

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **NOVEMBER 12, 2020**

4 Chairman White called the meeting to order at 7:00 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; Joe Butler; Jeffrey  
17 Claus; Randy Clark; Richard Osborne; Sue Gottling, Ex-Officio Member; Donna Davis Larrow, Alternate

18 **MEMBERS PRESENT IN THE MEETING ROOM:** Michael Marquise, Planner

19 **ALSO PRESENT BY VIDEO:** Clayton Platt

20 **PARCEL ID: 0145-0022-0000 & PARCEL ID: 0145-0020-0000 & PARCEL ID: 0145-0021-0000:**  
21 **SUBDIVISION / LOT LINE ADJUSTMENT; CREATION OF TWO (2) NEW LOTS ON CALDWELL LANE AND**  
22 **THE ANNEXATION OF TWO (2) PARCELS TO BE ADDED OT THE NOLEN AND GRAHAM PROPERTIES ON**  
23 **EDGEMONT RD; 37 CALDWELL LANE; WILLIAM & ELLEN NOLEN, J. DOUGLAS & ELIZABETH GRAHAM;**  
24 **DONALD TRENHOLM & TERESA CURRIER.**

25 Mr. Marquise said that the application was filed in advance, fees were paid, notices were posted, and  
26 abutters were notified. The application falls under Section 6.04 of the Subdivision Regulations and the  
27 proposal is for a minor subdivision so there are allowances for waivers under Section 6.05(b). The  
28 potential waivers that are appropriate are: existing and proposed contours, existing and proposed  
29 utilities, plans for storm water drainage, and water supply facilities. Mr. Marquise said that he has  
30 reviewed the plans and believes that the application is complete with a couple of questions that can be  
31 discussed during the merits of the case.

32 Mr. Clark made a motion to accept the application as complete. Mr. Osborne seconded the motion. A  
33 roll call vote was taken: Mr. Butler voted yes, Mr. Clark voted yes, Vice Chair Jewczyn voted yes, Mrs.  
34 Gottling voted yes, Mr. Osborne voted yes, Mr. Claus voted yes, and Chairman White voted yes. The  
35 motion passed unanimously.

Vice Chair Jewczyn made a motion to table the case in order for Clayton Platt, the surveyor presenting the case on behalf of the applicants, to be able to connect his audio. Mr. Osborne seconded the motion. The motion passed unanimously.

**PARCEL ID: 0103-0026-0000 & PARCEL ID: 0103-0025-0000: LOT MERGER; STUART & BARBARA GREER TRUST**

Mr. Marquise said that this is a proposed merger of two properties on Oak Ridge Rd. The proposal is pretty straight forward and he does not see anything negative about it.

Chairman White asked and Mr. Marquise said that there was not a map submitted with the application. Mr. Marquise shared his screen with the members of the Board to show the tax map of the two properties. They are two vacant pieces of land and the owners would like to merge them together. Chairman White asked and Mr. Marquise said that he does not see any issues with the proposal.

Mr. Clark made a motion to approve the Lot Merger for Stuart and Barbara Greer Trust; Parcel ID: 0103-0026-0000 and Parcel ID: 0103-0025-0000. Mr. Claus seconded the motion. A roll call vote was taken: Mr. Butler voted yes, Mr. Clark voted yes, Vice Chair Jewczyn voted yes, Mrs. Gottling voted yes, Mr. Osborne voted yes, Mr. Claus voted yes, and Chairman White voted yes. The motion passed unanimously.

**PARCEL ID: 0145-0022-0000 & PARCEL ID: 0145-0020-0000 & PARCEL ID: 0145-0021-0000: SUBDIVISION / LOT LINE ADJUSTMENT; CREATION OF TWO (2) NEW LOTS ON CALDWELL LANE AND THE ANNEXATION OF TWO (2) PARCELS TO BE ADDED OT THE NOLEN AND GRAHAM PROPERTIES ON EDMONT RD; 37 CALDWELL LANE; WILLIAM & ELLEN NOLEN, J. DOUGLAS & ELIZABETH GRAHAM; DONALD TRENHOLM & TERESA CURRIER.**

Clayton Platt presented the merits of the case.

