

1 **TOWN OF SUNNAPEE**

2 **PLANNING BOARD**

3 **OCTOBER 13, 2022**

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

5 **MEMBERS PRESENT BY VIDEO:** None

6 **MEMBERS PRESENT IN THE MEETING ROOM:** Suzanne Gottling, Richard Osborne, Chairman Peter  
7 White, Joseph Butler, Randy Clark, Jeff Claus, Gregory Swick.

8 **MEMBERS ABSENT:** None

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

10 **ALSO PRESENT BY VIDEO:** Scott Hazelton – Highway Director.

11 **CONTINUATION:**

12 **PARCEL ID: 0132-0037-0000 SITE PLAN REVIEW CONVERT EXISTING 5-BEDROOM RESIDENCE TO (3) 2-**  
13 **BEDROOM APARTMENT UNITS AND A 1280SF DELI IN A SEPARATE STRUCTURE. 73 LOWER MAIN**  
14 **STREET SR LOWER VILLAGE, LLC**

15 Chairman White said that he was not present on the meeting when this case was presented for the first  
16 time, but he had watched the video. It seemed that one of the issues was the question of whether this  
17 application needed to go to the Zoning Board and get a variance prior to coming before the Planning  
18 Board. They have had some conversations with the town attorney, and they all have received an email  
19 from her.

20 Mr. Marquise said that he had emailed the town attorney and the board is free to vote on whether to  
21 release the communication at this point.

22 Chairman White said the first order of business is whether they feel they should make the  
23 communication available to the public.

24 **Mr. Claus made a motion to place on record an email from the town council dated Tuesday October**  
25 **11, 2022, from Lora Spector-Morgan in view of Parcel ID: 0132-0037-0000. Seconded by Mr. Osborne.**  
26 **The motion passed with one opposed vote (Randy Clark).**

27 Mr. Marquise handed out the copies of the communication to the applicants.

28 Chairman White explained that the communication was a response to the board's inquiry from the town  
29 council regarding whether and how cases should relate to Section 6.12 and 6.13 of their Ordinance. The  
30 direct response from the council was that if the case falls under 6.12 will not require either special  
31 exception or variance. She then had gone on for some reason to refer to Section 3.5 which is special  
32 exceptions in the ordinance, out of which Chairman White does not believe that this case needs and  
33 does not apply for. That is what has caused confusion amongst some of the members.

34 Mr. Claus said that Section 3.5 does not make sense to him for this case, because it addresses additions  
35 and there is no addition that they are looking at for this case.

36 Chairman White said that the part that is relevant to them to proceed with this case is whether the  
37 applicant does indeed fall within 6.12 and it was the town's council opinion that they do.

38 Mr. Marquise added that it is 6.12 and 6.13 combined, because he thinks that you need both to do this  
39 but the original intent when they wrote it was to be able to do that in a combined fashion.

40 Chairman White asked for questions or concerns from the board before they move on with the case.

41 Mr. Clark asked for clarification whether Section 6.13 does apply to this case.

42 Chairman White said that one is for replacement and the other is for extension and explained that  
43 Section 6.12 say that a pre-existing non-conforming structure existing at the time of the passage of this  
44 ordinance (March 18 1987) may be replaced in a same or smaller envelope by a new structure having  
45 the same purpose and use provided that a non-conforming to this ordinance does not increase their  
46 body. The reconstruction of any other non-conforming structure requires a variance or special exception  
47 of the Zoning Board of Adjustment. The replacement adding non-conforming structure with a structure  
48 that increases the non-conforming coordinates either vertically or horizontally, shall only be permitted  
49 by variance or special exception. He does not think that 6.13 is applicable to this case.

50 Mr. Claus read the definition of an envelope as exact steer dimensions of a structure including length,  
51 width, and height.

52 Mr. Marquise said that the only reason he says that Section 6.13 is applicable is because Section 6.12  
53 talks about tearing down an existing building and build in the same or smaller footprint but in  
54 conjunction with that, they are doing much smaller footprint but adding to that footprint and he felt  
55 that there were some concerns that 6.12 did not go far enough, because they are doing more than just  
56 replacing in the box that is there. His feeling was that 6.13 covers that, because they can expand.

57 Peter Blakeman said that he did not do everything on his list because he felt this is sort of hanging over  
58 them and was hoping that they would deal with it quicker behind the scenes, but he understands it gets  
59 longer than that. Like they have discussed, they have three apartment buildings that they would like to  
60 build and a portion of unit 1 is within footprint of the house and attached barn essentially. There is also a  
61 separate deli which is in a separate structure detached and meets all the zoning requirements. One of  
62 the things brought up at the last meeting was the wetlands review and they got that done a couple of  
63 days ago. There is a small wetland probably within the 50-foot buffer, but they have not located it other  
64 than measured of to it. It is on a very poorly drained soil or connected to a very poorly drained soil and it  
65 is not connected directly to the river itself or to the lake, so it does not appear to meet a buffer.

