

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **JULY 2, 2015**

4 **PRESENT:** Peter White, Chair; Tanner Royce, Vice Chair; Kurt Markarian; Donna Davis Larrow; Shane  
5 Hastings; Richard Osborne; Sue Gottling, ex-officio member; Joseph Butler, Alternate; Joseph Furlong,  
6 Alternate, Michael Marquise, Planner

7 **ABSENT:**

8 **See attached sign in sheet**

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

10 Chairman White appointed Joseph Butler to sit in for Richard Osborne.

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

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

15 Robert Bell and Clayton Platt continued presenting the merits of the case.

16 Chairman White explained that at the last meeting there was a letter that the Board received from the  
17 Town's attorney that they determined to not release as public information.

18 Mr. Bell said that the Board should have received a letter from his attorney. Mr. Marquise said that he  
19 has copies for the Board and that the Town's attorney wrote a response.

20 Mr. Osborne arrived and Chairman White said that Mr. Butler would now just act as an Alternate  
21 Member and not be able to vote.

22 Chairman White said that the Board needs to decide how to move forward based on the information  
23 from the Town's attorney and Mr. Bell's attorney as they conflict. Vice Chair Royce said that the Board  
24 cannot determine the legal rights as they pass through the deeds and whether or not the rights would  
25 transfer to the adjacent properties. The Board could make it conditional but there will be other things  
26 to discuss as well so discussion on whether Keyes Rd can be used as the emergency exit could be tabled  
27 until later as the owners would have the burden to show that they have the ability to use it. Vice Chair  
28 Royce continued that there are abutters on Keyes Rd who feel differently and he does not think that it is  
29 the Board's position to vote on someone's rights and how the deed can be extended. Chairman White  
30 agreed that the Board does not have a legal right to do that and he thinks that the main issues need to  
31 be ironed out between the neighbors.

32 Mr. Bell said that if they extend Right of Way Rd, which is the one by the power line, out to Trow Hill it  
33 becomes a mute issue. It would probably entail reengineering Right of Way Rd and Top of Hill Rd and  
34 working them together. Mr. Platt said that the access onto Keyes Rd would not be used frequently and

35 would just be used for emergency access. Chairman White said that if Mr. Bell continues with the Keyes  
36 Rd option it may be a long time before they are able to make a determination with the legal issues. Mr.  
37 Marquise asked Mr. Bell if they do go with making the access onto Trow Hill Rd if it will remain an  
38 emergency access. Mr. Bell said that if he was to do that then he would reengineer the two roads and  
39 build one road and have an emergency access for the last part of it. Mr. Marquise said that he would be  
40 concerned with having more traffic go onto Trow Hill Rd. Mr. Bell said that would not be the intent.

41 Mr. Bell said that the lower part of existing road coming off of Route 11 has a section that is 10.69%  
42 grade, which they can get it to 10.5%, but getting it to 10% would require putting 3 ½ to 4 ft of fill on the  
43 culvert by the wall. Chairman White said that he has concerns about the wall meeting the Zoning  
44 Ordinance. Mr. Bell said that Mr. Landry does not have a problem with the wall. Mr. Osborne said that  
45 the question was whether it is 75 ft from the State's right of way. Mr. Bell said that it is a few feet shy of  
46 75'. Chairman White said that they have to go before Zoning unless they bring it down. Mr. Marquise  
47 asked how far the 10.5% grade portion of road would be. Mr. Platt said that it is roughly 350 ft. Mr.  
48 Marquise asked if it is the curve or a straight portion. Mr. Clapp and Mr. Bell said that it is partly in the  
49 curve but mostly straight. Mr. Marquise said that he thinks that this would be Scott Hazelton's call if  
50 they want it to become a Town road. There have been a few cases where short sections have been  
51 allowed to go a bit steeper but he doesn't know if 350 ft is considered short.

