

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **JANUARY 10, 2013**

4 **PRESENT:** Dick Katz, Clayton Platt, Daniel Schneider, Aaron Simpson, William Larrow, Alternate, Roger  
5 Landry, Zoning Administrator

6 **ABSENT:** Edward Frothingham, Chair,

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

8 Dick Katz, Vice-Chair, called the meeting to order at 7:00 pm.

9 Mr. Katz appointed William Larrow as a voting member in place of Edward Frothingham.

10 **ZONING ADMINISTRATOR**

11 Mr. Landry informed the Board that the Planning Board met December 6<sup>th</sup> and described the cases that  
12 were heard. The Planning Board approved a Subdivision / Annexation on Westwood Rd to straighten  
13 out the lot line. There was a conceptual Site Plan Review for Burkehaven Marine for the property across  
14 from the Community Store on Route 11. They want to tear the building down and build a facility in  
15 order to repair boats. The assisted living center, Sunapee Cove, came in for a conceptual Site Plan  
16 Review to add four additional bedrooms and six parking spaces. There was a schematic design review  
17 for the new library to inform the Planning Board of the updates to the design.

18 Mr. Landry explained that the Planning Board met again on December 20<sup>th</sup> for the Public Hearing  
19 regarding the Zoning Amendments. They were approved by the Board and will then go on the Town  
20 Warrant.

21 Mr. Landry said that the Planning Board also met on January 3<sup>rd</sup>. They heard the Site Plan for Sunapee  
22 Cove and approved the additional bedrooms and parking spaces. The Planning Board also approved a  
23 lot merger for the Lake Sunapee Protective Association's properties on Main St.

24 There was a brief discussion regarding the Sunapee Cove property.

25 Mr. Landry told Mr. Simpson that he is up for reelection this year as he filled a vacancy.

26 **CASE # 13-01: PARCEL ID: 0129-0056-0000: SEEKING APPROVAL OF A VARIANCE OF ARTICLE III**  
27 **SECTION 3.10 TO ALLOW A FOUR (4) DWELLING UNITS (APARTMENTS) ON A .27 ACRE LOT WITH 179**  
28 **FEET OF FRONTAGE. RON GARCEAU, 9 CENTRAL ST (350 ENTERPRISES, LLC)**

29 Patrick Klapp of 350 Enterprises, LLC presented the case. Mr. Klapp explained that he currently has 9  
30 Central St. under contract with the stipulation for approval of the four units. Zoning allows up to five  
31 units but the Variance is needed for lot density. Mr. Klapp said that in order to make the building four  
32 units they do not have to build any additions to the existing building. There is space in a storage area on

33 the right and a large attic on the third floor that can be finished off into the two additional units. Mr.  
34 Klapp said that he measured the parking area last week and there is plenty of area for eight spots and he  
35 believes that they only need six. Mr. Klapp explained more about the work he would be doing to the  
36 building and also what he does to manage his properties.

37 Mr. Landry said that he has a question regarding how the parking spaces are laid out as numbers five,  
38 six, seven, and eight are one behind the other. Mr. Landry said that he believes that if it gets to Site Plan  
39 Review, the Planning Board would have a problem with that layout. There was further discussion  
40 regarding this issue and the possibility of changing the layout. Mr. Platt asked if all the spaces are on the  
41 property as it looks like the edge of the Right of Way cuts off at least a few of the spots. Mr. Klapp said  
42 he measured up to the edge of the crushed stone where the driveway is currently. Ron Garceau,  
43 current owner of the property, said the end of the parking lot that goes towards the church is a lot  
44 deeper.

45 Mr. Schneider clarified that the density requirements are one unit for every 10,000 square feet and .27  
46 acres is roughly 11,700 square feet which would only permit one dwelling unit and the applicant is  
47 asking for four dwelling units. Mr. Schneider asked if a Variance was also needed for maximum lot  
48 coverage after all the parking spaces are put in and Mr. Landry explained that the property is in the  
49 Village Residential Zone that allows for 60%. Mr. Klapp said that he estimated the lot coverage to be  
50 42.5% and this calculation was done using the footprint of the building and the parking lot. Mr. Larrow  
51 asked and Mr. Landry confirmed that as four units requires almost an acre of land, this application is to  
52 make an already non-conforming property even more non-conforming.

