 Ms. Tallarico 1.23 acres and annex it to her property and the acreage for the original subdivision will be
91 changed slightly.

92 Mr. Marquise asked and Mr. Bell confirmed that the small parcel is being added to the originally
93 subdivided parcel to give it road frontage. Chairman White asked and Mr. Bell confirmed that Lot 0061-
94 0001 originally had a significant amount of road frontage. Mr. Bell continued that to give Ms. Tallarico a
95 decent parcel of land it ate up a lot of the original road frontage so they are taking a small piece of Lot
96 0061-0000 to make 0061-0001 conforming. Mr. Marquise explained that 150 ft of road frontage is
97 required in this Zone.

98 Mr. Marquise said that there will be a series of right of ways across the properties: Lot 0061-0000 will
99 have to give rights to Lots 0061-0001 and 0062-0000; and Lot 0061-0001 will have to give rights to 0062-
100 0000 and 0061-0000. Chairman White asked and Mr. Bell confirmed that the driveway will stay in its
101 current location. There is no plan to have the driveway relocated.

102 Vice Chair Larrow asked and Mr. Marquise explained that the change to the originally approved
103 subdivision is that they are making Lot 0061-0001 smaller.

104 Vice Chair Larrow asked and there were no Board members nor members of the audience with any
105 further questions so she closed the meeting to public comment.

106 Chairman White made a motion to approve the subdivision / lot line annexation of Parcel ID: 0210-0061-
107 0000, 00210-0061-0001, and 0210-0062-0000; the subdivision / lot line adjustment: annex 1.23 acres
108 from 0210-0061-0001 (Bell) to 0210-0062-0000 (Tallarico) and annex 0.11 acres from .210-0061-0000
109 (Bell) to 0210-0061-0001 (Bell) on Trow Hill Rd, Lynne Bell Trust. Mr. Butler seconded the motion. The
110 motion passed unanimously.

111 **MISCELLANEOUS**

112 Michael Jewczyn explained that he moved to town in August and wants to get involved and saw a notice
113 in the Post Office that the Planning and Zoning Boards were looking for members. He has experience in
114 Fire and Rescue and he was thinking about volunteering for one of the Boards. Mr. Jewczyn continued
115 with his introduction to the Board.

116 Vice Chair Larrow asked if Mr. Jewczyn would rather be on Planning or Zoning and Mr. Jewczyn said that
117 he would like to go where he is most needed. Mr. Marquise suggested that Mr. Jewczyn go to the
118 Zoning Board meeting and see how their process works before making a decision. There was further
119 discussion regarding this matter and Mr. Jewczyn explained more of his viewpoints.

120 **OTHER BUSINESS: ZONING AMENDMENTS / ZBA JOINT MEETING IN SEPTEMBER**

121 Mr. Marquise gave handouts of the proposed Zoning Amendments to the Planning Board and members
122 of the Zoning Board who were present. He also gave a new meeting schedule for 2018 with the Zoning
123 and Planning Board meetings switched.

124 The Boards discussed the proposed Amendments so the Mr. Marquise can get the full text ready before
125 the next Planning meeting. Vice Chair Larrow asked and Mr. Marquise confirmed that Town Council
126 does review the proposed Amendments. There was further discussion regarding this matter.

127 Amendment #1

128 Article II, Section 2.30 and Article III, 3.10 and Article IV, 4.10

129 Amend ordinance to create a new Zoning District defined as Mixed Use III that will encompass an area
130 from Jobs Creek Road in Georges Mills to Browns Hill Road for a distance of 500' either side of road.

131 **(From Planning Board)**

132 Mr. Marquise explained that this Zoning District essentially mimics the petitioned Zone from last year
133 from Georges Mills to Browns Hill Rd with two differences. The first is that the Zone will be on both
134 sides of the road rather than one side. The second is that it will be a lot less intense than the Mixed Use
135 I District. Mr. Osborne asked and Mr. Marquise said that he does not have a definition for the Zone yet.

136 Mr. Larrow asked about the thought process for creating this Zone. Mr. Marquise said that he thinks
137 that the petitioned Amendment last year raised some good questions in terms of what is already there
138 commercially. There were just a lot of negatives with the Mixed Use I, especially with the dimensional
139 controls. However, there were some valuable points made as to the need of something like that in the
140 area.

141 Mr. Schneider said that he thinks that there should be requirements to minimize visual impacts and
142 traffic impact. One of the ways of minimizing traffic impact could be to set permitted hours of
143 operation. Mr. Marquise said that retail will not be allowed in the Zone; this is more for service
144 businesses and offices.

145 There was further discussion regarding this proposed Amendment and how it affects the Master Plan as
146 well about the Georges Mills Fire Department and the ambulance service in Town.