52 Vice Chair Royce said that there was a discussion regarding Old Route 11 and the section of Mr. Bell's  
53 road that may have been built on it. Mr. Bell said that he has had several discussions with Division 2 and  
54 one of the people that he had spoken with got transferred to Division 3. There is a new head of Division  
55 2, Doug King, whom they have met with several times. Mr. King has suggested that they talk to  
56 someone in Concord as there is a strange issue as there are two right of ways and also a 30 ft section of  
57 property that the State owns that is not part of a right of way.

58 Mr. Bell said that there are a lot of details that need to be ironed out. Vice Chair Royce asked if there is  
59 a possible time frame and Mr. Bell said that the State said it could be up to a year before it is  
60 straightened out. Chairman White asked and Mr. Bell said that he would like to come back before the  
61 Board later after he has better answers.

62 Mr. Marquise went over the questions that the Board has for when Mr. Bell comes back including the  
63 road, the road slope, the stone wall and whether it meets the setbacks, and the emergency access.

64 Mrs. Gottling asked if it matters if the original permit from the State was just for a driveway. Mr. Bell  
65 confirmed that he will need to get a different permit.

66 Chairman White asked and Mr. Bell confirmed that he is officially withdrawing the case.

67 Susan Crickman of Keyes Rd said that she would rather not have more vehicles on the road and also  
68 asked if the people purchasing lots will have access to the pond. Vice Chair Royce said that the answer  
69 given so far has been that the Bell's will be the only ones with access to the pond but they are not at the  
70 final presentation stage. There was further discussion regarding access to the pond.

71 Ms. Crickman asked about the second access onto Keyes Rd and the Board explained that it would just  
72 be for emergency use but the way that it would be closed to the public would need to be determined.

73 **PARCEL ID: 0218-0070-0001: SITE PLAN REVIEW: SEEKING APPROVAL TO OPERATE A SPRAY FOAM**  
74 **BUSINESS FROM THE 38' X 54' GARAGE / OFFICE BUILDING. BRADEN & NATALIE MILES, 21 AVERY RD.**

75 Mr. Marquise said that the application was filed in advance, fees were paid, abutters were notified and  
76 notices were posted. The application is within the Site Plan Review requirements under Article V. The  
77 plan does not show any specific landscaping, it does not show utility lines but the building is one the  
78 road and he assumes they will be coming right from the road, nor are any proposed signs noted on the  
79 plan. Mr. Marquise said that he thinks all of these items can be addressed after accepting the  
80 application as complete. Also, things like drainage calculations, hazardous waste and toxic materials can  
81 be left opened for discussions given the business. Mr. Marquise said that the application can be  
82 accepted as complete with the items noted being left open for discussion.

83 Mr. Hastings made a motion to accept the application as complete for Parcel ID: 0218-0070-0001, 21  
84 Avery Rd. Mr. Markarian seconded the motion. Mr. Hastings amended his motion to include the  
85 notations regarding the proposed landscaping, utility lines, drainage and toxic waste. Mr. Markarian  
86 seconded the amendment. The motion passed unanimously.

87 Braden Miles present the merits of the case. Mr. Miles explained that he will be using the building as a  
88 storage garage to park his trailers.

89 Vice Chair Royce asked if there will be any onsite business and Mr. Miles said that he does not plan on  
90 having any customers coming to the shop.

91 Mrs. Larrow asked what Mr. Miles' business entails. Mr. Miles said that he does spray foam insulation.  
92 Mrs. Larrow asked about chemicals and hazardous and toxic materials. Mr. Miles said that spray foam  
93 comes in two 55 gallon drums and is applied two parts to one through the trailer and is applied at the  
94 job site. When the drum is empty, he cuts them in half and fits the two halves together before sending  
95 them to be recycled. Chairman White asked if Mr. Miles was going to have any drums around the shop.  
96 Mr. Miles said that he will not as they will either be crushed and recycled or the company who brings  
97 them new drums takes back the old ones. Mrs. Gottling asked if spray foam is toxic. Mr. Miles said that  
98 it can be and that he has to wear protective gear during application. Chairman White explained that it is  
99 urethane based and if any spills out of the drum it would be considered hazardous waste. Mr. Miles said  
100 that there are specific ways that a spill would need to be cleaned up. Chairman White asked where the  
101 trucks are loaded with the barrels and Mr. Miles explained that they will be loaded inside and spills  
102 would be contained in the building. The reason for the garage is because the foam needs to be kept at a  
103 specific temperature, which is why the trailer and hoses and such will be kept inside. Mr. Markarian  
104 asked if the trailer and hoses need to be cleaned. Mr. Miles said no and explained that the liquid stays  
105 in the drums and everything stays in the pumps and hoses until it gets sprayed out.