Mr. Platt said that the land is on Caldwell Lane, which is a dead-end road off Edgemont Rd. Donnie Trenholm and Teresa Currier own about 18-19 acres and they have agreed to annex two parcels about 1.5 acres each to their neighbors on Edgemont Rd. They also want to sell a lot to the Nolen's daughter (Lot 22-2) and to sell the other lot (Lot 22-1) to a friend. The lots are rather large and the soils are good; there are no wetlands except for along the stone wall on the south side of the property as there is a small brook. All the proposed lots are fairly good sized with one existing house with a well and septic system.

Mr. Marquise asked if Caldwell Lane is a town road. Mr. Platt said that it is his understanding that it is a Town maintained road from what he has been told; it is a dead-end road but past the Trenholm's property there are two more houses. The road used to go onto Hells Corner Rd but that has been blocked off; it may turn into a Class VI road at the end of the road. Mrs. Gottling said that she believes that Mr. Platt is correct as there was an agreement made at the end to allow for the plows to have a place to turn around.

Vice Chair Jewczyn asked if fire trucks can go up and down the road and pass each other. Mr. Osborne said that he is not sure if the road is wide enough for two trucks. Vice Chair Jewczyn asked and Mr. Platt said that there are several driveways and pull offs along the way. Vice Chair Jewczyn asked and Mr. Platt said that the road is between 33 ft and 40 ft wide.

Mr. Marquise said that these lots are exempt from State subdivision approval as they are over 5.0 acres, however, he asked Mr. Platt if any testing on the lots has been done regarding buildability. Mr. Platt said that they have not dug any test pits, however, they are all well drained soils and he did not see any ledge or large pieces of rock so it seems like there will be suitable soil for development. Mr. Marquise asked and Mr. Platt said that the lots rise approximately 10% - 15% towards the roads and then flatten out in the middle of the lots.

Chairman White said that the property seems very wooded according to Google Maps. Mr. Platt confirmed this and said that they are undeveloped.

Chairman White asked and Mr. Marquise said that he knows that Caldwell Lane has a Class VI portion of road and he was not familiar where that it is located; he just needs to make sure that all of the lots, even the existing one, has Class V road frontage. There was further discussion regarding this matter.

Mr. Osborne asked if the waivers need to be part of the motion. Mr. Marquise said that he does not think that they need to be part of the motion because the application was accepted as complete with those waivers.

Mr. Claus made a motion to approve the Subdivision / Lot Line Adjustment; creation of two (2) new lots on Caldwell Lane and the annexation of two (2) parcels to be added to the Nolen and Graham properties on Edgemont Rd; Parcel ID: 0145-0022-0000, Parcel ID: 0145-0020-0000, and Parcel ID: 0145-0021-0000. Mr. Osborne seconded the motion. Vice Chair Jewczyn said that he would like to make sure that in the creation of these lots there is no additional runoff created to other lots that are contiguous to these properties. Mr. Claus said that he thinks that runoff is dealt with during development, not during subdivision. Mr. Marquise said that he would like a condition that the road classification is verified to guarantee that the Board is not approving anything on a Class VI road. Mr. Platt said that they can provide documentation before the Mylar is signed. Chairman White said that he does not think that the Board can address Vice Chair Jewczyn's concerns regarding runoff as they are not developing the lots at this time. Mr. Butler asked and Mr. Marquise said that the owners are exempt from having to test the lots before subdividing as the lots will be over 5.0 acres. Vice Chair Claus amended his motion to include a condition that Caldwell Lane be verified as a Class V road. Mr. Osborne seconded the motion. Mr. Butler asked and Chairman White said that the Highway Director will verify the classification of the road. Mr. Marquise said that there should be mapping as to the status. A roll call vote was taken: Mr. Butler voted yes, Mr. Clark voted yes, Vice Chair Jewczyn voted yes, Mrs. Gottling voted yes, Mr. Osborne voted yes, Mr. Claus voted yes, and Chairman White voted yes. The motion passed unanimously.

**PARCEL ID: 0127-0004-0000 & PARCEL ID: 0133-0030-0022: LOT MERGER; ROBERT & JULIE FUNKHOUSER**

Mr. Marquise said that he has had a lot of email discussions with the owner of these properties regarding this lot merger as he has some issues with this application. The applicants own a condominium in Indian Cave and a boat slip in Harbor West and he does not see how these property can be merged with how far apart they are; nor does he see what purpose it would serve except for tax purposes. He agreed to bring the application to the Board and if they decide to approve this application then he would recommend speaking to the Town's attorney first.

