

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **FEBRUARY 2, 2012**

4
5 **PRESENT:** Donna Davis Larrow; Peter White; Erin Andersen; Charlotte Brown, ex-officio member
6 alternate; Michael Marquise, Planner

7 **ABSENT:** Bruce Jennings, Chairman; Daniel Schneider, Bob Stanley, Emma Smith, ex-officio member,
8 Roger Landry, Zoning Administrator

9 **ALSO PRESENT:** See attached Sign-in Sheet.

10 Peter White called the meeting to order at 7:00PM.

11 Changes to the Minutes for the January 5, 2012 Planning Board Meeting: On line 17 change "Slavin
12 Haven's" to "Slavin's Haven". On line 22 change "Slavin Haven's" to "Slavin's Haven". Change lines 18
13 to 21 to read "Chairman Jennings stated that he informed the abutter that at this time there is no
14 requirement to notify abutters regarding Statements of Property Usage, however, if he felt that this is
15 something that is important, then to send a letter to the Board and they would look at the issue".
16 Donna Davis Larrow made a motion to accept the minutes as amended. Motion seconded by Erin
17 Andersen. Motion passed with Charlotte Brown abstaining.

18 Michael Marquise spoke about the email that the Board members received regarding a Court decision
19 that is basically states that Boards cannot go into Executive Session to discuss any advice, either in form
20 of a letter, email, etc. from an attorney unless the attorney is present.

21 **MAP 133 LOT 93, SITE PLAN REVIEW, SOONAPI REALTY TRUST, SEEKING APPROVAL FOR TAKE-OUT**
22 **FOOD SERVICE, 36 RIVER ROAD**

23 Michael Marquise stated that the application was filed in advance, abutters were notified and notices
24 were posted. The application falls under Article 5, the Site Plan Review Regulations. There were a few
25 items that were not on the application: one is the signature block; another is a note "by existing real
26 estate office" that should be updated to what the use will be with square footage; also, lightning and
27 signs are not on the Plan. Otherwise, the application is complete. Donna Davis Larrow made a motion
28 to accept the application as complete as noted with the signature box, the new use and square footage
29 of the existing building and the lighting and the sign. Motion seconded by Erin Andersen. Motion
30 passed unanimously.

31 George Quackenbos said that the building has been a real estate office since 2006. Previous to that it
32 was leased by Marzelli's and operated for two years as a deli/candy store but it was discovered that they
33 never had a change of use for the building. John Quackenbos, owner of the Quack Shack, presented
34 merits of the case. They will be creating a seasonal take out restaurant. There will be no indoor seating

35 and the existing footprint of the building will essentially be the kitchen and preparation facility. They
36 will have take out windows on the front. They have already received Zoning Board approval to put a ten
37 foot deep deck off the front of the structure. The ten feet come just short of the parking spaces. Also,
38 they will be installing a ramp off the side of the deck for handicap accessibility. Mr. John Quackenbos
39 stated that the actual approval was for a farmer's porch type of deck to provide covering for customers
40 but they have decided the cost is prohibitive to building a farmer's porch and they will be just going with
41 a deck. The plan is to be a seasonal operation from Memorial Day to Labor Day and possibly weekends
42 to Columbus Day. They will serve burgers, fries, fried clams, etc. with a simple, quick and efficient menu
43 which Mr. John Quackenbos feels that will be beneficial to the Harbor. Mr. John Quackenbos was asked
44 about lighting and signs and replied that they will be doing a sign similar to the current sign on the
45 building which is a long sign on the front roofline of the building. They are proposing to do down lighting
46 under the eaves of the building on the front of the building where the take out windows are. Also, there
47 will be menu boards on the front of the building. In the back they would like to do post lightning on the
48 small lawn where they hope to have picnic tables the lights would be similar to what is at the Quack
49 Shack. The post lights would only be on when they would be open.

50 Mr. John Quackenbos was asked about the proposed business' hours. He stated that he feels their
51 busiest time will be lunch and they may stay open until 8pm or 9pm. Mr. John Quackenbos feel his
52 hours would be from 10:30am until 9:00pm. Mr. White stated that Mr. Quackenbos will have to come
53 back if they decide to change his hours so he should be as broad with the hours as he can so he doesn't
54 box himself in. Mr. John Quackenbos stated that he would like to state that his hours will be 7 days per
55 week and the hours would be 10:30am until 9:30pm. They will be open from May 15th until October 15th
56 at the most.