53 Mr. Klapp said that there are other buildings in the neighborhood, especially on Main St. that have three  
54 to five apartments that are on smaller lots with less road frontage. Mr. Platt asked if there were any  
55 properties on Central St. that are similar to the proposal. Mr. Klapp said that there is a two unit building  
56 directly behind this property but Main St. is where more of the multi-units are located. Mr. Landry said  
57 that there is also a property on Old Georges Mills Rd that is a multi-unit building but he does not know  
58 the acreage of the lot. Mr. Platt asked if Mr. Landry knows when that building was approved and Mr.  
59 Landry does not. Mr. Garceau said that the property being discussed was once a part of his property as  
60 he subdivided it into three lots. Mr. Garceau said he believes it is about the same size lot and the  
61 building was made into a multi-family quite a long time ago.

62 Mr. Larrow asked if the public utilities, namely water and sewer, work with the proposal and Mr. Klapp  
63 said that they do. Mr. Klapp said that he will have to do electrical work to bring it to code.

64 Mr. Katz asked if there were abutters present who would like to comment.

65 Arlene Adams, who lives at 15 Central St, right next door to this property, said that Mr. Klapp went over  
66 his plans with her and her concern was related to privacy issues. Ms. Adams said that windows on her  
67 side of the building would have negatively impacted her property but Mr. Klapp said that he was not  
68 doing that. Ms. Adams said that another concern had been related to decks being added as there is not  
69 much separation between lots besides a stone wall. Ms. Adams said that Mr. Klapp offered that if  
70 privacy became an issue then he would install a fence. Ms. Adams continued that another concern she

71 had was in regards to lighting but she was assured that there would not be commercial lighting and it  
72 would be residential in nature. Ms. Adams said that as long as these conditions are fulfilled, and the  
73 property is maintained, then she does not have an issue with the proposal as it is more of a residence  
74 than it is currently. Mr. Katz said that they could not include stipulations of this nature in an approval  
75 and that any agreements made between the two parties would have to be done through an attorney.  
76 Mr. Landry also clarified that, if the proposal is approved, the case will have to be heard by the Planning  
77 Board for a Site Plan Review and they can put privacy requirements and such as conditions of approval.

78 Mr. Simpson asked Mr. Landry how the allowance for multi-family units in the Village Residential Zone  
79 fit into the density requirements. Mr. Landry said that is part of what the applicant is asking for as if he  
80 had more acreage he would not need the Variance.

81 Mr. Katz asked if a survey of the property has been done, especially due to the parking spots. Mr.  
82 Garceau explained that he had the property surveyed when he subdivided though it was done more  
83 than thirty years ago.

84 Mr. Platt said that typically a Variance is given because there is something unique about the property  
85 that makes it different than others and if this Variance is granted then other owners may want to apply  
86 for multi-unit dwellings as well. Mr. Platt asked if there was anything special about this property that  
87 would be unlike the neighboring properties. Mr. Klapp said that the building is almost set up as a four  
88 unit as it is as it has an office apartment, another apartment, and then two unfinished areas that he  
89 would like to finish off. The houses in the neighborhood are more single family properties and this is  
90 more suited for four units unlike the others that would require additions. Mr. Garceau said that when  
91 he purchased the property it was to use as an office and he believes that many people view it as a  
92 commercial type property. Mr. Garceau continued that it hasn't really been residential since he  
93 purchased the property in 1981. Mr. Landry asked Mr. Garceau what the property was when he  
94 purchased it and there was a discussion regarding the history of the property.

95 Mr. Simpson asked the applicant why he believes he only needs six parking spaces. Mr. Klapp explained  
96 that the information provided by Mr. Landry says that a multi-family dwelling needs one space per unit  
97 plus a half space per bedroom. Mr. Landry explained that the information was taken from the Site Plan  
98 Review Regulations. Mr. Simpson said that the Zoning Regulations say that two spaces per dwelling unit  
99 are required and each addition bedroom require a half space. Mr. Simpson asked if the additional  
100 requirements under Article III, Section 3.40 still apply and Mr. Landry confirmed that they do. There was  
101 a discussion regarding the differences in the two requirements.