113 Mr. Osborne believes that the Indian Cave docks are all part of an Association and the Sunapee Harbor  
114 West dock would be part of its own Association with their own rules. He does not know how to merge  
115 something that is essentially a condominium unit to a different property.

116 Mr. Marquise said that another potential problem is that in the Zoning Ordinance it is not permitted to  
117 attach non-waterfront property to waterfront property.

118 Mr. Claus said that he does not know how the Board can approve a lot merger of two lots that do not  
119 touch as he believes that is required in order to create one larger lot. Mr. Butler agreed that he does not  
120 see how this can be done.

121 Mrs. Gottling asked if there was any explanation as to the advantage of the merger. Mr. Marquise said  
122 that he believes that the owners want just one tax bill.

123 Mr. Clark said that he is not voicing an opinion of counsel, however, he does not see how the Board can  
124 legally approve this. He does a lot of real estate transactions and has never seen anything like this;  
125 generally, a boat slip is just mentioned on a deed as a conveyance.

126 Chairman White asked if the Board thinks that they should receive input from the Town's attorney or if it  
127 is something that they just think can be denied. Mr. Claus said that he is on an attorney's website and it  
128 only talks about merging contiguous lots; he does not see how this can be approved. He is not saying  
129 that the Board should not talk to the Town's attorney but he does not think that it is something that can  
130 be done.

131 Vice Chair Jewczyn asked if it would be beneficial to get an opinion from the Indian Cave Association as to  
132 determine their perspective.

133 Mr. Butler said that he does not see how a boat slip, which is on water, can be merged to something that  
134 is on land. He owns two boat slips in the Harbor and a house and pays three separate tax bills. He can  
135 sell his house as a package with the boat slip and these people can do that as well. Mr. Clark said that can  
136 be done via a deed.

137 There was continued discussion regarding the application and the Board's thoughts about it and that they  
138 do not think that they need to talk to the Town's attorney about the proposal.

139 Mr. Clark made a motion to deny the lot merger for Parcel ID: 0127-0004-0000 and Parcel ID: 0133-0030-  
140 0022 for Robert and Julie Funkhouser. Mr. Osborne seconded the motion. A roll call vote was taken: Mr.  
141 Butler voted yes, Mr. Clark voted yes, Vice Chair Jewczyn voted yes, Mrs. Gottling voted yes, Mr. Osborne  
142 voted yes, Mr. Claus voted yes, and Chairman White voted yes. The motion passed unanimously and the  
143 application was denied.

#### 144 **OTHER BUSINESS – ROYCE ENTERPRISES – STATEMENT OF PROPERTY USAGE**

145 Mr. Marquise said that this building was the old Deck & Dock that was rebuilt. It has been requested to  
146 put a deck on top of the building that will not be used for commercial purposes. The Zoning  
147 Administrator feels as though this needs to be discussed by the Planning Board because there was a Site  
148 Plan done. However, she also feels like it is residential in nature so it could be handled by going back and  
149 getting Zoning approval.

150 Vice Chair Jewczyn asked and Mr. Marquise said that he assumes that the owners want the rooftop deck  
151 because the property is near the water and after work they want to be able to go up and enjoy the view.

152 Vice Chair Jewczyn asked and Mr. Marquise said that the deck will not be related to the business at all.  
153 They may go up and sit on the deck during office hours, however, they will not be inviting people up.  
154 Chairman White said that they can have a private party on the deck with friends and it would have  
155 nothing to do with their business. Vice Chair Jewczyn said that this is co-mingling private use with  
156 business use and he thinks that this can make it fuzzy to determine which is which.

157 Mr. Butler asked how people will get to the roof. Mr. Osborne said that it would probably be from the  
158 back. Mr. Marquise said that it is only about 2 ft from the back wall to the roof.

159 Vice Chair Jewczyn asked how the deck relates to the business. Mr. Osborne said that he does not  
160 believe that it does as it is something that if the owners want to go up and have lunch on their roof they  
161 should be allowed to do so; he does not see why they would not be able to put a deck on their roof. Mr.  
162 Butler asked how the Board could stop someone from doing that.

163 Mr. Claus asked if a private party is different than a business party and if it matters if it is friends and  
164 family or colleagues and clients.

