

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **SEPTEMBER 5, 2013**

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

6 **ABSENT:** Robert Stanley, Vice-Chair; Erin Andersen;

7 **ALSO PRESENT:** see attached sign-in sheet

8 Chairman White called the meeting to order at 7:15 pm.

9 Chairman White appointed Charlotte Brown to sit in for Erin Andersen.

10 Changes to the Minutes for the August 1, 2013 Planning Board Meeting: Change line 100 to read
11 "...should not be waived due to abutter comments and some of the slopes, though it can..." Add after
12 line 163 that "Mr. Lester asked if the subdivision plan had any proposed roads and Chairman White
13 replied no."

14 Tanner Royce made a motion to accept the minutes as amended. Kurt Markarian seconded the motion.
15 The motion passed with five in favor and one abstention (Charlotte Brown).

16 **OTHER BUSINESS**

17 Mr. Marquise reminded the Board that they have invited the members of the Zoning Board to attend a
18 meeting with them on September 19th. He believes it is going to happen, however, if the ZBA members
19 cannot meet that the Board members should still meet to do training. The next regular meeting is
20 October 3rd. Then on November 17th, the Lake Sunapee Regional Planning Commission will be
21 presenting their Master Plan to the Board.

22 **(CONTINUED) PARCEL ID: 0119-0009-0000: SITE PLAN REVIEW: MODIFY EXISTING SITE PLAN TO**
23 **INCORPORATE ADDITIONAL TREE SCREENING, SIGN RELOCATION, ETC. PLEASANT ACRES PROPERTY**
24 **MAINTENANCE, LLC (MATT MCCLAY)**

25 This hearing has been continued until after the Zoning Board has heard the case.

26 **CONTINUED: PARCEL ID: 0107-0002-0000: SITE PLAN REVIEW FOR A SECOND DUPLEX. 1376 ROUTE**
27 **11, LEONARD A. POLLARI**

28 Mr. Pollari sent a request to the Board requesting this case be continued until the next meeting.

29 **CONTINUED PARCEL ID: 0133-0107-0000: MINOR SUBDIVISION: THREE (3) LOT SUBDIVISION. 33**
30 **MAPLE ST, PROSPECT HILL CONSTRUCTION (LEONARD A. POLLARI)**

31 Mr. Pollari continued presenting the merits of the case.

32 Chairman White noted that the issues that the Board wanted addressed including the building under
33 construction to be on the Plan, the place for sign-offs on the Plan, the issues regarding drainage onto
34 Beech St, and the notation of the exact end of Beech St.

35 Mr. Pollari informed the Board that he has added the items the Board asked for to the Plan and has
36 brought Charlie Hirshberg from CLD Engineers to discuss the drainage.

37 Mr. Hirshberg gave the Board copies of the Drainage Plan that went to the Road Agent for his review.
38 Mr. Hirshberg explained that the issue on Beech St is that the existing swale that is there is very shallow
39 and undersized. There are sediment issues when you get towards the intersection of Beech St and
40 Maple St as the flow has to go down Beech St, make a 90 degree turn, and go down Maple St to a catch
41 basin. Mr. Hirshberg continued that they have determined that they will put a catch basin at the end of
42 Mr. Pollari's property. Mr. Hirshberg showed the Board on the Plan where the catch basin will be
43 located. They will then put in an 18" pipe across the road, put in another catch basin, and run two 12"
44 diameter pipes along the south side of Beech St on Ron Wyman's property to a broad swale which will
45 allow the flow to spread out before it reaches the wetlands. Mr. Hirshberg explained that they sized
46 things to handle both Mr. Pollari's project as well as the flows that are not currently being handled. Mr.
47 Hirshberg said that they have met with the Road Agent many times who indicated he was going to write
48 a letter. Mr. Marquise said that the Road Agent emailed a letter out today.

49 Mr. Hirshberg said that if there is a major event, the catch basin may not handle the flow and some of
50 the flow will continue straight down the existing ditch. The bulk of the flow, most of the time, will go
51 into the catch basin and across the road. Mr. Hirshberg continued that the Town did indicate they
52 would improve the ditch below the catch basin.