102 Mr. Larrow said that, because of the tightness and the outdated survey, he thinks it needs to be looked  
103 at again as to how everything will be laid out on the lot and a new survey is needed.

104 Ms. Adams said that if Mr. Klapp gets approved as presented to them it will preserve the historic look of  
105 the property as they could potentially have someone come in who would rip it down and put in a  
106 commercial building. Ms. Adams continued that she would rather have an owner who is sensitive to the  
107 way the community looks and is trying to preserve it as even with apartments it would be residential.

108 Mr. Landry explained that the lot is tight and the parking situation could be a detriment if it were  
109 approved to go to the Planning Board. Mr. Landry recommends that the property be surveyed with at  
110 least eight parking spaces laid out or to ask for a Variance for the parking requirements, though there  
111 would not be a guarantee that the Police Chief would sign off on that for the Site Plan Review.

112 Mr. Simpson asked if there are any other multi-units on the road. Mr. Klapp and Mr. Garceau confirmed  
113 that there is a two unit behind the property and a four unit a few properties away on the other side of  
114 the property on Old Georges Mills Rd. Mr. Garceau said that there are also some apartments further up  
115 on Central St.

116 Mr. Garceau asked if parking spaces are needed could one be added on the side towards the Catholic  
117 Church. Mr. Katz asked, and Mr. Garceau confirmed, that there is room for this to be done. Mr. Larrow  
118 said that they would require permission from the Town Highway and Police Department to have access  
119 onto the street there. Mr. Klapp asked if the parking spaces needed were definitely eight and Mr.  
120 Landry said that Zoning Regulations prevail in this case unless he obtains a Variance for this. Mr. Klapp  
121 asked for clarification as to whether the Planning Board would approve tandem parking and Mr. Landry  
122 said he does not believe they will. Mr. Platt showed Mr. Klapp where it seems that the proposed  
123 parking is over the Right of Way. Mr. Landry stated that Mr. Larrow's idea regarding getting the  
124 property surveyed and properly laid out is a good idea.

125 Ms. Adams said that when John Chiarella went to the Planning Board for his property he did tandem  
126 parking and it was approved. Mr. Landry explained that he believes that they allowed the dwelling unit  
127 parking to be back to back but did not allow the business parking to do this. Ms. Adams said that she  
128 remembers the tandem parking as part of his approved plan. There was a discussion regarding the lot  
129 coverage and Mr. Landry explained that the proposed plan would not increase the lot coverage but  
130 another Variance would be needed if more parking is added.

131 Mr. Platt said that he thinks it is too much and there are too many units for such a small lot. There  
132 would not be a reason for the applicants to come back with a survey if the other Board members feel  
133 the same way. Mr. Schneider said that this is not a technical Variance, it is over by almost four times the  
134 density and there are Zoning Regulations for a reason and he does not see this case as unique.

135 Mr. Klapp said that this property is unique as it sits on the edge, almost not even on Central St. This  
136 property has been used commercially and the other properties on Central St would not easily be made  
137 into apartments as they were built as single family homes.

138 Mr. Platt said that he would be more inclined to accept a duplex as it would not be as much over the  
139 density as it is with four units. Mr. Platt continued that a Zoning Variance runs with the land and if the  
140 Variance is granted, something happens with the sale, and Mr. Garceau sells the property to someone  
141 else, the new owner might not have the same commitment that Mr. Klapp does to the project.

142 Mr. Landry was asked if a Variance would be required for a two family unit and he explained that as they  
143 currently have two units, one a commercial and the other a residential, he would have to check to see

144 what would be required though it might just be a Special Exception. A conversion to a three family will  
145 still require a Variance.

146 Mr. Schneider asked if the office space in the building is grandfathered and Mr. Garceau confirmed that  
147 he was there before Zoning and it was also allowed up until 2010 when the Zone was changed from  
148 Village Commercial to Village Residential.

