

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **NOVEMBER 1, 2012**

4 **PRESENT:** Peter White, Vice-Chair; Robert Stanley; Donna Davis Larrow; Kurt Markarian; Michael
5 Marquise, Planner

6 **ABSENT:** Bruce Jennings, Chair; Erin Andersen; Shane Hastings, ex-officio member

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

8 Peter White, Vice-Chair, called the meeting to order at 7:00 PM.

9 Changes to the Minutes for the October 4, 2012 Planning Board Meeting:

10 Robert Stanley made a motion to accept the minutes as written. Kurt Markarian seconded the motion.
11 The motion passed unanimously

12 **OTHER BUSINESS:**

13 There was a brief discussion regarding the boat storage on the corner of High St. and Edgemont Rd. and
14 the number of boats that are currently being stored. Roger Landry, Zoning Administrator, said that he
15 will look into the Site Plan for the property.

16 Peter White presented a letter from the Upper Valley / Lake Sunapee Planning Commission. They are
17 doing their Master Plan Research and Community Participation. This means that they are doing a
18 regional Master Plan which includes Vision Statements and ideas from the different towns' Master
19 Plans. They will present their findings in the Spring and Summer of 2013.

20 Mr. White said that the letter says that the UVLSPC are only aware of the last update to the Master Plan
21 in 1998. Mr. Marquise said that he believes that they received copies of the updated Master Plan. Mr.
22 Marquise said that he will ask the Administrative Assistant to follow up with them.

23 Mr. White presented a newsletter from the NH Department of Environmental Services called Drinking
24 Water Source Protection Program.

25 Mr. Landry gave an update regarding a few cases that might be coming to the Board. There is a lot on
26 Main St. that someone has interest in purchasing and putting up four townhouses. Also, there is a party
27 who is interested in the "Painted Lady" which is the building across from Pizza Market. They want to
28 take it down and put up a commercial building. The lot is in the Village Commercial district and they
29 want to do boat repairs and sales which will require a Special Exception.

30

31 **PARCEL ID: 0129-0043-0011: SITE PLAN REVIEW. CONVERT BUILDING AND LOT TO ACCOMMODATE A**
32 **TWO (2) BEDROOM APARTMENT AND PLUMBING AND HEATING BUSINESS, OFFICE, SHOP, AND**
33 **GARAGE. LESLIE & WENDY DUNNELLS, 14 SARGENT ROAD.**

34 Mr. Marquise stated that the application was filed in advance, fees were paid, abutters were notified,
35 and notices were posted. The case falls under Article V of the Site Plan Review Regulations. The Board
36 went through the checklist last week and he believes everything was addressed and he has received all
37 the sign-offs from the Departments and there are no State permits required. Mr. Marquise said that he
38 believes the application is complete with the terms that have been addressed.

39 Robert Stanley made a motion to accept the application as complete. Kurt Markarian seconded the
40 motion. The motion passed unanimously.

41 Nate Fogg from Jesseman & Associates and Leslie Dunnells presented the merits of the case. Mr. Fogg
42 asked if, with only four members present, they would need a unanimous vote or would it need a
43 majority. It was explained to Mr. Fogg that it would need a majority vote.

44 Mr. Fogg explained that they went to the last Planning Meeting to discuss the case and that nothing has
45 changed except for the entrance to the apartment has been moved to a more convenient location. Mr.
46 Fogg said that the building has had some updates done recently and explained the project to the Board.
47 They are not looking to change the footprint; they are reworking the interior to have a two bedroom
48 apartment on one side of the building and the plumbing business office, garage, and storage on the
49 other side. There is a plan to put a garage door on the end that faces Route 11. The business entrance
50 is in the same location it is currently. Tony Bergeron's concern was the runoff down the side of Sargent
51 Rd. but they put some gravel in and it seems to be holding. There are three proposed parking spaces
52 onsite and there is an easement for four parking spaces on the adjacent parcel. There will be separate
53 entrances for the office and the apartment. There is existing landscaping that needs to be tended to
54 that should be adequate.

