

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **MAY 7, 2015**

4 **PRESENT:** Peter White, Chair; Kurt Markarian; Tanner Royce; Richard Osborne; Shane Hastings; Sue
5 Gottling, ex-officio member; Michael Marquise, Planner

6 **ABSENT:** Donna Davis Larrow

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

8 **MISCELLANEOUS**

9 Mr. Marquise explained that they have another person, Joseph Butler, who is interested in joining the
10 Board as an Alternate Member.

11 Mr. Butler introduced himself to the Board and explained that he wants to give back to the community
12 and, therefore, volunteered for the Board.

13 Mr. Marquise explained to Mr. Butler that Alternates fill in for regular members who may not be able to
14 attend a meeting and may not vote if there is a full Board. However, the Board does like Alternates to
15 attend all of the meetings so that they are aware of what is going on with the cases if something is
16 continued and they need to fill in at the next meeting. Chairman White explained that even if the
17 Alternate Member cannot vote, they are still able to ask questions about the application.

18 **PARCEL ID: 0210-0061-0000: DESIGN REVIEW: MAJOR SUBDIVISION THIRTY (30) LOTS, TROW HILL RD**
19 **/ KEYES RD. LYNNE M. BELL.**

20 **PARCEL ID: 0211-0006-0000: DESIGN REVIEW: MINOR SUBDIVISION TWO (2) LOTS, TROW HILL RD /**
21 **KEYES RD. ROBERT W. BELL.**

22 Chairman White explained that with a design review they talk about some specific design ideas and
23 concepts but it is non-binding and the Board does not vote on anything. They will take input from the
24 public but it is not a final process and is an informal discussion.

25 Mr. Marquise suggested opening both cases as they are related to each other. Chairman White opened
26 both cases for discussion.

27 Clayton Platt, the surveyor for the project, and Robert Bell presented the case.

28 Mr. Platt explained that the larger lot is approximately 194 acres and runs between Route 11 and Keyes
29 Rd. There has been some work done on the road between Keyes Rd and Route 11 and has also been
30 some work done on the spur road that heads up to the north east. The other two roads have not been
31 constructed at all.

32 Mr. Platt said that Mr. Bell has received an Alternation of Terrain and State permits for the road going
33 through in 2011 and more recently for the spur roads, as required by NH DES.

34 Mr. Platt said that the conceptual at this point is to have about 30 lots, more or less. Most of the lots
35 will be over 5 acres, though some will be smaller. They will be below the density requirement and also
36 meet the 3 acre Zoning requirement.

37 Mr. Platt said that the wetlands have all been identified and the topography has all been shown. Most
38 of the work has been done to avoid the wetlands though there are two wetland crossings.

39 Mr. Platt said that the idea is not to have a through road to Keyes Rd for general traffic and keep it to
40 emergency vehicles only. They are hoping to keep the northerly portion of the road near Ledge Pond as
41 private but built to Town standards. The two lots on Ledge Pond that are shown and two lots near
42 Route 11 they are hoping to keep as they are but the rest of the lots are much less final than those ones.

43 Vice Chair Royce said that they have discussed the road and limiting access to Keyes Rd and asked if
44 there has been any progress made on how they plan to make a stopping point. Mr. Bell said that the
45 "No Trespassing" signage they have put up has been very effective. The back-up will be to put up a gate
46 on Keyes Rd where their road intersects with Keyes Rd but he doubts that will have to happen.

47 Mr. Bell said that the big plan was done for the Alternation of Terrain permit and that the lot
48 configuration is approximate. The road that goes up shows it servicing four or five lots and he knows
49 that will get reduced. The map is a maximum approximation; they have already limited one lot when
50 they sold an abutter a piece of land.