165 Mr. Claus said that his concern would be if the pathway or stairs would be pervious or impervious and  
166 how that would affect the site. Mr. Osborne said that he believes that the back is all stone already and  
167 he does not think that much needs to be done in order to get to the roof.

168 Mr. Clark said that he does not see an issue with the deck and why the Board would deny it. Mr. Clark  
169 asked and Mr. Marquise said that there is an existing Site Plan and something different is happening. It  
170 does not appear as though there is anything different happening in terms of the commercial aspect so it  
171 is probably relevant to handle this through Zoning. Vice Chair Jewczyn asked and Mr. Marquise said that  
172 the abutters have not been notified and they will not be unless the Board decides that it needs to go back  
173 through Site Plan Review.

174 Mr. Butler said that he thinks that the owners need to explain how they are getting onto the roof and the  
175 safety features that will be installed. He would like to know if the Board approves this if they are taking  
176 on any liability for the Town.

177 Chairman White asked if they have the deck to use if it is increasing their square footage. Mr. Marquise  
178 said that it is not increasing the commercial use. Chairman White said that there is a fuzzy line between  
179 private and commercial use and if there is a rooftop deck, they should be able to use it if it is accounted  
180 for. Mr. Butler said that this is why they have submitted a Statement of Property Usage. Chairman White  
181 said that he then looks to see if a proposal will increase the commercial use that was approved. Vice  
182 Chair Jewczyn said that parking is a premium in the area and that could increase. Chairman White said  
183 that they could realistically have the store open, they could be working in their offices, and then have  
184 people on the rooftop. Mr. Clark asked if the Board can limit the usage to just them and immediate  
185 family.

186 Chairman White asked and Mr. Marquise said that he sees this as more of a Zoning issue as they are not  
187 having people go to an office or retail space on the roof; it sounds as though this is a separate use of the  
188 property.

189 Mrs. Larrow asked if because the proposed use is identified if it could be stipulated that the roof would  
190 be for owner and private use only on the existing Site Plan. Mr. Marquise said that the Statement of  
191 Property Usage could be added to the file so if it changes the Board could have something to fall back on.  
192 The question before the Board is if they are willing to waive a Site Plan Amendment; if they are then the  
193 Statement of Property Usage just goes into the file.

194 Mr. Butler said that his concern would be if there is a liability for the Town if someone gets hurt. Mr.  
195 Osborne said that it is no different than someone building a deck; the Town is not liable. Mr. Butler said  
196 that the owners did not request this going into Site Plan and it could have been addressed then.  
197 Chairman White asked if the Board would have had a problem with the proposal if it had been part of the  
198 original Site Plan. Mr. Butler said that the Board would have asked about safety, railings, how it will be  
199 accessed, etc. Chairman White said that those are building issues, not Planning Board issues. Vice Chair  
200 Jewczyn said that abutters would have had the chance to object to the deck. Mrs. Larrow said that even  
201 if the abutters did not like it, it would not have been a reason to deny the deck.

202 Mr. Claus said that the only issue that he has is if the lot is already close to the maximum impervious  
203 surface allowed and if this would make it go over, or if it is in a setback. He does not know where the  
204 stairs are going and does not have a good visual of how they will get to the deck.

205 Vice Chair Jewczyn said that he is concerned that the owners will want to put a canopy on the deck in the  
206 spring. Chairman White said that there is a height limitation in the deed; they did a flat roof because it  
207 allowed them higher ceilings in the building. He does not know if people on the roof violates the height  
208 limitation and that is a deed issue; however, he does not think that they can put anything over the deck.  
209 There was further discussion regarding this matter and if the railing would violate the height limitation.

210 Mr. Clark asked if this is a formal request or just a consultation. Chairman White said that this is a  
211 Statement of Property Usage and if the Board agrees with the proposal then the deck is deemed OK and  
212 the Board can move on. The Board can also say that the owners need to come before the Board for an  
213 amended Site Plan. Mr. Marquise agreed with Chairman White and said that the Board cannot just deny  
214 the Statement of Property Usage. Vice Chair Jewczyn said that he would like to have an amended Site  
215 Plan to have the owners clarify some questions. Mr. Butler agreed that the Board needs a better  
216 explanation. Chairman White asked and Mr. Marquise confirmed that an amendment to a Site Plan  
217 would be a noticed meeting. Chairman White said that even though the Board may not deny something  
218 based on abutter's opinions, it is beneficial to have a meeting where abutters can come and have open  
219 dialogue between parties.