55 Mr. Landry asked if there was going to be any parking on the Sargent Rd. side as Mr. Bergeron would
56 prefer to not have any parking there. Mr. Fogg said he believes that Mr. Dunnells will take necessary
57 precautions to prevent people from parking there. Mr. Fogg pointed out the parking spaces for Mrs.
58 Larrow. Mr. Marquise asked if a customer comes to the property, will they have the rights to the spaces
59 nearest the building or if they would be directed to the other spaces. Mr. Fogg explained that he does
60 not believe that the business gets a lot of walk in customer traffic but he thinks that the owners will
61 have to assess where they want tenants and customers to park. Mrs. Larrow asked if the parking space
62 in the garage is counted and it is not.

63 Mr. White asked if there will be big trucks making deliveries to the site. Mr. Dunnells said that they do
64 get deliveries from mostly big box trucks and though the driveway is adequate now for getting trucks in
65 and out, it will be better defined once it is paved. Mrs. Larrow asked for clarification as to whether the
66 trucks would be able to turn around or back into the parking lot so they could drive out and Mr.
67 Dunnells said that they can do that. Mr. Larrow asked if Mr. Marquise remembered the drainage plan
68 for the first phase of Sunapee Center in relation to paving the parking lot and if it supposed to be

69 pitched off or if there should be a detention pond that Claremont Savings Bank would have to install.
70 There was further discussion regarding the Sunapee Center plan. Mr. Fogg said that the gravel area is
71 fairly expansive right now and is more than they need and the actual paved area will be less and they
72 have proposed putting an infiltration trench around the edge. Mr. Landry gave a description of what he
73 remembers about the drainage and it was agreed that Mr. Landry would look into it and if there is an
74 issue he will contact Mr. Fogg.

75 Mr. Fogg said that in regards to the hazardous waste and toxic materials, some of the glues that they
76 use may be toxic but they do not store them in large quantities. There was a question about waste
77 disposal and the applicant stated there would be no outside dumpster and all waste would be handled
78 indoors and disposed of as necessary.

79 Mr. White asked about the apartment entrance being moved. Mr. Fogg explained that it has been
80 moved to come out onto the existing porch so that it has a covered entrance. It is right beside the
81 existing entrance to the building.

82 Mr. Marquise read the Department comments to the Board. Daniel Ruggles, the Fire Chief, said that he
83 would like a one hour fire rate wall between the business and the apartment and the garage needs a
84 one hour fire rate ceiling. The furnace room needs to be one hour fire rated and there needs to be
85 smoke detectors and carbon monoxide detectors. Dave Baily, from Water and Sewer, mostly
86 commented on fees. Dave Cahill, the Police Chief, says he sees no issues with the existing driveway.
87 There were no comments from Tony Bergeron in the Highway Department.

88 Mr. White asked if there were any other public comments and as there were not he closed the hearing
89 to public comments.

90 Kurt Markarian made a motion to accept the Site Plan for Parcel 0129-0043-0011 as presented. Robert
91 Stanley seconded the motion. The motion passed unanimously.

92 **PARCEL ID: 0114-0003-0000; REVIEW LANDSCAPING PLANS RAISING THE GRADE MORE THAN 12”**
93 **WITHIN LAKE FRONT SETBACK, ARTICLE IV SECTION 4:33 B-8B VII. MICHAEL & CECELIA DONOGHUE,**
94 **114 UPPER BAY ROAD**

95 Dan Bruzga and Lyndsey Newman from DB Landscaping presented the case on behalf of the Donoghue’s.
96 Mr. Bruzga presented copies of the Plans to the Board for their review.

97 Mr. White explained that the reason for the hearing is because the Town has a requirement that any
98 grade adjustment more than 12” within the 50’ Shoreland has to come to the Board.

99 Mr. Bruzga explained that the first plan shows the existing conditions and stated that this lot is fairly
100 open and clear from the house to the Lake. The Donoghue’s would like to have a more usable landscape
101 with an easier way to get to the Lake and some flat space. In order to create the walkway the grade has
102 to be changed more than a foot.

