

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **JUNE 25, 2020**

4 Chairman White called the meeting to order at 7:32 pm.

5 Chairman White read the Governor's Emergency Order #12 that authorizes the Planning Board to meet
6 electronically: "As Chair of the Planning Board, I find that due to the State of Emergency declared by the
7 Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency
8 Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.
9 Please note that there is a physical location at 23 Edgemont Rd in the Meeting Room to observe and
10 listen contemporaneously to this meeting, which was authorized pursuant to the Governors Emergency
11 Order. Please note that all votes that are taken during this meeting shall be done by roll call vote. Let's
12 start the meeting by taking a roll call attendance. When each member states their presence, please also
13 state whether there is anyone in the room with you during this meeting, which is required under the
14 Right-to-Know law."

15 A roll call was taken:

16 **MEMBERS PRESENT BY VIDEO:** Peter White, Chair; Michael Jewczyn, Vice Chair; Randy Clark; Joe Butler;
17 Donna Davis Larrow, Alternate; Sue Gottling, Ex-Officio Member

18 **MEMBERS PRESENT IN THE MEETING ROOM:** Jeffrey Claus; Richard Osborne, Michael Marquise,
19 Planner

20 **ALSO PRESENT BY VIDEO:** Randy Britton

21 **ALSO PRESENT IN THE MEETING ROOM:** Patrick Clapp; Debbie Samalis

22 **PARCEL ID: 0133-0019-0000: SITE PLAN REVIEW: ADDITION OF SMALL OUTDOOR PATIO IN FRONT OF**
23 **RESTAURANT; 45 MAIN ST; 350 ENTERPRISES, LLC**

24 Mr. Claus recused himself from the case in order to help present the case with Mr. Clapp and Ms.
25 Samalis.

26 Chairman White nominated Mrs. Larrow fill in for Mr. Claus.

27 Mr. Claus asked to share his screen with the Board via the Zoom meeting and he and Mr. Marquise
28 worked on that.

29 Mr. Claus said that some of the questions from the last meeting pertained to the current signage, lighting,
30 etc. so they have taken some pictures to show the Board what is currently on the site. Mr. Claus
31 explained these pictures to the Board. He also said that the Town's website has some older pictures of
32 the building and they showcase that Mr. Clapp has invested a lot of money into improving the aesthetics
33 and upkeep of the building. This relates to the patio because Mr. Clapp wants the patio to match what he
34 has already done.

Mr. Claus explained where the patio will be within the boundary lines of the property and the retaining wall along the driveway. The existing retaining wall will be modified slightly but only to the extent shown.

Mr. Claus said that the patio will be hardscaped and will have a clear 5 ft path to the door per the Fire Chief's request. The other requirement was to have some sort of barrier to designate the patio limits and they are proposing a bar top along one section of the patio with nine seats. There will also be a small railing section on the other side and then two narrow tables along the retaining wall. They are also proposing moving the smoker to the other side of the driveway along the property line and the trash cans will be moved further up the driveway.

Mr. Claus said that access was a concern of the abutters at the last meeting. The smoker has a retractable shelf that drops down; when the shelf is down there is 12 ft 1 inch between the smoker and the retaining wall and when it is up there is 10 ft 7 inches. The trash cans allow for 11 ft 8 inches of clearance, however, they are easily moved if they need to be for access.

Mr. Butler asked and Mr. Claus said that there are some things that are still being determined such as the design of the tables but he has images of some of their ideas. Mr. Claus went further into detail regarding the design direction that they want for the patio seating areas, retaining wall, patio materials, tables, etc. They are also proposing some festoon lighting and a sun shade that are depicted in the materials submitted; they are preliminary thoughts but wanted to present them to the Board.

Mr. Claus said that regarding the access for the barn owned by the abutters and the Boundary Line Agreement with them, he did visit the site to look for alternative locations for the smoker. However, there are concerns about practicality and functionality as Ms. Samalis explained at the last meeting that she likes to have close access to the smoker to be able to haul the meat to it as well as to attend the meat while it is smoking.

Mr. Claus said that Mr. Clapp wants the Board to understand what the Boundary Line Agreement entails so they provided a copy of it for the Board. It says that the access is for the purpose of maintaining the barn, only; the Brittons do currently use the driveway access the barn and Mr. Clapp is going to continue to allow that. However, Mr. Clapp's legal obligations are for maintenance only and that will continue to be accommodated as well.

Mr. Clapp explained other pictures that were submitted to the Board including the picture of the photoshopped smoker in the proposed location and the clearance.

Mr. Butler asked and Mr. Claus said that Mr. Clapp has met with and emailed with the abutter who has quite a list of requests, many of which come with financial costs. Mr. Clapp said that he has talked to the abutter's son but at this point they have not found common ground. The abutter's son has expressed that he supports the project, however, at a cost such as building a new retaining wall and cutting a tree down on the barn property.

