

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **NOVEMBER 6, 2014**

4 **PRESENT:** Peter White, Chair; Donna Davis Larrow; Tanner Royce; Kurt Markarian; Shane Hastings, ex-  
5 officio member; Michael Marquise, Planner

6 **ABSENT:** Robert Stanley, Vice-Chair

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

8 Changes to the Minutes from the October 2, 2014 meeting: Change line 111 to read "Chairman White  
9 said that he was on the Planning Board..."

10 Tanner Royce made a motion to accept the minutes of October 2<sup>nd</sup> as amended. Kurt Markarian  
11 seconded the motion. The motion passed unanimously.

12 **PARCEL ID: 0104-0022-0000: SITE PLAN REVIEW: REVIEW PROPOSED CHANGES ON "THE MANOR",**  
13 **CURRENTLY APPROVED FOR (13) RESIDENTIAL AND (1) RETAIL RENTAL TO (14) RESIDENTIAL RENTALS**  
14 **IN ADDITION, NO RETAIL RENTALS. 22 PROSPECT HILL RD, GENE HAYES.**

15 Mr. Marquise said that this hearing is for an amendment to an old application but before accepting the  
16 application as complete and moving forward there should be a discussion on the status of the property.  
17 Mr. Marquise continued that he pulled out some old files and history tells him that in 1998, the retail  
18 portion was approved in the building, which he understands is the portion that is proposed to be  
19 converted into an apartment. Mr. Hayes said that it is not. Mr. Marquise said that in 2001, there was an  
20 approval to increase from eight apartments to eleven apartments. There is nothing on record that says  
21 that it was approved to go from eleven units to thirteen. Though there may be thirteen units there now,  
22 in the Boards eyes this would be going from eleven units to fourteen. Mr. Marquise continued that he  
23 hesitates to call it complete because there are some questions based on the records. The Board can  
24 discuss these questions with Mr. Hayes to try and find out what happened.

25 Chairman White asked Mr. Landry if this application has gone before the Zoning Board and it has not.  
26 Mr. Landry said that Mr. Hayes has already paid hook-up fees to the Water and Sewer Department. Mr.  
27 Landry continued that he cannot get into places without getting an Administrative Warrant after getting  
28 a complaint so he never knows what is there. He can only go on what is given to him or the Assessing  
29 Department by Mr. Hayes or the owner before him. The Town, unfortunately, has a history of having  
30 bad information.

31 Mr. Hayes asked if he could speak. Chairman White explained that the Board needs to talk about the  
32 completeness then they can talk about how many units and such. When someone comes before the  
33 Board with an application, the first order of business is to have Mr. Marquise review it and then the  
34 Board reviews it to make sure that the information needed is there. If that is approved, then they move  
35 on to the merits where they talk about everything else.

36 Mr. Hayes said that he would like to explain how he ended up at this point. Mr. Marquise said that he  
37 feels that it is appropriate.

38 Mr. Hayes said that he purchased the building in July and he had been to the Town a number of times to  
39 discuss each issue and was directed to pay the Water and Sewer fees and then he would be compliant.  
40 The fees were paid at closing to the Water and Sewer Department, based on what is there. Mr. Hayes  
41 said that he has a floor plan if the Board would like to see it. Chairman White asked who in the Town  
42 Mr. Hayes spoke with and Mr. Hayes said that he spoke with Mr. Landry and believes that Mr. Marquise  
43 was involved in the conversation. A letter was drafted that went to Mr. Marquise, Mr. Landry, and the  
44 Water and Sewer Department at closing saying that the building was fourteen units and that the two  
45 fees had been paid. Mr. Hayes continued that the reason that he came in was because there is no use  
46 for the retail space. As he has fourteen Water and Sewer hookups, he would like to abandon the retail  
47 and just have residential units. He is not expanding into the retail space; he is using it for storage. Mr.  
48 Hayes said that he bought the property based on the fact that he had fourteen units. Chairman White  
49 asked and Mr. Hayes and Mr. Landry confirmed that the property was sold as a fourteen unit.

50 Mr. Landry said that the Assessing Department did not know that the property has fourteen units. They  
51 updated the status of the assessment of the property after seeing the listing sheet. Mr. Hayes explained  
52 that the property had twelve units and then a residential unit that the owner lived in, which is about  
53 2,000 square feet of space. Mr. Hayes said that he tried to address any issues before purchasing the  
54 property and was trying to be upfront in letting the Town know that he is abandoning the retail, which  
55 requires eight parking spaces, and what he is proposing generates a half of space. The owner's unit is  
56 currently a four bedroom and he is proposing to convert it to a one bedroom unit and a three bedroom  
57 unit. Mr. Hayes continued that, based on the Ordinance, what needs two and a half spaces now goes to  
58 three spaces. He is actually reducing the impact in terms of parking.

59 Chairman White asked what the Board thinks about the completeness of the application and that there  
60 appears to be a discrepancy between what the Town had and what there actually is. Mr. Markarian said  
61 that he is not sure how the discrepancy can be held against Mr. Hayes as he just purchased the property.  
62 Chairman White asked what is allowed in this Zone. Mr. Marquise said that there are two Zoning  
63 questions; one is that he believes that it is pre-existing, non-conforming in the number of units as they  
64 only allow three to five unit buildings in the District and the other is density.