103 Mr. Bruzga explained to the Board the proposed plan including the new pathway, 42" wall, the small
104 patio, and the flat area by the Lake. Even though the proposals use pervious materials, the disturbance
105 will still create more runoff and the flat area is recommended to slow down and infiltrate the runoff.

106 Mr. White asked if the plan was acceptable with the State as it seems as though there is a lot of land
107 disturbance within the 50'. Ms. Newman said that they have not filed for a Shoreland permit with the
108 State yet. Mr. Landry explained that the local requirement is that you can cut up to five trees a year
109 within 150' of the Lake. There was a brief discussion on the State's requirement for tree cutting. They
110 are proposing to take down three trees within the 50'.

111 Mr. Bruzga explained that all the areas that are not part of the walkway or patio or a stepping stone are
112 intended to be vegetated including on either side of the walkway on the way down and the flatter area
113 would be lower grown ground covers. Mr. Stanley asked if the circles on the Plan are new plants and
114 shrubs and it was confirmed that they are proposed plants.

115 Mr. White asked if the 225 square foot pervious patio will be 5' deeper than the existing grade and Mr.
116 Bruzga confirmed that this is correct, there is a cut where that area is and the proposal is to make the
117 area down by the Lake more useable.

118 Mr. White asked Mr. Marquise if the Board has input on the Plan and Mr. Marquise explained that input
119 would have to be based on the regulatory requirements if anything was conflicting with the Rules. Mr.
120 White suggested some different approaches to the Plan that would not require so much cutting. Mr.
121 Bruzga said that he doesn't see why they could not raise the patio up so there is less cutting but there
122 would essentially end up being more stairs down closer to the water.

123 Mr. Marquise explained that the patio is an accessory structure to the State and they have regulations
124 on accessory structures. Mr. Landry said that the State will determine how much disturbance is
125 acceptable and make a ruling on the Plan and that the State is more restrictive than the Town.

126 Mr. White explained how the cutting, plants, and coverings affect run off. There was further discussion
127 regarding the grade changes and reducing the cut.

128 Mr. Bruzga said that they always do a temporary erosion control plan but he questioned whether they
129 needed one for the Town as they have to do it for the State. Mr. Landry said that the Town will need
130 one and they will need a Land Disturbance bond.

131 There was no vote on the project as the requirement is just for the applicants to come before the Board.

132 **DISCUSSION OF PROPOSED CHANGES TO THE ZONING ORDINANCE**

133 There was discussion regarding making some changes to the criteria of a hearing such as the previous
134 case. Mr. White said that out of the three Towns around the Lake, Sunapee is the only one where a case
135 like the previous case would be allowed. Mr. White feels that there should be limits within the Town
136 regulations regarding land disturbances and the impacts on the Lake that are created within the 50'
137 Shoreland. Mr. Marquise gave a brief history of the reason for the current Regulation and said that they

138 can either make changes to the Rule so that the Town has more control or the Board can decide to just
139 continue leaving it to the State. It is felt that the Board either has to have the Rule serve a purpose or
140 they need to get rid of it. Mr. White gave a description regarding New London's Rules within the 50'
141 buffer. There was further discussion regarding become more like the other two Towns and if Sunapee
142 should be more stringent. Mr. Landry proposed looking that the other two Towns and discussing
143 making changes.

144 Mr. Marquise went through the proposed changes to the Ordinances from the Zoning Board.

145 The first proposed change is to the Zoning Districts. Mr. Marquise pointed out on the map where there
146 should be a change back to Village Commercial from Village Residential which includes Quacks and the
147 Woodbine lots. Mr. Marquise said that traditionally the whole area was Commercial and it was
148 inadvertently taken out of Commercial. The Board feels that this change makes sense.

149 Mr. Landry also brought up a proposed change that was brought to his attention which includes the
150 Redding Building and the building that Dunnells' is currently in. He proposes extending the Commercial
151 district along the whole side of that road down to the corner. Mr. White said that it sounds like spot
152 zoning and he does not see a reason for that change. Mr. Marquise said that he is not in favor of this
153 change either unless there was more commercial already along the road. The Board decided not to go
154 forward with this change.