51 Mr. Marquise said that he has questions regarding the main road on the plan coming from Route 11. In
52 the cross-sections from CLD there are some slopes at 10.44, 10.65, 10.42, 10.12 and the maximum
53 allowed in the Subdivision Regulations is 10%. Mr. Marquise asked if the applicants will be asking the
54 Board to relax that guideline. Mr. Bell said that Tony Bergeron inspected and approved what they were
55 doing from Route 11 up to where the road forks and branches. One of the other highway employees
56 inspected the road from that point down to the pond. The grades were approved by Mr. Bergeron when
57 they were built. Mr. Marquise said that Mr. Bergeron did not approve the grades as part of a
58 subdivision plan. Mr. Bell said that Mr. Bergeron was aware that it was being built to Town specs. Mr.
59 Marquise said that he does not think that Mr. Bergeron would have been acting in his authority before
60 the fact as the Board didn't have a chance to review it. Mr. Platt said that he has surveyed about half of
61 the area that is shown at more than 10% and it does appear to be less than what it is shown on the
62 design plans. He thinks that by the next meeting they could have an as-built profile all the way from
63 Route 11. Mr. Platt said that the most that he saw was 10.1 in one spot and they can have more details
64 at the next meeting.

65 Mr. Platt said that the driveway permit has been a topic of discussion. The permit from the State is
66 currently for a single driveway and they are working with DOT to get it upgraded to be approved as a
67 road.

68 Chairman White said that they are looking at as-builts more than anything as there is a lot of work
69 already done. It sort of falls under asking for forgiveness rather than permission and the Board will be
70 looking pretty hard at this, almost as if it hadn't already been built.

71 Chairman White said that one of his questions pertains to the retaining wall that parallels Route 11. The
72 wall seems quite high and he wonders if it meets the Town's regulations for meeting a setback. A

73 stonewall over 42” needs to meet setbacks. The setback from Route 11 is 75’ from the centerline of the
74 road. If it does not comply then they will need to get approval from the Zoning Board before getting
75 Planning Board approval. Mr. Platt said that he will have the information for the next meeting.

76 Mr. Marquise said that another issue that will come up is that there is the State Right of Way and then a
77 width of land that the State owns and a portion of this road will be on the State land for a couple of
78 hundred feet. The State could give them the permit but if they want the Town to take it over there will
79 need to be an ownership change. There was further discussion regarding this area.

80 Mr. Markarian asked and Mr. Bell confirmed that they plan on this becoming a Town road. Mr.
81 Markarian said that they will want to look at G3 and what would have been a hammerhead on the
82 colored drawing is now like a T, which is different from what he thinks they would want for plowing. Mr.
83 Bell said that it is because of height requirements under the power lines. Mr. Platt said that they think
84 that Right of Way Lane will be private or a driveway to two lots.

85 Chairman White asked and Mr. Bell confirmed that he has talked with Scott Hazelton. Mr. Bell said that
86 the discussions were about Trow Hill Rd and having that road routed onto this road to prevent someone
87 from getting killed on Route 11. The thought is to have Trow Hill turn onto the old State road. Mr.
88 Hazelton also said that he wants to work with Mr. Bell and have it go smoothly.

89 Mike Hogan, an abutter on Keyes Rd, said that he has had a number of conversations with Mr. Bell
90 about their concerns but wants the Board to hear them as well. His major concern is the status of Keyes
91 Rd is that this could become a bypass. Keyes Rd is a private road and is not Town maintained. They
92 have little traffic on it now and some of the traffic that was on it uses Mr. Bell’s driveway but if and
93 when there are more homes on the top of Trow Hill, they may consider Keyes Rd as an alternate route
94 for them to get to Newport or Croydon or for others who may want to use the road that way. People
95 who live on North Rd or Perkins Pond may also want to use that road in the winter instead of going
96 down Trow Hill. The road is an old farm track and the land the road is on is privately owned by different
97 people and there are easements that give owners access to the road. The immediate issue is that there
98 needs to be a second ingress and egress for emergency issues. It has been made clear by Mr. Bell that
99 the second ingress and egress will be Keyes Rd. The question that they have is that in order to proceed
100 with the subdivision the owners of Keyes Rd will have to consent to allow it to be designated as the
101 second ingress and egress. Mr. Hogan said that the owners of Keyes Rd want the Board to be aware of
102 their concerns.