220 Chairman White asked and Mr. Marquise said that if the Board determines that an amendment to the  
221 Site Plan is required, he will need to speak to the Zoning Administrator because the rules say that a  
222 Zoning approval is needed first.

223 Vice Chair Jewczyn said that there is a height restriction, however, if 3.5 ft to 4 ft are added with a railing  
224 the height changes. Mr. Marquise said that it is a deeded height restriction so the Board cannot enforce

225 it. Mr. Clark said that it is the holder of the covenant who can enforce the height restriction. Mr.  
226 Marquise said that the Town has a 40 ft height restriction.

227 Vice Chair Jewczyn said that he would like more clarification. Mrs. Larrow asked if the Board can request  
228 the owners come before them for a consultation, not a formal Site Plan Review. Mr. Clark said that he  
229 thinks that would be better than putting the owners through both Planning and Zoning. Mrs. Larrow said  
230 that she thinks they should just come before the Board and talk about what they are doing, which might  
231 answer the questions. Mr. Marquise said that this is a case that has already been before the Board so he  
232 is not sure that having a consultation would be appropriate; if the Board feels as though this could trigger  
233 a review, there should be one with abutters.

234 Mr. Butler said that the application says that they will be installing a roof deck for private building and  
235 owner use, no public access, and no change in property use. He thinks that building a deck on a roof is a  
236 change from what was originally proposed. Mr. Osborne said that it is not a change to the business use  
237 as it is for private use and it is their property so they should be able to use the roof. Mr. Butler said that  
238 the property is commercially zoned, it is not residential.

239 Chairman White asked if Mr. Osborne wanted to add solar panels to the roof of his business if he would  
240 need to go before the Planning Board. Mr. Osborne said that he did add solar panels to his roof and he  
241 did not come before the Board. He filed for a CZC and that was it; he actually built the building to be able  
242 to hold the solar panels. Chairman White asked if any business has come before the Board to request  
243 solar panels. Mr. Marquise said that he does not know if the self-storage facility came before the Board  
244 for solar panels. There was a separate solar installation at the LSPA that came before the Board but he  
245 does not remember a rooftop installation coming before the Board.

246 Mr. Claus said that reviewing the owner's Site Plan, their total lot coverage was 61% and they are allowed  
247 up to 80%; their total impervious was 38% and they are allowed up to 60% in their Zone. The building is  
248 in the setback so the stairway could be in the setback which would require Zoning approval. Chairman  
249 White said that they could just put a vertical ladder against the building. Mrs. Larrow said that they could  
250 access it from inside. Mr. Claus said that the Board does not know the plan so he is leery about approving  
251 it.

252 Mr. Clark asked if the Board can table the discussion and ask the owners to give more information or  
253 come before the Board at the next meeting. Mr. Marquise said that if they are going to request the  
254 owners talk to the Board it should be a formal meeting with abutters. Chairman White asked if the  
255 owners cannot explain a Statement of Property Usage without a hearing. Mr. Marquise said that he is  
256 concerned that this has a Site Plan approval and he does not want to carry on the Site Plan process  
257 without a regular hearing. He thinks that having a discussion with an applicant at this stage is more than  
258 a consultation as they have to deal with Right to Know and notification.

259 Mrs. Larrow said that if the building is non-conforming because it is in the setbacks on three sides then it  
260 is a legitimate reason to make the owners seek approval of the Zoning Board first. Vice Chair Jewczyn  
261 and Mr. Butler agreed with Mrs. Larrow. Mr. Clark asked and Chairman White said that if the Planning  
262 Board approves the Statement of Property Usage then the owners can have a rooftop deck without going  
263 to the Zoning Board. Mr. Marquise asked the Board if the Zoning Board approves the rooftop deck if the  
264 owners will need to come before the Planning Board or if Zoning approval is enough. Vice Chair Jewczyn

265 said that the Planning Board could say that if the Zoning Board approves it then it would not need to  
266 come back before them. Mrs. Larrow said that the Zoning Board could want it to be approved by the  
267 Planning Board. Chairman White asked if the owners get approval from the Zoning Board if there would  
268 be any consideration as to if it is private use versus business use. Vice Chair Jewczyn said that he thinks  
269 that if the Zoning Board approves the deck then they can do whatever they want to at that point. Mrs.  
270 Larrow said that the Zoning Board can put a condition on an approval that it is for private use and not  
271 open to the public; they can also stipulate that they return to the Planning Board for Site Plan Review.  
272 Mr. Butler said that he thinks that this proposal should go before the Zoning Board.