Mrs. Larrow said that on the original plan they requested eight seats at the tables and six seats on the other side of the walkway. This plan shows nine stools for the bar and she is a little concerned that they are close together and she wondered how much space every person will have. Mr. Claus said that in restaurant spacing seats can have anywhere from 24 inches to 30 inches for place settings and they are using approximately 28 inches on center for the bar stools. They also used this measurement for the

74 tables in order to get 2 ft of clearance behind the chairs. The bar allows them to get more seating as
75 tables did not work with the clearance needed.

76 Chairman White asked about the railing and the bar and if it is considered to be a structure. Mr.
77 Marquise said that he received a comment from the Zoning Administrator that the fence has to meet the
78 fence requirements so it cannot be taller than 5 ft. Anything that is connected to the fence would be a
79 structure and everything will have to be portable to not be considered a structure. Mr. Butler asked and
80 Mr. Marquise confirmed that anything that is a structure would need to meet the setbacks. Mr. Claus
81 asked if the bar has something that clamps it to the fence if it is still a structure. Mr. Marquise said that
82 he understands that the tables have to be moveable and he assumes it would be the same for a bar top.
83 Mr. Butler asked and Mr. Marquise said that a structure is something with a fixed location on the ground.
84 Mr. Butler asked and Mr. Marquise said that there is nothing in the Ordinance that says if something has
85 to be moved weekly, monthly, etc., only that it is not fixed to the ground but it is a question for the
86 Zoning Administrator before they move forward. Chairman White asked and Mr. Clapp said that the plan
87 is to have the tables and chairs put away when the patio is closed for the winter. Mr. Clark said that if
88 this is approved then the Board is approving temporary structures for an entire season within the
89 setbacks, which is slightly concerning to him. Mr. Butler asked and Mr. Claus said that this was just
90 brought to their attention as they thought that they were being creative with the bar top as the Police
91 Chief wants the barrier. However, there is a solution that they can come up with that should be able to
92 satisfy the Board; he does not know what the solution will be but they will have to get creative. There
93 was further discussion regarding this matter.

94 Mr. Butler asked about the retaining wall and it was explained that as long as it is under 42 inches it is not
95 considered a structure.

96 Chairman White asked if there is anything in the Ordinance regarding temporary structures and Mr.
97 Marquise said that it is not defined but believes that the interpretation is that as long as something is not
98 fixed to the ground it is not a structure. Chairman White asked if it is not a structure if the Board has to
99 worry about if it is only on the patio seasonally. Mr. Marquise said that the Zoning Administrator's
100 comment was that portable / moveable tables will be permissible; there is nothing that talks about length
101 of time. Mrs. Larrow says the Zoning Ordinance says that a structure is anything with a fixed location on
102 the ground or attached to something having a fixed location on the ground so as long as it is not attached
103 to something it would not make it a structure.

104 Mr. Marquise said that Police Chief Cahill was in favor of the proposal. His only concern was that there
105 not be any parking in front of the patio as there is currently parking up to the building. There was further
106 discussion regarding this matter.

107 Mr. Marquise asked if Mr. Clapp or Ms. Samalis have spoken with John Galloway, the new Fire Chief. Ms.
108 Samalis said that she did not realize that there was a new Fire Chief. Mr. Marquise said that they may
109 want to touch base with him. Mr. Osborne asked and Mr. Marquise said that Fire Chief Galloway has
110 received all the paperwork for the proposal and he did not receive any comments back; however, as a
111 courtesy it might be worthwhile for Mr. Clapp and Ms. Samalis to have a conversation with him.

112 Mr. Butler asked and Chairman White confirmed that if the retaining wall is higher than 42 inches then it
113 is considered a structure. Mr. Butler asked and Chairman White said that the bar cannot be affixed to the

114 top of the retaining wall because it will become a structure; they are going to have something that is
115 movable and not fixed to the ground. If it is not a structure then it does not need to meet the setbacks.

116 Mrs. Gottling said that there is quite a slope on the property and asked how that will be evened out. Mr.
117 Claus said that the retaining wall that is down by Main St is 32 inches and it will taper off with the slope.
118 Mrs. Gottling asked and Mr. Claus said that they are going to build a retaining wall and fill in the area and
119 then add concrete pavers to deal with the slope.

120 Chairman White asked and Mr. Clapp said that they have already received a DES Permit. Mr. Marquise
121 said that they had already received a DES permit when they came before the Board last year.

