

1 **TOWN OF SUNNAPEE**

2 **PLANNING BOARD**

3 **JANUARY 12, 2023**

4 **Chairman White called the meeting to order and conducted a roll call at 7:00 PM.**

5 **MEMBERS PRESENT BY VIDEO:** None.

6 **MEMBERS PRESENT IN THE MEETING ROOM:** Suzanne Gottling, Richard Osborne, Chairman Peter White, Joseph  
7 Butler, Gregory Swick, Robin Saunders.

8 **MEMBERS ABSENT:** Jeff Claus, Randy Clark.

9 **ALSO PRESENT IN THE MEETING ROOM:** Renee Theall - Land Use and Assessing Coordinator, Scott Hazelton,  
10 Michael Marquise - Town Planner.

11 **ALSO PRESENT BY VIDEO:** Shannon Martinez - Town Manager.

12 Chairman White welcomed the alternate member to the meeting and then appointed her to sit in for Mr. Clark. He  
13 said that in this meeting they are only going to discuss Amendments 3 and 7, because all the other amendments  
14 were discussed and approved to previous meetings. This is the last public hearing that they can have on these  
15 amendments before they have to be passed to the ballot. This evening they will vote, and they will either be  
16 passed or not on to the ballot. They cannot make any substantial changes or change the intent of these two  
17 amendments this evening, rather than minor changes.

18 Chairman White read Amendment No. 3 Amend Article III, Section 3.40(m) – Additional Requirements - to better  
19 define 90-day use and allowable extensions of time, with issuance of a Certificate of Zoning Compliance, require  
20 that if a travel trailer is used for sleeping quarters it must be connected to septic system or municipal sewer or be  
21 self-contained, and not used as a rental. Full Text of the amended section will be as follows: 3.40(m) Travel trailers,  
22 which include, but are not limited to camper trailers, motor homes, tent trailers, truck campers, are permitted  
23 subject to the following restrictions: 1) The owner of the travel trailer may store up to two (2) such trailers on  
24 his/her property in as inconspicuous a location as possible; 2) A travel trailer may be used for temporary sleeping  
25 quarters for not more than 90 total days per calendar year unless a Certificate of Zoning Compliance is issued.  
26 Sewage Disposal must be in compliance with New Hampshire Water Supply and Pollution Control Department of  
27 Environmental Services Water Division Subsurface Systems Bureau regulations or approved by the Sunapee  
28 Municipal Water and Sewer Department if on municipal sewer. If the travel trailer is self-contained, sewage must  
29 be disposed of per Water and Sewer Department Standards; 3) All travel trailers used for temporary sleeping  
30 quarters must be in compliance with all other provisions of this ordinance including building setbacks; 4) If three  
31 (3) or more travel trailers are to be placed on an individual lot and used any purpose including storage, a Site Plan  
32 Review approval must first be granted by the Planning Board. 5) Travel trailers may not be used as a rental.

33 Mr. Marquise explained that the only difference between this amendment and the other month's is under number  
34 2), they have put back in the ability to issue a Certificate of Zoning Compliance for a travel trailer that is going to be  
35 there for more than 90 days a year.

36 Eric Callum (Via ZOOM) asked if someone is storing their trailer in the driveway, but they are not 50 feet back from  
37 the road, would that not meet number 3).

38 Chairman White replied that he would leave that as correct. If it is a trailer that is not being used for sleeping  
39 quarters, he does not believe that it has to meet setbacks.

40 Mr. Marquise confirmed that only the ones that are being used as temporarily sleeping quarters need to meet  
41 setbacks. If they are only parking it and not staying in it, then they could park it anywhere in their property.

Town Manager Martinez pointed out that one word is missing from the original amendment. The missing word was recreational vehicle and she recommended for that word not to be left out even if it was stroked out. It needs to be included and noted there as stroked out.

The board accepted this recommendation.

Ms. Gottling asked if the CZC is obtained, does that mean that potentially in that trailer could be slept in the whole year, and would they have to get another certificate for the next year, or is that permanent.

Chairman White answered affirmative and that the CZC is permanent.