65 Mr. Hayes said that there is plenty of room for parking. Chairman White said that the parking would be  
66 discussed in the merits portion of the meeting. The Board is trying to decide on the completeness of the  
67 application based on the information.

68 Mr. Landry said that when Mr. Hayes came to him about the application to go from thirteen to fourteen  
69 units, Mr. Landry did not know that there was a Site Plan Review that brought the building up to eleven  
70 units and that there was a space between eleven and thirteen. However, there is currently thirteen  
71 units there now plus the commercial space. The application is probably not worded correctly, it should  
72 have said from eleven units rather than thirteen. Chairman White asked if there should be  
73 documentation because if eleven is pre-existing and non-conforming and then it goes to thirteen units  
74 with a retail unit, if it is something that the Board needs to backtrack to and handle through Zoning  
75 before moving forward. Mr. Marquise said that if the hearing went forward and the increase in units  
76 was approved, then the fact that the old records show there was only eleven units would give good

77 cause for an abutter to appeal the case. Mr. Marquise said that he received a letter from an abutter  
78 expressing concerns about the building going to fourteen units so it is something people remember from  
79 thirteen years ago. He recommended having the Zoning issues taken care of and then having an  
80 accurate request made in order to be consistent with what the Board previously approved.

81 Chairman White explained that the reason the Board is discussing these issues is because the Planning  
82 Board cannot technically approve something that doesn't meet the Zoning Ordinances. Mr. Landry  
83 asked and Mr. Hayes explained that the property is 2.65 acres and is in the Residential Zone. Mr. Landry  
84 said that in this Zone the Ordinance allows for one unit per acre. Mr. Marquise said that even in the  
85 least restrictive density district they would need 10,000 sq ft per unit which would require over three  
86 acres.

87 Chairman White said that the Board realizes that this is not something that happened under Mr. Hayes'  
88 watch but that it is something that happened and technically there is no record of it; this needs to be  
89 cleaned up. Mr. Hayes said that he thought they took care of the cleanup process by addressing the  
90 Water and Sewer. He kept asking and was assured that this would be all he needed to go on as a  
91 fourteen unit building. Mr. Hayes continued that he came back to let the Town know that he is  
92 abandoning the retail and making another residential unit. Chairman White said that he is doing the  
93 right thing, but the person before him apparently did not. There was further discussion about this  
94 matter.

95 Mr. Markarian said that he thinks the application should say that they are going from eleven units to  
96 fourteen units. Mr. Hayes said that they are actually going from thirteen as there was the owners'  
97 quarters as one unit and then the retail unit space. Mr. Marquise said that his understanding was that  
98 the eleven units total was what was approved. Also, the tax card talked about eight studio, one one  
99 bedroom, and two two bedroom units. There was never anything separate about the owner's quarter  
100 on the tax card. Mr. Landry said that the owner's quarter is a four bedroom unit. Mr. Marquise said  
101 that this may not have been presented properly in 2001. Mr. Hayes said that the owner's quarter is  
102 2,000 sq ft and explained the location of this unit and said that the unit has been like that for a while.  
103 The prior owners owned the property for 38 years and Michele Oldman's family owned the building  
104 before them. Mr. Hayes continued that Ms. Oldman owns the house next door to this property and that  
105 she has concerns but he has told her that he is not doing anything to the building but dividing some  
106 space.

107 Chairman White said that he thinks that the Board should vote on the completeness of the application.  
108 It seems like it needs to be two different steps at Zoning, the first being going from eleven to what it is  
109 now and then the second would be to change it from what it is now to what Mr. Hayes want it to be.  
110 Mr. Marquise said that it the Zoning Board may only allow Mr. Hayes to keep it as it is and not go to  
111 fourteen units. Mr. Hayes, therefore, may want to keep it all to one application instead of having the  
112 two different steps. Mr. Marquise continued that once the Zoning is cleared up it would be just one  
113 step at for this Board.

114 Mr. Landry asked and Mr. Marquise said that the hearing can be continued, or even just tabled, so that  
115 Mr. Hayes does not have to reapply. Mr. Royce said that the application would be different. Mr.  
116 Marquise said that it may or may not be but that the hearing should be re-noticed. Chairman White  
117 asked how the Board would vote on continuing the hearing if they determine that the application is not

118 complete. Mr. Marquise said that they would not vote to continue the hearing, it would stop here.  
119 There needs to be another notice so that it is correct; however, the application fee should be waived.  
120 Mr. Landry asked if the Board could determine that the application is not complete and give Mr. Hayes  
121 sixty days to complete it. Mr. Marquise said that he does not know what Mr. Hayes would gain as there  
122 still needs to be another notice.