155 The second proposed change is to make the Town of Sunapee Shoreland Overlay District which is
156 currently 300', consistent with the State at 250'. The purpose is to make it simpler on the applicant so
157 that there is consistency between the State and the Town. Mr. Marquise said that he does not see a
158 problem with this change and the Board agreed. Mr. Landry also asked about fixing a typo in one of the
159 Regulations which Mr. Marquise does not feel needs to be an amendment.

160 The third proposal is to set an absolute maximum on a height of a structure. Mr. White said he thought
161 there was already a restriction. Mr. Landry said there is a restriction but there are many ways around it,
162 for instance, using the average finished grade height you can make the structure taller. There was a
163 discussion about the case that this proposal originated from. Mr. Landry wants the restriction to be
164 from the lowest floor level to the peak of the roof, no matter where it is measured. Mr. White stated
165 that the window sill height not being over 30' is a fire safety issue and should not come be an issue in
166 this discussion. He agrees that there should be an absolute maximum height so that they don't have to
167 deal with an average. Mr. Marquise proposed leaving everything the same and adding a statement that
168 says at no point shall the distance between the highest and the lowest point be more than 45'. Mr.
169 White suggested adding a clause that you can include a chimney and a cupola without living space.

170 The fourth proposal is changing the maximum height of a fence without going to the Zoning Board to 6'
171 to allow for standard sizes. Mr. Landry explained that fences typically come in 4' or 6' heights and
172 stated that any time an enclosure is required for something like a day care the requirement is 6'. Mr.
173 Marquise said that he has concerns that someone could put a 6' fence on their property line without any
174 regulations and explained the reason for using 5' in the past. Mr. Landry said that he is bringing it up to
175 reduce the number of cases coming to the Board and also to make the size more standard. Mr. Landry

176 suggested making the size 4' instead as that is a more standard size. Mr. Marquise explained that it is
177 the total height from the ground up so there may be a way to make a 4' fence work. Mr. Landry
178 suggested making the size of the fence 4', with the height not to exceed 5'. Mrs. Larrow questioned why
179 the ordinance needs to be changed at all. Mr. Landry said that due to the slope of some lots the heights
180 can go above 5'. Mr. Marquise suggested changing the definition on page 51, definition of structure, to
181 say "such as a fence measuring less than 5' high from the ground surface". The Board agreed to this
182 change.

183 The fifth proposal is to change the Front Setback Exception in 3.50-B (page 11, number 5 at the top).
184 Currently the ordinance reads: the portion of the proposed structure encroaching on the front setback
185 shall be no higher than 25'. Mr. Landry would like to change that to read: "the portion of the proposed
186 structure encroaching on the front setback shall not exceed 25' in height measured at the average
187 finished grade at the starting point of encroachment." There was discussion regarding this proposal.
188 The Board felt that going 25' at the point of encroachment is very high and to then go higher after the
189 point of encroachment is excessive. The Board feels as though the current restriction is very clear and
190 this article is for a Special Exception and you cannot get a Variance on a Special Exception. There was a
191 discussion regarding the difference between a Special Exception and a Variance. The Board agreed to
192 not go ahead with this proposal.

193 The sixth proposal has to do with the grandfather policy which is referencing a formal policy the
194 Selectmen have had for the last 15+ years. Mr. Landry is suggesting referencing the policy in the
195 Ordinances which Mr. Marquise agrees with. Mrs. Larrow suggested including the whole policy as a
196 definition. Mr. Marquise feels that the danger in doing that is to get a waiver from the policy it would
197 require going to the Zoning Board instead of the Selectmen. It was suggested to add a copy of the policy
198 to the documents given to applicants. Mr. Landry said he would still like to add a reference to the
199 policy.

