

SUNAPEE SELECTBOARD MEETING MINUTES
6:30pm Town Office Meeting Room
Tuesday, September 5th, 2023

Selectboard Chair Wallace called the meeting to order at 6:44 PM

I. REVIEW OF ITEMS FOR SIGNATURE:

CZC's

- Parcel ID: 0215-0035-0000, 55 Sunny Lane, John Brown
- Parcel ID: 0136-0007-0000, 179 Burkehaven Road, Patrick Clapp, JPC Investments LLC
- Parcel ID: 0136-0045-0000, 25 Birch Point Lane, Ambrose & Yvonne Cheung
- Parcel ID: 0211-0020-0000, 23 High Ridge Road, Anne Spencer & Paul Lembo
- Parcel ID: 0123-0021-0000, 706 Route 11, Town of Sunapee, Dewey Field
- Parcel ID: 0231-0040-0000, 127 Pine Ridge Rd, Daryl Heino

DEMO

- Parcel ID: 0101-0002-0000, 99 Springfield Road, Jeff Granville (*After the Fact)
- Parcel ID: 0215-0035-0000, 55 Sunny Lane, John Brown

MOTION MADE TO APPROVE CONSENT AGENDA: CZCs and Demo Permit made by Selectboard Member Hawthorn and seconded by Selectboard Member Trow. **Motion was tabled.**

- **Discussion:** Selectman Trow wanted to make clear the Town will not be paying itself a fee to move the shed. Selectboard Members would like to see a sketch of some kind with all applications.
 - A discussion about when the After the Fact fee should be assessed ensued.

MOTION MADE by Selectboard Member Trow to approve the CZC for Parcel ID: 0211-0020-0000, Anne Spencer & Paul Lembo, contingent upon receiving payment of the After-the-Fact penalty of \$300. Seconded by Selectboard Member Gottling. All Selectboard Members voted in favor. **Motion passed.**

MOTION TO APPROVE CONSENT AGENDA of remaining permits made by Selectboard Member Hawthorn, with the Town of Sunapee's fee being waived for the Dewey Field application. Motion Seconded by Selectboard Member Trow. All voted in favor. **Motion passed.**

II. APPOINTMENT:

7:00 PM: Chief Neill Cobb: Staffing Request:

- Sunapee Police Chief Neill Cobb asked the Selectboard to authorize the creation of an Accreditation Manager Position that would be funded by the Department's existing part-time budget.
- He spoke about the accreditation process and the importance of meeting a set of professional standards for best practices, operation, authority, performance, and responsibilities.
- He presented a proposed job description, hours, requirements, and estimated budget for hiring an accreditation manager. He said that the Accreditation Manager would also be tasked with looking for grant opportunities.
- A discussion ensued about the merits of adding this position and the contributions it may/may not make to the department.

MOTION MADE by Selectboard Member Hathorn to move forward with the accreditation manager position and seconded by Selectboard Member Trow.

- **Discussion:** Selectboard Members Trow and Gallup reiterated concern for the timing of the position and the budget needed to fund it.

All Selectboard Members except Mr. Trow voted in the affirmative. Motion passed.

III. PUBLIC COMMENT (Comments abridged for minutes. Full comments can be reviewed on [Town Hall Streams](#), beginning at 7:50 PM.)

- Lisa Hoekstra spoke on behalf of the LSSTRA. She would like to know why the Selectboard denied a request to meet with LSSTRA's legal counsel. The LSSTRA asked for a motion of reconsideration for the \$350 STR registration fee.
- Lisa Hoekstra also spoke as a community member about the legal updates and Right-to-Know agenda items, and hopes the Board is going to ask critical questions to increase accuracy and transparency. She believes at least one of the Town attorneys is leading Board members astray and encourages them to evaluate the advice they have been given. She also encouraged a review of the ethics policy, and to create a policy not to include legal information in the agenda and minutes.
- Michael Haxton spoke on the topic of STRs and believes that they should be treated as a business. He believes that the Ordinance is in place to help maintain peace in neighborhoods and that STR owners are responsible for knowing who they are renting to. He asked that the Town Manager be allowed to do her job instead of constantly having to address STR questions and Right-to-Know requests.
- Christing Corey spoke on the topic of STRs. She spoke on regulations for security deposits, and believes that STR owners did not have sufficient input in the development of STR regulations.

IV. SELECTBOARD ACTION:

Review MS-434:

- Town Manager Martinez said it was submitted prior to the September 1st deadline and kicks off the tax rate-setting season. The MS-434R will come after the MS-1 is submitted. The MS-1 has been given an extension until October 15th, as mentioned in prior meetings.
- Selectboard member Trow asked whether we're on track to meet the standard tax deadline, to which Town Manager Martinez replied that it is too early, and there is not enough information to tell.

OLD BUSINESS:

Short-Term Rental Penalty Policy

- Town Manager Martinez acknowledged that a motion was missed in the August 7th minutes, and would like to clarify what, if anything, was changed by the motion.
- The Selectboard reviewed their discussion, where STR fines and penalties were discussed. A motion had been made at the end of the meeting "to approve the Short-Term Rental Registration document as presented, with the discussion about fines."
- Selectboard member Trow said that the penalties were not changed, and thus no further hearings are needed. He also said that there was not any push to make changes to the wording in the regulations. Selectboard Chair Wallace and Chairwoman Gallup concurred.

Selectboard Rules of Procedure:

- Town Manager Martinez provided the Board with copies of the Rules of Procedure to review.
- Selectboard Member Trow said that much of the current policy had been derived from those of other towns.

