

1 **TOWN OF SUNNAPEE**

2 **PLANNING BOARD**

3 **AUGUST 11, 2022**

4 **Chairman White called the meeting to order at 7:00 PM.**

5 **MEMBERS PRESENT BY VIDEO:** Jeff Claus.

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

8 **MEMBERS ABSENT:** Randy Clark, Richard Osborne.

9 **ALSO PRESENT IN THE MEETING ROOM:** Michael Marquise - Town Planner.

10 **ALSO PRESENT BY VIDEO:** None

11 **PARCEL ID: 0239-0011-0000 MINOR SUBDIVISION. LOT WILL BE SUBDIVIDED INTO TWO LOTS. MESSER**  
12 **ROAD; GEORGE & DEBORAH GRANT.**

13 Chairman White said the first order of business is completeness of the application.

14 Mr. Marquise said that this application was filed in advance, fees were paid, notices were sent to the  
15 abutters and posted with the town, and it falls under Article 6.04 Subdivision regulations and as a minor  
16 subdivision it can qualify for some waivers that would be in existing and proposed utility lines and plans  
17 for stormwater drainage. Otherwise with those waivers the application is complete, this is subject to  
18 State DES approval for a subdivision and septic systems which has not come yet, and that would be a  
19 condition of approval.

20 **Mr. Swick made a motion to accept the application as complete and move to the merits of the**  
21 **application Seconded by Mr. Butler. The motion passed unanimously.**

22 Dan Higginson from Higginson Land Services presented the case on behalf of Grants. He said it is a  
23 straightforward subdivision of one lot into two. They meet State minimum standards for the dwelling  
24 and the 4000 sq. ft. reserve area and have taking all the basic regulations into account.

25 Chairman White asked for the difference between the state plan and their plan.

26 Mr. Higginson said that the State plan shows the dwell location, the house location, and the 4000 sq. ft.  
27 reserve area but it does not show the tree line and it is a bare minimum as per requirement of the state.

28 Mr. Marquise asked about overlays and if there is any issue conflicting with a right of way and the  
29 answer was that the radius is completely in the proposed lot.

30 Mr. Claus thinks that only 50-foot front setback is required and mentioned that they got more room to  
31 work there if they wanted to.

32 **Mr. Swick made a motion to approve the minor subdivision of Parcel ID: 0239-0011-0000 on Messer**  
33 **Road; George & Deborah Grant. Mr. Butler seconded the motion.**

**The motion was amended by Mr. Swick and added pending State DES septic systems permit as a condition of approval. Mr. Butler seconded the motion amendment. All voted in favor.**

Revisions to Agenda:

Mr. Swick asked about the status of the Short-Term Rental discussion and Planning Board's interaction with that.

Chairman White updated the Board with the decision of the Zoning Board to grant the appeal of the neighbors to 22 Maple Street about the decision that the Planning Board had made was incorrect and decided but did not explain anything more. He further explained that The Zoning Board had felt that the definition of a tourist home was not met and that it is a short-term rental so because the Ordinance does not allow them, the property is not a permitted use. They have said that they are sending it back to the Planning Board but, the applicant now has three options: to appeal the Zoning Board's decision to the Supreme Court, to come back to the Planning Board for a site plan review after getting a variance from the Zoning Board. Based on the determination of the Zoning Board on the last two appeal cases any short-term rental is not allowed in their ordinance.

Ms. Gottling asked for clarification that even if short-term rentals are not allowed and not defined, they would still need a variance and does that mean that everybody that is doing short-term rental would need to get a variance. She also informed the Board that on the Selectmen's side there are two groups that are working on proposals and then they had the attorney Cordell Johnston talking to them about some options and they may have to change the ordinance and do a lot of stuff and do them right. She said that they would have to be careful with the short-term rental issue because the Bill that the Senate send them is saying that no one can forbid any rentals in any part of any town. There are few things that they can do such Fire Inspections, charge a fee but all those things must be decided and voted on.

Chairman White responded that that is why they need a variance for because they are asking for something that is not defined in the Code and technically the Selectmen should be enforcing the decision of the Zoning Board and issuing cease and desist order for all current short-term rentals operating in the town of Sunapee.

Mr. Marquise said that in terms of procedure that the Planning Board's decision was that the site plan review was not necessary and if the applicant got their variance to have the short-term rental the Planning Board is not obligated to say that the site plan review is needed because it is in their purview.

Mr. Butler expressed confusion about the application for change of use to a tourist home and what defines a tourist home is an issue for him. He also questioned why they would need to decide about whether it is or is not a tourist home if that is a Zoning issue and added that they have made a mistake as a Planning Board with their decision, and he gave a shot out to the Zoning Board for catching on it. He thinks that the applicant lied or less informed them about the intent of use by not letting them know about six-family dwellings with kitchens. He added that the reason that he had wanted a site plan review is that whenever there is a change of use, there are always questions.

Mr. Claus explained that tourist home is a single dwelling instead of a six-family dwelling home and added to Mr. White's point of above-listed options that another option that the applicant has is to remove the remaining five kitchens then she will have a single-family unit with five dwellings. He gave credit to the Zoning Board for catching on the technicality and thinks that is an oversight on their side.

74 He also said that on the meeting with the attorney it was pointed that by their Ordinance if something it  
75 is not mentioned, it is not permitted as well.

76 Mr. Butler asked explanation about the other case with the travel trailer that was appealed.

77 Mr. Claus explained that the ordinance allows up to two travel trailers on every zoning district in the  
78 town up to 90-120 days a year so you can live in it but what is not explicitly mentioned is that you could  
79 rent it and the Zoning Board looked at it as because it is not stated therefore it is illegal to rent. The  
80 interesting part in that is that the definition of an apartment does not say that you can rent it either.

81 Mr. Marquise said that renting a single-family home has been going on for so long and it is usual and  
82 customary so why cannot somebody rent a single-family home without a definition of a short-term  
83 rental, and he thinks that there is no need for a definition of a short-term rental and that the town is on  
84 thin ice on this.

85 Other Business:

86 Mr. Marquise updated the Board about the third Thursday to talk about the Zoning amendments and  
87 that they have a signed contract now with Upper Valley to help with getting together some Master Plan  
88 public meetings and formatting a questionnaire.

89 Chairman White announced that he will not attend the September 8 meeting of the Board.

90 Mr. Marquise reminded Mr. Claus that he will need to recuse himself from one of the cases on the  
91 September 8 meeting.

92 Review of Minutes: No minutes were reviewed.

93 Signing of Mylar's

94 **Mr. Butler made a motion to adjourn at 8:15 PM. Seconded by Ms. Gottling. The motion passed**  
95 **unanimously.**

96 Respectfully submitted: Rajmonda Selimi

97 Panning Board

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99 Peter White, Chairman Suzanne Gottling

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101 Jeff Claus Joseph Butler

102 \_\_\_\_\_

103 Gregory Swick