53 Mr. Hirshberg explained that regarding the drainage on site he put together a conceptual plan with
54 where a house may be on a lot as well as the driveway going up. Mr. Hirshberg gave copies of this Plan
55 to the Board. Mr. Hirshberg said that below one of the driveways the lower portion on the uphill side
56 will drain onto Beech St. Further up the drive, it has been broken into smaller sections and there are
57 culverts that go across to a shallow infiltration ditch / level spreader combination. The shallow
58 infiltration means that there will be approximately a foot of stone that the water can seep through but if
59 it fills up then it would level spread and spread out onto the land below. The upper levels of the drive
60 go into this level spreader. Around the house there is a stone drip edge and then the flow is piped to an
61 infiltration trench that is off to the Beech St side of the house. The soils around the house are good for
62 infiltration. On the downhill side of the drive going from Beech St the Plan shows a subdrain so if there
63 is ground water it will pick it up and run to the ditch on Beech St and will go into the catch basin. This
64 should remove the groundwater that breaks out along the low spot. There was further discussion
65 regarding this matter. Mr. Hirshberg said the drive regulations say 12% maximum but they have kept it
66 at 11% or less.

67 Mr. Landry said that the 18" pipe draining into the catch basin and then going into two 12" pipes is not
68 enough area as two 12" pipes will not handle water. Mr. Hirshberg said that they are very similar and
69 the reason they went to 12" was the amount of cover over the pipe as opposed to going to an 18". This
70 was worked out by the Road Agent, who suggested the two 12's. Mr. Hirshberg explained this further to
71 the Board.

72 Mr. Landry asked if there had been any further discussion with the Selectmen regarding opening up
73 Beech St all the way to Burkehaven to eliminate some of the traffic in the Harbor. Selectmen Hastings
74 said that he has not heard anything about this issue. Mr. Landry said that they were discussing it a few
75 years ago and it would be a shame to do all this work if they did open up the road as it would be all for
76 nothing. Mr. Hirshberg said that he did the plan for opening up Beech St and that there are such steep
77 banks up above there was concern about stability without having to go outside the Right of Way. The
78 ideal situation would be to cut the banks back into the properties because they were steep. The best
79 grade they could do was 17%.

80 Mr. Marquise said that the Board has received a letter from the Highway Director, Scott Hazelton. Mr.
81 Marquise summarized the four points for the Board which are: everything must be compliance with
82 NHDOT standards; once the project is completed, the disturbed areas of the Town's Right of Way will be
83 restored to its original condition; a drainage easement must be obtained from Ronald Wyman or any
84 other privately owned property that will be affected; there will be no negative impacts on the Town's
85 drainage system. Other than these notes, Mr. Hazelton was in favor of the project. Mr. Marquise
86 recommended that if they do approve the application that a maintenance agreement be in place before
87 the Board signs the Mylar.

88 Chairman White said that it seems like a thorough and complete drainage plan. Chairman White asked
89 if Mr. Pollari obtains a building permit for the lot, how they will guarantee the Plan will be followed. Mr.
90 Landry said that the building permit would read that it would be as per the Plan submitted to the
91 Planning Board and he has to submit a copy of the signed Plan with the Building Permit. Mr. Pollari said
92 that the shape of the house may change but the drainage would remain the same.

93 Chairman White asked if any of the abutters had any comments or questions.

94 Heather Melson of 63 Maple St said that she will defer to Charlie Hirshberg as the expert and he says
95 that her house will not be underwater. She appreciates all the effort Mr. Pollari has put in to this.

96 Bob Lester of 49 Maple St said that he has spoken with Mr. Pollari and everything seems OK.

97 Mr. Pollari asked if the Town will draft the drainage easement. Mr. Marquise said that he believes Mr.
98 Pollari will have to get an attorney to do it and then get it signed by the neighbor.

99 Mrs. Larrow said that she was reading the minutes regarding what the Board was asking for and just
100 wanted to make sure that everything has been completed. They asked for the new house on Lot 2 to be
101 on the Plan, where the Class VI road starts on Beech St, and the state septic approval. The Board agreed
102 that everything looks to be in order.

103 Chairman White closed the public input part of the meeting.

104 Chairman White asked about the conditions that should be on the motion. Mr. Marquise said that there
105 should be a maintenance agreement presented before signing the Mylar. Chairman White asked if the
106 concerns that Mr. Hazelton are part of the application. Mr. Marquise said that he assumes that Mr.
107 Hazelton will want to see what is happening on a Town road and he will have the leverage directly to
108 force any corrections while it is being constructed.

109 There was a brief discussion regarding putting a time limit on the approval.

110 Kurt Markarian made a motion to accept the merits as presented in the continued minor subdivision for
111 Parcel ID: 0133-0107-0000 as the applicant has provided all the requirements that were asked of him
112 from the last meeting; the condition of approval will be with the maintenance agreement as required by
113 the Road Agent; also that the drainage plan as presented tonight be added should be a house be built on
114 Lot 3. Shane Hastings seconded the motion. The motion passed unanimously.