Investment Policy:

- A discussion about the investment policy ensued. More discussion will come after the presentation from presenters.
-

V. TOWN MANAGER REPORTS:

Decommissioned Police Cruiser:

- Town Manager Martinez asked for initial thoughts purchasing one of the Police Department's decommissioned cruisers, to which Board members and Chief Cobb agreed. Discussion to be continued.

BayPoint Broadband Update:

- TDS has completed the fiber installation and residents are beginning to get high speed internet access. TDS wanted to convey their appreciation to the Selectboard and thank the Board for their efforts to secure funding and push forward the implementation of broadband access.

Right-to-Know Requests:

- Town Manager Martinez said that in the month of August, she processed twelve Right to Know requests and spent over 43 hours on the various requests. Her colleagues have spent over 50 hours gathering material for the other requests.
- She said that the Town fully supports Right to Know requests and citizens' right to request records. She believes that the process should be easily accessible as it helps to further bolster local governance. As the requests are becoming more frequent, she would like to transition the actual request process to the OpenGov platform and would like to hire a research specialist to process the requests.
 - No motion was made to hire a temporary staff member for RTKs, but Town Manager Martinez will provide a job description and more information at an upcoming meeting.

Miscellaneous Legal Updates:

- KTP Cottage is appealing the Zoning Board of Adjustments decision to deny their application: The certified record is due to the Housing Appeals Board by September 28.
- The Weiss Case has been reversed and remanded because "the court did not have subject matter jurisdiction over their appeal." We will discuss next steps with counsel.
- Board of Real Estate Appraisers refuting the subject matter expert in the Jautz abatement case.

MOTION WAS MADE by Selectboard Member Hathorn to pull \$30,000 from the Planning & Zoning Department budget and Seconded by Selectboard Member Gottling. All voting in favor.

Miscellaneous Update:

- Walter Mitchell is retiring.

Cybersecurity Concerns and Recommendations:

- Town Manager Martinez noted she had met with Primex to discuss their cybersecurity concerns.
- The Town is increasing the push to improve security in IT infrastructure. We lack basic digital hygiene which, from a risk management perspective, is going to become a much bigger deal.
- Critical changes need to be ushered in to protect the Town's resources, including switching to a .gov domain, having a proper cybersecurity assessment, implementing yearly cybersecurity awareness training etc.
- Town Manager Martinez said that in her time with the Town, several things have been done to tighten up security, including instituting a password policy, mandating two-factor authentication, use of a password manager, creating file restriction policies, restricting several functions by IP, and bringing on a IT advisor.
- To remain compliant (Primex), we are going to need to do several things that we already have in the pipeline but, as with all things, costs are associated with these changes.

Georges Mills Bridge Closing Notifications:

- Town Manager Martinez provided an update on the Georges Mills Bridge, which will be closed as of September 11th, 2023. Notifications have been sent from the Highway Department to properties that are most likely to be affected by the closure, particularly those along Prospect Hill Road, Springfield Road, and the portion of Main Street that borders the bridge.

Software Update:

- Town Manager Martinez announced that the OpenGov software system has an anticipated launch date of September 11th and noted that the system is meant to increase transparency, ease of use, and information access. Similarly, the new website will soon make it easier to develop agendas and record minutes.

Staffing Discussion:

- There was a discussion about whether the Board would authorize the new highway foreman, who lives in Goshen, to use a Town truck to come/go to work through the Winter. The Foreman is responsible for conducting patrols all winter long and is the first to come in to pre-treat the roads. All concurred that the vehicle may be used for the Winter season.

VI. SELECTBOARD CHAIR REPORT:

Motion to adjourn made by Selectboard member Hathorn at 9:34 pm, seconded by Selectboard Member Hathorn. All voted in favor

VII. UPCOMING MEETINGS:

September 6th – Conservation Commission – 7:00pm

September 7th – Zoning Board Meeting – 6:30pm

September 12th – Recreation Committee – 7:00pm

September 14th – Planning Board Meeting – 7:00pm

September 18th – Selectboard Meeting – 6:30pm

NONPUBLIC: The Board of Selectmen may enter a nonpublic session, if so voted, to discuss items listed under RSA 91-A:3, II

SUNAPEE SELECTBOARD
MEETING AGENDA
6:30PM TOWN OFFICE MEETING ROOM
Tuesday, September 5th, 2023

Join us on Zoom: <https://us06web.zoom.us/j/86066395397>

1. REVIEW OF ITEMS FOR SIGNATURE:

CZC's

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DEMO

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- Parcel ID: 0215-0035-0000, 55 Sunny Lane, John Brown

2. APPOINTMENTS:

- Chief Cobb: Staffing Request

3. PUBLIC COMMENT

4. SELECTBOARD ACTION:

- Review MS-434
- Old Business:
 - i. Short-Term Rental Penalty Policy
 - ii. Selectboard Rules of Procedure
 - iii. Investment Policy

5. TOWN MANAGER REPORTS:

- Baypoint Broadband Update
- Right to Know Staff
- Miscellaneous Legal Updates
- Cybersecurity Concerns and Recommendations
- Georges Mills Bridge Closing Notifications Out
 - i. Bridge Closes 11 September 2023

6. CHAIRWOMAN'S REPORT:

7. UPCOMING MEETINGS:

September 6th – Conservation Commission – 7:00pm

September 7th – Zoning Board Meeting – 6:30pm

September 12th – Recreation Committee – 7:00pm

September 14th – Planning Board Meeting – 7:00pm

September 15th – Community Conversation – 10:00am

September 18th – Selectboard Meeting – 6:30pm

NONPUBLIC: The Board of Selectmen may enter a nonpublic session, if so voted, to discuss items listed under RSA 91-A:3, II

SIGN-IN SHEET

SUNAPEE SELECTBOARD MEETING

DATE: Sept 5, 2023

Christine Carey

350 RTE 103

Michael HASTON

95 Fernwood Point

Erin Lisa Johnson

Maple St.