57 Charlotte Brown asked about the 7 ½ foot wide spaces and stated that the handicap space cannot be 7
58 ½ feet wide. Mr. John Quackenbos said that the Plan doesn't show the handicap space in the correct
59 spot. It is actually the end space closest to the road going to the gazebo. Some parking is not shown on
60 the Plan but will be off an access road to the back that is open space. There will be six employees, no
61 seating on the deck and possibly six picnic tables on the lawn behind the building. There will be a
62 dumpster on the site. Mr. White asked Mr. Marquise how they would figure seating on picnic tables.
63 Mr. Marquise said that they have to figure between 4 to 6 seats per table and they should have to figure
64 parking spaces on the people for the seating. With 6 employees, and an average of 5 seats per table is
65 30 seats then they would need 16 spaces. Mr. John Quackenbos asked if he would have to have the
66 additional spaces lined out. Mr. Marquise stated that they don't have to necessarily be marked out on
67 the ground but they need to be on the Plan. Mr. George Quackenbos said that the drawing was done by
68 Everett when they put the Real Estate Office in the building and he had come up with 17 but Mr. George
69 Quackenbos felt it was a little tight. Mr. Marquise clarified that the requirement is one parking space for
70 every three seats and one parking space for every employee. Mr. John Quackenbos asked if there was
71 leniency in the Master Plan for Sunapee for in regards to the Harbor for encouragement for businesses
72 and what would happen if they only had 10 spaces. Mr. White stated that his understanding is that the
73 Board's position is that the Harbor and parking is shared by the different businesses. When the business
74 doesn't have enough space on the lot to provide spaces then the Board looks at the Harbor parking to

75 help the business. However, when a site has enough space to accommodate more parking they
76 encourage the use of the space on their lot. There was further discussion regarding the parking spaces
77 as well as the dumpster and that the truck picking up the dumpster would have to have adequate room
78 to maneuver.

79 Sue Mills with the Riverway spoke as an abutter. She wanted the Board to know that the Riverway was
80 in favor of the proposal as they believe that the more businesses in the Harbor the more successful the
81 Harbor will be. While there are a few times that parking is critical, the people eating at the proposed
82 business will not necessarily be parking in front of the building and will be around the Harbor. She feels
83 that the parking will work itself out. Mr. John Quackenbos said that with his experience in the Harbor
84 with the Quack Shack there are maybe two nights a year that the parking is a big issue. Mr. White said
85 that the Board is not against businesses going into the Harbor they just have to do their due diligence as
86 a Board and address the issue of the parking. Ms. Charlotte Brown stated that parking in the Harbor has
87 been an issue and they have spoken about it at Selectboard meetings. They have tried to address some
88 of the problems by opening the parking for boat trailers at the Sherburne Gym but many of the cars put
89 their trailers down in the parking lot and then come and park in the Harbor. They have also put in hours
90 of limitations for parking which have helped but the Selectboard doesn't know where to find more
91 spots.

92 Mr. White closed the hearing to public comment. Mrs. Larrow said that she would like the sign, lighting,
93 parking spaces, etc. actually to be on the Plan that they are going to use to approve the application. Mr.
94 White said that they haven't addressed buffering or landscaping. Mrs. Larrow said that she would like
95 the parking spaces on the map to see how the landscaping would be effected.

96 Mr. John Quackenbos asked if they eliminated the picnic tables would he still need the 17 spaces if he
97 kept the employee parking in the back and the 7 spaces in the front. Also, what is the minimum number
98 of spaces he would need without taking up the whole back lot. Mr. Marquise said that some parking
99 would still need around 5 spaces to be added; perhaps more of a number like a retail location which is
100 one for every 2,000 square feet. Some consideration for customers has to be made. Without the picnic
101 tables, keeping the 7 in the front and the 5 in the back for the employees would work. Mr. White
102 cautioned that eliminating the picnic tables might not be beneficial to Mr. John Quackenbos' business.
103 Mr. John Quackenbos said that having 10 parking spaces in the back would eat up a lot of the space and
104 that is some of the space where he wants the picnic tables. Also, the lot has boulders and would need
105 to be leveled and it would be cost prohibitive to do so. There was further discussion regarding the picnic
106 tables. It was felt that picnic tables would not be utilized by many people and Mr. John Quackenbos said
107 he was not going to have picnic tables which would eliminate the need for post lighting.

108 Mr. White would like a Plan with everything that will be approved so they have something in the file to
109 go back to if necessary. The issues that need to be addressed on the Plan are: the parking; the dumpster
110 location; the signs should be noted on the plan (dimensions); lighting. Mr. Marquise added the
111 signature block; the proper designation on the Plan of the proposed Use; square footage; the dumpster
112 and the deck need to be transferred to the large Plan. Mr. George Quackenbos asked if with the

113 Signature Block if they have to go around and get the Plan signed by the different departments which
114 would be Police, Fire, Water & Sewer, Highway and Conservation.

115 Mr. White said the Board is continuing the application until the next meeting on March 1st. Also, any
116 buffering or landscaping they think they might want to put on the Plan might be nice to add.

