

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **AUGUST 6, 2015**

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

7 **ABSENT:** Peter White, Chair

8 **See attached sign in sheet**

9 Vice Chair Royce called the meeting to order at 7:00 pm.

10 Vice Chair Royce appointed Mr. Furlong to sit in for Chairman White.

11 **PARCEL ID: 0211-0007-0000: SITE PLAN REVIEW: OPEN & OPERATE A SPECIALIZED VETERINARY**
12 **CLINIC FOR ACUPUNCTURE, HERBAL, AND FOOD MEDICINES. 16 TROW HILL RD, MONICA ROONEY.**

13 Monica Rooney presented her case to the Board.

14 Mr. Marquise said that the first order of business would be to see if this fits as a home business or
15 requires a full site plan. Mr. Marquise said that the definition of a home business is: any business that is
16 conducted within the home by the inhabitants of the home and no more than three non-resident
17 employees. The home business shall meet all the requirements of the Site Plan Review Regulations. If
18 the home business is for retail purposes, it shall be limited to items, which are made on the premises or
19 antiques. The home business shall be subordinate and incidental to the primary residential use of the
20 property and shall not change the residential character of the dwelling or neighborhood. The home
21 business shall not generate noise, odor, traffic, or any other negative influence on the community or
22 neighboring properties. Vice Chair Royce asked Ms. Rooney to give a brief description of what she will
23 do at the property.

24 Ms. Rooney explained that she will be using a small portion of the first floor of her house. There is an
25 existing office area and off that is an area where she will have a treatment room and a small bathroom.
26 The entrance is at the back of the property. The property is a horse farm and there is a big "U" shaped
27 driveway with an extension off to the horse barn. Ms. Rooney continued that she is planning on having
28 a part-time operation as her primary business is the Pleasant Lake Veterinary Hospital in New London.
29 This will be a part-time / weekend business, which she is hoping to grow to be a supplemental business.
30 The appointments are one hour, one at a time, perhaps three per day. Ms. Rooney said that she will not
31 be boarding any animals, everything will be done per an appointment. There will be no emergency or
32 critical care or overnight appointments. Mr. Marquise asked and Ms. Rooney said that she will have one
33 technician with her when she has an appointment. Ms. Rooney explained that she has been practicing
34 acupuncture and herbal medicine for the past four years.

35 Vice Royce asked and Ms. Rooney explained that the food medicines are things that she recommends
36 and any herbs she will have will be minimal as most are done online as the clients pay her and then they

37 ship directly to the clients. Ms. Rooney was asked and said that she will not have any pharmaceutical
38 drugs at the property; the only needles that she will have will be acupuncture needles.

39 Mr. Butler asked and Ms. Rooney explained that appointments last 45 minutes to one hour. Vice Chair
40 Royce asked and Ms. Rooney confirmed that everything will be appointment based.

41 Vice Chair Royce asked if there will be any signs advertising the business. Ms. Rooney said that she did
42 have an application for a sign which would go out front; there will be no lights for the sign and it will be
43 setback from the Town's right of way.

44 Vice Chair Royce asked and Mr. Marquise said that based on what they have heard he feels as though
45 this would qualify as a home business. Vice Chair Royce said that he agrees with this.

46 Mrs. Larrow asked what the ZBA approved and Mr. Landry said that the ZBA approved the Special
47 Exception with no conditions as they felt it was a good match. Mrs. Larrow asked and Mr. Landry
48 explained that the Special Exception was for Veterinary Services but it falls into the home business
49 category as well.

50 Mr. Marquise said that this application would fall under Section D of Article V of the Site Plan
51 Regulations. The application was filed in advance, notices were posted and fees were paid. Under
52 Section D, there are two required items. One is a sketch of the property and the only thing he does not
53 see is outdoor lighting, which should be left open for discussion. The other part is an application with a
54 written description of the business. Mr. Marquise said that he does not think that any State permits are
55 required but they should note that there should be a conversation about the septic. Mr. Marquise said
56 that, otherwise, he thinks that it is complete under Article V, Section D.

57 Mrs. Larrow made a motion to accept the application for Parcel ID: 0211-0007-0000 as complete with
58 the exception of lighting and septic to be discussed. Mr. Markarian seconded the motion. The motion
59 passed unanimously.

60 Ms. Rooney said that she will be operating a small acupuncture animal clinic out of her home. She will
61 be changing out a sliding door to a regular door to create an entrance, which is at the back of the
62 property. There is one granite step into the house. She has residential lighting at the back door and
63 some flood lights to go to the barn but she is not planning on doing any appointments at night. There
64 will be no structural changes to the house.

65 Vice Chair Royce asked if there will be specific hours that Ms. Rooney will have appointments. Ms.
66 Rooney said that she put on the application that the hours would be between 9:00 and 5:00 Monday
67 through Friday, with no appointments between 12:00 and 2:00, and then 9:00 to 12:00 on Saturday.

68 Vice Chair Royce asked and Ms. Rooney confirmed that she will have one employee.

69 Vice Chair Royce asked if there will ever be overlapping appointments. Ms. Rooney said that if she has
70 back to back appointments it is possible that someone could be leaving as someone is coming. She
71 designated on the plan for parking to accommodate that possibility. Vice Chair Royce asked if Ms.
72 Rooney has already put in the parking area. Ms. Rooney said that they are already open spaces.