Revised Estimated Revenues

Sunapee

(RSA 21-J:34)

For the period beginning January 1, 2023 and ending December 31, 2023

PREPARER'S CERTIFICATION

Under penalties of perjury, I declare that I have examined the information contained in this form and to the best of my belief it is true, correct and complete.

Name	Position	Signature

This form must be signed, scanned, and uploaded to the Municipal Tax Rate Setting Portal:
<https://www.proptax.org/>

For assistance please contact:
NH DRA Municipal and Property Division
(603) 230-5090
<http://www.revenue.nh.gov/mun-prop/>



Revised Estimated Revenues

Account	Source	Article	Estimated Revenue
Taxes			
3120	Land Use Change Tax - General Fund	16	\$6,500
3180	Resident Tax		\$0
3185	Yield Tax	16	\$1,000
3186	Payment in Lieu of Taxes		\$0
3187	Excavation Tax		\$0
3189	Other Taxes		\$0
3190	Interest and Penalties on Delinquent Taxes	16	\$30,000
9991	Inventory Penalties		\$0
Taxes Subtotal			\$37,500
Licenses, Permits, and Fees			
3210	Business Licenses and Permits	16	\$1,280
3220	Motor Vehicle Permit Fees	16	\$1,020,000
3230	Building Permits	16	\$60,000
3290	Other Licenses, Permits, and Fees	16	\$20,800
3311-3319	From Federal Government		\$232,000
Licenses, Permits, and Fees Subtotal			\$1,334,080
State Sources			
3351	Municipal Aid/Shared Revenues		\$0
3352	Meals and Rooms Tax Distribution	16	\$176,553
3353	Highway Block Grant	16	\$200,000
3354	Water Pollution Grant	16	\$12,000
3355	Housing and Community Development		\$0
3356	State and Federal Forest Land Reimbursement		\$0
3357	Flood Control Reimbursement		\$0
3359	Other (Including Railroad Tax)		\$0
3379	From Other Governments	16	\$120,000
State Sources Subtotal			\$508,553
Charges for Services			
3401-3406	Income from Departments	16	\$57,000
3409	Other Charges	16	\$6,200
Charges for Services Subtotal			\$63,200
Miscellaneous Revenues			
3501	Sale of Municipal Property		\$11,000
3502	Interest on Investments	16	\$35,000
3503-3509	Other	16	\$9,000
Miscellaneous Revenues Subtotal			\$55,000



Revised Estimated Revenues

Account	Source	Article	Estimated Revenue
Interfund Operating Transfers In			
3912	From Special Revenue Funds		\$0
3913	From Capital Projects Funds		\$0
3914A	From Enterprise Funds: Airport (Offset)		\$0
3914E	From Enterprise Funds: Electric (Offset)	16	\$227,683
3914O	From Enterprise Funds: Other (Offset)		\$0
3914S	From Enterprise Funds: Sewer (Offset)	16	\$1,344,887
3914W	From Enterprise Funds: Water (Offset)	16	\$627,439
3915	From Capital Reserve Funds	,33,32,31	\$335,000
3916	From Trust and Fiduciary Funds		\$0
3917	From Conservation Funds		\$0
Interfund Operating Transfers In Subtotal			\$2,535,009
Other Financing Sources			
3934	Proceeds from Long Term Bonds and Notes	,02	\$0
Other Financing Sources Subtotal			\$0
Total Revised Estimated Revenues and Credits			\$4,533,342



Revised Estimated Revenues Summary

Subtotal of Revenues		\$4,533,342
Unassigned Fund Balance (Unreserved)	\$3,235,866	
(Less) Emergency Appropriations (RSA 32:11)	\$0	
(Less) Voted from Fund Balance	\$3,800	
(Less) Fund Balance to Reduce Taxes	\$850,000	
Fund Balance Retained	\$2,382,066	
Total Revenues and Credits		\$5,387,142
<hr/>		
Requested Overlay	\$0	

NOTICE: This opinion is subject to motions for rehearing under Rule 22 as well as formal revision before publication in the New Hampshire Reports. Readers are requested to notify the Reporter, Supreme Court of New Hampshire, One Charles Doe Drive, Concord, New Hampshire 03301, of any editorial errors in order that corrections may be made before the opinion goes to press. Errors may be reported by email at the following address: reporter@courts.state.nh.us. Opinions are available on the Internet by 9:00 a.m. on the morning of their release. The direct address of the court's home page is: <https://www.courts.nh.gov/our-courts/supreme-court>

THE SUPREME COURT OF NEW HAMPSHIRE

Sullivan
No. 2022-0309

BRADLEY M. WEISS & a.

v.

TOWN OF SUNAPEE

Argued: February 23, 2023
Opinion Issued: August 23, 2023

Schuster, Buttrey & Wing, P.A., of Lebanon (Barry C. Schuster on the brief and orally), for the plaintiffs.

Mitchell Municipal Group, P.A., of Laconia (Laura Spector-Morgan on the brief and orally), for the defendant.

MACDONALD, C.J. The plaintiffs, Bradley M. Weiss and Cathleen A. Shea, appeal an order of the Superior Court (Tucker, J.) granting the motion to dismiss filed by the defendant, Town of Sunapee (Town). The trial court determined that, because the plaintiffs failed to request a second rehearing from the Town's Zoning Board of Adjustment (ZBA), the court did not have subject matter jurisdiction over their appeal. We reverse and remand.