122 Chairman White asked if the patio will be pervious and Mr. Claus said that they are going over the top of
123 impervious surface. Chairman White said that there is some pervious surface there currently. Ms.
124 Samalis said that there is a very small area that is pervious. Chairman White asked if the State had any
125 issues with the concrete pavers and Mr. Clapp said that they will actually be taking away some pervious
126 area and making it impervious.

127 Randy Britton, the son of an abutter, said that he met with Mr. Clapp in person and conversed with him
128 via the telephone and email. They do not currently have an agreement about where they stand moving
129 forward and they have some concerns, which they expressed at the last meeting. As the direct abutter,
130 this project will have some direct costs to them; for example, where the smoker is proposed to go there is
131 a lot of greenery and a tree, which is on their side of the property line. He thinks that it is not good to
132 have a smoker next to a tree and if it needs to be removed it would have to be at their expense as there is
133 no agreement that Mr. Clapp would pay anything. Additionally, they are concerned about a potential
134 insurance impact on their building regarding having something like that in such close proximity. This is
135 the first time that they have seen the drawing with the trash cans, which are proposed to be against the
136 wall of their barn. They have not been happy about where the trash cans are currently located as it is
137 essentially on their doorstep but they are also not happy with them being moved against the wall. Mr.
138 Britton continued that the applicants have talked a lot about the aesthetics of the building but he does
139 not think that the big metal smoker and garage cans will help their property's aesthetics. Also, they are
140 concerned with animals being attracted to the trash cans and getting into the barn and damaging the
141 things inside, which would be a cost to them.

142 Mr. Britton said that regarding the Boundary Line Agreement, they have two places to access the barn
143 along the driveway side of the building and it is their understanding that they were granted access to get
144 in and out of those spaces. They have spoken to their attorney and were told that the right of way
145 includes anything that is paved and part of the smoker will extend over the pavement. Also, there was a
146 discussion about permanent structures and if the smoker is a permanent structure and they need to get
147 something out of the barn that will be a problem for them in terms of access. They also have drainage
148 that goes almost exactly where the smoker will be located so there will be runoff from the smoker going
149 down that drain. Overall, they are not in favor of the proposed location of the smoker. They did try to
150 work with Mr. Clapp and discussed modifying the retaining wall to mitigate their concerns. However, the
151 bottom line is that putting the smoker where it is being proposed will be at a cost to them, which does
152 not seem appropriate.

153 Chairman White asked and Mr. Clapp said that the tree is on the Britton's property but they are willing to
154 remove some limbs. The smoker will not impede the Britton's access to the barn at all and the access is
155 for maintenance to the barn such as painting and putting in windows.

156 Ms. Samalis said that the smoker is a true offset smoker; the firebox is 24 inches by 24 inches of steel
157 which is to the left of the smoker and there is no way that flames will get through the box. The smoker
158 has a false bottom and there is vent stack on the same side of the firebox so the draw pulls the heat and
159 smoke through the false bottom, over the meat, and up the stack. The smoker does not get hot, just
160 warm to the touch, the maximum temperature that it gets is 200 degrees. There are no heat, drainage,
161 or grease issues; everything in the box is enclosed, which is why the State of NH Health Dept. and State
162 Fire Marshall allow it. It does not even need to have a 20 ft setback from buildings as it is a self-contained
163 unit with no heat, fire, or grease issues. Mr. Butler asked and it was explained that the smoker is sitting
164 on legs.

165 Mr. Butler asked and Mr. Claus said that Alpine Court is town maintained.

166 Chairman White asked and Ms. Samalis said that where the trash cans are now, the smoker will be moved
167 there, just set slightly back. There is a little triangle of grass lined dirt there, which is the best location for
168 it. If the smoker was moved onto the other side of the driveway it would impede the access to the
169 driveway.

170 Mr. Britton said that one of the problems is that the retaining wall is right on the boundary line and then
171 creeps in onto their property. They proposed to have the retaining wall straightened in order to make it
172 clear where the property line is located. They would also like to know why, if the trash cans are being
173 relocated against the barn wall, they cannot be relocated against the retaining wall on the other side of
174 the driveway. He is concerned about animals being attracted to the trash cans. Mr. Britton said that they
175 do want to see the restaurant succeed, however, they do not want to have any damage to their own
176 property and they are trying to find some middle ground.

177 Mr. Britton said that he thinks that the tree will need to be removed and does not know who will pay for
178 it. Mr. Clapp said that the whole tree should not need to be removed, however, they will remove the
179 limbs that they need to and they will clean out all the brush on their property. The smoker will not be
180 going onto the Britton's property at all and he does not think that the tree needs to be removed. Mr.
181 Claus said that the image that shows the trash cans shows a lot of saplings that are down around them.