**Mr. Osborne made a motion to move Amendment No. 3 and put it to the ballot. Seconded by Mr. Swick. The motion passed unanimously.**

Chairman White continued and read Amendment No. 7 Amend Article IV, Sections 4.10 – Permitted Uses and create Section 4.95 – Short Term Rentals, Article VIII, Section 8.21 – Certificate of Zoning Ordinance Compliance- Permit and Amend Article XI – Definitions to provide definition of short-term rentals, new definitions for Owner-in-residence, Bed & Breakfasts, Inns, and Hotel/Motels. Further provide standards that short-term rentals must follow and limit which districts certain types of short-term rentals will be allowed to operate. Full Text of the amended section will be as follows: Article IV, Section 4.10 Remove Lodging and Boarding and Tourist Homes from use list. Add Short-Term Rentals Owner-in-Residence (STR-OIR) as permitted uses in all districts Add Short-Term Rentals Owner-Not-in-Residence (STR-ONIR) as permitted uses in only the Mixed Use (I, II, III), Village-Commercial, Village-Residential, and Residential Districts. These will be allowed by special exception in the Rural-Residential District and prohibited in the Rural Lands District. Article IV, Section 4.95 – Short-Term Rentals For the purposes of this section Short-term rentals shall include any single-family residence, two-family residence, or single-family residence with an additional room for rent. It shall not include bed & breakfasts, inns, or hotel/motels. Short-term rentals shall meet the following standards: 1) Short-Term Rentals Owner-in-Residence (STR-OIR) are allowed in all zoning districts. Short-Term Rentals Owner-Not-in-Residence (STR-ONIR) are allowed in all the Mixed-Use Districts, Village-Commercial, Village-Residential, and Residential District. They are allowed by special exception in the Rural-Residential District and prohibited in the Rural Lands District. 2) Occupancy shall be limited to two persons per approved bedroom plus one additional person per unit. 3) The number of bedrooms used at the property must conform to the permit requirements from either the State of New Hampshire Department of Environmental Services Water Division Subsurface Systems Bureau (property on a septic system) or the Sunapee Water and Sewer Department (property on municipal sewer). 4) Short-term rentals of single-family dwellings in their entirety (STR-ONIR) do not require Site Plan Review. 5) Short-term rentals with owners in residence (STR-OIR) do not require Site Plan Review. 6) Short-term rentals with owners not in residence (STR-ONIR) in either a single-family dwelling with an additional room for rent or a two-family dwelling requires Site Plan Review. 7) If a short-term rental requires site plan review it may apply via the Home Business requirements in the Site Plan Review regulations. 8) Parking shall be 1 space/bedroom and a parking plan shall be submitted for review and approval. 9) The exterior of the property must maintain residential character. 10) Short-term rentals must comply with any registration process set forth by the Board of Selectmen. 11) A travel trailer, boat, or other mobile structure may not be used as a short-term rental 12) If an outside trash receptacle is used it must be screened and meet the building setbacks in the district it is located. Article VIII, Section 8.21 – Certificate of Zoning Ordinance Compliance – Permit 8.21 The following actions require a Certificate of Zoning Ordinance Compliance: (a) a new structure is to be constructed or installed; (b) an existing structure is to undergo expansion; (c) additional dwelling units are to be added to the structure; (d) any municipal structure is to be constructed or undergo expansion; (e) a bedroom or kitchen is to be added to an existing structure; (f) a structure is to be demolished; (g) a Site Plan Review approval has been granted by the Planning Board; (h) interior renovations in excess of \$25,000 not included in (a)-(g) above (no fee will be required for a permit under this subsection) (i) a property is used as a Short-term Rental Article XI – Definitions New Definitions: Short-Term Rental – Owner not in Residence (STR-ONIR) - A one or two-family dwelling where transient accommodations are provided for any periods less than 30 days. The landowner does not need to be in