The following facts are supported by the record. The plaintiffs sought a variance for an “east side setback” for their residence in Sunapee. On April 1, 2021, the ZBA held a hearing on the application. The hearing was held remotely, consistent with then-existing COVID-19 pandemic-related protocols. The ZBA voted 3-2 to deny the application. Members who voted against granting the variance cited insufficient evidence of unnecessary hardship and found the variance would not be in keeping with the spirit of the ordinance. They also expressed concern about health and safety issues if the variance were to be granted. The ZBA did not issue a written decision confirming the action taken at the April 1, 2021 hearing until August 3, 2021, which the Town concedes was “not . . . timely.” It is undisputed that the ZBA approved the minutes of the April 1 meeting on May 25, 2021.

On April 27, 2021, the plaintiffs filed a timely motion for rehearing, seeking review of the April 1 decision, which the ZBA granted. In the motion, the plaintiffs asserted that their evidence “demonstrated that granting the variance would do substantial justice, improve property values and be in the public interest.” They argued that the ZBA’s decision “made passing reference to the ‘spirit of the ordinance’ but primarily focused on the ‘hardship’ criterion” and that its decision was “in error because the application does observe the spirit of the ordinance and satisfies the hardship criterion.”

On June 17, 2021, the ZBA conducted a rehearing and again voted to deny the variance. The ZBA members found there was a lack of proof that the variance was not contrary to the public interest and reiterated their previous rationale that the variance would not be in keeping with the spirit of the ordinance and that there was insufficient evidence of unnecessary hardship. The ZBA issued its written decision from the June 17, 2021 rehearing on June 25, 2021.

The plaintiffs appealed to the superior court. In their complaint, the plaintiffs asserted that, during deliberation at the April 1 meeting, “some board members explained that the basis for the ruling was that the application failed to satisfy the criteria for ‘hardship,’ ‘spirit of the ordinance’ and ‘public interest,’” and that, at the June rehearing, “the board again denied the variance relying on the same criteria, namely ‘hardship,’ ‘spirit of the ordinance’ and ‘public interest.’” Thus, the plaintiffs asserted, the ZBA’s decision “denied the variance application on the same grounds as it had previously and no further motion for rehearing was required,” but, “[t]o the extent that the board may claim that any new issues arose,” they sought “for good cause to have such issues consolidated” in the appeal.

The Town moved to dismiss, arguing that because “new issues were raised by the board in its second denial,” and “a second motion for rehearing is

a jurisdictional prerequisite to filing an appeal with the superior court,” the court lacked jurisdiction over the appeal and could not “grant any request to add additional grounds to the appeal.” The trial court agreed with the Town, concluding that “a second motion for rehearing was required” and, in its absence, the court “[did] not have subject matter jurisdiction over the appeal.” The plaintiffs moved for reconsideration, which the trial court denied. This appeal followed.

II

Whether the plaintiffs were required to file a second motion for rehearing to perfect their appeal to superior court is controlled by statute. McDonald v. Town of Effingham Zoning Bd. of Adjustment, 152 N.H. 171, 174 (2005). We review the superior court’s interpretation of the applicable statute de novo. Id. We look first to the language of the statute itself and, if possible, construe that language according to its plain and ordinary meaning. Anderson v. Robitaille, 172 N.H. 20, 22 (2019). We give effect to every word of a statute whenever possible and will not consider what the legislature might have said or add language that the legislature did not see fit to include. In re J.P., 173 N.H. 453, 460 (2020).

RSA 677:3 provides:

No appeal from any order or decision of the zoning board of adjustment, a board of appeals, or the local legislative body shall be taken unless the appellant shall have made application for rehearing as provided in RSA 677:2; and, when such application shall have been made, no ground not set forth in the application shall be urged, relied on, or given any consideration by a court unless the court for good cause shown shall allow the appellant to specify additional grounds.

RSA 677:3, I (2016). Thus, in order to perfect an appeal to the superior court, the statute requires that the appellant first move for rehearing with the ZBA within 30 days after the ZBA’s decision. See RSA 677:2 (2016). That requirement, once met, vests the superior court with subject matter jurisdiction over the appeal. However, in such an appeal, “no ground not set forth in the application” for rehearing “shall be urged, relied on, or given any consideration by a court unless the court for good cause shown shall allow the appellant to specify additional grounds.” RSA 677:3, I. By this plain language, the appellant is thereby limited in its appeal to the grounds set forth in the motion for rehearing unless good cause is shown why the court should allow additional grounds.

As we explained in Dziana v. City of Portsmouth, when the bases for aggrievement change following a ZBA’s decision on rehearing, a new motion for

rehearing raising such new issues is required before an appeal to the superior court challenging those new bases may be made. Dziama v. City of Portsmouth, 140 N.H. 542, 545 (1995). Otherwise, the court is limited to consideration of the errors alleged in the first rehearing motion. Id. Thus, in the absence of a second motion for rehearing allowing the ZBA the first opportunity to pass upon any alleged errors in its decision, the plaintiff has not preserved the new issues for appellate review. Id.

As applicable here, following the ZBA's April 1 decision, the plaintiffs timely moved for rehearing based on two grounds set forth in the decision — the ZBA's findings that there was insufficient evidence of unnecessary hardship and that the variance would not be in keeping with the spirit of the ordinance. Accordingly, the superior court has jurisdiction over the appeal and may review those issues on appeal. See id. The court's review is limited, however, to the grounds set forth in the first motion for rehearing, see id., unless for good cause shown the court allows the plaintiffs to specify additional grounds. See RSA 677:3, I.