182 Mr. Claus said that the rebar that was highlighted in the photoshopped image. The survey shows the
183 retaining wall flares out; however, the rebar allows for clear delineation of the location of the boundary
184 line. Also, with the length and width of the smoker, it will not fit in the small triangle of land where the
185 retaining wall flares onto the Britton's property.

186 Mr. Butler asked and Ms. Samalis said that one of the discussions that they had with Mr. Britton was that
187 the side of Mr. Clapp's building has tenant windows and where they are proposing to put the smoker
188 does not and there is open air. She would be more concerned putting it up the driveway and creating
189 more of a smoke tunnel than putting it where they are proposing as there will be nothing to impede on
190 the draw of the stack.

191 Mr. Butler asked and Ms. Samalis said that when she first opened the restaurant she wanted to put the
192 smoker on the Main St side of the building with a door to the kitchen but the Town did not want it on the
193 road side, which is why it is in front of the restaurant. The State Fire Marshal and Fire Chief understood
194 how the smoker functioned and did not require the 20 ft setback from the building so it has been there
195 for the past 10 years.

196 Mr. Britton said that he has stated what their concerns are and he is not trying to be unsupportive of
197 what Mr. Clapp and Ms. Samalis are doing but he has to defend the value of their property and what their
198 interests are and they believe that the proposed location of the smoker will have a severe impact on their
199 property.

200 Mrs. Larrow asked Mr. Britton how he knows that the proposed location of the smoker will impact their
201 value and asked what costs are associated with it. Mr. Britton said that he did have someone come down
202 and give him a quote to remove the tree and it will cost between \$600 and \$800. He also has received
203 quotes to straighten out the retaining wall and it will be about \$2,000, including removing the tree and
204 stump. He also thinks that having trash cans in front of their property will affect their value. Also, Ms.
205 Samalis said that the smoker does not smoke and then talked about a smoke tunnel. They are not trying
206 to impede what Mr. Clapp and Ms. Samalis want to do; however, he does not think that the proposal will
207 have a positive impact on their property and thinks that it will have a negative impact.

208 Mrs. Larrow said that one of the costs that Mr. Britton mentioned was insurance and asked if he has
209 talked to an insurance agent about if there would be an impact to them. Mr. Britton said that they are
210 due to renew their insurance but he is sure that it will be affected. Mr. Clapp said that the smoker sits
211 approximately 5 ft from his building and has not had it affect his insurance. Ms. Samalis said that she just
212 had her insurance company at the property two weeks ago and the only issue she had was a crack on the
213 front stairs, there were no questions about the smoker.

214 Mrs. Larrow asked Mr. Britton about the a cost associated with changing the wall and asked about that.
215 Mr. Britton said that currently the area is not fully paved and there is a slope so he is assuming that they
216 will not be able to have the smoker sit directly along the property line. If the wall is straightened out and
217 the tree is removed then there would be a cost. Mrs. Larrow said that the smoker would still be in the
218 same place if the wall is straightened out. Mr. Britton said that he thinks that it would be a lot different if
219 it was set up so it was not just a big smoker box on the ground and looked more like it belonged there.
220 He was trying to get some type of accommodation to allow Mr. Clapp and Ms. Samalis to do what they
221 wanted to do without a severe impact on them.

222 Chairman White asked and Mr. Britton said that the barn is currently just used for storage. When they
223 purchased the property, they were asked if it would be used for apartments or something else but they
224 only use it for storage. However, if they choose to change the way that it is used they would not to have
225 a negative impact upon the potential uses. Chairman White asked if the barn is a commercial property or
226 just used as a residential barn. Mr. Britton said that he is not sure what it is zoned for but he thinks that it
227 could be used commercially and they could put a business in it if they wanted. Chairman White asked
228 and Mr. Britton said that currently the barn is not finished and no one could live there.

229 Chairman White asked if there is a possibility for a visual screen either on top of the existing wall or
230 somewhere else to hide the smoker. Mr. Britton said that was something he wanted to discuss with Mr.

231 Clapp, however, they have only had two weeks to discuss everything and get numbers for things. They
232 are concerned about the costs, aesthetics, and access. Chairman White said that he thinks that the
233 aesthetics could be handled with some type of visual screen between their property and the smoker.

234 Mr. Britton asked if the smoker can be moved for something that would be wider than 10 ft or 12 ft. He
235 wants to make sure that the smoker is not a permanent structure and will not stay there forever or if it is
236 only for this tenant for her business. Mr. Clapp said that the smoker is owned by Ms. Samalis; also, the
237 Boundary Line Agreement says that access is for maintenance purposes. He is open to them using the
238 driveway to access the barn as needed; however, it clearly states in the Agreement that it is for
239 maintenance of the south side of the barn. Mr. Britton said that he does not have a copy of the
240 Agreement so he does not know what it says. Mr. Claus said that a lane on a State Highway is 12 ft wide
241 so he cannot imagine that anything would be wider than 12 ft to come down the road and go up the
242 driveway to the barn.