123 Mr. Hayes said that this decision is holding him up because he is now sitting on a building where he  
124 wants to create two more units and he does not know what he can do. He feels as though he has been  
125 misinformed because this conversation was had multiple times. These units have been in this building  
126 for a long time and now he is stuck. Mr. Hayes asked if there can be a joint hearing with the Zoning and  
127 Planning Boards to try and resolve this and come to a conclusion. Chairman White said that he  
128 apologizes for this and a lot of times it is out of the Board's control. They would love to move forward  
129 with it tonight but they need the right information to do that; they need to get their ducks in a row and  
130 make sure they are on solid ground with an application. Chairman White asked if Mr. Landry looks at  
131 the existing Site Plans when an application is submitted. Mr. Landry said that he tries to find them as  
132 best that he can. Mr. Landry said that there could be an issue with Mr. Clapp's application as well and  
133 the Boards could have a joint meeting in December to help with both of these cases. Mr. Landry  
134 suggested tabling this discussion until later on in the meeting to see if there is a need to have a joint  
135 meeting.

136 Mr. Hayes gave the Board a copy of a letter that was sent to him from Mr. Landry. Chairman White read  
137 the letter to the minutes:

138 "Mr. Hayes, as per your call on 6/30/14, the Town of Sunapee will expect a water/sewer hookup fee for  
139 two (2) additional units located in the Manor on Prospect Hill Road. A letter of acknowledgement of  
140 fourteen (14) units will be delivered to the Zoning Office, together with a check in the amount of \$8,000  
141 for the Water & Sewer Department. The Town of Sunapee Assessing Department will be copied on this  
142 acknowledgement. We anticipate this meeting to occur in my office Thursday, July 31<sup>st</sup> 2014, between  
143 8am-10am. Per Roger Landry, Zoning Administrator."

144 Mr. Landry said that Jim Ward had the property listed as a fourteen unit property. Mr. Landry told Mr.  
145 Ward that it was an illegal unit and he either needed to change the listing or pay the additional hookup  
146 fees and the Town would change it. This is what triggered the change in the assessment information.

147 Mrs. Larrow asked if the Town is legally bound to the fact that it is in writing that there are fourteen  
148 units at the property and the Town has accepted Mr. Hayes money. Mr. Landry said that there was a  
149 recent application that was similar and the Zoning Board asked them to get affidavits from people who  
150 have lived in the area for many years to say that the number of units have been there for a long time.  
151 Mr. Hayes said that he can get tenants that have been in the building for five years who he could get to  
152 attest that nothing has changed since they have been there. Chairman White said that it is more about  
153 what is on record than what is there and the dots have to connect. Mr. Hayes said that he felt that he  
154 was covering the bases and asked all the questions necessary to become compliant and the only reason  
155 he is before the Board is because he wanted another residential unit rather than retail space. Now he is  
156 being told that he has at least sixty days before he can continue and he has already started the project.  
157 Mr. Markarian said that Mr. Hayes took the risk to start the work before getting full approval from the  
158 Planning Board. Mr. Hayes said that he thought he had full approval and was just abandoning the retail

159 space. Mr. Royce said that any change can trigger the Board to look at the whole property and if Mr.  
160 Hayes would not have decided to make this change he probably could have just continued as is. Mr.  
161 Landry said that had Mr. Hayes been a dishonest person he could have just bought the property and  
162 kept it as a fourteen unit. Chairman White said that it is understandable and if it is possible in the  
163 schedule to have a dual meeting then it would be great. There was discussion as to the date that the  
164 meeting could be held. The Board determined to have the dual meeting at the Planning Board meeting  
165 on December 4<sup>th</sup>. Mrs. Larrow asked and Chairman White and Mr. Marquise explained that Chairman  
166 White would be the Chair for the meeting. Mr. Marquise explained to Mr. Hayes that the application  
167 will need to have the right information, being the eleven units. Mr. Landry said that the owner's  
168 quarters was never counted as part of the units and asked if this means that there should be thirteen  
169 units counted.

170 Clayton Platt said that he feels as though if you go to the official who has been appointed by the  
171 Selectmen to make a decision and he tells you that you can have fourteen units if the fees are paid and  
172 the assessment is updated, even if the Planning Board records do not agree, it seems tough to then  
173 come and be told that there are only eleven units. Mr. Platt continued that Mr. Hayes bought the  
174 property based on the information given to him by the Town. If he were the applicant, he would be  
175 hesitant to go in and say that he only has eleven units and risk being denied by the Zoning Board. Mr.  
176 Hayes said that he made a financial decision based on this information. Mr. Marquise said that he thinks  
177 that it is up to the Zoning Board how they want to accept the application. He is just looking at it from  
178 the Planning Board standpoint that as per the records, the last approval is for an eleven unit apartment  
179 building. This is what the parking and everything else is based on. There was further discussion  
180 regarding the changes and the need for the additional steps, including a Variance approval.

181 Debbie Samalis asked about why Mr. Hayes had to pay the Water and Sewer fees and Chairman White  
182 explained that the Board doesn't have anything to do with Water and Sewer. Ms. Samalis said that she  
183 lost the opportunity to purchase a building in the Harbor this year because of mis-information and that  
184 it is unfortunate the officials give information and then Boards give other information and there is no  
185 communication. Mr. Royce said that Planning and Zoning play different roles and are able to approve  
186 different things. There was a brief discussion about Water and Sewer hookups.