The plaintiffs argue that they demonstrated good cause, alleging, inter alia, that when the ZBA denied their variance request on rehearing on June 17, 2021, they “were faced with a dilemma.” They contend that there was no written decision from the ZBA's April 1 meeting available to them, and that they were “relying on their notes and recollections from” the April meeting. The plaintiffs state that they “knew that the zoning board engaged in a discussion of hardship and how health and safety might be affected by granting the variance.” They also allege that “[a]s of early July 2021” the ZBA “had still not issued a written decision for its April 1st vote,” and the written decision from the June 17 hearing “was never provided to the plaintiffs until they received the Certified Record.” Because the trial court dismissed their appeal for lack of subject matter jurisdiction, however, it did not consider whether the plaintiffs had shown good cause to specify additional grounds.

We hold that, pursuant to RSA 677:3, the plaintiffs perfected their appeal to the superior court from the ZBA's April 1 denial by timely moving for rehearing. Accordingly, we reverse the trial court's ruling that it lacked subject matter jurisdiction over the plaintiffs' appeal and remand for further proceedings consistent with this decision, including whether for good cause shown the plaintiffs should be allowed to specify additional grounds. See RSA 677:3, I.

Reversed and remanded.

HICKS, BASSETT, and DONOVAN, JJ., concurred; HANTZ MARCONI, J., concurred in part and dissented in part.

HANTZ MARCONI, J., concurring in part and dissenting in part. I agree with the majority that, because the plaintiffs timely moved for rehearing, the superior court has jurisdiction over the appeal. However, under the circumstances presented here where, due to the untimeliness of the ZBA's written decision from the April 1, 2021 hearing, there was no opportunity for the plaintiffs to verify or compare the official written decisions of the ZBA, I would hold that no second motion for rehearing was necessary and I would find good cause as a matter of law.



CLEVELAND, WATERS AND BASS
ATTORNEYS AT LAW

JEFFREY C. CHRISTENSEN, ESQUIRE

CHRISTENSENJ@CWBPA.COM

August 29, 2023

BY WAY OF HAND-DELIVERY

State of NH Housing Appeals Board
Governor Gallen State Office Park
Johnson Hall, 107 Pleasant Street
Concord, NH 03301

**RE: KTP Cottage, LLC v. The Town of Sunapee, New Hampshire and
the Town of Sunapee Zoning Board of Adjustment**

Dear Clerk:

On behalf of KTP Cottage, LLC, enclosed is an original and one copy of an Appeal Application form with the Petition for Appeal and Decisions being appealed thereon, along with our firm check in the amount of \$250.00 to cover the cost of this filing in connection with the above-captioned matter.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Alexander M. Brewer for".

Jeffrey C. Christensen

JCC/sm
Enclosures
cc: KTP Cottage, LLC

4874-3258-1500, v. 1

THE STATE OF NEW HAMPSHIRE HOUSING APPEALS BOARD

Governor Gallen State Office Park
Johnson Hall, 107 Pleasant Street
Concord, New Hampshire 03301
Telephone: (603) 271-1198
TTY/TDD Relay: (800) 735-2964
Visit us at <https://hab.nh.gov>



APPEAL APPLICATION

Date of Municipal Decision being appealed: 07/06/2023 and 08/17/2023

Defendant Town/City: Town of Sunapee, NH and the Town of Sunapee ZBA

Applicant Information

Name(s): KTP Cottage, LLC

Mailing Address: 106 Fernwood Point Road, Sunapee, NH 03782

E-mail Address: _____

Telephone (Direct Line): _____

Signature: _____ **Date:** _____

Representative(s), if other than person appealing:

Name(s): Jeffrey C. Christensen, Esquire

Company/Firm: Cleveland, Waters and Bass, P.A.

Mailing Address: Two Capital Plaza, 5th Floor, Concord, NH 03301

E-mail Address: christensenj@cwbp.com

Telephone (Direct Line): (603) 229-1070

Signature: Alexandra N. Brewer for Jeffrey C. Christensen, Esquire **Date:** 08/29/2023

APPLICANT, YOU MUST ATTACH:

- 1) A copy of the Municipal Decision being appealed.
 - 2) The substance of your appeal in writing, consistent with Administrative Rule Hab 202.02.
 - 3) A check in the amount of \$250.00 made payable to: Treasurer, State of New Hampshire.
- NOTE:** Within five (5) days of filing your appeal, you must submit a certification that the municipal board, committee, or commission has been notified. See RSA 679:6, I; Administrative Rule Hab 201.04(b).



Town of Sunapee
Zoning Board
NOTICE OF DECISION

CASE # VA 23-07

You are hereby notified that the Zoning Board application of:

PARCEL ID: 0121-0042-0000 106 FERNWOOD POINT ROAD

RURAL RESIDENTIAL ZONE

SEEKING APPROVAL FOR A REHEARING OF ZBA CASE #VA 23-07 ON JULY 6, 2023, WHICH DENIED VARIANCES FROM (A) ARTICLE III, SECTION 3.10 TO PERMIT RECONSTRUCTION OF A RESIDENCE WITHIN THE SIDE AND REAR SETBACKS; (B) ARTICLE III, SECTION 3.10 TO PERMIT ~28.25 SQ. FT. OF THE PROJECTED ROOF AREA WITHIN THE REDUCED SETBACK TO EXCEED A HEIGHT OF 25 FEET; AND (C) SECTION 3.40(C) TO PERMIT THE RECONSTRUCTION OF THE RESIDENCE WITHIN THE 50-FOOT WATERFRONT SETBACK

Has been DENIED by the affirmative vote of at least three members of the Zoning Board for the following reasons:

1. The Motion for Rehearing presented no new facts not available at the original hearing.
2. After reviewing the record of the original hearing, the Board found that the Motion for Rehearing does not fully or accurately address the reasons discussed by the Board for finding that granting the requested variance would not be in the public interest, would not result in substantial justice being done, and would not result in unnecessary hardship for the applicant.