243 Mr. Britton said that they do not want the smoker or trash cans to be in their proposed locations. They
244 do not want to impede the business; they want to find a way to compromise in order to address their
245 concerns while still allowing Ms. Samalis to proceed while being reasonably certain that they know what
246 the future will hold.

247 Ms. Samalis said that the trash cans have been in their current location since she opened. Also, she does
248 not believe that the smoker is an eyesore as a lot of people are interested in smoking right now and like
249 to look at it. They are not proposing to dig anything, she is going to alter the smoker by cutting the legs
250 and they are going to limb the tree and clean up the area. The smoker is going to be picked up, the legs
251 will be cut, and it will be placed on the property line.

252 Mr. Britton said that his mother has items that she may want to auction off and they may want to run a
253 business out of the barn and people would be walking by the trash cans and smoker and smoke would go
254 into the barn through the open doors. It is not a problem right now, however, it could be a problem in
255 the future and he is looking for some remedy for that.

256 Chairman White asked if it is functionally necessary to have the trash cans by the smoker as right now
257 they are not close. Ms. Samalis said that she believes that is where the Town wanted the garage cans
258 when she opened. They reviewed different locations and that is where everyone agreed would work;
259 they have been there for 11 years and have not been a problem. She also does not believe that moving
260 the smoker 12 ft to the other side of the driveway will make any difference to what Mr. Britton smells.
261 Mr. Clapp suggested that they work with Mr. Britton to try find another spot for the trash cans that
262 makes everyone happy. Mr. Britton said that would alleviate some of their concerns but it is not just
263 about the trash cans; his preference is to put the smoker along Main St.

264 Mr. Butler asked if the smoker could be incorporated into the new patio and placed along Main St. Mr.
265 Claus said that Ms. Samalis has already said that the Town did not want the smoker to be along Main St.
266 The trash cans were just moved up the driveway so that they are still easily accessible for pick up. The
267 patio is to try and allow the very small restaurant to acquire some additional seating in the summer
268 months. Mr. Marquise said that he does not believe that Police Chief Cahill wants the smoker to be along
269 Main St.

270 Ms. Samalis said that her smoker is filled with hundreds of pounds of meat and she cannot be running
271 around the building with it; nor can she leave the smoker unattended. The trash is a similar issue and she
272 cannot be running to the back of the building to get rid of it.

273 Mrs. Larrow asked if there is enough room to have an enclosure around the trash cans in order to not see
274 them. Chairman White said that they could also have something behind the smoker along the retaining
275 wall to allow for privacy screening as long as the smoker is not a fire hazard.

276 Mr. Britton said that his thoughts regarding moving the retaining wall was to make the boundary line
277 clear and not have the smoker right in their faces if the tree is removed; if they ever decide to use the
278 barn commercially, the smoker will be right in their faces. Ms. Samalis said that any change to a business
279 requires a Site Plan. There was further discussion regarding this matter.

280 Mr. Clapp said that he thinks that there is a big difference between putting up screening and rebuilding a
281 retaining wall. Mr. Britton said that they have not discussed how to divide the cost of rebuilding the wall,
282 however, it would be to both parties benefit. He thinks that there should be some compromise between
283 the two of them and he does not think that it is fair that all of the expenses are on them such as cutting
284 down the tree or rebuilding the retaining wall.

285 There was a discussion about having the smoker in a different location on the patio such as cutting the
286 retaining wall along the patio and putting the smoker there or just putting it on top of the retaining wall
287 and the grade change there.

288 Mr. Osborne asked and Ms. Samalis said that she is not opposed to privacy screening, however, she does
289 not see why they should have to rebuild the wall. She thinks that it would be minimal to put something
290 there, however, it will be 4 ft down from the Britton's driveway so it is the most unobtrusive location.
291 Mr. Clapp asked Mr. Britton if a privacy screen would be acceptable. Mr. Britton said that he thinks that
292 the way that the trees and brush have grown up it makes it harder to see the trash cans. A privacy screen
293 might fix it but, in the end, the location is not something that they prefer though he understands that it
294 will be on Mr. Clapp's property.

295 Mr. Britton asked if they could move the smoker somewhere else and Mr. Clapp said it would impede on
296 the driveway. Mr. Britton asked and Mr. Clapp said that if they keep the smoker where it is currently
297 located it would remove eight seats.