106 Mr. Butler asked and Mr. Miles said that he would have no more than twenty drums in the building at  
107 one time, being ten sets of two. Chairman White asked if the number is due to the amount of space or a  
108 regulation. Mr. Miles said that after you get past ten sets you need cages and signs and ten sets are  
109 what they can deliver on a truck.

110 Chairman White asked how the drums are delivered. Mr. Miles explained that they come in a big box  
111 truck, not a tractor trailer. Chairman White noted and Mr. Miles agreed that the box truck can easily

112 maneuver on the site and on the road. Mr. Markarian asked and Mr. Miles said that he may receive  
113 deliveries five times per year.

114 Mr. Butler asked Mr. Miles about his trailer. Mr. Miles explained that his truck is an enclosed 14 ft by 7  
115 ½ ft trailer that has been fitted to hold the equipment and drums.

116 Vice Chair Royce asked if Mr. Miles has any employees and Mr. Miles said that it is just him but he hopes  
117 to have one employee in the future.

118 Mr. Markarian noted that there are five parking spaces shown on the plan as well as two for the house.

119 Mrs. Larrow asked if Mr. Miles only has the one trailer. Mr. Miles explained that he has one trailer that  
120 is used for spray foam and then another one that he is going to park in the lean to section that is for the  
121 paint sprayer and any other miscellaneous items such as staging that he needs to trailer to a job site.  
122 Mrs. Larrow asked and Mr. Miles explained that he uses a pickup truck to move the trailers around.

123 Mr. Markarian asked if Mr. Miles will have spill kits at the location in case one of the drums gets  
124 ruptured. Mr. Miles said that he will but that the cleanup is similar to how you would clean up an oil  
125 spill. The chemical is squeegeed up and then it is recommended to mix it with the other chemical to  
126 create foam and dispose of it.

127 Vice Chair Royce asked if there are any known issues if a fire starts in the building if the burn would send  
128 off smoke that is dangerous. Mr. Miles said that he thinks it would be the same as any house that has  
129 spray foam, though it does burn and has a 180 degree flash point. He will be spray foaming the garage  
130 and will be covering it with a fifteen minute thermal barrier. Vice Chair Royce said that he would like the  
131 Fire Chief to sign off on the plan. Mr. Marquise asked if the Fire Chief has been to the site. Mr. Miles  
132 said that he has not spoken to Fire Chief Ruggles. Mr. Marquise said that the Fire Chief sign off should  
133 be a condition of approval.

134 Chairman White asked and Mr. Miles confirmed that the office space is just for his use and then maybe  
135 an employee in the future.

136 Mr. Miles was asked and said that he will not have any signs.

137 Mrs. Gottling asked if this is on the list of hazardous materials that the State has. Mr. Miles said that it is  
138 not as far as he is aware.

139 Mr. Butler asked and Mr. Miles explained that the building will be heated by propane with radiant heat.

140 Chairman White said that there are there are two parking spaces in front of the building and then three  
141 to the side and that there could be parking in front of the garage door. Chairman White asked if there  
142 will be any defined driveways with non-gravel areas. Mr. Miles said that right now it is all gravel. The  
143 small 8 ft bump out will have a 8 ft garage door there and the plan is to have the box truck come in there  
144 so when the barrels are delivered it will be in the back of the garage.

145 Chairman White asked if there is any plan for landscaping. Mr. Miles said that all of the trees in the back  
146 are going to stay and there will be a buffer left along the side. Most of the trees are pines that will be

147 kept though there are some trees that need to be removed because they are dead. As far as  
148 landscaping the space will need to be used for vehicles so it doesn't make sense to have anything.