147 Amendment #2

148 Article VI, Section 6.12 and add Article VI, Section 6.13

149 Change Section 6.12 to discuss Restoration and Reconstruction only (first paragraph of current section
150 plus portion of second paragraph).

151 Add Section 6.13 to discuss alteration/expansion of non-conforming structures. This would include the
152 concept that any alteration of a non-conforming structure in a conforming area does not require action
153 of the ZBA. **(ZBA Talking Points 2 and page 4)**

154 Mr. Marquise explained Amendment #2 includes two parts. The first is strictly regarding restoration and
155 reconstruction: tearing down a building and rebuilding it in the same footprint and height. The second
156 part addresses expansion. The intent is to state that a non-conforming structure can be expanded
157 provided that it is in a conforming area. Anything that is in a non-conforming area would need to come
158 before the Zoning Board.

159 There was further discussion regarding the proposed Amendment as there was a question regarding the
160 word "Reconstruction" as there is no definition for that word. The Boards discussed adding a definition
161 for "Restoration" and "Reconstruction" or taking one of the words out and just having a definition for
162 the word that remains. There was also a discussion about including wording about height in the part of
163 the Ordinance regarding expansion. There was a discussion regarding the height of cell towers. Mr.
164 Marquise suggested changing the wording of Article VI, Section 6.12 to: The replacement of a non-
165 conforming structure with a structure that increases the non-conformity to this Ordinance, either
166 horizontally or vertically, shall only be permitted by variance or, if permitted hereby, by Special
167 Exception. There was a discussion about tearing down, rebuilding, and expanding vs. just expanding.
168 The Zoning Board felt that if the expansion conforms to the current requirement then it should not
169 require approval. Mr. Marquise said that if someone tears down a building they could conceivably build
170 a conforming structure so that is something to think about. There was further discussion regarding this
171 matter.

172 Amendment #3

173 Article X, Section 10.42 - Variance

174 Change this section to show the current requirements for a Variance. **(ZBA Talking Point 8f)**

175 Mr. Marquise said that the Ordinance is not consistent with the current law so he believes the five
176 points should be corrected.

177 Amendment #4

178 Article X, Section 10.43 Equitable Waivers

179 Modify language to briefly describe what such a waiver entails and reference the applicable statute for a
180 full description. **(Point raised by Aaron Simpson)**

181 Mr. Marquise explained that the Town only took the last part of the State's definition of Equitable
182 Waivers and this Amendment would be to correct the wording.

183 There was further discussion regarding this proposed definition.

184 Amendment #5

185 Article XI, Definitions, Structures

186 Add to the definition such items as garages, houses, decks, sheds and docks. Include exemptions for
187 landscaping features including driveways, walkways, patios, stairways, and retaining walls (assume less
188 than 42"). **(ZBA Talking Point 1)**

189 There was a discussion regarding stairways being including in landscaping features and if there could be
190 limitations on the exempted stairways. Mr. Marquise suggested leaving walkways in and defining it to
191 include anything with steps and removing stairways.

192 Mr. Marquise suggested adding a definition for what type of patio will be exempt.

193 There was further discussion regarding this Amendment.

194 Amendment #6

195 Article XI - Definitions

196 Add definition for "Impervious Surface". **(ZBA Talking Point 8a)**

197 Mr. Marquise said that he took this definition from the State.

198 Amendment #7

199 Article XI - Definitions

200 Add definition of footprint which would include language to the effect that the footprint is the
201 horizontal and vertical space occupied by a structure. **(ZBA Talking Point 2c)**

202 Mr. Marquise explained this Amendment. Chairman White said that an "envelope" is length times width
203 times height and encompasses a three-dimensional space. A "footprint" has always been a two-
204 dimensional space. Mr. Marquise said that if you use the term "building envelope" it means something
205 different as it is an architectural term. There was further discussion regarding this matter and if they
206 should get rid of the term "footprint" and using the term "envelope" or just leaving the term "vertical"
207 out of "footprint". Vice Chair Larrow asked and Mr. Marquise explained that this matters in non-
208 conforming structures. There was further discussion regarding increasing the height of a non-
209 conforming structure. There was further discussion regarding defining both "envelope" and "footprint"
210 and putting the words "in the same location" under the definition of "envelope".

211 Amendment #8

212 Article XI - Definitions

213 Non-Conforming Structure – Any structure existing at the time of passage of this ordinance that does
214 not conform to the dimension controls set forth in Article III or IV of this ordinance. **(ZBA Talking Point**
215 **2a)**

216 There was a discussion regarding this definition and if there needs to be a definition of “pre-existing
217 non-conforming”. There was a discussion regarding if in the definition of “Restoration and
218 Reconstruction” there should be a percentage of improvement allowed before the entire structure
219 needs to be brought up to code. There is no building code in Sunapee but builders should follow State
220 building codes. There was a discussion regarding if a non-conforming structure is one that was built
221 prior to Zoning being implemented in Sunapee or prior to a Zoning change that makes it non-
222 conforming.