73 Mrs. Larrow asked what size animals Ms. Rooney will be accepting. Ms. Rooney said it will be dogs and
74 cats only, no horses.

75 Mr. Butler asked if the acupuncture is regulated by the State. Ms. Rooney said that the only people who
76 can do animal acupuncture in NH are licensed veterinarians and she has been licensed for 31 years.

77 Mrs. Larrow asked if the State needs to check where she is practicing and Ms. Rooney said that they do
78 not.

79 Vice Chair Royce asked if all the animals on Ms. Rooney property now are hers. Ms. Rooney said that
80 she has two people who board the horses at her property and she has two horses of her own. She has a
81 farm policy for liability that covers all of the horses and no one will be going up to that part of the
82 property. Vice Chair Royce asked and Ms. Rooney confirmed that the owners of the horses come and
83 go; they would park at the barn rather than at the house.

84 Mr. Marquise asked about waste water flow as traditional vet clinics have higher numbers. Ms. Rooney
85 said it would be unlikely to have higher waste water, though it is possible that an animal could have an
86 accident and it would be normal cleaning. She is also the only person who lives there and it is a four
87 bedroom septic.

88 Mr. Butler asked about the needles. Ms. Rooney said that they are used once and then they are put in a
89 sharps container and then when they are full she will take them to her general practice and pay to have
90 them removed.

91 Mrs. Larrow asked and Ms. Rooney confirmed that there will be no medical waste.

92 Ms. Rooney asked what the sign will say and Ms. Rooney said that it will say Animal Acupuncture and
93 Herbs.

94 Vice Chair Royce asked if there were any abutters present with questions or comments.

95 Mr. Marquise read a letter from Carola Gouse of 39 Trow Hill Rd into the record (see attached).

96 Vice Chair Royce said that some of Ms. Gouse's concerns have been addressed as Ms. Rooney has said
97 that there will be nothing on site for sale and that there will be no boarding. Vice Chair Royce asked if
98 some emergency would arise how it would be handled. Ms. Rooney said that she would assist the
99 owner to get the animal to her general practice as there will nothing that she will be able to do as there
100 will be no traditional / western medicines on site.

101 Mr. Osborne asked how many stalls are in the barn. Ms. Rooney said that there are eight stalls,
102 however, one stall is a tack room, one is a grain room, one houses hay, and one houses shavings. Ms.
103 Rooney said that she does not have the pasture or space to have eight horses. Mr. Osborne asked and
104 Ms. Rooney confirmed that without her horses she would have the ability to board four horses that
105 would mean that she would have four individuals at the property beyond herself. She would have the
106 parking available if she ever did this.

107 Vice Chair Royce said that the reason that they ask these questions is because this approval would be
108 good if someone who were a veterinarian who wanted to practice acupuncture and herbs were to

109 purchase Ms. Rooney's property and want to continue. The Board wants to make sure they have
110 everything understood.

111 Mr. Landry said that he thinks that approval of this as a home business would be appropriate because it
112 would rid the concerns as veterinarian medicine could not be sold. Vice Chair Royce said that the Board
113 should discuss the lack of a retail operation and anything that is sold should be purchased and sent to
114 the consumer at their home and not delivered on site. Mr. Markarian said that it has already been said
115 that the herbs will be ordered and sent directly to the client's house.

116 Vice Chair Royce asked and Mr. Marquise confirmed that one possibility of a condition for the septic
117 would be to have a septic designer confirm that the use is appropriate and to have this placed on file.

118 Mr. Markarian made a motion to accept the Site Plan Review for Parcel ID: 0211-0007-0000 with the
119 exception being noted that the septic design should be reviewed by a licensed septic designer, there will
120 be no retail sales at the premises, all transactions will be via drop ship, there will only be small domestic
121 animals, and there will be no additional boarding. Mrs. Larrow seconded the motion. The motion
122 passed unanimously.

123 **PARCEL ID: 0133-0093-0000 & PARCEL ID: 0133-0094-0000: SUBDIVISION / ANNEXATION, SUBDIVIDE**
124 **.031 ACRE FROM LOT #0133-0093-0000 AND ANNEX TO LOT #0133-0094-0000, APPROVED BY ZBA. 34**
125 **RIVER RD, SOO-NIPI REALTY TRUST & GEORGE NEUWIRT & SUSAN SPURLOCK.**

126 Mr. Marquise said that this application falls under Section 6.04 of the Subdivision Regulations, it is a
127 minor subdivision so it is eligible for the waivers under 6.05-b. Mr. Marquise said that the fees were
128 paid, notices were posted, and abutters were notified. All of the required items under 6.04 are there
129 and he believes that the following items can be waived: existing and proposed contours, existing and
130 proposed utility lines, and plans for storm water drainage, as none of those are impacted by the
131 transfer. Mr. Marquise said that with those waivers he believes that the application is complete. There
132 was also a Variance granted for the lot size being reduced on Lot #93, however, there was an issue with
133 the notice and it will have to be reheard. Mr. Landry said that if this case is approved, it will have to be
134 subject to approval by the ZBA as there was a typo in the notice and the attorneys recommended that
135 the Town rehear the meeting.

136 Mr. Osborne made a motion to accept the application as complete for Parcel ID: 0133-0093-0000 and
137 Parcel ID: 0133-0094-0000 subject to the waivers of contours, utility lines, and storm water drainage.
138 Mrs. Larrow seconded the motion. The motion passed unanimously.