residence. Short term rentals of this type shall not include Hotels/Motels, Bed & Breakfasts or Inns as these are separately defined. Short-Term Rental - Owner-in-Residence (STR-OIR) – A portion of a dwelling unit or second dwelling unit where transient accommodations are provided for any periods less than 30 days. The landowner must be in residence during the period of any rental. Amended Definitions: Bed & Breakfast – a single-family dwelling in which between two (2) and six (6) additional rooms are used to provide transient sleeping accommodations and the landowner is in residence during the operation of the bed & breakfast. Breakfast may be served to lodging guests only. Inns – A single-family dwelling in which between 2 (two) and ten (10) additional rooms are used to provide transient sleeping accommodations. The landowner does not need to be in residence, but a duly designated operator must be on site during the operation of the inn. Inns may hold special functions such as weddings, meetings, or other gatherings. Meals may be served to lodging guests or guests at special functions. Hotel & Motel – A commercial building or group of buildings providing sleeping accommodations for persons on a transient basis. A property will be considered a hotel/motel if it has 3 or more units and does not meet the definition of a bed & breakfast or inn. Hotel/motel units may not be dwelling units per the definition in this ordinance.

Mr. Osborne asked if someone had a bed & breakfast and they want to hold functions, could they apply for an inn and still call themselves a bed & breakfast.

Mr. Marquise answered that they would have to be an inn, that is why there is a difference. Inns are allowed in some districts and bed & breakfast in others.

Ms. Saunders commented on adding the term only by special exception in rural residential district in two places.

All agreed to accept this suggestion.

Lisa Hoekstra said that she has three procedural questions and the first one was since they do not have the Minutes from December 15 meeting, which included few comments from ZOOM participants, she asked does that affect this meeting and process.

Chairman White replied that he does not believe so.

Ms. Theall replied that because on this meeting they cannot make any changes intent wise, it does not affect it, but they will have those comments made on the previous meeting shared.

Ms. Hoekstra's second procedural point was to respectfully request Ms. Saunders to recuse herself from this discussion due to ethical standards. She pointed out that she knows that it is Ms. Saunders's decision to recuse herself and not the Board's decision. The reasons for her recusal were because she has proven bias with social media posts that are against STR's, she has spoken frequently in descent at various board meetings and public meetings against STR's, she has written a letter to the Board of Selectmen asking for cease-and-desist letters for all STR's in rural residential and rural lands districts, she has proven collusion with a board member from another board against STR's and she has exhibited general unethical inflammatory behavior against STR's. Her third point of the process was that they have not even gotten through all of the 12 points within amendment number 7 or the definitions in the discussions that they have had previously about this amendment. She asked if they are going to go through those points tonight, even though she knows that they cannot remove or add anything, but they have not had a chance to go through every single point.

Chairman White replied that they take the amendment as a whole but if anyone has a comment about any points, they will discuss it. He added that the Board cannot make a member recuse themselves and the decision is to be made by Ms. Saunders and once she makes that decision, the matter is closed.

Ms. Saunders responded that she has no fiduciary interests in any STR's. She has been part of a non-partisan group that talked about STR's and has absolutely no interests in this from a fiduciary standing point and she certainly can make a decision based on the evidence and not her own emotions.

131 Lynn Arnold commented on the special criteria exception which reads about uses potentially qualifying for  
132 exception. The word allow there sounds as if it allows automatically for the exception, and when you get to the  
133 actual special exception language itself, it reads uses of potentially qualifying, which she thinks reads differently.

134 Ms. Gottling said that you have to apply for a special exception and applying does not guarantee that it is going to  
135 be granted.

136 Mr. Marquise explained that the word allowed is used in the sentence as being permitted in particular areas.  
137 The Board agreed to use the word permitted instead of allowed in that part.

138 Ms. Gottling asked Mr. Marquise if there is any way which a STR person would not get a special exception.

139 Mr. Marquise answered that it is still a process they can be denied if they do not meet all the criteria.

140 Ms. Hoekstra said that she has questions of every point, and her next question was on point number 2) about the  
141 age of the extra person allowed as an occupant and if children do count as a person in that case.

142 Chairman White replied that the assumption is that person means adult, but it is not clear and not defined.

143 Mr. Marquise said that his understanding was always to look at the sewage loading, which is the basis of allowing  
144 this use and the person could be any age.

145 Chairman White clarified as an answer that people/person include children in this case.

146 Eric Callum (Via ZOOM) commented that the septic cannot be always used to determine the number of people  
147 allowed.

148 Ms. Hoekstra added that to her it feels discriminatory because they are not applying these standards to non-STR.

149 Mr. Marquise replied that technically it does apply, and it is an obligation to keep the use down to what the septic  
150 system limits are, for all the houses.