149 Mr. Marquise said that he is a little concerned with the two parking spaces to the south as anyone  
150 parking there will be required to back onto Avery Rd. He is wondering if those two spaces are necessary  
151 or if they can shrink the opening a bit and give some landscaping possibilities in that area. Mr. Miles  
152 said that he is not sure why those spaces are shown the way they are but they are not necessary and he  
153 wouldn't park the way they are shown.

154 Chairman White asked about hours of operation as it sounds like Mr. Miles will be leaving early in the  
155 morning. Mr. Miles said that most of the time he will not be there as most of what is done is at the job  
156 site. There was further discussion regarding the parking spaces and landscaping.

157 Mrs. Gottling noted that on the plan it says that there is customer parking. Mr. Miles said that he did  
158 not draw the plan. Mr. Marquise said that there is a guideline regarding having so many parking spaces  
159 per an amount of square footage but that if there is not going to be customers then that doesn't come  
160 into play. Mr. Miles said that it is rare for him to get customers, though he's had someone drop off a  
161 plan once. Mr. Marquise said that part of the condition could be that the 2 spaces along the road are  
162 eliminated and the note about the parking spaces for customers be removed. Vice Chair Royce said that  
163 he would hate to exclude Mr. Miles from having the ability to have customers. Mr. Miles said that there  
164 may be someone who wants to sit down and talk about spray foam, though usually it happens on the  
165 job site. Mr. Marquise said that the two spaces can be eliminated and then just keep two parking spaces  
166 for customers. Chairman White said that the two spaces in front creates a hazardous situation having  
167 someone back out onto Avery Road. Mr. Miles said that it is 40 ft to the edge of the road and they  
168 should be able to back up without going into the road. Chairman White said that 20 ft is the  
169 requirement for backing up and if there is someone beside that space then they need to have space.  
170 Mr. Miles said that he parks there diagonally. There was further discussion about the parking spaces.

171 Chairman White asked about lighting and Mr. Marquise noted that it is indicated on the plan. Mr. Miles  
172 said that he would also like a motion light on the edge of the lean-to. Chairman White said that the  
173 Board prefers down-lighting, so it doesn't shine into the road or abutter's windows. Chairman White  
174 said that if Mr. Miles wants to add lighting it needs to be added to the final plan.

175 Mr. Marquise said that the Board will need a final copy of the Site Plan in order to sign off on it before  
176 Mr. Miles gets building permit. Mr. Miles said that he already has a permit but it says that the garage  
177 space will be unheated. There was a discussion regarding this and that any changes should be made to  
178 the original plan and then four copies will need to be submitted to the Board along with the Fire Chief,  
179 Police Chief, and Highway Department sign offs. Mr. Marquise said that Mr. Landry may require an  
180 amended building permit.

181 Vice Chair Royce said that he recommends leaving the option open to having a sign on the building.  
182 There was further discussion regarding a sign and that it will need to be on the final plan.

183 There was a discussion regarding what should be on the final plan including the lighting, proposed sign  
184 and changed parking.

185 Mrs. Gottling asked and Mr. Miles confirmed the building will have a bathroom.

186 Mrs. Gottling asked and Mr. Miles said that there are perimeter drains around the building.

187 Mr. Miles said that there will be two drains in the building and Chairman White explained that this is not  
188 legal in the State unless there will be a separate holding tank. Mr. Miles said that the slab has not been  
189 poured and he will fill the drains.

190 There was a discussion regarding the Department Head sign-offs. The Board suggested talking to the  
191 Department Heads before making the final changes to the plan in case they have any concerns.

192 Mrs. Gottling asked and Mr. Miles said that he will not be using the existing dug well but he will be using  
193 the other existing well.

194 Vice Chair Royce made a motion to approve the Site Plan Review on Parcel ID: 0218-0070-0001,  
195 approval to operate a spray foam business from the 38' x 54' garage / office building, Braden and Natalie  
196 Miles, 21 Avery Rd; conditional on Department Head signoff and changes to the plan being submitted  
197 back to the Chairman for signature. Mr. Osborne seconded the motion. The motion passed  
198 unanimously.