273 Mr. Claus asked why the Board is concerned if with the deck as to if it is public or private. Mrs. Larrow  
274 said that if it is open to the public then it increases parking and usage of the lot; if it is for private use then  
275 it should only be used by the people who will be there anyway. There was further discussion regarding  
276 this matter.

277 Chairman White said that from what he is hearing the Board does not have an issue with the deck,  
278 however, they think that there should be more opportunity for more discussion and make sure everyone  
279 is on the same page. Vice Chair Jewczyn said that he would like more information because he does not  
280 understand it so he would oppose it.

281 Mr. Claus said that there was a discussion about having this go back to Zoning and then possibly needing  
282 to come back to the Planning Board. He asked if they can eliminate that step by saying that the Board  
283 does not have a problem with the use but to condition it on Zoning approval. Chairman White said that  
284 the Statement of Property Usage says that it will be for private use, which from a Planning perspective is  
285 acceptable. However, he thinks that there needs to be more clarification as he would think that using it  
286 for business would make sense.

287 Vice Chair Jewczyn said that the Board could conditionally approve the Statement of Property Usage  
288 based on no irregularities found by the Zoning Board. Mr. Claus said that there is a chance that the  
289 access to the deck will require a Variance from the Zoning Board. Vice Chair Jewczyn said that he does  
290 not think that there is an issue with private use of the deck if the Zoning Board approves the proposal.  
291 There was further discussion about this matter and that it is implied that the proposal will comply with  
292 the Zoning Ordinance and if it should be stipulated that it does.

293 There was a discussion about the potential of people in the Harbor seeing the stairs and going up on the  
294 deck.

295 Mr. Claus asked if it is better to be proactive in the Planning Board's approval rather than reactive to a  
296 Zoning approval.

297 Chairman White asked if the use of the deck falls under the purview of what was approved for business  
298 operating hours if something happens after business hours. He is trying to determine how the private  
299 use can be disconnected from the business use. Mr. Claus said that he thinks that the discussion with the  
300 owners during the Site Plan was that the office was only going to be used for the owner. He asked if  
301 there was a discussion about business hours for the office. Mr. Osborne said that the hours of operation  
302 were probably discussed for the store but he does not know if they were for the office. There was further  
303 discussion regarding this matter.



304 Chairman White said that the Statement of Property Usage says that it will be for private building and  
305 business owner use so if there is a tenant they could use the deck. Vice Chair Jewczyn said that the  
306 Statement of Property Usage ties the liability directly to the owners because no one who is not affiliated  
307 with the building should be using the deck. If there are not any Zoning issues then he does not see why  
308 the Planning Board should be against the deck. Chairman White said that there is nothing in the  
309 guidelines that prohibit the deck.

310 Mr. Marquise said that there is nothing in the approval that talks about hours of operation. Mrs. Larrow  
311 said that the minutes say that "Mrs. Royce explained that they will not be open often at night but when  
312 there are events in the Harbor they want to be open and they need lights for people to see the  
313 walkways" so there is a potential for night use.

314 Chairman White said that the Statement of Property Usage said that there will be no public access and no  
315 change in use. Mr. Osborne asked if this means that the owners would be good as long as the access to  
316 the deck is per the Zoning Ordinance. Chairman White said that he thinks so; the owners should know  
317 the Zoning Ordinance and it is up to them to figure it out or get a Variance.

318 Chairman White said that he looks at if the Planning Board would have approved the deck if it was part of  
319 the original application and discussed at the noticed meeting. He does not think that he would have had  
320 a problem with it unless there was some dialogue with abutters and the only part that bothers him is that  
321 aspect is missing. Mr. Claus said that the question is if the Board needs to set in motion the ability for  
322 abutters to have a say in the matter. Chairman White said that he is concerned about the lack of public  
323 awareness, especially for the abutters. Mr. Butler and Mr. Clark said that they think that more  
324 information is needed. Vice Chair Jewczyn said that he thinks that they need to get abutter input.