187 There was a discussion as to if the hearing should be tabled or the application should be found  
188 incomplete. The Board explained to Mr. Hayes that he will need to complete a new two-phase  
189 application and then there will be a joint meeting, one for the Variance, and the other for going from  
190 eleven units to thirteen. There was another discussion about the number of units that there are and if  
191 the owners unit was counted. Chairman White said that the Planning Board records say that there are  
192 eleven units and the retail space. Mr. Landry explained that Mr. Marquise wants to pick up from where  
193 the records are now and continue from there. Chairman White explained that the Variance application  
194 will need to be going from eleven residential units and a retail space, to thirteen residential units and a  
195 retail unit. The second application will need to be from the thirteen residential units and one retail  
196 space to fourteen residential units and no retail space.

197 Kurt Markarian made a motion to accept the application as complete for the Site Plan Review for Parcel  
198 ID: 0104-0022-0000: Review proposed changes on "The Manor", currently approved for (13) residential  
199 and (1) retail rental to (14) residential rentals in addition, no retail rentals, 22 Prospect Hill Rd. Donna

200 Davis Larrow seconded the motion. The motion failed, unanimously as the applicant has to go back to  
201 the Zoning Board to get approvals for the existing units prior to the Planning Board being able to act  
202 upon them, based on the records showing eleven units, not thirteen. The Board recommended that the  
203 application fees be waived for Mr. Hayes.

204 **PARCEL ID: 0136-0018-0000: MAJOR SUBDIVISION (AMENDMENT); REVIEW CHANGES (PROPOSED)**  
205 **ON ROAD LAYOUT. 314 LAKE AVE, MARY & BRUCE MCCARTHY.**

206 Mr. Marquise stated that the application was filed in advance, notices were posted, and fees were paid.  
207 The documents are basically the same and the application is complete. Chairman White asked and Mr.  
208 Marquise recommended voting on the completeness of the application, even though it is an  
209 amendment.

210 Kurt Markarian made a motion to accept the application as complete for Parcel ID: 0136-0018-0000:  
211 Minor Subdivision (amendment); review changes (proposed) on road layout for 314 Lake Ave. Shane  
212 Hastings seconded the motion. Mr. Royce said that on June 5<sup>th</sup> this application came before the Board  
213 as a minor subdivision but the discussion was that the three lots and a road equals a major subdivision.  
214 Mr. Marquise said that this should be considered a major subdivision. Kurt Markarian amended his  
215 motion to be a major subdivision. Shane Hastings seconded the amendment. Mr. Royce said that there  
216 was a condition that there needed to be a bond or a letter of credit and asked if it has been received.  
217 Mr. Marquise said that it has not because Mr. McCarthy has decided to redo the road layout. The  
218 amended motion passed unanimously.

219 Bruce McCarthy and David Eckman presented the merits of the case.

220 Mr. McCarthy explained that the original proposal was put out to bid and the prices that came back  
221 were quite high and exceeded the value of the land. He believes that this amendment will allow them  
222 to save costs by shortening the road, while still maintaining the required frontages. Mr. Eckman said  
223 that they are also reducing one sewer manhole but as they are crossing a water line they are adding a  
224 sleeve that is required by the rules. They are also reducing the number of catch basins and are  
225 minimizing the impacts. Mr. Eckman continued that they did show some drainage for the driveways, but  
226 people who purchase the lots can move the driveways. Mr. Eckman continued to explain the proposed  
227 changes that were on the Plans.

228 Mr. Marquise asked and Mr. McCarthy explained that the existing house is no longer being hooked up to  
229 the Town Sewer. The plan is to use the existing septic system though they could hook up to it in the  
230 future. Mr. Marquise asked Mr. Eckman about a State Subdivision Permit as this house will not be on  
231 Town Sewer and if the fact that it is available for hookup in the future enough. Mr. Eckman explained  
232 that when you shrink to under five acres you need a permit from the State but the lot is 2.4 acres and  
233 has good soil so there shouldn't be an issue getting one. Mr. Eckman continued that they will get the  
234 State permit before they give the Board the Mylar. They are keeping the existing septic and there is no  
235 additional impact, they are also keeping the setback away from the septic.

236 Mr. Eckman explained the grading plan, watershed plans and the standard temporary control measures  
237 to the Board.

238 Mr. Royce asked if the Highway Department is OK with the cul-de-sac. Mr. McCarthy said that he spoke  
239 to them, the Fire Department, and Mr. Marquise.

240 Mr. Marquise said that there is a requirement that there cannot be more than a four to one depth to  
241 width ratio and that it does not look like there is anything that is more than two to one.

242 Mr. Simpson asked and Mr. Eckman explained that the existing house has a septic system. Mr. Simpson  
243 said that he thought that a property has to hook up to Town Sewer if they are within so many feet to the  
244 septic line.

245 There was a discussion about the water line that is on the property as Mr. Landry said that he thought it  
246 is private. Mr. Eckman said that they are building a new water line, not hooking into the existing line.

247 Chairman White asked and there were no further comments or questions for the applicant. Chairman  
248 White closed the public input portion of the hearing.