117 **MAP 121 LOT 49 & MAP 121 LOT 51, SUBDIVISION AND ANNEXATION, SUBDIVIDE .22 ACRES FROM**
118 **LOT 49 AND ANNEX TO LOT 51, MARILYN K. JOHNSON TRUST AND ROBERT & SARA D’ALELIO,**
119 **FERNWOOD POINT**

120 Michael Marquise stated that the application was filed in advance, abutters were notified and notices
121 were posted. The application falls under Article 6.04, the Subdivision Regulations. It is a minor
122 subdivision and qualifies for the waivers under 6.05B. Mr. Marquise stated said that that the Zoning
123 District of Rural Residential is not noted on the Plan. Also, the building setback lines are not on the Plan
124 though they could possibly be waived since they are not taking away from the house lot. The waivers
125 under 6.05B are the contours, utility lines, and the storm water drainage. Mr. Marquise also
126 commented that D’Alelio needs to sign off before the signing of the Mylar. Donna Davis Larrow
127 motioned to accept the application as complete waiving the building setback lines contours, utility lines
128 and storm water drainage with the inclusion of the zoning district on the Plan. Erin Andersen seconded
129 the motion. Motion passed unanimously

130 Charlie Hirshberg from CLD Engineers presented the case on behalf of the Johnson’s. There is currently
131 a Purchase and Sales Agreement where the D’Alelio’s would purchase the piece that is being subdivided
132 from the Johnson’s lot. Lot 29 is made up of two Parcels. Parcel 1 is between Fernwood Point Road and
133 Fernwood Point South and is 1.21 acres and Parcel 2, which is on the Lake side of Fernwood Point South,
134 is .22 acres. The two parcels were combined under one tax map and lot at some point. They would like
135 to subdivide Parcel 2 from the lot and annex it to Map 121 Lot 51. Lot 51 is currently .41 acres and
136 would become .63 acres with the annexation of Parcel 2 to the lot. The Johnson’s have gone to the
137 Zoning Board and received an area variance to do this as Lot 49 was already non-conforming. The
138 subdivision and annexation would make the Lot 49 less conforming and Lot 51, which is on the Lake
139 side, is slightly more conforming. Lot 49 has the existing house on Parcel 1 so the change and the
140 impact should be very minimal. There was a discussion about the history of Lot 49 and the new RSA
141 which allows parcels which were merged involuntarily by Towns to be unmerged at the owners request
142 and if the parcel would qualify. Roger Landry, the Zoning Administrator, had advised Mr. Hirshberg to
143 go through the Subdivision and Annexation process to keep it cleaner yet he wasn’t sure if legally they
144 needed to be there. A question was asked if Parcel 2 was a building lot and if the Johnsons are giving up
145 their Lake access which Mr. Hirshberg confirmed was the case.

146 Mr. White closed the hearing to public comments. Donna Davis Larrow made a motion to approve the
147 application with the Zoning District added to the Map and the description of Subdivision and Annexation
148 of Map 121 Lot 49 and Map 121 Lot 51 should also be added. Charlotte Brown seconded the motion.
149 Motion passed unanimously.

150 Mr. Hirshberg mentioned that the Preserve, the Brook Rd subdivision, had a 75 day period that he needs
151 to discuss with the Board after the hearings.

152 **MAP 128 LOT 34 & LOT 128 LOT 72, SUBDIVISION AND ANNEXATION, SUBDIVIDE .20 ACRES FROM LOT**
153 **34 AND ANNEX TO LOT 72, JOSEPH & HELEN BOUSCAREN AND ABIGAIL W BROWN, LAKE AVENUE**

154 Charlotte Brown stated that the Map and Lot numbers are incorrect on the agenda, application and the
155 Plan. It should be Map 127 Lot 34 and Map 128 Lot 72.

156 Michael Marquise stated that the application was filed in advance, fees were paid, abutters were
157 notified and notices were posted. The application falls under Article 6.04, the Subdivision Regulations.
158 It is a minor subdivision and qualifies for the waivers under 6.05B. All the items for 6.04 are on the
159 application and Plan and the waivers for 6.05B are the contours, utility lines, and storm water drainage.
160 There is a signature from Abigail W. Brown but not from the Bouscaren's so that will have to be
161 addressed. Motion made by Charlotte Brown to accept the application as complete. Motion seconded
162 by Erin Andersen. Motion passed unanimously.