115 **PARCEL ID: 0207-0014-0000: SUBDIVISION / ANNEXATION; SUBDIVIDE 3.54 ACRES FROM 14.58 ACRE**
116 **LOT AND ANNEX TO PARCEL 0207-0011-0000. NANCY KELL, 749 NORTH RD.**

117 Mr. Marquise said that the application was filed in advance, fees were paid, abutters were notified, and
118 notices were posted. The application falls under Section 6.05 of the Subdivision Regulations and Mr.
119 Marquise said that he believes all the requirements have been met. As a Minor Subdivision there are
120 allowances for waivers under 6.05-b which includes: existing and proposed contours; existing and
121 proposed utility lines; plans for storm water drainage; and water supply facilities. Mr. Marquise said
122 that he believes all these waivers would be allowable and with those the application is complete.

123 Mrs. Brown asked as the road is a private road as opposed to a Right of Way if it is owned by the parcel.
124 Nancy Kell explained that it is owned by the parcel and the abutting land owners have a right to use it.
125 Mrs. Brown asked and Ms. Kell confirmed that it is in the deeds.

126 Tanner Royce made a motion to accept the application as complete on Parcel ID: 0207-0014-0000,
127 subdivision / annexation on the property owned by Nancy Kell on North Rd with the waivers for the
128 existing and proposed contours, storm water drainage, water supply, and utility lines. Kurt Markarian
129 seconded the motion. The motion passed unanimously.

130 Ms. Kell and Patrick Dombroski presented the merits of the case. Ms. Kell explained that she would like
131 to subdivide off 3.54 acres which she will be keeping in order to sell the remaining 11.04 acres.

132 Mr. White asked about the access to the lot and if it is from a right of way or a private road. Ms. Kell
133 explained that the access is from North Rd which is a Town maintained road. Mr. Dombroski explained
134 that the 3.54 acres will be merged to the abutting lot, Parcel ID: 0207-0011-0000.

135 Chairman White asked if there were any other questions from the Board or any abutters.

136 An abutter said that she was in favor of the subdivision / annexation.

137 Donna Davis Larrow made a motion to approve the subdivision / annexation of Parcel ID: 0207-0014-
138 0000 and the annexation to parcel 0207-0011-0000, Nancy Kell, 749 North Rd. Tanner Royce seconded
139 the motion. The motion passed unanimously.

140 **PARCEL ID: 0207-0011-0000: SUBDIVISION / ANNEXATION; SUBDIVIDE PARCEL 0207-0011-0000 INTO**
141 **THREE (3) LOTS – 15.03 ACRES, 7.71 ACRES, AND 41.58 ACRES AFTER ANNEXATION. NANCY KELL, 749**
142 **NORTH RD.**

143 Mr. Marquise said that the application was filed in advance, fees were paid, abutters were notified, and
144 notices were posted. The application falls under Section 6.05 of the Subdivision Regulations and it is still

145 considered to be a minor subdivision, as with the previous hearing and this hearing, there are no more
146 than three new lots being created. The waivers that are allowable under Minor Subdivision Regulations
147 6.05-b are: the contours; existing and proposed utility lines; storm water drainage; and water supply
148 facilities. One item that is not on the Plan is building setback lines and Mr. Marquise feels that this
149 would be appropriate for the smaller lot that will be created. The well site and septic area are on the
150 Plan but he thinks that building setback lines are needed though he thinks the application can be
151 accepted as complete. Mr. Dombroski said that he has revised Plans showing the setback lines. Mr.
152 Marquise asked and Ms. Kell presented a signed and notarized letter from the Culloty's saying that she
153 can represent them and that they are in favor of the application.

154 Kurt Markarian made a motion to accept the completeness of the application for the subdivision and
155 annexation for Parcel ID: 0207-0011-0000 with the waivers of the existing and proposed contours,
156 existing and proposed utilities, the storm water drainage, and water supply. Shane Hastings seconded
157 the motion.

158 Ms. Kell and Mr. Dombroski presented the merits of the case. Ms. Kell explained that she will be
159 subdividing 26.38 acres, which is at the top of the lot, and selling and annexing it to the Culloty's
160 property and that lot will become 41.58 acres. She will then be subdividing a lot off for where she will
161 build a new house. The remaining lot, including the water frontage, will remain in current use. The lot
162 where her new house will be going and where her current house is located will be 7.71 acres and will be
163 on both sides of North Rd. The remaining land, with the annexation that was just approved, will be
164 15.03 acres.

165 Mr. Dombroski said that subdivision approval is pending from the State of New Hampshire.

166 Ms. Brown asked about what looks like a Right of Way on the Plan and Ms. Kell and Mr. Dombroski
167 confirmed that it is access to Ms. Kell's waterfront.