139 George Neuwirt and Susan Spurlock presented the merits of the case.

140 Mr. Neuwirt said that he and Ms. Spurlock purchased the property with the intent to put in a
141 construction office, which he received approval for in 2007. Because the economy tanked in 2008, he
142 never built the office / showroom / residence, though the approval stayed in place for five years. His
143 needs have changed since then as he owns both a heavy equipment company and a construction
144 company and his focus has needed to be on a property that is more commercial in nature.

145 Mr. Neuwirt said that the disputed piece is a small piece that opens up the lower lot of the two lots that
146 he owns to have access to the upper lot.

147 Mr. Neuwirt said that he cleared every tree under 4" out of the upper lot and chipped it and put an
148 access road in. In doing so, he mistakenly trespassed on his neighbor's property, which he thought
149 belonged to him because he had a plan from 2007 that showed part of the access road as part of the
150 approved plan. The access road is 25' x 60' and joins another road and runs up the property. Mr.
151 Neuwirt said that during the process, Pam Perkins and George Quakenbos of Soo-nipi Realty Trust
152 approached him and said that he was on their property. Mr. Neuwirt said that he showed them a survey
153 that was completed by Tom Dombrowski that showed the property was his. They sued him for timber
154 trespass, nuisance, and other crimes for putting the road on the property. The determination was that
155 his property is not accurately represented on the tax map, there is a road that goes through the center
156 of his property. His lower deed is identified as a triangular lot and the Town had put that road as part of
157 his property. After research, it was determined that through a series of foreclosures in 1942, there was
158 one parcel of land from the end of Maple St to the property of Soo-nipi Realty Trust that is actually
159 owned by Citizen's Bank and Trust. This piece of land is 23' x 200' and is clearly omitted in his deed.
160 Before Burkehaven Hill and Lake Ave were roads, the parcel that the Ben Mere Inn was one was called
161 the Eastman lot and this was the road to access the Eastman lot from Maple St.

162 Mr. Neuwirt said that they have a quitclaim deed from Citizen's Bank that deeds them that road, up to
163 the disputed parcel. The problem was that the parcel in dispute could not be proved that it went with
164 their lot or with the Soo-nipi lot.

165 Vice Chair Royce asked and Mr. Neuwirt confirmed that they have been through mediation and there
166 has been an agreement made, conditional on approval by the Board.

167 Mr. Neuwirt said that there were references to the lane that floated in and out of the deeds of the Ben
168 Mere for the sewer rights that missed blocks of 15 to 20 years.

169 Vice Chair Royce asked if there will be any other easements or right of ways that will pass as part of this
170 transfer. Mr. Neuwirt said no and explained that this decision by the Board will be cleaning up the
171 entire two parcel piece and creating a clean title for his lots and the Soo-nipi lots.

172 Mrs. Larrow asked why this case was heard before the Zoning Board. Mr. Neuwirt explained that Soo-
173 nipi Realty Trust has a non-conforming lot as there is a .5 acre minimum for the Zone. His lot is also non-
174 conforming, however, the subdivision of the piece from the Soo-nipi lot required a Variance. The 1281
175 sq ft that Mr. Quakenbos is giving up makes the Soo-nipi lot more non-conforming, but makes his lot
176 more conforming. Mr. Landry explained that making a non-conforming lot more non-conforming
177 requires a Variance.

178 Mr. Butler asked and Mr. Neuwirt explained that his intent is to purchase the disputed portion of the
179 Soo-nipi Realty lot and then sell his property.

180 Vice Chair Royce asked and there were no abutters or anyone with any further questions for Mr.
181 Neuwirt. Vice Chair Royce closed the meeting to public comment.

182 Mr. Markarian made a motion to accept the subdivision / annexation of Parcel ID: 0133-0093-0000 and
183 Parcel ID: 0133-0094-0000 with the condition that it be presented again before the Zoning Board for
184 approval based on the error in the newspaper, for 34 River Rd, George Neuwirt and Susan Spurlock. Mr.
185 Furlong seconded the motion. The motion passed unanimously.

186 **MISCELLANEOUS: PARCEL ID: 0133-0088-0000: RECOMMENDATION ON SELLING HARBOR HOUSE**
187 **LIVERY BUILDING TO SUNAPEE HARBOR RIVERWAY.**

188 Mr. Marquise explained that there is a request to purchase this property from the Town and before the
189 Town can dispose the property, RSA 41-14-a says the Selectmen shall have the authority to acquire or
190 sell land, buildings, or both; provided, however, they shall first submit any such proposed acquisition or
191 sale to the planning board and to the conservation commission for review and recommendation by
192 those bodies. This is not an approval nor a Site Plan Review. They are not here to look at whether the
193 use is appropriate, it is merely a recommendation.

194 Mike Durfor, the Chair of the Harbor House Livery Committee, presented the case to the Board. Mr.
195 Durfor explained that the Board of Selectmen are required to have two public hearings and get a
196 recommendation from the Planning Board and Conservation Commission before selling the property.
197 They have been working on the project for about ten years and were charged to find a use for the
198 building and make a recommendation to the Selectboard. The Harbor House Livery Committee will be
199 meeting on the 18th and will be voting on recommending selling the property to the Sunapee Harbor
200 Riverway. The recommendation will be because the desire is to preserve and protect the building for
201 future generations. Mr. Durfor said that he thinks that they have found the right owner for the
202 property.