151 Town Manager Martinez asked if this is going to create a situation where the town has to inspect every house,  
152 from a legal perspective.

153 Chairman White replied that none of them are lawyers, so they cannot answer that question.

154 Town Manager Martinez said that it sounds to her as the legal argument could be that if it passes, the town would  
155 be required to monitor every single house.

156 Mr. Butler said that to him it comes down to the owner who should regulate the who lives in the house.

157 Mr. Hazelton added that the state regulates it through septic system or municipal sewer and Water & Sewer  
158 Department follows the same rule for every single house and then it is up to the owner to self-regulate.

159 Eric Callum (Via ZOOM) said that if that is the case, he could be able to put more people in his house because his  
160 septic system can handle three bedrooms.

161 Mr. Hazelton that could be achieved and would be allowed according to what he shows in the documentation.

162 Susan Graves (Via ZOOM) said that what Mr. Hazelton is not talking about regulations, but how many people are in  
163 each bedroom.

164 Mr. Hazelton replied that it says two persons per bedroom.

165 Mr. Marquise replied that in a regular home it is by bedroom and there is a rule of thumb with the state that it is  
166 two people per bedroom, and this is not strictly related to Water & Sewer because number 3) addresses that as  
167 well. There are other reasons for occupancy, which is why they came up with the plus one-person rule. There have

168 been abuses, situations where there have been a lot of people in a small bedroom, and they are trying to regulate  
169 that.

170 Mr. Butler added that the other issue is safety. If the owner or the landlord does not know how many people are  
171 renting the apartment and a fire occurred, they need to know who is there, so it needs to be regulated.

172 Chairman White said that the Board's intent on this was to address the issue of renters cramping 20 people into a  
173 two-bedroom home and it is pretty straight forward.

174 Ms. Hoekstra said that she is not in disagreement on that, but it needs more clarification.

175 Mr. Swick said that it is totally consistent with what DES proposes when buying a house.

176 The Board decided not to change anything on number 2).

177 Ms. Hoekstra asked about the differences between points 4) and 6).

178 Mr. Marquise replied that 4) would be a case of single-family dwelling strictly and both of them are owners not in  
179 residence. Number 6) would be a case of a single-family dwelling and an additional room or a two-family, basically,  
180 two units, in both cases, while 4) is just one unit or dwelling.

181 Patrick Clapp said that on the last meeting the word formality was used a couple of times in the special exception  
182 process and he was questioning that after watching the Perkins Pond special exception case last couple of months  
183 which has gone two meetings and moving on to third, and they are now requiring a whole bunch of  
184 documentation from the owner and requiring site plan review and asked how is the town going to handle a  
185 hundred of those cases all at once. He suggested for the Board to table this amendment for another year.

186 Chairman White replied that is up to the Zoning Board to figure out, through the criteria, and his expectations  
187 would be that they would develop an efficient system to go through.

188 Mr. Hazelton said that they have gathered enough factual information to make an informed decision to get behind  
189 what everybody is doing. Even though he had dealt with STR for more than two years, still feels as he does not  
190 have enough facts and information to make an informed decision one way or the other and would like to see a  
191 really good registration process by the Board of Selectmen.

192 Bill Wightman said that Sunapee had come up with a number of 160 STR's and asked if that is factual number. He  
193 also asked how many incidents occurred that prompted this action, were there two or more.

194 Chairman White replied that the number fluctuates anywhere from 120-180, depending on the source.

195 Mr. Hazelton replied that there were more than two incidents.

196 Ms. Hoekstra commented on point number 7, if STR requires site plan review they have not had discussed the  
197 correlation between the changes in the home business amendment. She further asked if that means that STR are  
198 qualified and need to apply as home businesses.

199 Mr. Marquise replied that there are two processes in the site plan review. One is a full commercial review that  
200 involves a survey, drawings and is very expensive and time-consuming process. What are they asking for STR's is to  
201 get the less than home business allowance, which is much simplified. He said that it does not say on point 7 that  
202 STR's are home businesses, just that it has that allowance. It does not say that is a separate review of home  
203 business.

