

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **NOVEMBER 21, 2013**

4 **PRESENT:** Peter White, Chair; Donna Davis Larrow; Kurt Markarian; Tanner Royce; Charlotte Brown,
5 alternate; Michael Marquise, Planner

6 **ABSENT:** Robert Stanley, Vice-Chair; Erin Andersen; Shane Hastings, ex-officio member

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

8 Chairman White asked Charlotte Brown to stand in for Robert Stanley.

9 **PARCEL ID: 0126-0024-0000: CONCEPTUAL REVIEW: CHANGE ROW (RIGHT OF WAY) FROM 50' TO 30'**
10 **WIDTH. MICHAEL & JANET JESANIS, 8 OLD NORCROSS.**

11 Chairman White recused himself from the hearing. As Vice-Chair Stanley is not present, Donna Davis
12 Larrow stood in as Chair.

13 Michael Jesanis presented the case. Mr. Jesanis explained that his property and the property to the East
14 of him, owned by the McLoughlins, used to be one parcel and was subdivided years ago. The properties
15 both have access to Garnet Hill Rd via a Right of Way that also goes across the Griffith property that is to
16 the west of his property. The Right of Way also goes across his property to give access to the
17 McLoughlin property.

18 Mr. Jesanis explained that the Right of Way is titled as a 50' Right of Way, and is actually as wide as 65'
19 in some places. Mr. Jesanis continued that he has spoken with his neighbors and they have agreed that
20 they do not need a 50' Right of Way, therefore, he is proposing shrinking the Right of Way to a 30' Right
21 of Way.

22 Mr. Marquise said that he has spoken with Mr. Landry and they have some concerns regarding this
23 proposal. Mr. Marquise said that Mr. Landry indicated that the Right of Way is for three different lots.
24 Mr. Jesanis said that the section of the Right of Way that they are discussion is used by one lot, the
25 McLoughlin's. The portion of the Right of Way that is on the Griffith property is utilized by his lot as well
26 as the McLoughlin's. Mr. Marquise asked if the property owned by the Fitts Family Revocable Trust has
27 rights to use the Right of Way and Mr. Jesanis said that they do not.

28 Mr. Marquise said that the lot owned by the McLoughlin's own is land-locked except for this Right of
29 Way. At the time of the subdivision, there was either no Zoning or they did not look at road frontage;
30 however, in order to alter the Right of Way it will now have to be considered a permanently private road
31 and the property will have to have frontage on the road. Mr. Jesanis asked if the 50' of frontage on
32 Garnet Hill Rd with the Griffith Right of Way would matter. Mr. Marquise said that it could help their
33 case but the McLoughlin lot line would still only have 30' of frontage. Mr. Marquise said that the Zoning
34 Board could waive the requirement but he is not sure what they would decide.

35 Mr. Marquise said that the 50' Right of Way is usually for the drainage and ditches along the road and
36 with making the Right of Way smaller it makes this harder, for instance with snow removal. Providing
37 enough room for maintenance is a concern. There was further discussion regarding this matter.

38 Mrs. Brown said that this Right of Way sounds like a road. Mr. Jesanis said that it is a bluestone covered
39 driveway and explained that they are trying to save some of the trees and if they turned the Right of
40 Way into a 30' Right of Way no future owner could remove the trees.

41 Mr. Marquise asked if this lot has any road frontage. Mr. Jesanis explained that their only frontage is
42 from the Right of Way on the Griffith's lot.

43 Mr. Jesanis asked what his next steps will be and Mr. Marquise explained that this is an amendment to a
44 subdivision so he will require a formal Planning Board hearing. The Zoning Board will need to determine
45 if a Variance is needed for the McLoughlin's property as well as his property and Mr. Jesanis should talk
46 to Mr. Landry about this issue. There was further discussion regarding this issue.

47 Mr. Royce said that he feels as though the proposal would be acceptable as long as the driveway was
48 centered in the Right of Way to allow for drainage and to be able to maintain the road. Mrs. Larrow said
49 that she would like the snow removal and the drainage and maintenance to be marked on the Plan.

50 **REVIEW ZONING REGULATION AMENDMENTS PROPOSED FOR 2014**

51 Chairman White said that this is the first Public Hearing for the proposed amendments. Mr. Marquise
52 explained that the procedure is to discuss the Amendments, allow for public input, and then the Board
53 votes on whether to have them go on the ballot.

54 Amendment #1: Amend Article II, Section 2.30 – District Purpose and Description – Village-Residential
55 District (Sunapee Village) by changing various course descriptions to more accurately reflect the current
56 Zoning Map.

57 Mr. Marquise explained that this change was picked up by the mappers and the reason for the change
58 which is to fix the lines of the Village Residential District.

