

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **AUGUST 4, 2016**

4 **PRESENT:** Donna Davis Larrow, Vice Chair; Richard Osborne; Joseph Furlong; Shane Hastings, ex-officio  
5 member; Kurt Markarian; Joseph Butler; Randy Clark, Alternate; Michael Marquise, Planner

6 **ABSENT:** Peter White, Chair

7 **See attached sign in sheet**

8 Vice Chair Larrow called the meeting to order at 7:00 pm.

9 Vice Chair Larrow appointed Mr. Clark to sit in for Chairman White.

10 **CONTINUATION: PARCEL ID: 0148-0025-0000: SUBDIVISION / ANNEXATION; LANCE & CHRISTINA**  
11 **HARBOUR, HAMEL RD.**

12 Mr. Marquise said that the case was extended to September's meeting and this case does tie into the  
13 second case on the agenda so it can be tabled.

14 **PARCEL ID: 0149-0012-0000: STATEMENT OF PROPERTY USAGE, MT. VIEW TAVERN, LLC, 699 ROUTE**  
15 **103.**

16 Mr. Marquise said that a Statement of Property Usage is normally filed with the Planning and Zoning  
17 office. If there is a change to a property that is a "like kind" change the Statement of Property Usage is  
18 just signed by himself and Mr. Landry and doesn't go before the Board. For this case, he felt as though  
19 the Planning Board may have some questions for the applicant and may also have questions for the  
20 Board of Selectmen regarding their Grandfathering Policy. Mr. Marquise continued that the Board also  
21 needs to determine if the business will require a Site Plan Review or if there is no change.

22 Howard Dunn, an attorney for Mt. View Tavern, said that they were told that they needed an affidavit  
23 establishing the Grandfathering and they do have two affidavits for the Board. They also have seven  
24 food service licenses for years going back, including through last November.

25 Mr. Hastings arrived for the meeting.

26 Mr. Dunn said that they have a Permit for Assembly signed by the Fire Chief from 2001.

27 Mr. Dunn said that the Grandfathering Policy says that the Use is Grandfathered for two years from the  
28 last time of the Use. They have it stated that the last Use was September 21, 2014 and May 2, 2016 was  
29 the date of the granting of the building permit.

30 Clayton Platt, the surveyor for Mt. View Tavern, explained that the property is the site of the old Andre's  
31 Restaurant. The building was used as a restaurant for about 60 years.

32 Vice Chair Larrow said that the advertised agenda had the Parcel ID # wrong and it should be 0149-0012-  
33 0000.

34 Mr. Platt said that he received a phone call from Mr. Landry about a week ago stating that the Use was  
35 not Grandfathered and they needed a Site Plan Review and a Special Exception for the restaurant. Mr.  
36 Dunn said that they already have a Certificate of Zoning Compliance.

37 Mr. Platt said that Ed and Lynn DiPietro purchased the restaurant property in April, 2016. They planned  
38 on just renovating the building but decided that the best thing to do was to tear down the building and  
39 rebuild. When they talked to Mr. Landry they were told that they needed to update the septic and to  
40 rebuild on the same footprint. They got a building permit from the Town for this project, which is called  
41 a Certificate of Zoning Compliance. Mr. Platt continued that he was hired because Mr. Landry told the  
42 DiPietros that they needed a Site Plan and might need a Special Exception. He was under the impression  
43 that they needed a survey to show what is on the site but was then told he needed to do a full Site Plan  
44 Review, including a new landscape plan, new drainage plan, etc. Mr. Platt said that all that the DiPeitros  
45 are doing is rebuilding the building for the restaurant that closed less than two years ago. The existing  
46 parking areas and impervious surfaces will remain the same; they are just updating the septic.

47 Mr. Markarian asked what changes will be made in general to the property. Mr. Platt said that they will  
48 be cleaning up some bluestone around the edge of the curtain coming in. Mr. Platt showed the Board  
49 the Site Plan including the existing parking area, where the dumpster is located, etc. The septic will be in  
50 roughly the same spot and the leach field will be smaller as they are installing a Clean Solution system.  
51 The well was buried in the parking lot and DES would not allow them to rebury it.