66 Mr. Marquise said that this is a map and there is a wet area and that Mr. Blakeman had shown them a  
67 small delineation, but he would think that it still meets the 25 feet on it, because they delineated within  
68 the district.

69 Mr. Blakeman said that it seemed that it is a little bit overreaching to him that a small 50 sq. ft or so  
70 pocket of disturbed area that is a wetland now would have to have a buffer around it. He had read the  
71 part being that it is attached to very poorly drained soil, and it is not wetlands. He asked if they show  
72 that there are not poorly drained soils along Lower Main Street, would that take it out of the district.

73 Mr. Marquise said that Mr. Hazelton, who is online at ZOOM, has been managing permits so he could  
74 comment on this, but over the last few months they have been telling people that they must get it  
75 delineated and observe the delineated buffer.

76 Mr. Blakeman said that he is trying to figure out how they can make this work without having a buffer  
77 and make what they have there on the plan work, but it just puts a retaining wall where they might not  
78 necessarily want one. His main question was if they must delineate a wetland that is within this poorly  
79 drained area and if than they delineate some of that not poorly drained soil, does that break the gap  
80 between there and the very poorly drained soil in the wetland overlay district and the 25-foot buffer.

81 Mr. Marquise responded that the mapping creates the district, and they need to prove whether the  
82 mapping is correct or not to eliminate the district.

83 Mr. Blakeman said they are challenging just that area of the property and not the entire map and asked  
84 if that would be acceptable.

85 Chairman White added that that is nothing that they are going to do tonight. If that is an argument  
86 worth being made, he thinks that it is a Zoning Board issue.

87 Mr. Hazelton said that they are left a little bit in darkness, they do not know what this is, and they need  
88 more information to change their decision, right now he does not have any idea about what they are  
89 talking about.

90 Mr. Claus said that in theory the applicant would have to come back and if they zoom out and show  
91 somehow that the orange area is not a continuance in any way to the darker red area further down  
92 Sugar River.

93 Mr. Marquise said that they define districts based on continuousness and it is only based on soil  
94 mapping. They do not offer the ability to sever it based on one side determinations. All they offer is the  
95 ability to say whether this is in jurisdiction or not. Once this map shows you are in district, you are in  
96 district.

97 Mr. Claus said that he totally understands how all this is applied and how this works around, but he is  
98 just wondering here that they have an applicant coming in and basically saying that all this data that  
99 they are based as a starting point of reference is incorrect. And he wants to go about proving that it is  
100 incorrect.

101 Mr. Marquise said that they have done that by an onsite wetlands delineation, but they say that if you  
102 find wetlands within these orange or red areas, you must abide by those wetlands.

103 Mr. Blakeman thinks that it defers to the zoning administrator right now and instead of taking up their  
104 time, it might make more sense if he has a conversation with him and describes it better. He had  
105 mentioned that he was waiting for Section 6.12 to be determined because it would determine the  
106 trajectory of the project more and might result in changes or not.

107 Chairman White asked if there are any other additional information they need to provide because it  
108 sounds like they are going to have another continuation and they could get some things ironed out.

109 Mr. Blakeman responded that if they ironed out as far as 6.12 and not needing zoning release for the  
110 buildings, because that is the big issue now.

111 Mr. Clark said that they had questions about the working hours as well.

112 Mr. Claus commented Section 6.12 about the same purpose and use and it was with regards that they  
113 have an existing barn and know the applicants are proposing a multi-family home and to him that is not  
114 the same purpose and use and then they have parking in the footprint and asked if that is allowed.

115 Mr. Marquise responded that in earlier discussions with the town attorney was said that residential use  
116 to residential use would be same purpose and is attended things like accessory uses or barns or parking,  
117 but the deli is not involved in any setback issues and meet all requirements. So, it did not seem like the  
118 use aspect was a problem.

119 Mr. Claus said that he respects that being the barn connected to the residence and therefore takes on a  
120 hierarchy of the residence but when they get special exception, they do not apply it that way. They keep  
121 those structures separated, even though they are attached. He was looking at the inconsistency with the  
122 parking, which is subsidiary to the residential use, therefore it is allowed to utilize that envelope.

123 Mr. Marquise responded that he senses that was the general idea, if the deli were going there, it would  
124 be another story, because it is not the same purpose and use.

125 Mr. Swick asked what is the technique that they are going to use for the pervious parking.

126 Mr. Blakeman said they all have the same structure underneath it and will have layer stone and layer  
127 sand for filtering the water which DES requires and on the top of it pervious asphalt.

128 Chairman White asked if any though was given to put a catch basin the plowing area.

129 Mr. Blakeman said that it is not necessarily a free run only by its 50 feet or less from the river and still  
130 would get filtered through the trees and brush along the river itself, but no catch basin is planned.

131 Mr. Butler asked for clarification if there are two-bedroom apartments now and if the deli is residential  
132 and the answer was affirmative for the two-bedroom apartments and deli is commercial.