59 Kurt Markarian made a motion on Amendment #1 to recommend it to go to vote at Town Meeting.
60 Donna Davis Larrow seconded the motion. The motion passed unanimously.

61 Amendment #2: Amend Article III, Section 3.10 – Table of Dimensional Controls – by adding a new
62 requirement that any structure located within the side and rear setback reduction automatically granted
63 to lots below minimum lot size, may only be 25' in height in the area within the allowable setback
64 reduction.

65 Mr. Marquise explained that he determined that a note at the bottom of the table is the best way to
66 indicate this requirement as the setbacks stay the same, but the maximum heights in those setbacks are
67 now 25'. There was further discussion about this Amendment.

68 Kurt Markarian made a motion to accept Amendment #2 to be presented at Town Meeting for vote.
69 Donna Davis Larrow seconded the motion. The motion passed unanimously.

70 Amendment #3: Amend Article III, Section 3.40 (g) – Additional Requirements – by repealing this section
71 which currently allows certain decks and walkways within the 50’ shoreline setback.

72 Mr. Marquise explained that the Zoning Board members feel as though this regulation allows people to
73 extend decks and then go higher on the decks. It will now make these decks and walkways have to be
74 approved with a Variance.

75 Charlotte Brown made a motion to approve Amendment #3 and send it to voters. Tanner Royce
76 seconded the motion. The motion passed unanimously.

77 Amendment #4 – Amend Article III, Section 3.50(i) – Special Exceptions – by changing the reference
78 point for allowable increases in building height per this special exception from “story” to fixed numerical
79 distances from the ground surface.

80 Mrs. Larrow said that it should read “The ZBA may allow a pre-existing...”

81 Chairman White explained that there was uncertainty about what defines a story and this will help clear
82 up the confusion.

83 There was a discussion regarding this Amendment and how it applies to non-conforming and
84 conforming structures.

85 Kurt Markarian made a motion to recommend Amendment #4 to go to Town Meeting to vote. Donna
86 Davis Larrow seconded the motion. The motion passed unanimously.

87 Amendment #5 – Amend Article IV, Section 4.33(b)(vii) – Shoreline-Specific Provisions – by removing the
88 requirement that the Planning Board review any changes of grade of 12 inches or more within 50’ of a
89 shoreline.

90 Mrs. Brown pointed out that in the heading of Amendment #5 the word “Shorelines” is misspelled.

91 Chairman White explained that these cases would come before the Board and they could not do
92 anything about them. Mr. Marquise said that there are neither guidelines nor control from the Board so
93 it is pointless for these cases to come before them.

94 Donna Davis Larrow made a motion to recommend this to go to vote. Kurt Markarian seconded the
95 motion. The motion passed unanimously.

96 Amendment #6 – Amend Article VI, Section 6.12 – Non-Conforming Structures – Restoration and
97 Reconstruction by adding wording which will make it clear that any horizontal or vertical change to a
98 non-conforming structure will require a variance or special exception by the Zoning Board of
99 Adjustment.

100 There was a brief discussion regarding this Amendment.

101 Mr. Jesanis pointed out that the word “exiting” should be changed to “existing”.

102 Charlotte Brown made a motion to add Amendment #6 to the Warrant to go to the Town for voting.
103 Tanner Royce seconded the motion. The motion passed unanimously.

104 Amendment #7 – Amend Article VI, Section 6.32 – Grandfather Policy – by adding the full wording of the
105 Board of Selectmen’s Grandfather Right’s Policy.

106 Mr. Marquise gave a brief reasoning for this Amendment which is that the Town’s attorney wants it
107 added because it is referred to in the Ordinances.

108 Mrs. Brown said that a line does not sound right. Mr. Marquise looked it up and the first sentence of
109 1(a) should read: Structures that have been removed may be rebuilt, provided that within two years of
110 removal, a building permit has is applied for and approved.

111 Tanner Royce made a motion to recommend Amendment #7 to go to the Town for a vote. Kurt
112 Markarian seconded the motion. The motion passed unanimously.

113 Amendment #8 – Amend Article VII, Section 7.10 – Conversion Requirements – by requiring that any
114 increase in water or sewer flow will require approval of New Hampshire Department of Environmental
115 Services Water Division rather than the automatic installation of a new water or septic system.

116 Mr. Marquise explained that this Amendment helps the Town better align with the State.

117 Charlotte Brown made a motion to send Amendment #8 to the Warrant for approval by the Town. Kurt
118 Markarian seconded the motion. The motion passed unanimously.

119 Amendment #9 – Amend Article VIII, Section 8.21 – Certificate of Zoning Compliance – Permit – by
120 adding Site Plan Review Approvals to the list of items requiring Certificates of Zoning Compliance.

121 Mr. Marquise explained that this Amendment was something that Mr. Landry felt was necessary as
122 there may be a Site Plan for something that would not trigger the other items that need a Certificate of
123 Zoning Compliance.