FINDINGS OF FACT:

1. The applicant has failed to meet the requirements stated in (c) of Article X, Section 10.42. The hardship presented by the applicant does not meet the threshold necessary for the approval of the variance.
2. The proposed project does not adhere to the spirit of the ordinance. It deviates from the intended objectives and principles outlined in the zoning regulations.
3. The evidence presented demonstrates that the implementation of the proposed project would negatively impact the values of the surrounding properties. The potential decrease in property values is a concern.
4. The strict enforcement of the ordinance does not result in unnecessary hardship for the applicant. The circumstances presented do not warrant the granting of a variance based on the criteria defined in the ordinance. Viable alternatives exist for the reconstruction of the project without necessitating the listed variances. Reasonable alternatives are available that comply with the existing zoning regulations.

The decision was made at the 8/17/2023 Zoning Board meeting.



Zoning Board Chair

08/23/2023

Date

Notes: 1) Any person affected has a right to appeal this decision. If you wish to appeal, you must act within thirty days of the date of the hearing. The necessary first step before any appeal may be taken to the courts is to apply to the Zoning Board for a rehearing. The motion for a rehearing must set forth all the grounds on which you will base your appeal. See New Hampshire Statutes, RSA Chapter 677 for details.

2) If after a period of twenty-four (24) months from the date a Variance or Special Exception is granted by the Zoning Board of Adjustment, the applicant has neither applied for nor received a Certificate of Compliance from the Board of Selectmen, the Variance or Special Exception will become void. An extension may be granted by the Zoning Board of Adjustment. Reference Article X, Section 10.16 (e).



Town of Sunapee
Zoning Board
NOTICE OF DECISION

CASE # VA 23-07

You are hereby notified that the Zoning Board application of:


PARCEL ID: 0121-0042-0000 106 FERNWOOD POINT ROAD ; RURAL RESIDENTIAL ZONE

SEEKING APPROVAL FOR VARIANCES FROM (A) ARTICLE III, SECTION 3.10 TO PERMIT RECONSTRUCTION OF A RESIDENCE WITHIN THE SIDE AND REAR SETBACKS; (B) ARTICLE III, SECTION 3.10 TO PERMIT ~28.25 SQ. FT. OF THE PROJECTED ROOF AREA WITHIN THE REDUCED SETBACK TO EXCEED A HEIGHT OF 25 FEET; AND (C) SECTION 3.40 (C) TO PERMIT THE RECONSTRUCTION OF THE RESIDENCE WITHIN THE 50 FOOT WATERFRONT SETBACK

Has been **DENIED** by the affirmative vote of at least three members of the Zoning Board:

1. The applicant has failed to meet the requirements stated in (c) of Article X, Section 10.42. The hardship presented by the applicant does not meet the threshold necessary for the approval of the variance.
2. The proposed project does not adhere to the spirit of the ordinance. It deviates from the intended objectives and principles outlined in the zoning regulations.
3. The evidence presented demonstrates that the implementation of the proposed project would negatively impact the values of the surrounding properties. The potential decrease in property values is a concern.
4. The strict enforcement of the ordinance does not result in unnecessary hardship for the applicant. The circumstances presented do not warrant the granting of a variance based on the criteria defined in the ordinance. Viable alternatives exist for the reconstruction of the project without necessitating the listed variances. Reasonable alternatives are available that comply with the existing zoning regulations.

The decision was made at the 7/6/2023 Zoning Board meeting.



Zoning Board Chair
07.14.2023

Date

Notes: 1) Any person affected has a right to appeal this decision. If you wish to appeal, you must act within thirty days of the date of the hearing. The necessary first step before any appeal may be taken to the courts, is to apply to the Zoning Board for a rehearing. The motion for a rehearing must set forth all the grounds on which you will base your appeal. See New Hampshire Statutes, RSA Chapter 677 for details.

2) If after a period of twenty four (24) months from the date a Variance or Special Exception is granted by the Zoning Board of Adjustment, the applicant has neither applied for nor received a Certificate of Compliance from the Board of Selectmen, the Variance or Special Exception will become void. An extension may be granted by the Zoning Board of Adjustment. Reference Article X, Section 10.16 (e).

THE STATE OF NEW HAMPSHIRE

HOUSING APPEALS BOARD
DOCKET NO. _____

KTP Cottage, LLC

v.

The Town of Sunapee, New Hampshire and the
Town of Sunapee Zoning Board of Adjustment

PETITION FOR APPEAL

NOW COMES the Petitioner, KTP Cottage, LLC (the “Applicant”, by and through its attorneys, Cleveland, Waters and Bass, P.A., and complains against the Town of Sunapee, New Hampshire, and the Town of Sunapee Zoning Board of Adjustment (collectively, the “Town”, the “Board”, or the “ZBA”) as follows:

INTRODUCTION

1. This is an appeal pursuant to RSA 677:4 and RSA 679:7 of the ZBA’s August 17, 2023 denial of the Petitioner’s request for a rehearing of the ZBA’s July 6, 2023 decision denying a variance application to replace an existing, outdated and deteriorating structure with a new residence.