133 Chairman White asked if there is anything planned upstairs the deli and the answer was that it is nothing  
134 of use, it is just a storage area for the deli. He also asked about the elevation of 9.98 and the answer was  
135 that it was the most restricted elevation that was applied throughout and that was the elevation from  
136 the flood map.

137 Mr. Hazelton asked if the water treatment is essentially the rain guard, and the answer was affirmative  
138 and additional storage underneath the pervious parking areas. He expressed concern about the rain  
139 guard being close to the river. Mr. Blakeman responded that there will be inspection and maintenance  
140 and documents will be provided, not just for the pervious paving but the rain guard and any other buffer  
141 area. The next question was about the accessibility of emergency vehicles. The respond was that they  
142 can come in and out and that they can overlay the turning radius on it. Mr. Hazelton asked if there is a  
143 utility connection plan and the landscape plan, and the answer was affirmative.

144 Mr. Blakeman said that the hours of operation of the deli are not meant to exceed 6PM.

145 Dan Luker said that he had come prepared to address the 6.12 issue but the board had come to the right  
146 conclusions but said that the owner had asked him to express that she is going forward with this project  
147 in the expense because she thinks it is a really good thing for the town and she is hoping to get to the

148 end of this process maybe the next meeting with some conditions of approval so that she can catch the  
149 end of the season to start work with the demo and other works.

150 Mr. Marquise pointed out that the board is going to ask for a bond for the site improvements, so if they  
151 can prepare for the next meeting with the estimate, they can authorize that. There will be construction  
152 oversight that will be managed by Mr. Hazelton.

153 Melanie Janice, who lives across the street from the applicants submitted and read a letter about this  
154 project. She said that she spoke publicly about the project at the last meeting and lived there all her life.  
155 She asked the board about the conversation that they had about going in public and does the whole  
156 town know about this project, is it in the newspaper. She said that she believes that there would be  
157 more people present on this matter, especially from Lower Main Street. She was strongly opposed and  
158 was against this project for multitude of reasons. She was against disturbing the wetland areas. She  
159 expressed concerns about flooding, plowing, light pollution, the deli and the patio which would create  
160 noise. She wanted confirmation that the hours of operation would stay as told. Is there a liquor license  
161 and would it be issued to the deli?

162 Chairman White said that this project and every meeting has been properly noticed and posted and  
163 when they talked about in public it was mostly regarding the lawyer's response to the question that they  
164 had prior to the meeting. All the abutters are notified by certified letter. The building will be constructed  
165 according to FEMA, and he is sure the flooding will be addressed and respected and there would be no  
166 issue with that. They have a plan for the lighting and the hours of operation were stated earlier. The  
167 plowing will be strictly on their side as well.

168 This case was continued for the next meeting on November 10, 2022.

169 Chairman White moved on to the next case.

170 **NEW CASES:**

171 **PARCEL ID: 0131-0029-0000 SITE PLAN REVIEW SHIPPING/RECEIVING WAREHOUSE FOR PROSPECT**  
172 **HILL ANTIQUES. 93 LOWER MAIN ST. F.E. CLARK HOLDINGS, LLC**

173 Mr. Marquise said that he does not see anybody here for this case here and he has been trying to  
174 contact them because in terms of going towards completeness, he has some concerns about what has  
175 been submitted. Granted, it is an existing building, it has had previous commercial use, but all they got  
176 was basically a tax map representation of the building. Even if the applicants were here, he would have a  
177 recommendation that they would need to at least see something in terms of parking, a little better plan  
178 than this, even though it is an existing use.

179 Mr. Butler added that he would like to see the applicant here.

180 The board decided to continue this case for a November 10 meeting.

181 Chairman White moved on to the next case.

182 **STREET NAME APPLICATIONS: BELL ENGINEERING, INC. 2 ROADS IN BLUEBERRY RIDGE SUBDIVISION**

183 **Street Name Applications: Bell Engineering, Inc. 2 Roads in Blueberry Ridge Subdivision**

184 Mr. Marquise said that the Planning Board needs to approve the street name applications before the  
185 Board of Selectmen and Fire Chief approve them.

186 **Mr. Osborne made a motion to approve any of the proposed names Greenwood Lane, Linwood Lane**  
187 **or Surrey Lane for the road which has been approved by the Planning Board in the Blueberry Ridge**  
188 **Subdivision. Seconded by Mr. Clark. The motion passed unanimously.**

189 Revisions to Agenda:

190 Other Business: Discuss Zoning Amendments Joint discussion with ZBA (Oct 20th)

191 Review of Minutes: No Minutes were reviewed

192 Signing of Mylar's

193 **Mr. Clark made a motion to adjourn at 10:20 PM. Seconded by Ms. Gottling. The motion passed**  
194 **unanimously.**

195 Respectfully submitted: Rajmonda Selimi

196 Planning Board

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198 Peter White, Chairman Suzanne Gottling

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200 Richard Osborne Joseph Butler

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202 Jeff Claus Gregory Swick

203 \_\_\_\_\_

204 Randy Clark