124 Tanner Royce made a motion to recommend Amendment #9 to the voters. Donna Davis Larrow
125 seconded the motion. The motion passed unanimously.

126 Amendment #10 – Amend Article X, Section 10.40 – Conditions To Be Met – by adding a subsection
127 which would define Equitable Waivers as provided in State Statutes.

128 Mr. Marquise explained that this was requested by the Town’s attorney. Mr. Marquise gave an example
129 of equitable waivers such as when someone gets a waiver to build within 8’ of the setback and a
130 subsequent survey shows that it is really within 5’ of the setback. The person is then in violation but can
131 request an equitable waiver instead of needing to get a Variance. Equitable waivers are still heard by
132 the Board and abutters would still be notified.

133 Kurt Markarian made a motion to recommend Amendment #10 to go to Town vote. Donna Davis
134 Larrow seconded the motion. The motion passed unanimously.

135 Amendment #11 – Amend Article XI – Definitions – Contractor’s Yard – by defining that a contractor’s
136 yard is solely a place for materials storage by a contractor and not a place for conducting business (i.e.
137 office or retail).

138 There was a brief discussion regarding the origins of this Amendment. Mrs. Larrow asked how it might
139 affect existing contractor's yards and Mr. Marquise said that in theory it does not as long as someone
140 was running their business with a pre-approved site plan as they are grandfathered.

141 Charlotte Brown made a motion to send Amendment #11 to the Warrant to be voted on by the Town.
142 Tanner Royce seconded the motion. The motion passed unanimously.

143 Amendment #12 – Amend Article XI – Definitions – Front Setback – to indicate that front setback is
144 measured from the end of a right-of-way in the circumstance where there is a dead-end road and also
145 affirm that the setback applies to private roads.

146 There was a discussion regarding this Amendment and it was explained that it makes it so people who
147 are at the end of a dead-end road are not penalized.

148 Mr. Jesanis asked what happens when there is a road and a Right of Way and Chairman White explained
149 that he believes Mr. Landry uses whichever the property gains it access off of.

150 Donna Davis Larrow made a motion to recommend Amendment #12. Kurt Markarian seconded the
151 motion. The motion passed unanimously.

152 Amendment #13 – Amend Article XI – Definitions – Marinas – by removing the requirement that a
153 marina be a waterfront structure.

154 Charlotte Brown made a motion to send Amendment #13 to the Warrant. Tanner Royce seconded the
155 motion. The motion passed unanimously.

156 Amendment #14 – Amend Article XI – Definitions – Structure, Temporary Structure & Minor Structure
157 (new) – by removing the reference to minor installation, deleting the definition of Temporary Structure,
158 and creating a new definition entitled "Minor Structure" which will have a list of all structures not
159 requiring a Certificate of Zoning Compliance.

160 Mr. Marquise explained that this Amendment came from the Zoning Board. What they did not like with
161 the way the ordinance is currently written is that you start at the definition of structure and then it talks
162 about minor structures as a subset of that section; then it talks about what a temporary structure is so
163 then you go to temporary structure to find out that a temporary structure is a minor structure that is
164 not a structure. This Amendment is to have just two definitions, one for a structure that requires a
165 permit, and a definition for a minor structure that does not require a permit.

166 Chairman White asked Mr. Marquise if a patio, a walk, or a driveway will now be considered a structure.
167 Mr. Marquise said that a patio was determined that it is a structure; Mr. Landry has not considered a
168 driveway to be a structure. The Zoning Board did not want a patio to be in the list of minor structures.
169 Mr. Royce asked about carports and if they could be in a setback. There was further discussion
170 regarding this Amendment and how people could get around the Amendment such as moving
171 something so it does not have a fixed location on the ground.

172 #6 and #7 were not on the pages given to the Board and it was questioned if they were noticed. Mr.
173 Marquise said he would check to see what was noticed. Mr. Royce said that he would recommend the

174 Amendment without #6 and #7. Mr. Marquise said that he could not find them online but the
175 Amendments are posted in the lobby and #6 and #7 are not there.

176 Tanner Royce made a motion to recommend Amendment #14 to the voters. Kurt Markarian seconded
177 the motion. The motion passed unanimously.

178 Kurt Markarian made a motion to adjourn the meeting at 9:00 pm. Donna Davis Larrow seconded the
179 motion. The motion passed unanimously.

180 Respectfully submitted,

181 Melissa Pollari

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187 Planning Board

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189 Peter White, Chairman

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191 Erin Andersen

192 _____

193 Tanner Royce

194 _____

195 Shane Hastings, ex-officio member

196

Robert Stanley, Vice-Chairman

Donna Davis Larrow

Kurt Markarian

Charlotte Brown, alternate member