52 Mr. Platt was asked and confirmed that the original intent was to use the pre-existing building. Mr.  
53 Butler asked if there will be more tables or more seats than the previous restaurant had. Mr. Platt said  
54 that the inside was redesigned and the seating will be reduced from 90 to 74. Mr. Butler asked about  
55 the existing septic system. Mr. Platt said that it has not failed, it was just rated poor, and it will be  
56 replaced.

57 Mr. Furlong asked if Mr. Landry had discussed the Grandfathering with Mr. Marquise. Mr. Marquise  
58 said that they discussed it in their peer review meeting and one of the questions was whether the  
59 building had been used truly as a restaurant. Mr. Marquise asked if either person who signed the  
60 affidavit was present. Kevin Henderson said that he was a friend of the previous owners of the  
61 restaurant and he was a regular customer of theirs. He had dinner on Saturday night and the owners  
62 had a party on the following Sunday night and then they closed. Mr. Markarian said that when they  
63 owned a Bed and Breakfast they used to send people over to the restaurant.

64 Mr. Marquise said that the second issue that was raised is that they have something from the Fire Chief,  
65 however, that lapsed around 2010. Mr. Dunn said that because the building was razed and is being  
66 rebuilt it will require a new Permit from the Fire Chief.

67 Mr. Marquise said that the concept of Grandfathering rests with Mr. Landry and the Board of Selectmen.  
68 The Planning Board cannot make that determination they can only determine if a Site Plan Review is  
69 required given the circumstances. Mr. Platt said that the Planning Board has the right to waive the Site  
70 Plan Review requirements under Article VII in the Zoning Ordinance.

71 Vice Chair Larrow asked and Mr. Marquise confirmed that if the Board waives the Site Plan Review  
72 requirements, the Grandfathering issue is something that needs to be addressed with the Board of

73 Selectmen. Mr. Dunn said that he disagrees with Mr. Marquise as he believes that the Planning Board is  
74 the quasi-judicial body that would make the decision regarding Grandfathering. Mr. Dunn said that the  
75 problem is that a Zoning Compliance Permit was issued, saying that they were in compliance with  
76 Zoning. It was issued by four Selectpersons of the Town of Sunapee and they feel as though the decision  
77 has been made. Mr. Marquise said that the Board cannot rule either way on that as the Planning Board  
78 does not have authority regarding the Zoning Ordinances.

79 Mr. Butler asked and it was confirmed that the Board is determining if a Site Plan Review is required.

80 Mr. Markarian asked and Mr. Platt confirmed that there will not be additional parking added. Mr. Platt  
81 said that if they get really busy they might be back in a few years asking for additional parking. Mr.  
82 Butler asked if there is more or less parking with the new building. Mr. Platt said that it is about the  
83 same, there might be a little more because they are squaring things up a little bit and moving things  
84 around. They are reclaiming ones that probably existed when the building was first erected.

85 There was further discussion regarding the Board needing to determine if a Site Plan Review is required  
86 and that the Board does not have authority to determine if the Use is Grandfathered.

87 Mr. Marquise said that this is a pre-existing property, meaning the restaurant never had a Site Plan as it  
88 has been opened since at least the 70s. As it is pre-existing they have been told that certain secondary  
89 items such as septic systems, lights, landscaping, etc. does not trigger Site Plan. Things that affect the  
90 Use of the property such as additional seating or increasing the size of the building would trigger Site  
91 Plan.

92 Mr. Markarian asked and the DiPetrios said that they have not done anything for signage yet as they are  
93 waiting to see what has to happen. Mr. Platt and Mr. Marquise said that a sign permit is a separate  
94 application. Mr. Markarian asked and Mr. Platt said that the lighting will remain the same.