204 Chairman White replied that the intent there is to say that the STR can go through the same site plan approval  
205 process as for the agricultural uses and home businesses with lesser level of requirements.

206 The board agreed to cite the site plan review regulations Article V, Section d referencing that part of the ordinance.

207 Ms. Hoekstra commented on point number 8 which states that parking shall be 1 space/bedroom and a parking  
208 plan shall be submitted for review and approval and asked if that is for all STR's or just those that are requiring site  
209 plan review. She asked for the language to be clearer and more specific.

210 Mr. Marquise replied that it would be for all because they all require CZC.

211 Ms. Theall added if under Article 8.21 where they are addressing that the following actions require CZC and they  
212 are adding (i), which is STR and when the CZC comes in, it is going to look at those 12 points. Those points are  
213 inclusive to CZC.

214 Peter Hoekstra suggested of making any changes to point number 8, just make a change to number 7 where it  
215 says: if STR that require site plan review, take the word "if" out of it and will eliminate any chance of confusion.

216 The Board accepted this suggestion.

217 Ms. Hoekstra commented on point number 9 which is about the exterior of the property must maintain residential  
218 character and asked according to who is that who determines the residential character, how is that evaluated and  
219 enforced. She added that the point is unnecessary and almost punitive.

220 Mr. Butler disagreed and said that the point should be left in because the character has to be defined. Everybody  
221 knows what the residential versus commercial character is and STR's should remain residential.

222 Mr. Marquise added that signs are one of the elements that define the character, and a house could still lose the  
223 residential character by several things.

224 Ms. Hoekstra replied that they have sign ordinance that addresses that issue and by this she is trying to avoid  
225 neighbor policing neighbor. They have all these other ordinances that address a lot of issues, so why do they need  
226 this additional piece to further regulate.

227 Chairman White replied that those are more as expectations from the STR owners running that business.

228 Mr. Swick stated that number 9 is in concert with what they are trying to accomplish there and do not think that it  
229 is punitive, it is guidance, and he does not think that it is going to be abused. At some point it might be a  
230 judgement call, but it is fine as it is.

231 After a further discussion, the Board decided not to make any changes to point 9. If necessary, the changes will be  
232 made the following year.

233 Ms. Hoekstra referred to the word mobile structure used in point number 11 as an oxymoron, because structure is  
234 defined elsewhere as having a fixed location to the ground.

235 The Board had a discussion trying to find some examples of what a mobile structure is and mentioned dwelling as  
236 an option to be used.

237 Ms. Gottling suggested to find another synonym for structure, so it can be clearer.

238 Chairman White said that since the intent of the word structure used in that sentence is not about an actual  
239 structure, rather an enclosure of some kind.

240 The Board decided to change the word structure with enclosure in that sentence.

241 Ms. Hoekstra said that she is not sure if it is possible for some of the tiny lots to meet the condition set on point  
242 number 12, which stated: if an outside trash receptacle is used it must be screened and meet the building setbacks  
243 in the district it is located.

244 Mr. Hazelton suggested to make a minor change to the sentence, take out the word if in the beginning as well as  
245 the words used it and that way make it an affirmative statement, without it a condition.

246 The Board accepted the suggestion.

247 Ms. Hoekstra asked if this only applies only to the STR's and not to anybody else in town and the answer was  
248 affirmative, except for commercial properties. She asked the Board if that is discriminatory and the answer was  
249 that it is part of requirements and regulations for having a STR. She asked a question regarding Article 8.21, if CZC  
250 is going to be required in addition to the registration process and the answer was affirmative. She stated that  
251 based on reading CZC requirements in their current ordinances, it sounds like somebody would not be able to  
252 operate their STR until a CZC is issued and the answer was affirmative. She asked if that means that they will have  
253 to cancel their future reservations, because if they do have to, that is going to be a huge problem.

254 Chairman White replied that the CZC does not go in front of the Zoning Board unless it is a special exception. The  
255 Board of Selectmen would go by what the Zoning Administrator recommend. After that they review them and  
256 ultimately sign off on them and get them approved. At first, they may get a lot of applications and may get  
257 overwhelmed, but unfortunately that is the nature of enforcing any ordinance, any new rule and regulation.