199 **PARCEL ID: 0104-0001-0001: BUSINESS OPERATION REVIEW: REVIEW REQUESTED DAYS AND HOURS**  
200 **OF OPERATION AT SUGAR RIVER OUTFITTERS. DANA FLETCHER, ROUTE 11, GEORGES MILLS.**

201 Dana Fletcher presented his case.

202 Mr. Fletcher explained that he has a list of all of the hours and sale dates over the past ten years.

203 Chairman White asked if Mr. Fletcher is before the Board because they requested that he be here. Mr.  
204 Marquise said that Mr. Fletcher is before the Board because of Mr. Landry. Mr. Fletcher said that a few  
205 years ago Mr. Landry requested that he email him every year with his outside sale dates and this year he  
206 got an email back that he would like Mr. Fletcher to come in. Mr. Marquise said that he thinks that  
207 there was a concern that the sales and hours were increasing. Mr. Fletcher said that he does not think  
208 that the tent sale days are expanding. He has always included the dates in his emails to Mr. Landry as  
209 well as that he needs three or four days for set up and tear down. Mr. Fletcher said he has been doing  
210 the tent sales since 1999 and the dates have been pretty much the same over the past ten years. There  
211 may be years when they have not done the October tent sale. Mr. Fletcher continued that he says that  
212 the hours of operation are generally 8:30 am to 7:00 pm but that it is dependent on weather and traffic  
213 flow.

214 Chairman White asked and Mr. Marquise said that he does not see anything to be concerned about,  
215 especially after looking at the list Mr. Fletcher provided.

216 Mr. Fletcher said that there was one summer he kept the tent sale going longer because there was  
217 someone who offered to run it. That was the year Mr. Landry said that if he wanted to do that again  
218 he'd have to make a formal request but he made the decision that it would not be a good idea to do it  
219 again.

220 Mr. Marquise said that he will add Mr. Fletcher's list to the file.

221 Chairman White asked and Mr. Marquise said that this is just a review and the Board does not need to  
222 take any action.

223 **MISCELLANEOUS: LAKE SUNAPEE PROTECTIVE ASSOCIATION MEETING**

224 Chairman White said that he and Mrs. Gottling recently attended a meeting held by the LSPA Watershed  
225 Committee. The LSPA had come before the Board with a report regarding the differences in the Zoning  
226 Ordinances between the three towns on the Lake and this is a continuation of that as it encompasses  
227 the Towns in the Lake Sunapee Watershed area. These Towns are: Springfield, Sunapee, New London  
228 and Newbury. The LSPA had invited interested parties including Boards and Committees and other  
229 municipal people. Chairman White said that it was pretty well attended with maybe 40 to 50 people.  
230 The meeting was to get local communities to start thinking about ways that the Towns could establish a  
231 process for compliance and education and follow-up for landowners and builders within the  
232 communities. Chairman White continued that there was a discussion about having a compliance board  
233 or someone who would be ensuring that the different towns were all following the regulations, perhaps  
234 in the same format at the Tri-Town Assessing.

235 Vice Chair Royce said that he thinks that the Board felt that the Town was in a good place when this was  
236 discussed last year. Chairman White said that Newbury and New London have different restrictions  
237 than Sunapee and the talk was regarding creating the same set of regulations.

238 Mrs. Gottling and Chairman White said that another discussion at the meeting was in regards to  
239 wetlands. Sunapee is the only town without a wetlands setback. Mrs. Gottling added that the river  
240 system was part of the discussion.

241 Chairman White said that there was also a talk about having the contractors being on the receiving end  
242 of the fine rather than just the homeowners.

243 **MISCELLANEOUS: FORMER CHASE MARINE PROPERTY**

244 There was a discussion regarding the former Chase Marine property and the required signs. Mr.  
245 Marquise said that he will talk with Mr. Landry regarding the property.