163 Susan Hankin-Burke from McSwiney Law Firm in New London presented the case. Pierre Bedard who
164 drew the Plan could not be present but she has been working with Abby Browns and the Bouscaren's.
165 The Bouscaren lot which is Map 127 Lot 34 before the subdivision / annexation is 1.3 acres and even
166 after the subdivision it would be a conforming lot. The Brown parcel, Map 128 Lot 72 is a pre-existing
167 non-conforming lot and by adding the .2 acres it would almost double in size and would have a little
168 better buffer and address some setback issues. There was no Zoning hearing required. Ms. Hankin-
169 Burke was asked if there is a lot of wetlands in the area. She confirmed that there are wetlands and said
170 she believes the wet area is defined by the dotted line and rush looking plants on the Plan. Much of the
171 wetlands would not be buildable but as she had said it would provide buffering and help with setbacks
172 and also be able to set back more from the road as the previous house on the lot which has been torn
173 down was right on the road. Mr. White explained that there is no setback from wetlands. Also, the fact
174 that it is a non-conforming lot doesn't prevent the lot from being built upon it would just need to meet
175 the setbacks. They would not need a variance as long as it would meet the setbacks. There was a
176 discussion about non-conforming and pre-existing non-conforming lots.

177 Mr. White closed the hearing to public comment. Donna Davis Larrow made a motion to approve the
178 Map 127 Lot 34 and Map 128 Lot 72 subdivision and annexation. The motion was seconded by Erin
179 Andersen. Ms. Hankin-Burke did come with a Mylar and asked if they could make the change of the
180 Map number on the Plan and leave it to have it signed. She would then submit the signature of the
181 Bouscaren's. Michael Marquise feels that as it is on a few different spots it would be best for Mr. Bedard
182 to do the changes. Ms. Hankin-Burke reviewed with the Board where the changes should be made on
183 the Plan. Motion passed unanimously.

184 **DISCUSSION REGARDING THE EXTENSION FOR THE PRESERVE AT MT. SUNAPEE**

185 Charlie Hirshberg asked to speak to the Board regarding the 90 day extension for the Preserve. The
186 Department of Transportation had written a letter to the Town about some issues with the entrance to

187 the property including the large culvert, etc. Mr. Hirsberg has met with DOT and the Wetlands Bureau
188 and it is not as simple of moving a pipe. There was a permit originally to install the culvert and one of
189 the reasons for the extension is they are trying to clarify what is not correct and work out an agreeable
190 condition amongst three parties: DOT, the Wetlands Bureau and the current owner. The Wetlands
191 Bureau does not want the pipe removed as they don't want the disturbance again. The Wetlands
192 Bureau would like to work out an agreement that relates to some corrective action that would not
193 impact the wetlands. One of the actions the Wetlands Bureau would like them to do is establish where
194 things are such as where the pipe is, how far off it is from where it was supposed to be and where the
195 headwall is relative to the original plan. They are trying to come up with a workable solution that does
196 not involve removing the pipe. Also, they need to file a wetlands permit to address anything that may
197 impact on the drainage channel. The permit process itself takes seventy five days once it is submitted.
198 Before that is done, the Wetlands Bureau wants them to design something with the lease amount of
199 disturbance. Mr. Hirshberg briefly discussed the original work that was done with DOT and the previous
200 owner. Mr. Hirshberg also explained that there is some maintenance due to wash out that occurred
201 that will have to be done and will require a wetlands permit. The Wetlands Bureau does not want the
202 road and pipe dug up to move the culvert three feet which is why they are trying to figure everything
203 out. DOT is saying that the guardrail was not installed according to the original plans and the person
204 that did the original inspection retired and didn't leave a record of the inspection. Now a new person at
205 DOT is saying that they need to follow the plan and they want it put the way it is supposed to be but
206 Wetlands does not want wetlands disturbed. CLD Engineering is now trying to work with the original
207 plans, establish a control which was destroyed when they built the road, and determine where things
208 are not where they are supposed to be. They are surveying the property and trying to figure out that if
209 it is not the way DOT wanted it how they can fix it so that it meets the requirements with the guardrails
210 and headwall. Mr. Hirshberg said that there are also drainage issues with the road that DOT wants
211 addressed.

212 Mr. Hirshberg said he needs to work out in advance what he will be submitting for the Wetlands Permit
213 which will satisfy both the Wetlands Bureau and DOT.

214 The Board had granted a 90 day extension period to report on the issues. Mr. Hirshberg is asking to be
215 allowed to return in 120 days to return to the Board and give another report on the progress. Charlotte
216 Brown made a motion to grant an extension of 120 days to the project that is now listed as HP Sunapee
217 which was formerly the Preserve off Brook Road. Motion seconded by Erin Andersen. Motion passed
218 unanimously.

219 Donna Davis Larrow made a motion to adjourn the meeting. Motion seconded by Erin Andersen.
220 Motion passed unanimously.

221 The meeting was adjourned at 8:46 PM.

222 Respectfully submitted,

223 Melissa Pollari

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227 Bruce Jennings, Chairman

Robert Stanley

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230 Erin Andersen

Daniel Schneider

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233 Donna Davis Larrow

Peter White

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236 Emma Smith, ex-officio member

Charlotte Brown, ex-officio alternate member