103 Chairman White asked Mr. Marquise if it is allowed to have a private road provide the required access.
104 Mr. Marquise said that he thinks that the question will have to go to Town legal counsel. He thinks that
105 the Town has the right on a private road to get emergency vehicles in there but he is not sure if a
106 firetruck can use the road to get into a development.

107 Vice Chair Royce asked if the Subdivision Regulations require a second ingress and egress. Mr. Marquise
108 said that the Town talks about a 1200 ft dead end road being the maximum, though they have been a bit
109 flexible, maybe 1500 or 1800 ft. This road would be about 5000 ft. Vice Chair Royce asked and Mr.
110 Marquise said that they measure from the start of Route 11 and it is a serious issue because if there was
111 ever a problem going in they could isolate homes and that at this distance a second access is needed.
112 Vice Chair Royce asked if there has ever been anything that has been designated as emergency access

113 only that had limited access on anything the Board has looked at before. Mr. Marquise said that they
114 have looped some roads but he does not know where they have done it with emergency access only.
115 Chairman White said that he does not think they would entertain anything with a bar across it because
116 how would emergency trucks get through if the need to. Mr. Marquise said that they do have a knock
117 box that they could put on it and get in. Mr. Osborne asked if Brown's Hill second access onto Jobs
118 Creek Rd is gated.

119 Tim Eliassen, an abutter on Trow Hill Rd, asked if someone could point out on the map what will be
120 Town roads and what will not. Mr. Platt showed on the map what they are proposing to be Town and
121 private roads.

122 Mr. Platt was asked and confirmed that emergency vehicles will be allowed on the private roads.

123 Vice Chair Royce said that the road could benefit Keyes Rd on the back side if there was an incident on
124 Keyes Rd that stopped access from the front side. Mr. Bell said that this would be much more likely to
125 happen than their road being blocked.

126 Chairman White asked if, when the lots on Keyes Rd were developed, they had to agree to hold the
127 Town harmless as it is a private road and if firetrucks can't get up in there in the winter the owners can't
128 sue the Town. Mr. Marquise said that this happens on Class VI roads but not on private roads because
129 the presumption is that the people on the private road will take care of it and there is no liability. Mr.
130 Platt said that this is a little different as the Town is going to approve the roads and the other road has
131 just been there and there is no obligation to have it meet Town specs.

132 Mr. Platt was asked and confirmed that the green areas are the wetlands areas and are delineated by a
133 wetlands scientist from Concord. Mr. Platt was asked if one of the roads is right on a wetland and
134 confirmed that it is right next to the wetland and there are no setbacks required. It was asked and
135 Chairman White confirmed if they use salt on the road, chances are it will go into the wetland. Mrs.
136 Gottling said that the State does not have any restrictions or setbacks for wetlands. Mr. Bell said that
137 DES required that they slope the road away from the wetlands so the water runs the other way to try
138 and mitigate that.

139 Linda Tanner asked and Mr. Bell explained that they had a State certified wetlands scientist delineate
140 the wetlands. Ms. Tanner said that she believes that there are more wetlands in the two lots that are
141 going to come up against Ledge Pond.

142 Mr. Platt said that they will have road grades at the next meeting. Mr. Marquise asked and Mr. Platt
143 confirmed that they would like to stay in the design review phase and get the issues addressed. Mr.
144 Marquise said that in the interim he will try and get an opinion from legal counsel. Chairman White said
145 that it is a little odd that if it is a private road that they would be allowed to just tie into it with another
146 road and asked if it is more of a legal issue than a Planning Board issue. Mr. Marquise said that the legal
147 question is whether the Board can authorize it before the legal issues are hammered out. Chairman
148 White recommended Mr. Bell and the owners of Keyes Rd look into the legal issues because the Town
149 cannot get involved in those issues.

150 Mr. Hogan said that his deed gives him an easement over the deed for access to his property and Mr.
151 Bell's give him access for his property, not for 25 houses on top of Trow Hill Rd; in essence, it is their

152 driveway and they feel as though they should be asked permission. Chairman White said that if Mr. Bell
153 does not have the legal right to do it is not something the Planning Board can decide. Vice Chair Royce
154 said that it is a legal matter of whether Mr. Bell's deeded right to Keyes Rd applies to his whole piece of
155 property and this is beyond what the Board can decide. Mr. Hogan said that it runs with the piece Mr.
156 Bell's house is on, not Lot 61, which is a different piece of property.