249 Chairman White asked and Mr. Marquise confirmed that the conditions from the last approval should be  
250 included in this motion.

251 Tanner Royce made a motion to approve the amendment to the Major Subdivision for Parcel ID: 0136-  
252 0018-0000, review changes on road layout at 314 Lake Ave for Mary and Bruce McCarthy with the  
253 conditions of a State Subdivision approval for the lot with the existing septic system and also with a  
254 condition that a bond or letter of credit for 110% for the cost of the road construction be presented to  
255 the Town within 365 days. Kurt Markarian seconded the motion. The motion passed unanimously.

256 **PARCEL ID: 0211-0006-0000 & PARCEL ID: 0211-0007-0000: SUBDIVISION / ANNEXATION; SUBDIVIDE**  
257 **17.32 ACRE PARCEL INTO 14.69 ACRES AND 2.63 ACRES WHICH WILL BE ANNEXED TO PARCEL ID:**  
258 **0211-0007-0000. TROW HILL RD, STEDMAN REVOCABLE TRUST & ROBERT W. BELL TRUST.**

259 Mr. Marquise said that the application falls under 6.04 of the Subdivision Regulations. The fees were  
260 paid, notices were posted, and abutters were notified. Under the 6.04 requirements, he believes that  
261 everything is there, but there are allowable waivers under 6.05-b as it is a minor subdivision. The  
262 allowable waivers are: existing and proposed contours, existing and proposed utilities, and plans for  
263 stormwater drainage; none of which apply in this case. Mr. Marquise said that he believes that the  
264 application is complete.

265 Donna Davis Larrow made a motion to accept the application as complete for Parcel ID: 0211-0006-0000  
266 & Parcel ID: 0211-0007-0000: Subdivision and Annexation to subdivide 17.32 acre parcel into 14.69  
267 acres and 2.63 acres which will be annexed to Parcel ID: 0211-0007-0000, Trow Hill Rd, Stedman  
268 Revocable Trust & Robert W. Bell Trust with the waivers of contours, utility lines, and stormwater  
269 drainage. Kurt Markarian seconded the motion. The motion passed unanimously.

270 Clayton Platt presented the merits of the case for Monica (fka Stedman) Rooney and Bob Bell.

271 Mr. Platt explained that in 1996, the farmhouse and barn were subdivided off from this property. The  
272 2.63 acres to be annexed is a field next to the farmhouse that Ms. Rooney wants to purchase. Mr. Platt  
273 said that on the plan the pink line is the old line and the orange line is the new line. Ms. Rooney's final

274 lot will be 6.0 acres and Mr. Bell's final lot will be 14.69 acres. Mr. Platt continued that the existing well  
275 will remain on Mr. Bell's property and there is an easement for that and is noted in Note 5.

276 Chairman White asked if there are any questions or comments for Mr. Platt.

277 Carola Gouse, of 39 Trow Hill Rd, said that she does not have a problem with the proposed plan. She  
278 asked if anyone knows who the owner of Hideaway Hill Development is and if anyone knows the name.  
279 After a brief discussion, the Board said that they do not know who the owner is and it is a corporation  
280 and suggested calling the Secretary of State's office.

281 Chairman White asked if there were any further questions or comments and there were none.

282 Chairman White closed the public input portion of the meeting.

283 Tanner Royce made a motion to accept the Subdivision and Annexation to subdivide 17.32 acre parcel  
284 into separate parcels for Parcel ID: 0211-0006-0000 and 0211-0007-0000, subdivide 17.32 acre parcel  
285 into 14.69 acres and a 2.63 acre parcel which will be annexed into Parcel ID: 0211-0007-0000 on Trow  
286 Hill Rd for Stedman Revocable Trust & Robert W. Bell Trust. Kurt Markarian seconded the motion. The  
287 motion passed unanimously.

288 **PARCEL ID: 0104-0010-0000: SITE PLAN REVIEW: CONVERT (7) FAMILY RESIDENTIAL RENTAL UNIT**  
289 **INTO A (6) FAMILY RESIDENTIAL UNIT PER ZBA APPROVAL. 11 PLEASANT ST, GEORGES MILLS, 350**  
290 **ENTERPRISES, LLC.**

291 Mr. Marquise said that, similar to the earlier case, they are talking about numbers that do not really jive  
292 with previous approvals. This property came before the Board in the early 1990's, starting in 1991 and  
293 finishing in 1994, as a four unit apartment building. Mr. Marquise had a plan from that approval that he  
294 passed around showing the four residential units. The Board needs to determine how it went from four  
295 units to six units as the Planning records show four. He does not know how it got up to seven and then  
296 came down to six.

297 Chairman White said that it sounds as though Mr. Clapp already went to the Zoning Board and received  
298 approval. Mr. Landry said that the ZBA reduced the square footage requirement in the Village  
299 Residential Zone from 10,000 per square feet per dwelling unit to 6,000 per square feet per dwelling  
300 unit. Even though it is similar to the previous case, Mr. Clapp could actually be going from one unit to  
301 six units due to the approval of the reduction to the 6,000 square feet per dwelling units. Chairman  
302 White asked if the case before the Zoning Board was similar to this case, to go from seven units to six  
303 units. Mr. Landry explained what the Zoning Board approved which was the reduction in the square  
304 footage per dwelling unit.