168 Chairman White asked if there were any abutters present with questions or comments.

169 Kate Bakon spoke on behalf of her mother, Clare Bakon, who is an abutter below this project. Ms.
170 Bakon said that Ms. Kell has been a wonderful steward for the land but wanted to know if the remaining
171 15.03 acres would be able to be subdivided in the future as there are two sections of water frontage.
172 Ms. Kell explained that in order to subdivide water frontage, 200' of shoreline is needed per lot and she
173 does not have enough for that to happen. However, some could be annexed onto an abutter but it
174 could not be divided into two new lots. Mr. Marquise clarified that non-waterfront lots could be
175 subdivided out of this lot so if one parcel kept the waterfront, there could be other non-waterfront lots
176 subdivided out.

177 Karen Timbrell, an abutter of Parcel ID: 0207-0014-0000, asked if the lot could be subdivided with the
178 current road frontage. Mr. Landry said that they do not have the road frontage to subdivide. Mr.
179 Marquise said that they could build a road. Mr. Marquise confirmed that you cannot create a lot with a
180 waterfront easement or access.

181 Mrs. Timbrell asked if the subdivision can occur with the lot being annexed to the Culloty's lot or if the
182 annexation should be done separately. Ms. Kell said that the letter she has from the Culloty's says that
183 they are in favor of the annexation.

184 A question was asked about the easements and if they would be affected as they will now be going
185 through two lots. Ms. Kell said that the easements are deeded and will not change. It was asked if they
186 are allowed to improve the easement and Chairman White said that they will continue to have the same
187 rights they currently have so if they had that right today they will have it moving forward. It was
188 explained that the deed does not say that they can make added improvements so it is something that
189 will have to be worked out amongst the different parties. Mrs. Brown asked if the properties along the
190 Pond are summer cottages. Ms. Kell said that they are not currently winterized and the road would
191 have to be plowed in order for the cottages to be accessed. There was further discussion regarding the
192 road.

193 Chairman White closed the public input part of the meeting.

194 Mr. Royce asked if the existence of the other house affects Ms. Kell building on what will be the same
195 lot. Mr. Marquise said that it does not because the density is one building for every three acres in that
196 Zone so there is enough acreage.

197 Donna Davis Larrow made a motion to approve the subdivision / annexation for Parcel ID: 0207-0011-
198 0000, into three lots, owned by Nancy Kell, 749 North Rd pending the subdivision approval by the State.
199 Kurt Markarian seconded the motion. The motion passed unanimously.

200 **PARCEL ID: 0131-0025-0000: REVIEW STATUTE AND MAKE RECOMMENDATIONS TO ALLOW**
201 **CONSTRUCTION OF A RESIDENCE ON A PRIVATE ROW IN ACCORDANCE WITH RSA 674:41-1(D).**
202 **DEBBIE SAMALIS, 70 WEST COURT RD.**

203 Ms. Samalis said that she has some questions for the Board as she is a little confused. When she was
204 going to purchase the property she met with Roger Landry, the Zoning Administrator, and asked if there
205 was anything she needed to be aware of in terms of building on the property. Ms. Samalis said that she
206 was told that there were no problems and the only thing she would need in order to get a building
207 permit was an approved septic plan. She received a building permit to build a shed and then inquired
208 about getting a street address for the property. She then then received a letter from the Town that she
209 could not get a street address until she upgraded the road to a Class V road. Ms. Samalis continued that
210 she does not feel that it is a road; it is an extension of the driveway that is cut into West Court Rd. She
211 does not understand why she would need to upgrade it to a Class V road. Also, with the previous
212 hearing the subdivision was approved yet there was talk about how the road is small. She is confused as
213 to why that road not required to be upgraded on her subdivision approval and she is being required to
214 make it a Class V road. Ms. Samalis continued that she was assigned a street address per Mr. Landry.
215 Also, RSA 674 is the State Statute on subdivisions though she did not subdivide. Ms. Samalis read the
216 first paragraph of RSA 674:41-1(d) and is further confused as to why she was granted a building permit.

217 Mr. Landry said that the project that Ms. Kell did was on a Class V road and Ms. Samalis' property is not
218 on a Class V road. There is driveway access is but there is no frontage on a Class V road.