200 The seventh proposal is to add a definition for a rain garden so that it describes what a rain garden is in
201 relation to run off control. Mr. Frothingham, Zoning Board Chair, said that he is suggesting adding a
202 requirement to include adding a catch basin so there is a place you can pull out the solids so that the
203 rain garden does not get plugged up. The Board agreed with this change.

204 The eighth proposal has to do with the Dimensional Control Tables on pages 7 and 8 of the Zoning
205 Ordinance book, more specifically the lot coverage's. Mr. Marquise explained that there was a
206 definition added regarding the Shoreland Overlay District and it talks about using pervious materials.
207 The chart shows the impervious material coverage and then the definition tells you that you can add
208 pervious materials up to the Non-Shoreland Overlay and it is confusing for people. It is suggested to add
209 a line for the pervious limitation as well as the pervious and impervious limitation together. The
210 percentage has not been changed even though the setback has been changed. Mr. Marquise does not
211 feel as though a change is needed.

212 Mr. Landry said that another item he would like considered to change is to Article 3.50, J (page 12)
213 which currently reads: "The ZBA may allow for the placement of ramps, walkways, elevators, or other

214 access enablers for the handicapped that would otherwise be in non-conformance to the Ordinance
215 provided that, in the judgment of the ZBA, such placement will **(1)** fairly utilize the lot, and **(2)** be
216 consistent with the intent of the Ordinance”. He would like it to say: “The ZBA may allow for the
217 placement of ramps, walkways, elevators, or other access enablers for the handicapped that would
218 otherwise be in non-conformance to the Ordinance, and a Special Exception shall be required and in the
219 judgment of the ZBA, such placement will (1) be in compliance with the ADA law (2) fairly utilize the lot
220 (3) be consistent with the intent of the Ordinance, and (4) the structure is to be temporary and not
221 considered a permanent footprint.” Mr. Landry explained that what has been happening is that these
222 walkways have been considered part of the footprint and people are changing them into decks, four
223 season rooms, etc. Mr. Landry would like these access enablers to be considered temporary and not
224 part of the footprint to prevent this from happening. The Board agreed that this is reasonable.

225 Mrs. Larrow spoke about a case in regards to a home occupation and a sign and she said that the Board
226 had a discussion regarding making a change to allow a home occupation some sort of signage. Mr.
227 Marquise said that a home occupation has no review and does not come to the Board and if you add a
228 sign then it invites people to come to the property. A Home Business is allowed a sign but it requires a
229 Site Plan Review. Mr. Marquise said that this change also does not require a Zoning Change but it could
230 be done when the Site Plan Review Regulations are amended.

231 **MISCELLANEOUS**

232 There was a brief discussion regarding the Sunapee Community Store property. Mr. Marquise explained
233 the Board’s position regarding the case as they feel like it should go to Zoning first. Mr. Landry asked if
234 there was a time limitation that the Board had set on the approval Mr. Marquise stated that he doesn’t
235 remember and will have to check the file. Mr. Marquise said that they have lost approval for the store
236 under the grandfather policy and they do need to go to Zoning first.

237 Mr. Landry asked about Cooper Street Partners, LLC, which is the subdivision on Route 11 that was
238 approved with several conditions a few years ago. Mr. Landry said that he believes that the conditions
239 have expired, even after the Planning Board gave them a few extensions. Mr. Marquise said that he will
240 write a letter to the owners stating that their subdivision requirements have not been met.

241 The Board has decided to meet in two weeks to try and get the changes to the language done. Robert
242 Stanley said that he will not be available. Mr. Marquise said that he will email the Board the language.
243 They agreed to look at the conceptual for the Painted Lady project.

244 Robert Stanley made a motion to adjourn the meeting. The motion was seconded by Kurt Markarian.
245 The motion was approved unanimously. The meeting was adjourned at 9:25 PM.

246 Respectfully submitted,

247 Melissa Pollari

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251 Bruce Jennings, Chairman

Peter White

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254 Erin Andersen

Donna Davis Larrow

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257 Robert Stanley

Kurt Markarian

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260 Shane Hastings, ex-officio member

Emma Smith, ex-officio alternate member