PARTIES AND JURISDICTION

2. The Petitioner, KTP Cottage, LLC, is an individual who owns the certain real property at 106 Fernwood Point Road in Sunapee, New Hampshire (the “Property”).

3. The Respondent, the Town of Sunapee, New Hampshire is, on information and belief, a New Hampshire municipality with a principal place of business at 23 Edgemont Road in Sunapee, New Hampshire.

4. The Respondent, the Town of Sunapee Zoning Board of Adjustment, is, on information and belief, a lawfully-constituted land use board within the Town of Sunapee with a principal place of business at 23 Edgemont Road in Sunapee, New Hampshire.

5. The Housing Appeal Board has jurisdiction to hear this appeal pursuant to RSA 677:4 and RSA 679:7.

FACTS

6. The Property, owned by The Applicant, is a residential property containing a single-family dwelling in a residential neighborhood on the shores of Lake Sunapee (the “Lake”).

7. The Property is a pre-existing non-conforming lot; it is only 0.33 acres.

8. The Property contains a pre-existing, non-conforming residence (the “Existing Residence”) which is in violation of multiple provisions of the Zoning Ordinance including, but not limited to, the side setback and the waterfront setback. The Existing Residence is outdated and deteriorating.

9. The Applicant intends to improve the Property by replacing the Existing Residence with an updated, modern residence, that expands the footprint (in an area that does not encroach on the setbacks) and adds a second floor, as well as related stormwater management and erosion control improvements (the “Proposal”). The Proposal would be the Applicant’s primary residence.

10. The Proposal, despite expanding the footprint of the Existing Residence, nevertheless *reduces* the overall nonconformity of the Property. The Proposal will reduce the encroachment in the side and rear setback by 55 square feet, and will be farther from the Lake than the Existing Residence by at least 2 feet, and as much as 8 feet in some locations.

11. Nevertheless, because the Proposal is not entirely within the footprint of the Existing Residence, the Proposal required a variance from the side setback and waterfront setback.

12. Additionally, while Sunapee's zoning ordinance normally allows buildings to be 40 feet tall, the zoning ordinance imposes stricter requirements on nonconforming lots where the building encroaches into the setback of 25 feet in height in the setback. Approximately 28.25 square feet of the roofline of the Proposal, such as the peak of a dormer, that exceed 25 feet within the setback, reaching a height of roughly 27 or 28 feet, depending on the location. Accordingly, another variance was required to address these portions of the Proposal.

13. In sum, the Proposal requires a variance from (a) Section 3.10 of the Zoning Ordinance to permit reconstruction of the residence within the side and rear setbacks as described on the attached plans; (b) Section 3.10 of the Zoning Ordinance to permit approximately 28.25 square feet of the projected roof area within the reduced setback area to exceed a height of 25 feet; and (c) Section 3.40(c) of the Zoning Ordinance to permit the reconstruction of the residence within the 50-foot waterfront setback.

14. These variances are required for several reasons.

15. The small size of the Property (0.33 acres as opposed to the 1.5 acre minimum in the district) significantly limits its buildable area.

16. The Property is wedge-shaped, widening as it approaches the Lake. As a result, any attempt to relocate a residence farther back from the Lake to reduce the environmental impact will result in greater encroachment into the side setbacks.

17. The slope of the Property also impacts the design possibilities. For example, a portion of the roofline that exceeds the 25 foot maximum height is over the garage. Applicable

codes and practical necessity set minimum heights for both the garage and the living space above it. Accordingly, the height of the Proposal could not be reduced without lowering the building below grade which, for a garage, would result in flooding.

18. On or about May 30, 2023, the Applicant filed a variance application (the “Application”) which was heard by the ZBA on July 6, 2023.

19. At the July 6, 2023 hearing, the ZBA denied the Application. The ZBA found that there was no unnecessary hardship because the Property lacked special characteristics and that it was not necessary to replace the Existing Structure with the Proposal. The ZBA also found that the Application was not consistent with the spirit of the ordinance because of the potential cumulative impact of similar proposals. Finally, the ZBA opined that the Proposal, overall, would reduce the value of surrounding properties, particularly the adjacent lot to the west.

20. On or about August 1, 2023, the Applicant requested a rehearing, which was denied on August 17, 2023.

21. As summarized below, however, the Board’s decision was legally erroneous and/or unreasonable.

ASSIGNMENTS OF ERROR

22. The Board’s decision made several errors of law and fact including, but not limited to, those discussed below. Instead, the Board should have granted the Application.

23. The Board’s decision on whether there would be an unnecessary hardship focused whether the Proposal “was a need or a want” as Board members characterized it. The Board found there was not a hardship because the Applicant did not “need” to replace the Existing Residence or, alternatively, could replace the Existing Residence with a structure of a different design that did not require variances. This reasoning is inconsistent with the standard under

applicable law. See Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102, 108 (2007); Harrington v. Town of Warner, 152 N.H. 74, 80-81 (2005); Rancourt v. City of Manchester, 149 N.H. 51, 54 (2003); Simplex Techs., Inc. v. Town of Newington, 145 N.H. 727, 731 (2001). Whether the Proposal is necessary is not relevant and is not grounds for denial of a variance. Because the Proposal is reasonable, the ZBA should not have based its decision on whether it was “necessary”.