246 **MISCELLANEOUS: PLANNING BOARD TRAINING SESSION.**

247 Mr. Marquise held the first part of the training for the Board.

248 Mr. Marquise started with how Land Use works. Much like the government, there are three different  
249 branches for Land Use. The Planning Board proposes laws and regulations. The Selectboard administers  
250 the rules and assess fines. The Zoning Board acts in Zoning cases to decide whether something is being  
251 implemented fairly. Also, the voters make the approvals of the Ordinances.

252 Mrs. Gottling said that at the last Deliberative Session the audience wanted to have someone from the  
253 Zoning Board present. Vice Chair Royce said that the last two years the moderator seemed to just pass  
254 over them with no questions. Mr. Marquise said that he attended the meetings for many years and  
255 there was no discussion. Also, there are many opportunities for the public to come before this Board  
256 when discussing changes. Legally, there can be no changes made during the Deliberative Session but  
257 they could give an explanation.

258 Mr. Marquise went over the Planning Board functions. The first being the Master Plan, which is a non-  
259 binding document and is a vision for the Town. The Board uses the Master Plan to create the  
260 Regulations and Zoning Districts. Mr. Marquise and the Board further discussed the Master Plan.

261 Mr. Butler asked and Mr. Marquise and Chairman White explained that the reason the LSPA wants the  
262 Planning Boards to come together is because they are the ones that make the rules. The Zoning Boards  
263 may have recommendations for them, but they don't write and make the recommendations to the  
264 voters regarding the rules. Mr. Marquise said that the first Shoreline Ordinance was from the three  
265 towns working together.

266 Mr. Marquise went over the Subdivision Regulations, which are crafted by and approved by the Planning  
267 Board. These do not have to go to the voters, they just need to have a public meeting and then the  
268 Board votes to approve them. If there is an appeal, it goes to the courts and is not done internally or at  
269 the Zoning Board.

270 Mr. Marquise went over the ways that Zoning and Zoning Ordinances can change, the first by petition  
271 and the second by changes that the Planning Board vote on in a public hearing. Both of these ways of  
272 proposing changes have to be voted on at Town Meeting.

273 Mr. Marquise explained the Site Plan Regulations and there was a brief discussion about the process and  
274 requirements as well as about landscaping and screening for commercial properties.

275 Mr. Marquise went over the Capital Improvement Program, which is not talked about a lot but it does  
276 give the Board a tool regarding the costs that may come up and allow them to plan ahead. The Board  
277 discussed Impact Fees.

278 Mr. Marquise said that the Board deals with Zoning Maps, Wetlands Maps, and other Maps. The Board  
279 also works on the platting of roads.

280 Mr. Marquise said that the Board has things at their disposal to help them. The first tool is the public  
281 hearing process, there are three possible phases of a public hearing: a consultation, a preliminary /  
282 design review, and a final phase. There was a discussion regarding the different things that happen  
283 during the different phases.

284 There was a discussion regarding hardship and Zoning and if a Planning Board can challenge a Zoning  
285 Board decision. The Planning Board cannot approve anything that does not meet an Ordinance, the  
286 Zoning Board can grant Variances and Special Exceptions and they make the waivers. The Board also  
287 discussed bonds and letters of credit that are required for subdivisions, some Site Plans, and  
288 developments. Through the visioning with the Master Plan and the Regulations that the Planning Board  
289 puts into place, they have a tool to keep the Town the rural and peaceful way that the Townspeople  
290 have indicated that they want.

291 **Changes to the Minutes from the June 4, 2015 meeting:**

292 The meetings were postponed until the next meeting.

293 Mr. Markarian made a motion to adjourn at 9:54 PM. Mrs. Larrow seconded the motion. The motion  
294 passed unanimously.



295 Respectfully submitted,

296 Melissa Pollari

297

298 Planning Board

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300 Peter White, Chairman

Tanner Royce, Vice Chair

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302 Donna Davis Larrow

Kurt Markarian

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304 Richard Osborne

Shane Hastings

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306 Suzanne Gottling, ex-officio member

Joseph Butler, Alternate Member