203 Mr. Durfor presented a slide show to the Board and explained the key parts of the building that they
204 want to preserve and the history of the building as well as the layout of the building and the possible
205 future use of the building, a create arts center.

206 Mr. Durfor explained that the Town will be transferring the property to the Riverway for \$1.00 and there
207 will be at least seven covenants on the property: preservation of the clock tower; preservation of the
208 horse ramp; preservation of the barn doors; easements for the River Walk, bridge and dam; and
209 guaranteed public access.

210 Mr. Marquise was asked and he said that in the Master Plan he thinks that one of the options that they
211 had for the building was to sell it to the Riverway. Mr. Durfor said that he thinks that this fits with the
212 Master Plan and the spirit of the community.

213 Vice Chair Royce asked if there are any groups of people who are in opposition of selling the building to
214 the Riverway and have brought information to the Town or if there was anyone in the audience who
215 would like to speak about not selling the building.

216 Mr. Landry asked if the proposed use has been presented to the public. Mr. Durfor said that not in its
217 current design as they just received the plan a few weeks ago, but they have done a presentation at
218 every Open House they have had. They have to have this meeting, a meeting with Conservation, and
219 then the Selectmen have to have two public hearings, which are scheduled for the 17th and 31st of this
220 month. Additionally, they are going to put the presentation on the website.

221 Mr. Landry said that some of the comments that he has heard is if the building is sold to the Riverway
222 how it will be assessed. Mr. Durfor explained that the Riverway is a for-profit organization and they pay
223 taxes on everything in the Harbor. As soon as the property is transferred, along with the covenants,

224 they will pay taxes on the established value. The Sunapee Heritage Alliance, which is the non-profit
225 group that will lease the property from the Riverway, will pay the tax bill.

226 Vice Chair Royce asked Selectmen Augustine if the Selectmen have heard anything negative or have had
227 alternate proposals presented to them. He is cautious about providing a recommendation only seeing
228 the one proposal. Selectmen Augustine said that currently the building is not on the tax rolls and the
229 Town is paying somewhere between \$5,000 and \$10,000 annually on insurance, electricity, etc. The
230 plan is that the Town Assessor will assign a value to the property before the Riverway purchases it so
231 that they will know how much they would be paying in taxes. Currently, the property is assessed for
232 \$150,000 but the assessed value with the covenants attached will probably be less than that. The
233 Riverway or their tenant will then also be responsible for all the annual operating expenses. Selectmen
234 Augustine continued that he has not heard any major concerns except for what will happen to the Thrift
235 Shop. It is his understanding that part of the covenants will be that the Thrift Shop has 18 months to
236 stay in that space to give them time to find a plan. Another concern that he has heard is why not put
237 the building up for auction and try to get more than \$1.00. The building is in fair to poor condition but
238 the land has worth but if it goes out to auction then the Town would lose use of the space other than
239 the deeded covenants. The \$1.00 selling price is more because the Town will get the community use.

240 Vice Chair Royce said that when someone goes to repair the building he assumes that all applicable
241 building codes will be applied to the building and all repairs. He worries that they will get into a
242 situation where they can't afford to fix the building and it will be half done. Mr. Landry said that is a
243 concern that he has as the Zoning Administrator and he does not know if they have had an estimate
244 done for the repairs. Mr. Durfor said that they have had several estimates done on the refurb going
245 back to the charrette that was held in 2007. They are confident that they can raise the money to restore
246 the building. A member of the audience said that there were items that came up as important in the
247 charrette such as making the building structurally sound and bringing it up to code to be useful to
248 something. He believes that this costs the equivalent of \$4 million today. Mr. Durfor said that they
249 believe that it will be around \$3.2 million to do the building but it does not mean that they can't use the
250 space that is there as rental space and have crafts fairs to raise funds. There was further discussion
251 about this issue.

252 Vice Chair Royce asked and Mr. Marquise confirmed that Donna Nashawaty, the Town Manager, would
253 like the Board to vote on their recommendation, either for or against.

254 Vice Chair Royce said that his concern is that upon transferring property the structural issues are taken
255 care of so if anything happens with the proposed project, the building is structurally sound. His opinion
256 is to put his trust into the Selectmen, though he would recommend further studies, he thinks that it is a
257 good direction to be moving.

258 Mr. Markarian said that he would imagine they would be doing the reconstruction work in phases. Mr.
259 Durfor confirmed this and said that, though everything needs to go through the building permit process,
260 they do not have to do all four floors at once.

261 Mr. Markarian asked if the music school will be non-profit or for-profit. Mr. Durfor said that the music
262 school will likely be for-profit. The maximum students that they may have at one time is 25 and the

263 tuition would be \$2,000 to \$4,000 per week. Mr. Durfor further explained their vision for the music / art
264 school.

265 Vice Chair Royce asked Mr. Landry if the project can be done in stages in order to get occupancy permits
266 as they will need to get sprinklers and such. Mr. Landry said that the Town of Sunapee does not have
267 occupancy permits and do not subscribe to building codes. The building will probably need to be
268 inspected by the Fire Chief as it will be for public use. As far as the Town is concerned, they would be
269 doing building permits for the various phases that would be signed off on when completed. Mr. Durfor
270 said that they are following the codes for what they are doing now. Mr. Marquise added that they will
271 have to come in for Site Plan Review and everything will need sign offs from the department heads.