305 Aaron Simpson said that he was at the Zoning Board meeting and part of the issue came down to Mr.  
306 Clapp presenting evidence that prior to the adoption of Zoning there had been seven units. Mr. Landry  
307 said that Mr. Clapp came in with letters from a couple of the abutters that confirmed that the units have  
308 been there for many years. Mr. Simpson said that he did not feel that Mr. Clapp needed to go before  
309 them but the Board did not agree and therefore voted for it. Mr. Simpson said that the approvals from  
310 1991 or 1994 were not presented to the Zoning Board. Mr. Royce asked and Mr. Marquise explained  
311 that Zoning was adopted in 1987.



312 Mr. Landry said that if the Planning Board would like the application reworded for the next hearing they  
313 can do so, but that Mr. Clapp has the Variance approval to have 6,000 square feet per dwelling unit.  
314 Mrs. Larrow said that the Planning Board's application says a multi-unit apartment building and Mr.  
315 Clapp has approval from the ZBA as a six unit building. Mrs. Larrow asked why the Board cannot just say  
316 that Mr. Clapp has a six unit building. Mr. Marquise questioned that if it had been approved as a seven  
317 unit property twenty years ago if going to a six unit would need a Site Plan Review. Mr. Platt said that  
318 he believes that a condition of the Zoning Board approval is that Mr. Clapp come to the Planning Board  
319 for a Site Plan Review. Mrs. Larrow asked and Chairman White agreed that as Mr. Clapp already has  
320 approval from the Zoning Board that they have to deal with it. There was further discussion regarding  
321 this issue and re-noticing the hearing to go from four units to six units and the Zoning Board approval.

322 Chairman White asked if the protocol when an application comes into the office is to look for prior  
323 Planning or Zoning documentation. Mr. Landry said that it is and it just has not been found. Mr.  
324 Marquise said that many of these projects were under the old map and lot system and that it is easy to  
325 find things going back 10 years but if he wasn't here and did not remember previous cases it probably  
326 would not have been discovered but something needs to be worked out to tie the two together.

327 Chairman White said that he agrees with Mrs. Larrow that Mr. Clapp has approval but they need to  
328 make sure the Planning Board is squared away from a notification standpoint.

329 Mr. Platt said that Mr. Clapp was before the Zoning Board for three different meetings, the first time  
330 there was a question about the Grandfathering, the second time is to get the right date for the letters  
331 from the abutters, and then many of them agreed that the property was Grandfathered but the  
332 question was that Mr. Clapp would then have had to go back to Mr. Landry and have him decide  
333 whether or not the property was Grandfathered and then he'd have to go back to the Zoning Board. Mr.  
334 Clapp has been going through this for quite a few months and it seems unfair.

335 Chairman White said that they need to move forward with the right information and that it needs to be  
336 able to be tracked because if they do not take care of it now it will be worse the next time. There was a  
337 brief discussion that the application needs to read that the property is going from a four unit to a six  
338 unit.

339 Mr. Royce asked why the Variance needed to be granted that the Board was approving 6,000 square  
340 feet instead of that it is a Grandfathered pre-existing, non-conforming property. Mr. Landry explained  
341 that some Board members felt that they did not have to but Mr. Clapp did the right thing by getting  
342 approval. Mr. Royce asked how the 6,000 square feet density responds to Mr. Clapp going back to a  
343 seven unit at some point. He is worried about the way that the Variance was done and wondered why it  
344 is not just for the six units. Mr. Landry said that even with the Variance Mr. Clapp could not go back to  
345 seven units.

346 Mr. Royce asked and Chairman White confirmed the Board is asking Mr. Clapp to reapply to go from a  
347 four unit to a six so that the abutters can be notified correctly. There will not need to be a joint meeting  
348 for Mr. Clapp's case.

349 The Board recommended waiving the application fee for the next hearing.

350 Mr. Royce asked if Mr. Marquise had any concerns in the merits to help Mr. Clapp be able to get  
351 everything done at the next meeting. Mr. Marquise said that the only thing that he thinks the Board  
352 would have to do would be to waive the requirement for a boundary survey.

353 Donna Davis Larrow made a motion to accept the application for the plan as complete for Parcel ID:  
354 0104-0010-0000 the Site Plan Review to convert a seven family residential rental unit into a six family  
355 residential unit per ZBA approval, 11 Pleasant St, Georges Mills. Kurt Markarian seconded the motion.  
356 The motion failed unanimously because the notification did not reference the number of units that are  
357 on file and the Board recommends that the fees be waived for the next case that will be held December  
358 4, 2014.

359 **MISCELLANEOUS – PARCEL ID: 0133-0019-0000: REVIEW OPTIONS TO SITE PLAN FOR WILDWOOD**  
360 **SMOKEHOUSE. MAIN ST, DEBBIE SAMALIS / ANDREA MANTER.**

361 Debbie Samalis was present to discuss the options to her Site Plan.

362 Chairman White asked and Mr. Marquise confirmed that this is an informal Conceptual Review.  
363 Chairman White explained that a Conceptual Review is completely non-binding, the Board will not make  
364 or vote on any motions. The Board will be listening to the ideas and concepts and will give feedback of  
365 concerns but there is nothing that is binding or implied in any type of future approval.