219 Mr. Landry said that in regards to her address, the Town's attorney, Jae Whitelaw, originally said that he
220 could not give a 911 address on that particular property because there is no frontage on a Town road.
221 After further review, Attorney Whitelaw told Mr. Landry that there are two other properties, 66 West
222 Court and 68 West Court, have already set a precedent for this lot to be numbered. Mr. Landry

223 continued that Attorney Whitelaw said that, because this lot is accessed by an old logging road, the only
224 building she could put up would be a shed or storage building. However, the Town's Zoning Regulations
225 are clear that in order to build a house in that District, which is Rural Residential, Ms. Samalis would
226 need at least 100' of road frontage being on a Class V or better road. As she does not have this, RSA
227 674:41 explains that the Planning Board can allow Ms. Samalis to go before the Selectmen and request
228 that they sign off a waiver which dismisses the Town from any responsibility should anything happen on
229 her property as far as loss of life or loss of property.

230 Chairman White asked and Mr. Landry confirmed that Ms. Samalis received a building permit for a shed,
231 not for a house. Ms. Samalis said that the RSA says that no building shall be erected and no building
232 permit shall be issued. Chairman White said that it sounds as though Ms. Samalis received a building
233 permit based upon her application for a shed and then she wanted to build a house or something more
234 than a shed there. Ms. Samalis confirmed she originally received a permit for a shed and then will
235 eventually want to build a house on the lot.

236 Mr. Landry said that the Town is not saying that Ms. Samalis cannot build a house on the lot but that she
237 has to follow procedure. Chairman White said that he understands why this regulation is in place
238 because if someone chooses to build a house on a Class VI road and suddenly the house catches on fire
239 and the fire department can't get there because it is not maintained there are people in the past who
240 wanted to sue the Town. It is a safety issue and if emergency personnel cannot get up a Class VI road to
241 a house where someone needs their assistance people look at it as the Town's fault which is why a
242 waiver is needed that says that Ms. Samalis is taking responsibility for this.

243 Mr. Landry said that the NH Electric Coop called him because the Right of Way does not mention any
244 ingress or egress for utility purposes and Mr. Landry said that they would have to discuss with Ms.
245 Samalis whether whoever owns the Right of Way will allow her to run utility poles to the house. Ms.
246 Samalis said that the power line is on her property and they will run a line off of that.

247 Ms. Samalis said that she does not want to devalue her property by signing a waiver that has to be
248 passed on with her property. She had spoken with Mr. Landry regarding this access, which she refers to
249 as an extension of the driveway as the property sits approximately 200' to 300' from West Court to the
250 point her property meets the logging road, and was told she would have to upgrade this to a Class V
251 road. From that point to where she wants to build is another 900' which is in essence driveway. Ms.
252 Samalis asked what would happen for the last 900' if she could make the logging road a Class V road and
253 then emergency personnel could not make it up the driveway. Mr. Landry said that if the driveway is
254 not maintained then that is the owner's problem. Ms. Samalis asked Mr. Landry what the difference is
255 and why she would have to sign a waiver to say the Town is not liable if it would be the same if she does
256 not maintain her driveway.

257 Ms. Samalis said that she does not have the option of making the logging road a Class V road due to
258 issues with her neighbor's property. She also does not have deeded rights to make it a Class V road. Mr.
259 Landry explained to Ms. Samalis that the reason she is before the Board is to ask them to overrule the
260 requirement of needing a Class V road and to allow her to go to the Selectmen. Ms. Samalis said that
261 she does not want to depreciate the value of her property by signing the waiver. Chairman White asked
262 if Ms. Samalis is before the Board to reject signing the waiver. Ms. Samalis said that she was hoping
263 that, given that she already received a building permit, that the Board would determine that she does

264 not need a waiver. Chairman White asked what the harm would be in signing the waiver and Ms.
265 Samalis explained that depreciation of the value of the property is her concern. Chairman White said
266 that the waiver is between Ms. Samalis and the Selectmen and what they are looking for are comments
267 from the Planning Board to either accept it as is or not. Chairman White said that the Selectmen are not
268 in a position to tell Ms. Samalis that she does not have to sign the waiver and no matter what happens
269 Ms. Samalis will have to sign a waiver. Ms. Samalis said that she does not know why she has to sign a
270 waiver based on the reasons she stated previously. Mr. Marquise said that it seems as though the only
271 thing the Planning Board can do in this case is say that it is OK or not OK and tell the Board of Selectmen
272 their decision. Mr. Marquise continued that RSA 674:41 pertains to any erection of a building and not
273 just for subdivisions.

274 Ms. Samalis asked if you can sell a lot or have a lot that is not buildable. Chairman White said that it is
275 done frequently. Ms. Samalis asked if it is landlocked property that you can't have in New Hampshire.
276 Mr. Landry said that Ms. Samlis' land is not landlocked because she has a Right of Way. Mr. Markarian
277 said that banks will also not issue mortgages for properties on Class VI roads.