95 Mr. Markarian made a motion to waive Site Plan Review for Parcel ID: 0149-0012-0000, Statement of  
96 Property Usage, Mt. View Tavern, LLC, 699 Route 103. Mr. Furlong seconded the motion. Mr. Butler  
97 said that his only concern would be if Mr. Landry would be watching the number of seats, the parking,  
98 etc. Mr. Marquise said that Mr. Landry is the Code Enforcement Officer and that is one of the nice  
99 things of having a Statement of Property Usage as it is on paper as to what will be there. Vice Chair  
100 Larrow asked if anyone in the audience had any comments or questions. Mrs. DiPetro said that this is  
101 her and her husband's dream. He got hurt in a steel collapse as he was an iron worker. They wanted to  
102 invest the money from that into their retirement; this is their future and their life savings. Mr.  
103 Markarian said that he recommends the Parcel ID on the Statement of property Usage be corrected.  
104 Mr. Marquise said that in the Statement of Property Usage it looks as though they will be doing lunch  
105 and dinner and he does not know what Andre's did. Mr. DiPetro said that they will be doing lunch and  
106 dinner and Saturday and Sundays they will have buffet breakfasts. Mr. Marquise said that it should be  
107 updated on the Statement of Property Usage as they will be opening earlier than Andre's. The motion  
108 passed unanimously.

109 **PARCEL ID: 0211-0018-0000: STATEMENT OF PROPERTY USAGE, ALBEE AUTO, 962 ROUTE 11.**

110 Mr. Marquise said that no one is here for this case and he is not sure why it was put on the agenda. It is  
111 a case that will be heard in a joint meeting of the Zoning and Planning Boards. The Statement of

112 Property Usage has already been signed off by him stating that a Site Plan Review is required as it is a  
113 new Use and in an area that is not Zoned for it as they want to move their location from Lower Main St  
114 to this location. Mr. Marquise continued that he thinks that it is a mistake that this case is on the  
115 agenda.

## 116 **PUBLIC INPUT / CONSULTATION**

### 117 **BROOK ROAD SUBDIVISION (BRODSKY) – DETERMINE BOND AMOUNT.**

118 Mr. Marquise explained that this subdivision has been approved a couple of times, most recently in  
119 phases. The property is on Brook Rd, right on the Goshen Line.

120 Mr. Marquise said that there is a process of having a hearing to accept the bond amount.

121 Brian Vincent of CLD Engineers presented how he came up with the figures to determine the amount of  
122 the bond.

123 Mr. Vincent gave a short overview of the project. The project will be phased and what they are asking  
124 for is the bond amount for Phase One, which includes construction of a treatment pond, swales, one  
125 building, and associated septic systems going to an existing leach field. There are also some utility lines  
126 that will go in as well. They would return to the Board for additional bond hearings for Phase Two,  
127 Phase Three, etc. in subsequent years. Mr. Butler asked and Mr. Vincent confirmed that nothing  
128 overlaps in the phases. Mr. Vincent continued that it is sequenced logically in terms of building  
129 construction.

130 Mr. Osborne asked how far the existing road goes. Mr. Vincent said that the existing road does not go  
131 quite as far as the hammerhead, it goes about 200 feet short of that area so they would have to extend  
132 that main road to that area. Mr. Osborne asked if the turnaround for plowing is for Phase One and Mr.  
133 Vincent said that it would be Phase Two or Phase Three.

134 Mr. Butler asked and Mr. Vincent confirmed that the amount they are looking at for the bond is  
135 \$103,000. Mr. Vincent explained that the items included in that amount are: mobilization, getting on  
136 the site with equipment; erosion control features; other storm features; dust control during  
137 construction; clearing and grubbing trees; pavement materials and sub-pavement materials; storm  
138 water basin construction; a diversion swale; leach field connections and trenching; drainage and sewer  
139 pipe; miscellaneous cleanout; utility connections; excavation; topsoil for finishing surfaces; seed, mulch  
140 and fertilizer; two well installations; two septic tanks; and clean up when they leave the site.