366 Ms. Samalis asked how she can get music. Chairman White explained that she can talk to the Board  
367 about it and get a feeling about the concerns from the Board but they cannot tell her if she does  
368 something then she will be approved. Ms. Samalis asked how she can get approved and Chairman  
369 White said that she will need to file an application.

370 Ms. Samalis explained that she spoke to both Mr. Landry and Donna Nashawaty, the Town Manager,  
371 and told them that she wants to have music at the Smokehouse. Mr. Landry told her that he would put  
372 her on the agenda and to show up for the meeting. Mr. Landry said that he told Ms. Samalis that it was  
373 going to be Conceptual and Ms. Samalis said that he did not. Chairman White said that all that he can  
374 say is that they are following the agenda and that it is not listed as an official application nor is there any  
375 paperwork. Mr. Landry explained to Ms. Samalis that the meeting is to review the options for the  
376 Wildwood Smokehouse and that is the way that it was advertised and if Ms. Samalis wanted to do  
377 anything to her Site Plan Review she needs to file an application and pay the fees. Ms. Samalis said that  
378 this is not what Mr. Landry told her. There was further discussion regarding this matter.

379 Chairman White said that it sounds like Ms. Samalis needs to put together an amendment to her Site  
380 Plan Review. They can talk at this meeting about playing music as a Conceptual Review.

381 Mrs. Larrow asked Ms. Samalis what she wants to do. Ms. Samalis explained that she wants to have an  
382 acoustic player on a Friday or Saturday night. Mr. Hastings asked if Ms. Samalis has set hours that she  
383 would like to have live music. Ms. Samalis said that she is not changing her hours at all and knows that  
384 the Town has a Noise Ordinance that starts at 10:00 pm but she closes at 9:00 pm so she would not be  
385 violating the Ordinance. When she did the original Change of Use she was told to keep things flexible  
386 and was hoping for suggestions to know if she should just say Friday and Saturday during the existing  
387 hours. She only had twenty two seats and just wants an acoustic player.

388 Mr. Markarian asked if Ms. Samalis only wants to have music Friday or Saturday nights because if she  
389 restricts herself then that will be all that she is approved for. Ms. Samalis said that she does not think  
390 that she wants to do anything during the week. Mr. Royce suggested leaving something open for  
391 holidays as another option. Ms. Samalis asked if it would be different to ask to have live music during  
392 her open hours as opposed to just Friday and Saturday night and asked the Board how they feel about  
393 music at any point. Chairman White said that he recommends Ms. Samalis give herself plenty of leeway  
394 so that she would not have to come back before the Board.

395 Ms. Larrow asked what difference it makes whether there is a live person to entertain or a radio and  
396 why it is necessary to get permission. Ms. Samalis said that she did have someone in a few months ago  
397 to play some songs which is how this came about and her jukebox is louder than he was. Ms. Larrow  
398 asked if the individual would cause more patronage and asked why an amendment is necessary. Mr.  
399 Marquise said that it is a Planning Board decision whether this would trigger anything.

400 Mr. Landry said that there has been a guitar player in the lower level of the church for a year or so now  
401 and has caused no problems and has never been before the Planning Board. Ms. Samalis could have a  
402 jukebox and play music and no one would know unless there was a complaint. There was further  
403 discussion about this issue.

404 Mr. Simpson said and Ms. Samalis confirmed that she needs a letter from the Town for the liquor  
405 commission. Mr. Royce said that he does not feel like the letter needs to come from the Planning Board.

406 Mr. Markarian asked and Ms. Samalis confirmed that she has always had the jukebox in the restaurant.

407 Mr. Marquise said that a statement that the live music does not trigger Site Plan Review should be  
408 acceptable. Mr. Marquise said that if the Use is different because of what goes on then that needs to  
409 have a Site Plan. Chairman White said that from what Ms. Samalis is describing it does not concern him.  
410 Ms. Samalis said that she could not fit a band into the restaurant even if she wanted to; she just wants  
411 someone in the corner strumming a guitar. Mr. Royce said that the type of music should not make a  
412 difference as long as Ms. Samalis stays within the number of people allowed in the restaurant and does  
413 not violate the Noise Ordinance.

414 Mr. Marquise asked and Mr. Landry agreed that he will have Ms. Samalis fill out a Statement of Property  
415 Usage.

#### 416 **CONCEPTUAL REVIEW ON OPTIONS TO DEVELOPMENT OF NATURE'S WAY, BROOK RD.**

417 Mr. Marquise informed the Board that this Conceptual Review was canceled.

#### 418 **MISCELLANEOUS**

419 There was a discussion about the Planning, Zoning, and property files and potential ways to make them  
420 easier to locate and cross reference.