272 Vice Chair Royce asked if anyone has anything else to ask of Mr. Durfor. Mr. Butler said that this project
273 would help the Harbor and would benefit the community. The Board voted with six in favor and one
274 abstention to recommend the sale of the building to the Riverway.

275 **MISCELLANEOUS: PARCEL ID: 0125-0005-0000: DISCUSSION ON TREE-CUTTING WITHIN 150 FT OF**
276 **LAKE FOR FIELD CONVERSION PER DES #2014-03513. COSMOS ALLIANCE REVOC TRUST, 78 JOBS**
277 **CREEK RD.**

278 Peter Blakeman and Ann Marie Parillo presented the case to the Board on behalf of the Cosmos Alliance
279 Revocable Trust.

280 Mr. Blakeman explained that Ms. Parillo purchased the property and she wants to convert part of the
281 property into pasture for two rescue horses. Mr. Blakeman said that he spoke to Mr. Landry in
282 September and he suggested having Ms. Parillo complete a Statement of Property Usage. She wrote out
283 a two page document stating that a pasture would be created and a small barn built for the horses. The
284 natural pasture will be setback 75 ft from the lake and about the same from Jobs Creek and there will be
285 a buffer left along the property lines. Mr. Blakeman continued that they received a Shoreland Permit
286 last fall for the work and there is a threshold for getting a stormwater permit which is 50,000 sq ft in the
287 Shoreland Zone as any part of that within 25 ft of the Lake requires a stormwater permit. There is about
288 50,000 to 60,000 sq ft for the pasture and they are just getting ready to submit the stormwater permit
289 for the land conversion. Mr. Blakeman said that Ms. Parillo is also going to be cutting trees down, which
290 he thinks spurred this discussion.

291 Mr. Blakeman said that he was ready to come before the Planning Board last year and was told at the
292 last minute that they did not have to. There is tree cutting within 150 ft of the Lake, more than five
293 trees, but as farming is an approved use in the Zone, he thought that they were just changing the use.

294 Vice Chair Royce asked if the concern is the cutting of more than five trees in the Shoreland area. Mr.
295 Landry said that Mr. Blakeman did bring the information in to him and he touched base with Mr.
296 Marquise, who brought it to the Board. It was determined that they did not have to come in for a Site
297 Plan Review, and it just disappeared. Usually what would happen is that he would get a completed Land
298 Use Questionnaire, and an Intent to Cut Permit, which he gets a copy of from the Assessing Department,
299 or someone comes in and talks to him to ask which permit is needed. Mr. Landry continued that what
300 happened is that an application was made last week for a driveway cut, it went to Scott Hazelton, the
301 Highway Director, who made some recommendations and then sent it to him from approval. He

302 received an email from Anita Blakeman, who is also the Town Forester, who said that they have to have
303 the driveway cut approved immediately so they can start cutting logs next week. He went to the
304 Assessing Department and asked if there has been an Intent to Cut filed and was told that there has not
305 because they are converting from woods to a field. Mr. Landry called Mr. Blakeman and was told that
306 they are chipping some 50 tons of chips and 4,500 ft of pine and other trees. Mr. Landry said that he
307 told Mr. Blakeman that he was limited as he could only approve the cutting of five trees according to the
308 Zoning Regulations per Article IV, Section 9-b so they need approval from the Planning Board before
309 cutting. Because it is a newly paved road the Highway Director is going to be requiring a road bond. The
310 Town will also be requiring a Land Disturbance Bond because they will be disturbing land within 75 ft of
311 the Lake. This would have been made known to the applicant if they had completed a Land Use
312 Questionnaire and the application was submitted prior to this.

313 Mr. Blakeman said that this has been in the plan since Ms. Parillo became interested in the property.
314 Ms. Parillo put together a two page Statement of Property Use, which is what they were told to do.

315 Vice Chair Royce asked where the Planning Board comes in as it seems as though the Intent to Cut is the
316 issue. Mr. Marquise said that it is not the problem, there was a concern back in August about the use of
317 the property in the Shoreland District and the Board discussed it and decided that it was OK to proceed.
318 They did discuss changing the Zoning to not allow this as they were concerns about fertilizers and waste
319 going into the Lake. This was the last time that they have talked about it until this meeting. Mr.
320 Marquise continued that they have received a map, which they did not have at the other meeting as it
321 was prepared in November. In order to do the cutting and cut more than five trees within the woodland
322 buffer it says in the Zoning Ordinance that the Board has to approve which trees can be cut. Vice Chair
323 Royce asked and Mr. Marquise confirmed that in order for them to do this it has to be posted and
324 abutters have to be notified because they have to approve a plan.

325 Mr. Blakeman said that the tree cutting spurred this on. His wife is a forester and he is very familiar with
326 the rules and regulations. The number of trees being removed did not reach the amount that requires
327 an Intent to Cut so they did not file one. Ms. Parillo explained that the land is not going to be
328 completely cleared as horses require natural protection so everything has been done so that the trees
329 that provide canopies have been left. They will have an electric fence and then a natural tree border of
330 plantings that she is going to put in, which will be more than what they will taking out. Vice Chair Royce
331 asked and Mr. Marquise explained that for over five trees they need to do a clearing and cutting plan,
332 which has mostly been done, but it needs to show that the thresholds will be maintained. Mr. Landry
333 explained that he has a tree cutting form but over five trees requires approval from the Board. Mr.
334 Blakeman said that he came in with an application in October and was told that they did not have to file
335 one.