149 Mr. Simpson said that he feels that the parking is a problem as there are not enough spaces and he is  
150 not comfortable with what is proposed. Mr. Simpson said that he does not feel as though the  
151 application meets the unnecessary hardship requirements. Mr. Garceau asked what is considered  
152 hardship criteria and if Mr. Klapp needs four units to make the property work for him financially it is  
153 deemed a hardship. Mr. Simpson explained that hardship is not financial, it relates to the property, such  
154 as a lot of ledge or the shape of the property is unique so that a Variance is needed to utilize the  
155 property. Mr. Platt said that it could also be that the neighboring properties are all multi-unit properties  
156 and a Variance is required to change the property to a Use similar to the neighborhood.

157 Mr. Simpson said that even though five units are permitted in the Zone, there is still a density issue. Mr.  
158 Platt said that a lot of the Board's concerns, the parking and lot coverage, are because the lot is small.  
159 Mr. Klapp asked how the properties on Main St, with smaller lot sizes and smaller road frontage and  
160 more units, don't come into effect. There was a discussion regarding the Main St buildings lack of  
161 parking and Mr. Klapp said that he believes that if parallel parking is allowed then he believes there is  
162 room for eight cars in the parking lot of the property. Mr. Klapp asked if he could show eight spots if the  
163 Board would be willing to move forward. He explained that he does not feel as though he is changing  
164 the Use and it would be a benefit for the area.

165 There was a discussion as to whether a survey would change the opinions of the Board members and  
166 Mr. Platt said that he feels as though four units are too much for the property. Mr. Simpson said that if  
167 he was more comfortable with parking he might consider approving the proposal but he feels as though  
168 it is on the edge of being too much.

169 Mr. Garceau asked what the timeline for a continuance would be as if they waited until next month and  
170 would then need to go to the Planning Board for Site Plan Review. Mr. Landry explained that if the  
171 applicants ask for a continuance, the Planning Board would not see the proposal until their March  
172 meeting. There was further discussion regarding the Site Plan Review process and what the Planning  
173 Board could ask for from the applicants.

174 Mr. Schneider said that he feels that the Board at least wants to see a survey of the property with the  
175 parking lay out and Mr. Katz agreed. Mr. Simpson said that he would consider a Variance of the parking  
176 spaces. Mr. Schneider pointed out that it still will not change the density issue. There was further  
177 discussion regarding this issue and Mr. Klapp decided to not ask for a continuance.

178 Aaron Simpson made a motion to close the hearing to public comments. Daniel Schneider seconded the  
179 motion. The motion passed unanimously.

180 Aaron Simpson made a motion to approve Case 13-01 Parcel ID 0129-0056-0000 request seeking  
181 approval of a Variance of Article III Section 3.10 to allow four dwelling units apartments on a .27 acre lot  
182 with 179 feet of frontage, property owned by Ron Garceau, 9 Central St, as presented by Mr. Klapp, 350  
183 Enterprises, LLC. Daniel Schneider seconded the motion. The motion failed with zero in favor and five  
184 opposed.

185 **MINUTES**

186 Changes to the minutes from December 13, 2012: Change line 20 to read "...open the other side since  
187 she already..." Change line 22 to read "...but wants to add in selling..." Change line 30 to read "...would  
188 not allow full use of the property..."

189 Daniel Schneider made a motion to approve the minutes as amended. William Larrow seconded the  
190 motion. The motion passed four in favor and with one abstention (Aaron Simpson).

191 **ZONING PROCEDURES**

192 Mr. Simpson gave an update on the Zoning Procedures. He feels as though he is half-way through them  
193 but keeps finding new things to be reviewed. Mr. Landry said that Mr. Platt had some concerns,  
194 particularly with the application procedure. There was further discussion regarding this matter and  
195 adopting some of the similar procedures to the Planning Board regarding completeness of the  
196 application. The Board requested that Mr. Landry work on a checklist for the Planning Board  
197 applications.

198 Daniel Schneider made a motion to adjourn the meeting at 8:18 pm. Clayton Platt seconded the motion.  
199 The motion passed unanimously.

200 Respectfully submitted,

201 Melissa Pollari

202

203

204 Edward Frothingham

\_\_\_\_\_  
Aaron Simpson

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206 Dick Katz

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Clayton Platt

207

208 Daniel Schneider

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William Larrow