#### 421 **REVIEW PROPOSED ZONING AMENDMENTS FOR 2015.**

422 The first proposed change is to Article III, Section 3.20 to delete the Permeable / Impermeable column.  
423 Mr. Landry explained that he could not really explain it to applicants but that Mr. Marquise has

424 explained it to him so he has a better understanding. There was a discussion about having more of a  
425 definition of Permeable and Impermeable materials. Mr. Simpson asked if the term "structure" can be  
426 added to Permeable and Impermeable as there is a definition of structure. Mr. Marquise said that he is  
427 willing to look at a definition of Permeable and Impermeable but is not sure that they will have enough  
428 time to do this before things need to be noticed as it has to happen in the next couple of weeks. There  
429 was further discussion regarding the definition of a structure and if a driveway is a structure. It was  
430 determined to leave this Article as is for 2015.

431 The second proposed amendment is to Article IV, Section 4.10 to identify farming that it is allowed as a  
432 Permitted Use with an asterisk that is carried down into the Special Exception column for properties in  
433 the Rural Residential District in the Shoreline Area and the Rural Lands District in the Shoreline Area.  
434 Mr. Landry said that Mr. Platt recommended putting in a definition of farming and that may be a good  
435 idea. Mr. Royce said that the Planning Board's discussion was that the State has regulations and  
436 questioned if there is a need for the Town to get involved in it. Mr. Landry said that there could be more  
437 restrictions put on than the State has as right now the State allows anything to happen as long as it is 75  
438 feet away from the Lake. The Town does not have any restrictions. There was further discussion  
439 regarding this proposed amendment and regulating agricultural waste and the need for criteria for a  
440 Special Exception if they do go ahead with this proposal. The determination is to wait until next year.

441 Mr. Platt asked if the Board could skip to the seventh proposed change and asked if this will end the  
442 measurement from the centerline of the road. Chairman White read that the proposed change is  
443 "Definitions-setback-the minimum distances from the property lines, edges, or end of R.O.W.s  
444 established by the requirements of this ordinance for each zoning district." Mr. Platt said that now the  
445 front setback is measured from the centerline of the road. Mr. Marquise asked and Mr. Landry  
446 confirmed that this proposed change addresses the end of the road concerns that the Zoning Board had.  
447 Mr. Landry explained that there is a question as to where the setback requirement is located, if it is from  
448 the lot line or the edge of the right-of-way that may go through a lot. There was further discussion  
449 regarding easements and right-of-ways and this proposed change. This proposed change will not go to  
450 vote and the Article will stay as it is written.

451 The next proposed change is to Article VI, Section 6.40 and is to add "the new lot may still be non-  
452 conforming but it will lose its pre-existing status". Mr. Simpson asked why Mr. Landry is proposing this  
453 change if the lot is will be less non-conforming. Mr. Landry gave some background on his reasoning for  
454 this proposed change. There was discussion about the proposed change and how this could create a  
455 hardship on lots that are being made to be less non-conforming and the controls that the State has.  
456 There was a discussion regarding if a lot line adjustment automatically changes the pre-existing status  
457 and how the Town's attorney says that there is nothing in the rules that says that they can take away  
458 the pre-existing status and that it needs to be in the rules. The decision by the Board was to table the  
459 proposed change.

460 The next proposed change is to add to Article VIII, Section 8.23 a subsection "e" that a certificate of  
461 compliance is transferrable within the times allowed. For instance, a building permit is only good for  
462 one year unless some effort is made to start the building process. Chairman White asked if this needs to  
463 be said and Mr. Landry explained that there are contractors who have requested that a building permit

464 be changed to be in a new owner's name and he cannot do that. The Board agreed to this change but to  
465 not include the words "within the times allowed".

466 The next proposed change is to Article IX, Section 9.12-change present wording "Planning Board  
467 approval of such Site Plan "to Zoning Board approval of a Variance shall be a prerequisite to any  
468 approval of a Site Plan Review or Certificate of Compliance." Mr. Landry explained that the current  
469 Ordinance is backwards as it currently says that the Site Plan Review comes before receiving a Variance.  
470 Chairman White explained that the Planning Board cannot act if they find that the Zoning Board needs  
471 to act on something first. The Board decided to continue with this change and Mr. Marquise said that  
472 he would work on the language.

473 The next proposed change is to Article X, Section 10.16-e to change to "if after a period of 24 months  
474 from the date a Variance or Special Exception is granted" (the rest of the article is the same except for  
475 the following sentence) "Pursuant to RSA 675:3 and RSA 674:33 as of the date of such written  
476 application". Mr. Simpson said that this is exactly as the State Statute is written. There was a discussion  
477 regarding keeping "RSA 675:3" as part of the change as it has to do with noticing by the Town.

478 Kurt Markarian made a motion to adjourn at 10:46 PM. Tanner Royce seconded the motion. The  
479 motion passed unanimously.

480 Respectfully submitted,

481 Melissa Pollari

482

483 Planning Board

484 \_\_\_\_\_

485 Peter White, Chairman

486 \_\_\_\_\_

487 Donna Davis Larrow

488 \_\_\_\_\_

489 Kurt Markarian

\_\_\_\_\_

Robert Stanley, Vice-Chairman

\_\_\_\_\_

Tanner Royce

\_\_\_\_\_

Shane Hastings, ex-officio member