325 Chairman White said that he thinks that during the meeting he said that he would do a flat roof and does  
326 not remember if it was originally designed with a flat roof. Mr. Marquise said that he thinks it originally  
327 had a slight peak to the roof and the owners changed it to slope slightly to the front rather than in the  
328 middle.

329 Mrs. Larrow said that the minutes say "the new building will be longer than the old building because they  
330 still had room to work with while complying with the setback"; she would question if the new building  
331 does meet the setbacks. Mr. Marquise said that he believes that the sides meet the setback but that the  
332 back does not. Mrs. Larrow said that she would question if the deck can be accessed from the side and  
333 still be within the setback. Mr. Claus said that he thinks that the setbacks were so tight that they also  
334 would affect the sides of the building.

335 Mr. Clark asked and Mr. Marquise said that he thinks that the Board can just say that they want the  
336 owners to go through the process of amending their Site Plan so they then bring in more information.  
337 Chairman White asked and Mr. Marquise confirmed that the Board should vote on this matter.

338 Mr. Claus made a motion that the use put forward for Parcel ID: 0133-0026-0000 needs to amend the Site  
339 Plan and submit it for approval. Vice Chair Jewczyn seconded the motion. A roll call vote was taken: Mr.  
340 Butler voted yes, Mr. Clark voted yes, Vice Chair Jewczyn voted yes, Mrs. Gottling voted yes, Mr. Osborne  
341 voted no, Mr. Claus voted yes, and Chairman White voted yes. The motion passed with six in favor and  
342 one opposed.

343 **MISCELLANEOUS**

344 Mr. Clark said that his term is complete for the Regional Planning Commission and he has been on it for  
345 the past two cycles. He would be willing to continue, however, he wanted to see if any of the other  
346 Board members wanted to be one of the Commissioners. The Board requested the Mr. Clark continue  
347 serving as a Commissioner.

348 **ZONING AMENDMENTS**

349 Amendment #1

350 Mr. Marquise said that the first Amendment is because when the Mixed Use I Zone was added there was  
351 no Shoreline Overlay, however, the Sugar River is now in the Shoreline so the lot coverage requirements  
352 need to be added. The impermeable and permeable surface allowances will match what is outside the  
353 Shoreline, which is consistent with other Districts. Vice Chair Jewczyn asked and Mr. Marquise said that  
354 the setback is 250 ft from the Shoreline.

355 Amendment #2

356 Mr. Marquise said that this Amendment came from the Zoning Administrator. He has heard that it has  
357 come up many times and the suggestion is to change the permitted height of a fence from 5 ft to 6 ft. It  
358 was felt that this would allow for more fences to be installed without going through the Zoning process.  
359 He was told that the Zoning Board has felt a bit burdened by so many cases related to these fences. Mr.  
360 Clark said that he agrees with this Amendment as many fences that are sold are 5 ft high and they are  
361 supposed to be left off the ground a bit.

362 Vice Chair Jewczyn asked and Mr. Marquise said that fences that are made of stone are considered  
363 retaining walls and the height restriction for retaining walls is 42 inches.

364 There was a brief discussion about allowing fences to be higher and the Board agreed that 6 ft is  
365 acceptable.

366 Amendment #3

367 Mr. Marquise said that Amendment #3 changes the reference in the Zoning Ordinance from the old USDA  
368 manual for erosion to the Stormwater Manual, which actually goes back to 2008. Mr. Osborne asked if  
369 this can be worded so that it will automatically change to the new version if it is changed. Mr. Marquise  
370 said that he said "2008 and as amended". Mr. Clark said that he thinks that it should say "as may be  
371 amended from time to time". Mr. Claus asked if it can just say "current version" rather than putting a  
372 date on it or saying "as amended". Mr. Osborne said that it could say "the most current version of the  
373 Stormwater Manual" as it would automatically update to whatever it was changed to. There was further  
374 discussion regarding this matter and the Board agreed for it to say "the most current version".

375 Amendment #4

376 Mr. Marquise said that it appears as though the Board of Selectmen may be moving towards requiring  
377 short term rental owners to register with the Town. It also appears as though there is a good software

378 program that is available to track them. As part of registering, some questions may be able to be asked  
379 such as parking, fire safety, etc. and this could take the place of a Zoning Amendment.