298 Chairman White said that the photograph in the presentation that shows the trash can shows that they
299 are pretty well hidden with the trees. The Board is always concerned with screening and vegetation,
300 however, the smoker is part of the business. He thinks that some effort to put some sort of privacy fence
301 behind the smoker that extends so that it is not an eyesore to the neighbor would be simple. This is a
302 business; however, they do want to do something along the property line so he thinks that they need to
303 give some sort of consideration to that. He thinks that the tree is pretty big but the other trees are
304 saplings and they should be removed and then a visual screen would add a lot of merit.

305 Mr. Claus asked who needs to review and approve a screening wall as Ms. Samalis wants to get the patio
306 built for her business. Chairman White asked and Mr. Claus agreed that it would be a fence. Mr. Claus
307 asked and Chairman White confirmed that as long as it is under 5 ft it would meet the Town's regulations.
308 Mr. Marquise agreed if the Board wants to make it a condition of approval.

309 Ms. Samalis asked if they could build a lean to for the trash cans as well as a screen; the only issue is that
310 the truck needs to access them. Mr. Britton asked why the trash cans need to be against the barn instead
311 of the other side. Ms. Samalis said that the access to the driveway will be impeded. If the trash cans are
312 placed on the back side of the retaining wall on the proposed patio side of the driveway people will not
313 be able to go down it as the driveway has a turn in it. Mrs. Larrow said that the pictures show that
314 looking up the alley it narrows so further up the alley you can see that there would be a problem with
315 access.

316 Chairman White said that the trash cans have been located in the same location for 11 years and now
317 they are proposing moving the smoker there and just moving the trash cans. He does not see that the
318 applicants should have to remove the tree or rebuild the wall but he thinks that they can build a privacy
319 fence behind the smoker. They are putting the smoker and trash cans against a neighbor's property,
320 which does add a new element, so he does think a visual screen is important.

321 Mr. Butler proposed moving the smoker somewhere else and Mr. Claus explained that the driveway
322 flares out at the street level and where Mr. Butler is proposing to put it is where the retaining wall
323 actually pinches the driveway. Mr. Butler said that he was proposing putting it in the flare out area by the
324 retaining wall. Ms. Samalis said that some of that land is owned by the Town. There was further
325 discussion regarding this matter.

326 Mr. Britton said that he is sad that he was not able to come to a compromise with Mr. Clapp and he
327 would like to try and work something out so they can proceed with what they were doing. He would like
328 to make sure that the tree is removed and there is a fence right against the land. He would like to make
329 sure that their aesthetics are maintained. Additionally, he would like to know if the Board approves the
330 location if it will be perpetual even if the property is sold. Chairman White said that approvals go with
331 the property. Also, aside from building the fence, he does not know what else Mr. Britton would need to
332 make it aesthetically acceptable. Mr. Britton said that his concern is the tree and if there will be a
333 problem to put the smoker there from a safety standpoint. He wants to make sure that everything looks
334 good instead of just sitting there on the dirt.

335 Mr. Claus asked if they agree to do the screened wall / fence for privacy if it will not accommodate the
336 aesthetics issues. Chairman White said that it would make it so that the Brittons do not see anything
337 other than what they currently see. He does not know what other options there would be for a privacy
338 area there; he is not sure how to beautify the smoker, it is what it is, and a privacy fence would be
339 appropriate and hide it. Mr. Britton said that they really just do not want the smoker to be there.

340 Ms. Samalis said that she is in a pandemic situation and while she understands that the Board may feel as
341 though this has no bearing, she has a business that has been closed for four months. They are now
342 allowed to open, however, her seating is cut in half so she only has 11 seats. Her request for outdoor
343 seating has been going on since last June. In the pandemic situation, the outdoor seating would help her
344 tremendously. She understands Mr. Britton's concerns, however, the trash cans have been there for 11
345 years and the smoker is moving just across the driveway. She does not think that it is fair to ask Mr.
346 Clapp to spend more money as he is already paying for everything. She does not believe that there are
347 any guidelines regarding where to place a grill or a smoker. She understands that they need to have
348 consideration for the abutters and that Mr. Britton does not like the way that it looks but she does not
349 know why there is such an issue with where they are proposing placing the smoker and trash cans. Tthey

350 are trying to be reasonable with offering to put a fence up and now Mr. Britton is just saying that they do
351 not want the smoker and trash cans there at all. She feels as though he has just been going around and
352 around because he first said that he wants the tree removed and the wall rebuilt and now just does not
353 want it there. They can have another meeting to discuss putting in some type of fence or barrier for
354 privacy but she does need to have more seating.

355 Chairman White said that the Board appreciates what they have done for the presentation as it is very
356 clear and he knows that they have put a lot of time and effort and money into it; it is exactly what the
357 Board asked them to do. In the same regard, he thinks that they have tried to alleviate some of Mr.
358 Britton's concerns, which are legitimate. He thinks that there needs to be some type of balance and
359 some type of solution. He thinks that the proposed solution, while not everyone is happy with it, can
360 allow them to move forward.