223 Amendment #9

224 Article XI - Definitions

225 Change existing Height definition heading to Maximum Structure Height. **(ZBA Talking Point 3b)**

226 Mr. Marquise said that he is suggesting that the current definition of height should say “maximum
227 structure height”. There was a discussion regarding grade and measuring height from existing grade or
228 lowest ground elevation. There was a discussion about cases that the Zoning Board has had regarding
229 height. There was a discussion regarding how drainage is effected if grade is raised. There was further
230 discussion regarding this definition.

231 Other Talking Points

232 Talking Point 2d – Perhaps this should be part of the application requirements imposed by the ZBA. Mr.
233 Marquise said that he believes this talking point was regarding requiring a survey if a non-conforming
234 structure needs to be replaced. He believes this is typically required in the application process and not
235 written in an Ordinance. The Board could require a before built and an as built survey. There was
236 further discussion regarding this matter. The Zoning Board requested that this change be made to the
237 application.

238 Talking Point 2e – If Section 6.12 and 6.13 are properly written this should be addressed. Mr. Marquise
239 said that this talking point was to prevent non-conforming structures from being enclosed without
240 approval and he thinks that Sections 6.12 and 6.13 addresses that you cannot alter the dimensions.
241 There was a discussion regarding creating a screened porch living space or a deck becoming living space.
242 Mr. Marquise said that he thinks that Section 6.12 covers decks if the term “envelope” is used to
243 address vertical adjustments. There was further discussion regarding this talking point.

244 Talking point 3 - Height has many different references because there are many different applications.
245 Mr. Marquise said that he thinks that “height” has been discussed and defined.

246 Talking Point 4 - Reorganizing the Ordinance to this extent should probably occur with a full re-write.
247 The flow of the current ordinance is appropriate given its application. There was a brief discussion
248 regarding this matter.

249 Talking Point 5 - Mr. Marquise said that he believes that this Exception was discussed and determined it
250 was OK under Section 3.50(f).

251 Talking Point 6 – The Boards agreed that if Sections 6.12 and 6.13 are properly written this talking point
252 will be addressed.

253 **MISCELLANEOUS**

254 Mr. Marquise said that he had a question from one of the Trustees of the Library who wanted to know if
255 the Planning Board was OK with what they did with the parking lot. The upper parking lot was shown on
256 the plan as a "future parking lot" and they built it. He does not have a problem with it and believes that
257 Mr. Landry gave permission for it. Mr. Marquise said that it was on the plan but they did not come
258 before the Board for permission. The plan also shows a future community building and he thinks that
259 the Library would need to come before the Board for permission for that because it is a building. He
260 does not see the issue with the parking lot. There was further discussion regarding this matter and the
261 Board determined that they do not think that the parking lot triggers Site Plan Review.

262 Mr. Marquise said that the Library would like to build a small storage shed which was not on the original
263 site plan and asked if it should trigger Site Plan Review.

264 Chairman White said that he is abstaining from any conversation regarding the Library.

265 Vice Chair Larrow said that she has heard complaints recently about people leaving the Library. If they
266 needed to come in for the storage shed, it would give the Board a chance to discuss with them regarding
267 the flow of traffic.

268 Mr. Butler said that he would like to see the proposed location of the shed.

269 The Board determined that they would like to meet with the Library regarding the shed.

270 Mr. Marquise said that he spoke with Bruce McCarthy regarding his subdivision. His understanding is
271 that with the court proceedings and such that Mr. McCarthy has come to an agreement with the
272 neighbors regarding the volume size of the storm water basin and possibly making some more revisions.
273 He did advise Mr. McCarthy that he will need to come before the Board with any changes.

274 **MINUTES**

275 Changes to the Planning Board minutes from June 1, 2017: No changes were made.

276 Vice Chair Larrow made a motion to accept the minutes as presented. Mr. Butler seconded the motion.
277 The motion passed unanimously.

278 Chairman White made a motion to adjourn the meeting at 9:21 pm. Mr. Osborne seconded the motion.
279 The motion passed unanimously.

280 Respectfully submitted,

281 Melissa Pollari

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284

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286 Planning Board

287 _____

288 Peter White, Chairman

Donna Davis Larrow, Vice Chair

289 _____

290 Richard Osborne

Joseph Butler

291 _____

292 Joseph Furlong

Randy Clark

293 _____

294 Shane Hastings, ex-officio member

Suzanne Gottling, ex-officio alternate member