258 Ms. Hoekstra asked what is going to be the consequence to STR owners if they remain opened, because of the CZC  
259 waiting to get approved.

260 Ms. Gottling pointed out that that would have to be a really unreasonable group of people making decisions like  
261 that. To her, if people are applying as soon as possible, and the town knows that they are in line, why would they  
262 then prosecute them for something. Same thing goes for the people registering in timely fashion.

263 Ms. Hoekstra said that she can explain why is that a problem, because they have felt like the opposite of what the  
264 Constitution guarantees them, that they are guilty until proven innocent. They have all been deemed guilty  
265 because they are STR owners, because one or two people did bad things and have gotten way better. They want to  
266 prove their innocence and they want to register, to comply with the ordinances, but this ordinance, this  
267 amendment is not reasonable the way it is written right now, it is too restrictive.

268 Ms. Gottling replied that is a whole different topic and when they were talking about how long it will take them to  
269 get to the CZC, that is the only thing that she could speak to.

270 Ms. Hoekstra said that Ms. Gottling had brought up that the Board will be reasonable, and that Mr. Hazelton will  
271 be reasonable and if they have everything in process, they are not going to be hammered or held accountable and  
272 not be penalized in some way, and she is not confident that that is not going to happen.

273 Mr. Swick said that Ms. Hoekstra had stated her position and suggested that they move on and see where they  
274 land on this, because there is nothing that they can solve here tonight.

275 Mr. Osborne thinks that is something that the BOS can address and have a grace period where the applications are  
276 in process.

277 Ms. Gottling said that first of all, the proposal has not passed, and it is not going to pass until March, the earliest,  
278 and that the registration is not in effect yet.

279 Mr. Marquise added that they still do not know how pre-existing STR's are going to be addressed and that is whole  
280 another issue that has got to be addressed legally. There are so many factors that apply to this.

281 Ms. Hoekstra asked if it is reasonable to say that as a town, they would like to avoid litigation.

282 Chairman White replied that he thinks it is reasonable, but when you are making rules and regulations, not  
283 everybody is going to be happy.

284 Ms. Hoekstra said that she is not threatening, but her point is to ask if there a way that they would come to the  
285 middle, so that nobody feels like they want to pursue that avenue.

286 Chairman White replied that they have done the best they can, they are putting the amendment out there, and it  
287 is up to the town to accept it or not. Once they vote, they will go from that point.

288 There were no other questions and Chairman White closed out the public input part. He asked if there are any  
289 questions from the Board and pointed out that the changes that they have made do not change any intent and  
290 that if they chose to move this on, that would be appropriate. He asked whether they feel as a board that this  
291 amendment should move on to the ballot or not.

292 All members expressed their opinion affirmative to move forward and move the amendment to the ballot.

293 **Mr. Swick made a motion to move Amendment No. 7 forward to the ballot. Seconded by Mr. Butler. The motion**  
294 **passed unanimously.**

295 Revisions to Agenda:

296 Other Business: Mr. Marquise updated the members that for elections this year are up Chairman White and Mr.  
297 Butler. Mr. Swick has to run for a two-year term and has to sign in the intent to the town clerk. He also announced  
298 that they have a meeting next week, on January 19.

299 Review of Minutes: Mr. Osbourne reviewed June 19, 2022 Minutes and had no objections. Mr. Butler reviewed  
300 April 14, 2022 Minutes and had no objections.

301 **Mr. Butler made a motion to approve April 14, 2022 Minutes of Meeting. Seconded by Mr. Osborne. The motion**  
302 **passed unanimously.**

303 **Mr. Osborne made a motion to approve June 9, 2022 Minutes of Meeting. Seconded by Ms. Gottling. The**  
304 **motion passed unanimously.**

305 Mr. Marquise assigned the remaining of the Minutes of 2022 for review amongst the members.

306 Signing of Mylar's

307 **Mr. Butler made a motion to adjourn the meeting at 9:33PM. Seconded by Mr. Swick. The motion passed**  
308 **unanimously.**

309 Respectfully submitted: Rajmonda Selimi

310 Panning Board

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312 Peter White, Chairman Suzanne Gottling

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314 Joseph Butler Gregory Swick

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316 Robin Saunders Richard Osborne