380 Mrs. Gottling said that the Board of Selectmen have not talked extensively about this yet. Vice Chair  
381 Jewczyn asked if these are owner occupied rentals and Mrs. Gottling said that they are not; they are short  
382 term rentals, not Bed & Breakfasts.

383 Mr. Marquise said that the Board can either choose to add something to the definitions or point  
384 somewhere else in the Ordinance, however, this Amendment deals with short term rentals of single-  
385 family homes.

386 Mrs. Gottling said that one of the biggest issues is that the houses are overpopulated; for example, having  
387 12 or more people in a small three-bedroom house.

388 Chairman White said that it looked like the Board of Selectmen had a presentation from a software  
389 company on their agenda. Mr. Marquise said that it will be on the agenda and it sounds like an  
390 interesting piece of software. There was further discussion about the software.

391 There was a discussion about rules and regulations and holding off on making a decision about the  
392 Amendment until the software is presented to the Board of Selectmen. Mr. Marquise said that if the  
393 Board waits then this Amendment might not be one this year, however, he thinks that it will be difficult  
394 to do in just a couple of months. The Board agreed to wait for a year before they address this issue.

395 Amendment #5

396 Mr. Marquise said that this Amendment is regarding farming and creating a definition. Vice Chair  
397 Jewczyn had sent over information from the Department of Agriculture that worked with the definition,  
398 however, it does not work to incorporate anything. Vice Chair Jewczyn said that he thought what he had  
399 sent was definitive in covering a number of areas and that the State has done a good job on it. Mr. Clark  
400 asked and Vice Chair Jewczyn said that the Zoning Ordinance could refer to the State of NH Farm  
401 Regulations. Chairman White said that the Board looked at New London's Ordinance at the last meeting  
402 and they reference the State of NH's Regulations. Mr. Claus said that he thinks that New London  
403 separated larger commercial farms from people who just sell small amounts of things and he does not  
404 think that the State has that separation. Vice Chair Jewczyn said that NH is "pro" farm and people can  
405 basically do what they want to as long as someone does not object within one year. Chairman White said  
406 that New London differentiates between a commercial entity and a farm and read New London's  
407 definitions to the Board. Mr. Osborne read the State RSA regarding farming that is referenced in New  
408 London's Zoning Ordinance to the Board.

409 Mr. Marquise said that the two Zones that allow for farming can be altered to allow commercial farms  
410 which could take care of that type of use while still allowing people in the other Zones to do their own  
411 growing for themselves. Mr. Osborne asked and Mr. Marquise said that the two Zones are the Rural  
412 Residential and Rural Land Zones. There was further discussion about farming in these Zones and that  
413 they do not have as much impact as farming in other Zones. Mr. Clark asked if the change would mean  
414 that someone on Garnet St, for example, could not have chickens on their property. Mr. Marquise said  
415 that they could because it would not be a commercial farm, it would be for their own use and the  
416 occasional sale of products.

417 **MISCELLANEOUS**

418 Mr. Marquise asked the Board to sign the McDonough's mylar and Chairman White to sign the Greer lot  
419 merger.

420 There was a discussion about having Chairman White and Mr. Claus go to the Town Office to determine  
421 how to set up the Meeting Room for meetings if Mr. Marquise is not able to attend a meeting.

422 **MINUTES**

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

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

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

429 Changes to the Planning Board minutes from July 9, 2020: The minutes were continued until the next  
430 meeting.

431 Changes to the Planning Board minutes from August 13, 2020: The minutes were continued until the  
432 next meeting.

433 Changes to the Planning Board minutes from September 10, 2020: The minutes were continued until  
434 the next meeting.

435 Changes to the Planning Board minutes from October 8, 2020: The minutes were continued until the  
436 next meeting.

437 Mr. Osborne made a motion to adjourn at 9:17 pm. Mr. Clark seconded the motion seconded the  
438 motion. The motion passed unanimously.

439 Respectfully submitted,

440 Melissa Pollari

441 Planning Board

442 \_\_\_\_\_

443 Peter White, Chairman

Michael Jewczyn

444 \_\_\_\_\_

445 Joseph Butler

Randy Clark

446 \_\_\_\_\_

447 Jeffrey Claus

Richard Osborne

448

449 Donna Davis Larrow, Alternate

Suzanne Gottling, ex-officio member