336 Ms. Parillo said that they are trying to be good stewards of the Lake and practice good agriculture and
337 do things the right way. The driveway permit is for a temporary driveway and if it is denied she can use
338 her own driveway.

339 Vice Chair Royce said that he understands the frustrations but they have an obligation to everyone in
340 the Town and the reason to notify the neighbors is to allow them come to the Board to speak. He would
341 like to have this on next month's agenda to try and get a decision. Ms. Parillo said that she would like
342 some reassurance that she will not be back before the Board if someone decides they have changed

343 their mind. Vice Chair Royce said that once they have heard and voted on the case they will be all set
344 with the Board.

345 Mrs. Gotting asked what the Shoreland Permit covers. Mr. Blakeman said that it covers the disturbance
346 between the 75 ft and 250 ft. Mrs. Gottling asked and Mr. Blakeman confirmed that DES knows the
347 extent of the cutting.

348 Mr. Osborne asked if Mr. Marquise feels as though the conversion from forest to pasture does not cover
349 the cutting of more trees. Mr. Marquise said what they covered last year was a use issue and they did
350 not feel as though the pasture violated the approved use. This is a different section of the Zoning and
351 the actual cutting itself. Ms. Parillo asked if it is acceptable to establish the pasture, and it can only be
352 established by cutting, why she can't do that. Vice Chair Royce said that it is not the establishment of
353 the pasture, it is the use of the pasture that is OK; the establishment of the pasture is separate. If it was
354 already open they could use the land as a pasture but it is the conversion of the land that is the issue
355 and is what they need to notify abutters about.

356 **DISCUSSION: PARCEL 0136-0018-0000: BRUCE MCCARTHY SUBDIVISION - DRAINAGE, 314 LAKE AVE.**

357 Mr. Marquise explained that they have had some neighbors ask to talk about their concerns and it might
358 be appropriate to allow them to speak and then have Mr. McCarthy address the concerns.

359 Matt Lowrie of 313 Lake Ave, said that he has a letter that he can give to the Board. Also, Deb Pasculano
360 of 323 Lake Ave, has consulted with Charlie Hirshberg of CLD Engineers regarding the drainage and
361 water quality issues.

362 Mr. Hirshberg said that this began because of runoff issues; both Ms. Pasculano and her abutter are
363 down gradient / down slope from this project. Everything comes off Mr. McCarthy's property and onto
364 Ms. Pasculano's property first and she has an area where there is drainage in front of her house on the
365 road on the lake side and it is a moist area as it is but any added water causes issues. There is also a
366 drainage channel that works around her house if there is excessive water and then goes towards the
367 abutter's property. Mr. Hirshberg continued that, as a result of a rain event that occurred, Ms.
368 Pasculano had excess water draining onto her lot, which had sediment in it which can be seen in the
369 channel that goes through the property and also ran into the Lake.

370 Mr. Hirshberg said that there is a lot of exposed soil at the McCarthy property and a lot of cleared area.
371 When you clear an area and remove the vegetation you have different run off than you do if it is
372 wooded, which is what the site was. Also, they are building a road on the property which has a
373 substantial soil cut. When you get into soil cuts, there are layers near the surface that are less compact
374 than ones that are further down and they have the ability to absorb moisture. The subsoils are dense
375 and they do not have the capability to absorb water the same way that the natural lay of the land would
376 have. Mr. Hirshberg said that they are concerned because there are a lot of exposed soils that are not
377 stabilized and there appears to be more hard surface down by the road than what the design calls for.
378 There is a small sediment swale down by the road which is full of water at the moment and the next
379 time that it rains the swale does not have the capacity to hold any more water and the water will move
380 through the downslope. The concern with the property owners down gradient is that this will mean that

381 there will be another surge of water coming down. The water is getting flushed downstream with all the
382 exposed soils at the moment, more area than what would ultimately be there.

383 Mr. Hirshberg said that he has not been on the property but when he looks up from Ms. Pasculano's
384 property it looks like a large open area and a large area of stock piled soil that is in an area that was not
385 shown to be cleared on the plan. There is a huge pile of soil and with limited stabilization when it rains
386 it will tend to move downslope.

387 Mr. Hirshberg said that when you expose that much soil and clear that much area, there is runoff, which
388 is why they design retention basins, to try and hold the water and release it slowly. Also, the
389 phosphorous that is in the soil gets flushed out to the Lake. The Lakes in our area are phosphorous
390 limited and phosphorous acts like feed. Mr. Hirshberg said that he does not know how the Town's
391 Regulations address the phosphorous, but he believes that there is a letter from another consultant who
392 has concerns about the impact to the Lake.

393 Mr. Hirshberg said that he has another concern in terms of drainage as when he looks at the amount of
394 area cleared it appears to be greater than what the plans indicate. Mr. Hirshberg said that the drainage
395 analysis may answer a lot of questions as when you run drainage analysis you can input a hypothetical
396 one acre lot into the formula and when you cut soils significantly and have different soils and subsoils
397 you have different a runoff factor because the subsoils then become surface soils and are far less
398 absorbent. Mr. Hirshberg continued that he does not know if these factors are incorporated or not
399 because he can't tell looking at the drainage analysis. David Eckman of Eckman Engineering said that
400 there was originally supposed to be more disturbance. Mr. Hirshberg said that what has to be
401 understood is when the road and driveways are cut, the subsoils do not do the same type of thing that
402 the surface soils do as they are less absorbent and this needs to be taken into consideration when doing
403 calculations and he does not know if it was incorporated or not. Their concern is that there will be
404 greater runoff downslope as they are generating more volume of water because the trees are cut and
405 the soils are cut so they are not as absorbent.