278 There was a question from the audience asking if there is a reference as to how many houses are on
279 Class VI roads in Town. Chairman White said that he does not know the answer to this question. Mr.
280 Marquise said that in approximately 20 years he believes the Board has gone through this process
281 maybe 4 to 5 times. Ms. Samalis asked if this is still considered a road even though it is a private Right of
282 Way. Mr. Marquise explained that even though it is not a Class VI road it is a private road and the rule
283 applies to both. Mr. Marquise continued that Ms. Samalis does not have Class V road frontage which is
284 what is required by the law. This is because there is an assumption in the law that if the Town gives a
285 permit they are also going to provide emergency services.

286 Ms. Samalis asked if she does keep her road maintained and her house catches on fire if she signs the
287 waiver will the Town not go to the property. Mr. Marquise said that the waiver absolves the Town of
288 liability but he does not believe that it means they would not attempt to go to the property. Mr. Landry
289 said that in most cases the homeowner or developer is able to upgrade to a Class V road. There are
290 some cases where the owner was not able to do this and they have signed off on a waiver. Mr. Landry
291 said that Ms. Samalis can't make it a Class V road due to extenuating circumstances. Mr. Hastings said
292 that the waiver is to ensure that the road is maintained so the Town services can get there and also that
293 the Town is not responsible for maintaining it. There was further discussion regarding this issue.

294 Chairman White asked if there were any other questions from the Board or any abutters. There were no
295 further questions from the Board and no abutters present.

296 Tanner Royce made a motion to recommend that the Selectboard review and accept a waiver to allow
297 construction of a residence on a private Right of Way on Parcel ID: 0131-0025-0000, the property at 70
298 West Court Rd. Kurt Markarian seconded the motion. The motion passed unanimously.

299 **PARCEL ID: 0133-0026-0000: SITE PLAN REVIEW; DEMO AND REBUILD EXISTING STRUCTURE AND SITE**
300 **TO ACCOMMODATE MOVING "WILDWOOD SMOKEHOUSE" AND "KITCHEN AND BATH DESIGN**
301 **STUDIO" FROM 45 MAIN ST TO 5 GARNET ST. DEBBIE SAMALIS REPRESENTING RONALD AND**
302 **BARBARA SULLIVAN REVOCABLE TRUSTS.**

303 Mr. Marquise said that the application was filed in advance, fees were paid, notices were posted, and
304 abutters were notified. The application falls under Article V of the Site Plan Review Regulations. Mr.
305 Marquise asked and Ms. Samalis confirmed that the 8.5" x 11" drawings are all she has. Mr. Marquise
306 recommended the Board review the application to determine completeness as there are numerous
307 items missing under Article V. Ms. Samalis said that she brought a packet of information to Mr. Landry
308 and he nixed the things he did not feel were needed. The Board took time to look over the application
309 and drawings submitted.

310 Mrs. Brown asked about parking as usually there is a provision for parking for customers. Chairman
311 White said that he suspects the parking for this particular property is right on Garnet St and includes
312 Harbor parking. He does not know if this property has any lots that are allotted to it specifically. Ms.
313 Samalis said that the deed does allow for two covered parking spaces and there are a few other
314 stipulations such as for the roof and height.

315 Mr. Landry said that there is an existing building on the site so it is not a new development. Ms. Samalis
316 said that the new building will be in the exact same footprint and will be the exact same elevation,
317 basically she wants to make it year round and she wants to put in a slab. The only difference may be
318 doors or windows. Chairman White said that a problem they run into is with a building like this that has
319 been there forever is that since it was built there have been new regulations and new things happening.
320 Usually these properties are not conforming and when a building like this comes before the Board they
321 can have it on record as to where everything will located such as parking and drainage. It allows the
322 Town to address some issues that may not be working at the site. Chairman White continued that he is
323 not saying that they would need all of the requirements met but at least some of the important ones
324 and to do this information is needed. Ms. Samalis said that she is not changing anything such as grades.
325 Chairman White said that the Use is changing substantially which means that the parking requirements
326 are a lot more than what is needed now. There was further discussion regarding this matter.

327 Ms. Samalis expressed concerns as she has a purchase and sales agreement and wants to be able to
328 move forward in order to rebuild and be open for spring. Chairman White said that there is a process
329 the Board has to follow though he understands her concerns.

330 Mr. Landry said that the project will require Shoreland approval as it is within 250' of the water. Mrs.
331 Brown asked if the Shoreland will grandfather a new structure the same as it currently exists as well as
332 the new patio which is impervious. Ms. Samalis said that the patio is not a new structure. Mr. Landry
333 said that the patio would be considered impervious lot coverage which is limited to 30%. Mr. Landry
334 said that the building alone puts the property over 30% of impervious lot coverage. Mr. Landry said that
335 he does not know if the State will grant a waiver to go over the 30%.