157 Vice Chair Royce asked about the minor subdivision of the two lots on Trow Hill Rd. Mr. Platt said that
158 this is a different lot.

159 Mr. Markarian said that another question he would like Town to ask legal counsel if it is considered
160 acceptable for emergency vehicles but they cannot get through what the Town's liability is. Mr.
161 Marquise said that he would expect that there will be precedence for this question. Mr. Platt said that
162 the new road is a much better road for emergency vehicles than Keyes Rd is so the flip side is Keyes Rd is
163 blocked this road could be used.

164 Mr. Platt said that the separate track is about 12 acres, right off of Route 11. The proposal is to divide it
165 into two, five acre lots as a Phase 1 of the proposal. They came before the Board four or five months
166 ago and annexed the field to the lot next door. Mr. Platt said that he does not believe that it is a minor
167 subdivision as it involves road frontage on a new road. Mr. Marquise said that he thinks for the final
168 hearing it will be part of the major subdivision because some of the issues that will be talked about will
169 be part of this and it could be shown as Phase 1 on the project.

170 Mr. Platt said that he thinks that all of the lots meet the Zoning for lot size and there is room for septic
171 systems. Mrs. Gottling asked where the State owned land is located. Mr. Platt said that the new road is
172 partially on the Old Route 11. Mr. Platt gave more information about the State owned land.

173 Mr. Marquise told the applicants that they should have a conversation with Scott Hazelton, the Highway
174 Director, about the road. The Board will lean pretty heavily on what the condition is, what he says
175 about what Mr. Bergeron said, etc.

176 The discussion was continued until the June 4th Board meeting.

177 **PARCEL ID: 0101-0008-0000 & PARCEL ID: 0104-0039-0000: SUBDIVISION / ANNEXATION: SUBDIVIDE**
178 **5.83 ACRES AND ANNEX TO 20.85 ACRE PARCEL. PROSPECT HILL RD, NOEL EASTMAN, JR.**

179 Mr. Marquise said that the applicants are reworking this subdivision and annexation and gave the
180 abutters present a brief explanation of the proposed project.

181 **MISCELLANEOUS**

182 Vice-Chair Royce said that he saw trucks and equipment moving materials off of the Lemieux / old Chase
183 Marine property. Chairman White said that he saw that there is no signage that was required by the
184 State and by the Board and asked what the next step is. Mr. Markarian said that they would send a
185 cease and desist letter. Mr. Marquise said that he will leave a note for Mr. Landry as the letter would
186 come from him. Mrs. Gottling asked and Chairman White explained the background and the approved
187 Site Plan Review of this property.

188 **APPOINTMENT**

189 The Board briefly discussed the appointment of Mr. Butler as an Alternate member.

190 Shane Hastings made a motion to approve Joe Butler as an Alternate to the Planning Board. Kurt
191 Markarian seconded the motion. The motion passed unanimously and the Board signed his
192 appointment form.

193 **Changes to the Minutes from the April 5, 2015 meeting:** Change Line 12 to read "...but those are now
194 done at the end of the meeting..." Change Line 285 to read "Mr. Webb said there are not any..."

195 Tanner Royce made a motion to accept the minutes as amended. Richard Osborne seconded the
196 motion. The motion passed with five approvals and one abstention.

197 **UPCOMING MEETINGS**

198 The Board discussed the meeting that is scheduled for July 2nd as well as having training that day if there
199 are no cases.

200 Shane Hastings made a motion to adjourn at 8:27 PM. Kurt Markarian seconded the motion. The
201 motion passed unanimously.

202 Respectfully submitted,

203 Melissa Pollari

204

205 Planning Board

206 _____

207 Peter White, Chairman

Tanner Royce, Vice Chair

208 _____

209 Donna Davis Larrow

Kurt Markarian

210 _____

211 Richard Osborne

Shane Hastings

212 _____

213 Suzanne Gottling, ex-officio member

Joseph Butler, Alternate Member