361 Chairman White noted that Vice Chair Jewczyn does not have sound but can type his questions and
362 comments to the Board.

363 Mr. Osborne said that looking at one of the pictures it appears as though the tree is fairly tall and he
364 thinks that the tree limbs can be trimmed and the saplings can be removed so there is not any issue from
365 the smoker for the tree. If the concern is removing the tree then that is something to be looked at but to
366 begin with he thinks that trimming it and removing the brush should be good. A fence behind the smoker
367 will be less obtrusive than a retaining wall; from the picture he cannot see what type of retaining wall is
368 there and how tall that it is but to bring it up to the height to block the smoker does not make sense. He
369 would recommend a fire proof fence if they want to put one along the back of the smoker to delineate
370 the property line. Regarding the trash cans, he does not know if it is possible to put them somewhere
371 else so that they would not be directly in the driveway but he cannot tell from the pictures. Ms. Samalis
372 said that the biggest issue is the truck and Mr. Osborne said that they could be directly across the
373 driveway from where they are now but against Mr. Clapp's building instead of the Britton's building.
374 There is a platform for the doorway that sticks out so they would not impede the driveway more than the
375 current step. He thinks that there is room for some compromise to make something happen. He
376 understands Ms. Samalis has been shut down for months and has not been able to be in business.

377 Mr. Osborne asked if Mr. Clapp would be willing to split the costs of the new retaining wall. Mr. Clapp
378 said that he can talk to Mr. Britton but does not see how it improves anything as there is already a
379 retaining wall there; a fence would make sense to him. He and Mr. Britton did not talk about a fence,
380 however, Mr. Britton just said that he did not find the fence acceptable.

381 Mr. Britton said that he is trying to represent his mother and what she wants as she cannot attend the
382 meeting and he does not know if the fence would be acceptable. He is concerned about the permanence
383 of the proposal and the impact that it will have on their property. He does not want them to not be able
384 to run their business but they are trying to find something that is mutually acceptable. Mr. Clapp said
385 that he is willing to do the fence and trim the tree. Mr. Britton said that he assumed that the tree needed
386 to be removed because of the smoker but maybe it does not. He thinks that a fence that hides
387 everything might be mutually acceptable; he just wants to ensure that they have access to the barn.

388 Mr. Osborne said that the tree is pretty close to the same distance away from where the smoker will sit
389 as where it is now so he thinks that the trunk of the tree should not be an issue in terms of fire danger as

390 long as the branches are trimmed so they are not directly over the smoker. Ms. Samalis said that Fire
391 Chief Ruggles came to the site and looked at it and said that it only needs to be limbed. Mr. Osborne said
392 that would eliminate the problem with the tree.

393 Chairman White asked and Mr. Clark spoke about his concerns and thoughts regarding the proposal.

394 Mrs. Gottling said that she thinks that the smoker should be screened and the trash cans moved as the
395 driveway should be wide enough. Chairman White said that the trash cans can be easily moved because
396 they roll.

397 Mr. Clark asked and it was confirmed that the trash cans do get picked up by a truck which would need to
398 get in and out of the driveway.

399 Mr. Butler asked and Mr. Marquise said that normally an approval goes with the property, not for just a
400 set amount of time. Mr. Butler said that his concern is if this business goes out of business and the
401 abutters sell their property and there is still a smoker there if the Board could discuss it in the future. Ms.
402 Samalis said that if she goes out of business, she will take the smoker.

403 Mr. Britton said that one of the other things that they wanted to discuss was to ensure that if the
404 business changes that the smoker will not remain for other businesses. Chairman White said that would
405 be a private discussion between Mr. Britton and Mr. Clapp. Mr. Clapp said that if Ms. Samalis wanted to
406 sell her business, she should have the right to do so.

407 Chairman White said that he thinks that the Board needs to move on from the discussion and make a
408 decision on the proposal as he does not know if anything new can be added. There was further
409 discussion regarding this matter.