336 Mr. Landry said that there are 6 to 7 parallel parking spaces directly in front of the property but he is not
337 sure if it is part of the parking for the property.

338 There was a discussion regarding whether this property has ever gone through Site Plan Review and
339 neither Mr. Marquise nor Mr. Landry believes that it has. Mr. Marquise said that if it were just replacing
340 the same building it may be different but they are proposing adding a patio and the slope there will
341 need quite a bit of grading. Ms. Samalis said that the area the patio would go is flat. Mr. Marquise
342 asked if any excavating would be needed to put in the patio. Ms. Samalis said that where the patio

343 would be is almost flush with the bottom of the building. It was explained that they would dig out about
344 four feet back and then put stone in and fill it in and put the patio over the top.

345 Ms. Samalis said that she did a parking study when she went into her current location and there has
346 never been an issue with parking. Ms. Samalis continued that on the 4th of July there were 4,000 people
347 in the Harbor and they all found a place to park. Chairman White said that many people parked in
348 places they were not supposed to that night but he understands that Ms. Samalis is saying. There was
349 further discussion regarding this issue. Chairman White said that the parking is an issue to discuss
350 during the merits of the case.

351 Bo Quackenbos said that the current property is functionally obsolete and is currently vacant and is not
352 really rentable. Mr. Quackenbos said that as past President of the Sunapee Harbor Riverway he feels as
353 though getting a year round restaurant into the Harbor is fantastic. Mr. Quackenbos spoke about this
354 further and about Ms. Samalis' purchase and sales agreement and asked the Board to be lenient with
355 Ms. Samalis. Chairman White said that he appreciates all that Mr. Quackenbos had to say and that the
356 Board is not trying to stop businesses in the Harbor but they have to ensure that what someone plans
357 on doing follows the Rules and Regulations of the Town. Chairman White said that he feels that the
358 Board asks for information so that they all know what the plans are for the property. If it is not written
359 down, the Board has learned in the past that it can become a problem quickly. Ms. Samalis said she is
360 not sure what the Board is looking for in order to move forward.

361 Mr. Marquise said that he thinks a larger sized scaled Site Plan is needed. There is no baseline for this
362 property and they don't know where the boundaries are or anything else. Also, there are other
363 elements that need to be discussed including the patio, the smoker, etc. This would all need to be
364 shown on a 1:20 scale Plan with boundaries and contours to show how the land will be graded. Ms.
365 Samalis said that it is quite an expense not knowing if she will be approved or not. Mr. Marquise said
366 that he understands but he does not know of any case, especially for new buildings, that does not go
367 through this process. Ms. Samalis said that she is not changing the building and is therefore confused;
368 to go through that expense, when it is already existing, does not make sense to her.

369 Sue Mills, manager of the Sunapee Harbor Riverway, said that she and the Riverway support Ms.
370 Samalis. However, she understands where the Board is coming from and she thinks that the
371 Department of Environmental Services will probably ask for these same things because of the Shoreland
372 Protection Act. Ms. Samalis said that she thinks that if she got approval from the Town, her project
373 would presumably work with the Shoreland Protection Acts as they are within their guidelines.
374 Whatever DES would require she would be more willing to spend the money for if she had approval
375 from the Town. Chairman White said that it is not that the Board is not willing to work with people but
376 they need to have something to work with.

377 Mr. Royce said that if the Board moved forward and accepted the application as complete and moved to
378 the merits that their vote would be subject to a Plan that includes all of these items anyway so they will
379 not get to the approval today.

380 Ms. Samalis asked if the Board is looking for grades, elevations, and a building that is existing. Mr. Royce
381 agreed that these are the things that the Board needs to see on the Plan. Mrs. Larrow said that if a patio
382 is being added, that needs to be shown as well as it counts towards lot coverage which the Board has to

383 calculate. Ms. Samalis said that she gave the dimensions and is confused as to why she needs more.
384 Mrs. Larrow said that the patio does not exist and Ms. Samalis is arguing that she is replacing the
385 building and staying the same which is not 100% correct because she is adding the patio and covering
386 the lot further. Ms. Samalis said that she was told by Mr. Landry that a patio is not a structure. Mr.
387 Landry said that a patio is a structure and when Ms. Samalis first spoke to him it was not considered one
388 but since then he has received a new interpretation from the Town's attorney and it is a structure per
389 the Town's definition. There was a brief discussion regarding this issue. Mr. Royce said that in regards
390 to the Planning Board there is no difference if it is a structure or not because it is about lot coverage and
391 the Plan has to show how the lot is being used.