141 Mr. Vincent said that this is the smallest of the phases so that they can generate some income and then  
142 move on from there. Mr. Hastings asked and Mr. Vincent confirmed that one of the buildings is already  
143 built and it is occupied.

144 Mr. Butler asked if the bond amount includes the construction of the building. Mr. Vincent explained  
145 that it does not include the amount of the building construction, just the site work. Mr. Marquise said  
146 that the site work is all the Planning Board is typically responsible for bonding.

147 Vice Chair Larrow asked and Mr. Marquise confirmed that the numbers look to be very complete. Mr.  
148 Vincent said that the numbers are based on the latest NH DOT Average Weighted Prices as well as some  
149 of their own experiences with projects in NH.

150 Mr. Marquise asked if there is a well on the property already. Mr. Vincent said that there is one but he  
151 does not know how deep it is. There was further discussion regarding the well and the wet ponds that  
152 they are installing.

153 Mr. Butler asked and Mr. Vincent explained that they have not been hired to supervise the work.

154 Mr. Marquise said that before a bond amount is released, the Board usually defers to the Road Agent.

155 Mr. Vincent said that there are elements of the design that require inspection by them, such as the  
156 installation of the septic.

157 Mr. Marquise asked if the State has a process to look at the storm management. Mr. Vincent said that  
158 the State can look at any project that has been approved at any time though they usually only do if they  
159 hear that there is a problem.

160 Mr. Butler asked and Mr. Vincent explained that \$103,000 is 10% added to the total of \$94,000. The  
161 total overall is \$1.3 million, which is the full buildout of the entire site.

162 Mr. Markarian made a motion to accept the bond amount for Phase One of the Brook Road Subdivision,  
163 Parcel ID: 0237-0025-0000 in the amount of \$103,404.77. Mr. Osborne seconded the motion. The  
164 motion passed unanimously.

165 **Changes to the Minutes from the July 7, 2016 meeting:** On Line 5, remove "Alternate" after Joseph  
166 Butler. Change Line 52 to read "...maintenance is split, what happens..." Change Line 296 to read  
167 "...that blew down a year or two..."

168 Mr. Markarian made a motion to accept the meeting minutes as amended. Mr. Butler seconded the  
169 motion. The motion passed unanimously.

## 170 **MISCELLANEOUS**

171 Mr. Marquise said that based on a Warrant Article last year, the Town now has a Capital Improvements  
172 Program Committee (CIP). The Committee originated with the Planning Committee many years ago and  
173 when the Town got the Town Manager system, that Manager was insistent that it was his responsibility  
174 to oversee Capital Improvements. The Warrant Article has made it so that it is once again a Committee  
175 that makes recommendations and oversees the Capital Improvement Program. The Committee will  
176 consist of a member of the Selectboard, a member of the Budget Advisory Committee, a member of the  
177 Planning Board, two At-Large residents, and the Planner, and the Finance Director, both of whom will be  
178 non-voting members. The member does not need to be decided yet, however, the Board needs to think  
179 about who may want to serve on the Committee. Mr. Clark said that he would be interested in being on  
180 the Committee if he is able to serve as he is an Alternate.

181 There was a discussion about upcoming meetings, including a joint meeting with the Zoning Board.

## 182 **MYLAR**

183 The Board signed the Bell subdivision Mylar approved at the July, 2016 meeting.

184 Mr. Markarian made a motion to adjourn the meeting at 7:57 pm. Mr. Osborne seconded the motion.

185 The motion passed unanimously.

186 Respectfully submitted,

187 Melissa Pollari

188

189

190 Planning Board

191 \_\_\_\_\_

192 Peter White, Chairman

193 \_\_\_\_\_

194 Kurt Markarian

195 \_\_\_\_\_

196 Joseph Furlong

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198 Shane Hastings, ex-officio member

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Donna Davis Larrow, Vice Chair

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Richard Osborne

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Joseph Butler

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Randy Clark, Alternate Member