410 Mrs. Larrow made a motion to approve the Site Plan Review for Parcel ID: 0133-0019-0000 to add a small
411 outdoor patio in front of the restaurant at 45 Main St, 350 Enterprises, LLC with the following conditions:
412 that the applicant comply with whatever the Shoreland Permit requires, the patio area has non-fixed
413 furniture so it does not become a structure, and some sort of aesthetics be provided for the smoker and
414 trash facilities. Mrs. Gottling seconded the motion. Mr. Marquise said that another condition should be
415 that there not be any parking along Alpine Court. Mrs. Larrow amended her motion to include no parking
416 along Alpine Court. Mrs. Gottling seconded the amendment. Mr. Butler asked and Mr. Marquise said
417 that for any construction or Zoning issues, the Zoning Administrator is the enforcement person so if
418 something does not meet the portability requirements, she would handle it. Mr. Butler asked and Mr.
419 Marquise said that he believes that Mrs. Larrow's motion deals with the issue. It was asked if there
420 will be a private agreement between the abutters and Mr. Clapp. Chairman White asked Mr. Britton if he
421 would be more comfortable if the Board provided more framework on the issue. Mr. Butler asked and
422 Mr. Clark said that it is not the Zoning Administrator's position to make sure that an agreement is made
423 and if it makes sense to require a 5 ft privacy fence that will screen the smoker and the trash cans. Mrs.
424 Larrow said that she did not say that because Mr. Britton did not seem to want a privacy fence so she was
425 hoping that between the two parties they could come to a compromise between a privacy fence or wall.
426 Mr. Clark said that he is hoping that as well but he worries about it. Mrs. Larrow if the approval is for a
427 privacy fence and it does not happen because Mr. Britton prefers not to have it then they are forcing the
428 applicant to have that so that is why she is concerned with defining it. Mr. Clark said that he is concerned

with not defining it. Chairman White said that he is concerned with just telling the applicants and abutters to work it out because he thinks that they are looking to the Board for some type of direction. The issue was that the Brittons did not like the look of it and everyone has tried to come up with a solution and there are many different options about what kind of fence they build but he thinks that they should have some direction. Mr. Butler asked if they remove the tree if there is more space to move the smoker back without the privacy fence. Chairman White said that the tree is on the Britton's property and moving the smoker back would put it on the Britton's property. Chairman White asked and Mrs. Larrow read her motion again for the Board. There was further discussion regarding this matter.

There was another discussion regarding trying to get Vice Chair Jewczyn to be able to comment and ask questions so he called into the meeting.

Vice Chair Jewczyn said that it seems as though the issues should be resolved between the two parties before coming to the Board. If the police do not want the smoker along Main St, why would the abutter want it next to his barn; it should go along Main St. He does not understand why the abutter has to shoulder the whole issue and it seems like everything is being shoved down the abutter's throat and he has not heard a solution yet. Mr. Marquise said that in the Peer Review Meeting Police Chief Cahill said that he does not want the smoker to be along Main St.

Mr. Clark said that in February the Board had a meeting where there were abutters who were upset and the Board still made the approval. He does not see an issue with an applicant wanting to do something on their property if they are following the rules. He does not think the abutter's concerns are irrelevant, however, in this situation the abutters have tried to come to a compromise. Vice Chair Jewczyn asked why the two parties did not come to an agreement before the meeting.

Mrs. Larrow said that she thinks that when Smokehouse originally came before the Planning Board one of the concerns with putting the smoker on Main St was not so much about aesthetics it was about traffic moving around it and plowing around the equipment and such. She also does not feel as though the Board is shoving this down the abutter's throat, she thinks that the Board is giving everyone an opportunity to work together to come up with some sort of solution for screening and for the trash cans. She thinks that the two things are separate as the Town did not care about the aesthetics as to why they did not want the smoker along Main St.

Chairman White said that there is a motion on the table and he believes that the Board is ready to vote on the motion.

A roll call vote was taken: Mrs. Larrow voted yes, Mr. Butler votes yes, Mr. Osborne voted yes, Vice Chair Jewczyn voted no, Mrs. Gottling voted yes, Mr. Clark voted yes, Chairman White voted yes. The motion passed.

MINUTES

Changes to the Planning Board minutes from November 14, 2019: The minutes were continued until the next meeting.

Changes to the Planning Board minutes from December 12, 2019: The minutes were continued until the next meeting.

467 Changes to the Planning Board minutes from January 9, 2020: The minutes were continued until the
468 next meeting.

469 Changes to the Planning Board minutes from February 13, 2020: The minutes were continued until the
470 next meeting.

471 Changes to the Planning Board minutes from March 12, 2020: The minutes were continued until the
472 next meeting.

473 Changes to the Planning Board minutes from June 11, 2020: The minutes were continued until the next
474 meeting.

475 Mr. Clark made a motion to adjourn at 9:54 pm. Mr. Butler seconded the motion. The Board members
476 were all in favor of adjourning the meeting. Chairman White adjourned the meeting.

477 Respectfully submitted,

478 Melissa Pollari

479 Planning Board

480 _____

481 Peter White, Chairman

Michael Jewczyn

482 _____

483 Joseph Butler

Randy Clark

484 _____

485 Jeffrey Claus

Richard Osborne

486 _____

487 Donna Davis Larrow, Alternate

Suzanne Gottling, ex-officio member