392 Ms. Samalis voiced her frustration over not having a complete application when she believed she had
393 everything she needed to have.

394 Mr. Landry said that if the Board approved a Site Plan Review for the building as it is now proving the
395 parking is available, Ms. Samalis could do interior renovations and insulate it, etc., not including a patio,
396 and then come in in the future and get a building permit to replace the building in kind.

397 Mr. Markarian asked and Chairman White agreed that if the building was being replaced in kind, and if
398 the patio didn't exist in the Site Plan Review, it makes the Board's job easier. Mr. Markarian asked if Ms.
399 Samalis would consider removing the patio so that she can move forward with what she wants to do
400 with the building, and then come back later on with more details regarding the patio, including
401 contours, grade disturbance, etc. Mr. Marquise said that a lot could be waived if they were just dealing
402 with the building itself but the question would be if Ms. Samalis could live with just the building or does
403 she need the patio. Ms. Samalis explained that the patio is important to her and why. Ms. Samalis
404 asked about lot coverage and the Board explained that she would have to do some kind of pervious
405 patio that will still require a Shoreland Permit and engineering. Mr. Marquise and Mr. Landry confirmed
406 that there are limits regarding pervious and impervious coverage. Mr. Quackenbos asked if Ms. Samalis
407 could put parking spots in that space and Chairman White said that he does not believe she could pave
408 or gravel the area. Chairman White explained the reason that the patio is an issue for the Board. There
409 was further discussion regarding this matter.

410 Ms. Samalis asked how she can proceed and Chairman White explained that her current application
411 does not give the Board enough information. Ms. Samalis asked what she would need so she doesn't
412 come back and get told she needs something else. Mrs. Brown said that she would like to see the
413 location of the smoker on the Plan. Ms. Samalis thought that this and the dumpsters would be
414 something that could be discussed at the meeting. Chairman White said that, in regards to the patio, he
415 would like to see a survey or engineered Plan with some details to show where it will be, how high a
416 retaining wall might be, etc. Mr. Marquise said that there are basics in Article V are needed and some
417 may be able to be discussed verbally, for instance a plan for toxic waste storage that may not be
418 applicable. Mr. Marquise continued that the big issues to him are: having a 1:20 scale Plan; some
419 contours or spot elevations to show any grade changes, if any; the parking; and the location of any
420 outside amenities, including the proposed locations of the smoker and dumpsters and signage; and the
421 landscaping and lighting; etc. The basics of Article V need to be covered. Chairman White and Mr.
422 Marquise suggested going through the checklist and give thought to each item as some things may not
423 be applicable and some may be easily answered. Chairman White explained that the Board usually tells

424 people to think of things that the applicant may want to do, even if they don't do it then it is at least on
425 the Site Plan and they are able to if they chose. Applicants are encouraged to show as much information
426 about what they want to do so they don't have to keep coming before the Board.

427 Ms. Samalis asked about any other concerns and the Board explained that lot coverage is a big concern.
428 Mr. Marquise explained what impervious and pervious means as well as the maximums for lot coverage
429 for the Town.

430 Mr. Landry suggested that while Ms. Samalis is putting this information together that she works in
431 parallel with the State DES because the State may have different requirements. Chairman White
432 cautioned that the State will be even more restrictive than the Town when it comes to lot coverage.
433 There was further discussion regarding this issue and changing the building location and adding a roof
434 deck or doing a grass area instead of stone or concrete and using a fence or landscaping as a barrier.
435 Mr. Landry said that he tells anyone that wants to do something within 250' of the Shoreline to speak
436 with the State.

437 Ms. Samalis asked if spot elevation is enough and Mr. Marquise cautioned that if the lot is not flat that
438 the Board will want to have the contours.

439 Mr. Marquise explained that the Board has not accepted the application as complete which means that
440 the clock has not started but he thinks the hearing needs to be continued so it doesn't have to be re-
441 noticed. Mr. Marquise explained to Ms. Samalis that the Board will be meeting again in two weeks and
442 asked if she would like to go to that meeting as opposed to waiting a month. Ms. Samalis said that she
443 feels as though she could get started with DES and get what she needs for the next meeting in two
444 weeks. There were further discussions regarding this issue.

445 Mr. Marquise asked the Board members if there will be four members present and it seemed as though
446 there will.

447 The meeting adjourned at 10:04 pm.

448 Respectfully submitted,

449 Melissa Pollari

450 _____

451 Peter White, Chairman

452 _____

453 Erin Andersen

454 _____

455 Tanner Royce

456 _____

457 Shane Hastings, ex-officio member

Robert Stanley, Vice-Chairman

Donna Davis Larrow

Kurt Markarian

Charlotte Brown, alternate member