406 Mr. Hirshberg said that Ms. Pasculano's lot has seen a lot more volume and her propane tank actually
407 started to float and moved around from the water that was saturating the ground. They are concerned
408 about what is going to happen. He is asking if everything was taken into account and if there is
409 adequate long term protection.

410 Vice Chair Royce asked Mr. Landry if he has been to the site and if it seems to coincide to the plan that
411 was approved by the Board. Mr. Landry said that he is not a forester but it does seem to him that they
412 have cleared more than what they should have. This is a case where they are outside the 250 ft and the
413 tree cutting is not regulated.

414 Vice Chair Royce said that he drove by the site and saw the water ponding on the right hand side of the
415 driveway that appears to be going into the culvert by 322 Lake Ave. Though he does not know enough
416 about drainage, he did see that it is filled with water at the end of the driveway and some signs of soil
417 running across the pavement. Vice Chair Royce said that it did appear as though there were some
418 differences on the lot other than what he remembers being discussed such as a few walls, some of them
419 of significant height. Mr. Eckman said that they were on the plans, which reference DOT specs as far as
420 the sediment control plans and such. There are good measures in there but on the right side where the

421 walls are it is probably lacking in the temporary measures. He does not doubt that there is an issue with
422 rain; usually after three days the area would be mulched, which is part of the design. The slopes are not
423 even cut and the project is in progress, usually you have three days to stabilize in an active work area.
424 Mr. Lowrie said that the site has been clear cut for weeks and showed a picture of the site that shows
425 that it is all cleared. He was not here for the big storm but did have a picture after the storm from last
426 week showing the water on Ms. Pasculano's property and the plume. Vice Chair Royce said that the
427 Board does not have the knowledge to take one photo and attribute it to something specific.

428 Mr. Lowrie said the he hired a water quality management expert and gave the Board a letter from him.
429 Mr. Landry said that the Lake Sunapee Protective Association has also sent a letter, which he gave to Mr.
430 Marquise.

431 Mr. Landry said that the pond that Mr. Hirshberg was talking about is not totally empty and if there is
432 any significant rainfall there are going to be more problems across the street. He had asked the
433 Highway Director to be at the meeting but he could not, however, Mr. Hazelton has expressed concerns
434 about the Town culverts and ditches. There is no Land Disturbance Bond because they are outside the
435 250 ft, all they have is the performance bond and this is not necessarily the place to use the bond. Mr.
436 Landry asked what temporary measures are going to be done. Mr. Eckman said that when he went to
437 the site, on the right there is nice permanent matting and the slope of the wall creates a clean water
438 bypass. The active area is a small site so they are moving materials fast and they theoretically have
439 three days, but here is no excuse to have sediment leave the site. There are all kinds of things that can
440 be done for this and there maybe should have been an erosion sediment control plan to take care of
441 some of these issues during the construction phase. Mr. Eckman continued that he did not know that
442 the site was under construction until Tuesday. That said, though Mr. Whipple is doing a good job, there
443 does need to be something done such as mulch in the areas that they are not actively working in but it is
444 not unusual to have issues when there are big rainstorms.

445 Mr. Rice of 331 Lake Ave asked that as half of the project is completed, where the storm water will be
446 going and if it will be going into the drains. Mr. Eckman said that the biggest watershed is the woods
447 and in the middle of the cul de sac they have designed a sediment control pond, which is not built yet.
448 The water should flow into that pond, then overflow goes into a swale before it gets released;
449 everything is balanced pre and post condition. Mr. Rice said that even before the project there was a
450 water problem with the drain that goes underneath the road and across to Ms. Pasculano's property.
451 Ms. Pasculano fixed that last year and now they are getting all the water from this project. Mr. Eckman
452 explained that there will be a treatment pond built to balance the water flow.

453 Vice Chair Royce said that it sounds as though there is an acknowledgement that there is an issue and
454 asked Mr. Marquise what the Board's role is as he has not heard that it is the driveway installation that
455 has caused the issues. Mr. Marquise said that there are two levels of concern. One is the construction
456 phase, this isn't an unusual occurrence with a summer rainstorm during construction and there are
457 places where they have bonds in place to take care of these issues but for this they have a long term
458 bond, which can usually only be accessed after construction is complete. For the short term, he would
459 make a strong recommendation to the land owner and contractor that they take the measures that are
460 in the plan and the Board will not have to act. The long term depends on if this all works, being the rate
461 of runoff, not volume or treatment, so they are not overwhelming the site; they do not require

462 treatment swales. Mr. Marquise continued that if there are continuous problems with the rate of
463 runoff, the Board has the option of using the bond to do something that wasn't done or revoke the
464 subdivision.

465 Mr. Lowrie said that the plans that are being followed are not a part of the Town's records, and he
466 thinks that they should be. The current plan in the Town's records calls for a hammerhead driveway.
467 Vice Chair Royce explained that they did have two approved plans, the first one was redone and Mr.
468 Lowrie may be looking at the old plan and the amended plan is part of the Town record. The Board has
469 dealt with the case on multiple occasions and it is not their role as a Board to check the sites. Vice Chair
470 Royce continued that he will take the time to read the letter that Mr. Lowrie provided, though it does
471 not mean that the Board will act on it. Hopefully, the land owner and contractor act on the problems
472 and if not he is certain that the concerns will be brought to the Board.

473 Mr. Hirshberg said that there are a lot of retaining walls on the site and a lot of them are structural types
474 walls and are very tall. Mr. Hirshberg asked if they meet the setback requirements for the height of the
475 walls. Mr. McCarthy said that they were all on the approved plan. Mr. Hirshberg said that they all have
476 to meet the side and front setbacks. Mr. Landry explained that the walls cannot be higher than 42
477 inches if they are within the setbacks.

478 Mr. Landry asked that if the land owner and contractor are going to take remedial action, when it will be
479 done. Mr. Eckman said that he thinks that they need to talk to the contractor and they do have three
480 days and it is an active site. Mr. Eckman said that there is obviously a problem that has to be taken care
481 of and if they are inactive in an area for three days it has to be mulched and such. Mr. Whipple said that
482 the entire site is active right now and they are within a two week time frame to finish, with the
483 exception of the telephone poles. Mr. McCarthy said that it is important for people to understand that
484 they are within two weeks of finishing and none of the detention ponds have been built yet.

485 Vice Chair Royce said that their role as a Board is to strongly recommend that Mr. McCarthy take care of
486 the situation and if further problems persist they should be brought back to the Town. He did have
487 concerns about the stone walls but did not go measure them or check setbacks, etc. He hopes that
488 everything gets taken care of in the next few days.

489 Ms. Pasculano asked what happens when this is done and she is completely flooded. It cost her a lot of
490 money to rectify what was already there. Her property can't handle it and this has been going on since
491 mid-June and they have not done anything. Vice Chair Royce said that there is some confusion as to
492 what the three days mean and the contractor has said that there has not been three days of inactivity.
493 Ms. Pasculano asked if there is activity all the time then this means they don't have to protect anything.
494 Vice Chair Royce said it will have to be done by the conclusion of the job and that they hope that their
495 own quality practices would have them address the situation sooner. Ms. Pasculano asked what
496 ramifications are for her when this is concluded and her property and her neighbors are all flooded.
497 Vice Chair Royce said that he would suggest that she speak to someone other than the Planning Board
498 about the ramifications.

499 Mr. McCarthy said that they did not hear about any of the problems until this afternoon. They have
500 been working in good faith and will try to solve the problems as soon as they can. Mr. Eckman said that
501 he last looked at the plan last fall. However, there is a swale down low and there is an existing driveway

502 that was kept open to access the site and is going to be the location of a swale. Mr. Eckman suggested
503 that this get started soon because it will capture the water as it is a huge area to contain water.

504 The owner of 322 Lake Ave said that there is a single point of discharge for the whole project, which
505 seems to be the whole problem. The water goes into a drain in front of his property and then goes
506 across to Ms. Pasculano's property. If the project continues to have only one source of discharge there
507 is going to be a problem.

508 Vice Chair Royce said that the concerns have been heard and documented and that they will hope that
509 the issues are dealt with but if not they may need to take action. Mr. Marquise added that it might be
510 by using the letter of credit or revoking the subdivision.

511 Mr. Landry said that he suggests that the Board make a recommendation to Mr. McCarthy that they
512 focus all their attention on retaining the water, immediately, and not doing any work in the back until
513 the containment is finished. Vice Chair Royce said that he feels as though he has strongly recommended
514 the problem be taken care of but he is not going to direct a contractor as to how they use their
515 resources on a site. If they have more concerns brought to them at the September meeting the Board
516 may need to take further action.

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

518 Mr. Osborne made a motion to approve the minutes of the June 4th meeting. Mr. Hastings seconded the
519 motion. The motion passed unanimously.

520 **Changes to the Minutes from the July 2, 2015 meeting:** Change Lines 20 – 21 to read "Mr. Osborne
521 arrived and Chairman White said that Mr. Butler would now act as an Alternate Member and not vote."
522 Change Line 37 to read "...onto Trow Hill Rd will it remain..." Change Line 292 to read "The minutes
523 were postponed until the next meeting."

524 Mr. Markarian made a motion to accept the minutes as amended. Mr. Hastings seconded the motion.
525 The motion passed unanimously.

526 **Miscellaneous**

527 Mrs. Larrow said that the next meeting is planned for right before Labor Day weekend and said that she
528 will not be in Town. She was wondering if the rest of the Board will be able to meet the 3rd or if it would
529 be better to change. Mr. Butler said that he would not be able to attend. The rest of the Board said that
530 they would be able to attend the meeting on the 3rd.

531 Mr. Furlong made a motion to adjourn at 10:07 PM. Mrs. Osborne seconded the motion. The motion
532 passed unanimously.

533 Respectfully submitted,

534 Melissa Pollari

535

536

537 Planning Board

538 _____

539 Peter White, Chairman

Tanner Royce, Vice Chair

540 _____

541 Donna Davis Larrow

Kurt Markarian

542 _____

543 Richard Osborne

Shane Hastings

544 _____

545 Suzanne Gottling, ex-officio member

Joseph Butler, Alternate Member