24. The Board also applied the incorrect legal standard when determining whether the Property had special conditions. The Board found that, because several nearby lots to the east were also small and wedge shaped, the Property had no special conditions. The Board ignored the fact that, nearby lots to the west were much larger, some as much as five or seven times as large as the Property, and that most of the smaller lots in the area are not wedge shaped and do not narrow as one recedes from the Lake. In other words, the Board found that the Property did not have special conditions when compared *solely* to other lots that shared those conditions. This is inconsistent with New Hampshire law. See Cmty. Res. for Just., Inc. v. City of Manchester, 154 N.H. 748, 752 (2007) (“the property *need not be the only such burdened property*” as long as the burden does not “arise as a result of the zoning ordinance’s equal burden on *all property in the district.*”) (emphasis added; internal quotations omitted).

25. Moreover, even when solely compared to the other small, wedge-shaped lots, the Property has special conditions not shared by those lots in that it is adjacent to a much larger lot, the residence on which is well away from the location of the Proposal. The other small, wedge shaped lots are all clustered together and have residences that are constructed close to each other. The Proposal on the Property will not impact overcrowding the way it could on any of the other

small, wedge shaped lots; the Property is more suited to the Proposal than other small wedge shaped lots would be.

26. The Board's finding that the Proposal was not consistent with the spirit of the ordinance was primarily based on the argument as to the cumulative impact, with Board members opining that there would be a negative impact if other lots in the area were similarly redeveloped. As mentioned above, however, the Proposal *reduces* the overall nonconformity on the Property. Bringing the Property closer to compliance with the ordinance is intrinsically consistent with the spirit of the ordinance. Likewise, the cumulative impact of every lot in the area being more conforming with the zoning ordinance must also be consistent with the spirit of the ordinance.

27. Finally, the Board applied the incorrect analysis to the issue of diminution of the surrounding property values. The Board appeared to consider whether the *Proposal* would diminish surrounding property values, rather than whether the *variance* would diminish property values, as required by New Hampshire law. See Malachy Glen, 155 N.H. at 105 (A variance may be granted if "the *variance* will not diminish the value of surrounding properties") (emphasis added). In other words, the question the Board should have asked is not whether replacing the Existing Residence would reduce the value of the surrounding properties, but whether the difference in height of 27 or 28 feet instead of 25 feet, or whether the change in the footprint within the setbacks would result in diminished property values. As shown by letters from multiple realtors with over 60 years of experience in selling waterfront property between them, neither the variance nor the Proposal as a whole would reduce surrounding property values.

28. The Board did not find that the Application was inconsistent with the public interest or substantial justice. For the reasons set forth in the Application and discussed with the Board at the hearing, these two elements were met as well.

29. As discussed in the Application and the Motion for Rehearing, the Application satisfies all necessary elements and the Board should have granted the requested variances.

COUNT I

30. The Applicant repeats and incorporates by reference all of the facts set forth in the above paragraphs as if fully set forth herein.

31. The ZBA's decision to deny the Application was unlawful and/or unreasonable as set forth above.

32. The ZBA's decision should therefore be overturned and the Housing Appeals Board should order that the variances be granted pursuant to RSA 679:5, II.

RESERVATION OF RIGHTS

33. The Applicant hereby reserves the right to amend this Petition as further developments or discovery may warrant.

Respectfully submitted,

KTP COTTAGE, LLC

By its attorneys,
CLEVELAND, WATERS AND BASS, P.A.

Dated: August 29, 2023

By: Alexandria N. Brewer for
Jeffrey C. Christensen, Esq. (NH Bar #265308)
Two Capital Plaza
P.O. Box 1137
Concord, NH 03302-1137
(603) 224-7761

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

BOARD OF REAL ESTATE APPRAISERS

**In Re: Brian Underwood
Rab. License #NHCR-394**

**RESCHEDULED AND AMENDED
NOTICE OF DISCIPLINARY
ADJUDICATIVE HEARING -
10/20/2023 @ 10:00 AM**

Docket No.: 22-REA-003

I. CASE SUMMARY/PROCEDURAL HISTORY:

On or about 02/16/22, the Board of Real Estate Appraisers ("Board") received a complaint from Kristen McAllister, CNHA and Assessor for the Towns of New London, Newbury and Sunapee, alleging that Brian Underwood ("Licensee") had submitted an appraisal to be used in a Superior Court tax appeal that was "extremely flawed". After investigation and discussion, the Board voted on 09/16/22 to commence an adjudicative proceeding to determine whether the Licensee committed professional misconduct. This matter has been rescheduled twice since November of 2022. This Amended and Rescheduled Notice of Disciplinary Adjudicative Hearing follows.

II. ORDERS:

(a) Pursuant to RSA 310:10, X and N.H. Code Admin. R. Plc 206.06(a) ("Rules"), the Board hereby notifies the parties that the Board has scheduled an **adjudicative/disciplinary hearing** for:

Date: 10/20/23

Time: 10:00 am

Place: OPLC, 7 Eagle Square, Concord, NH 03301. If you require reasonable accommodations, a translator, or wish to participate remotely (Rule 206.08(f)), you may file a motion with the Board.

Please advise if this hearing is anticipated to last longer than 4 hours by filing a motion explaining with particularity the necessity for the additional time. **INFORMATION REGARDING A PREHEARING CONFERENCE CAN BE FOUND IN SECTION II, r OF THIS NOTICE.**

(b) STATUTORY AUTHORITY: This adjudicative/disciplinary hearing shall be conducted pursuant to RSA 310:10 and Rule 206.06 et seq. To the extent that the Plc rules do not address an issue of policy or procedures, the Board shall rely upon RSA 310-B, RSA 541-A, RSA 310, and N.H. Admin. R. Ann., Title Jus, Part 800.

(c) ISSUES PRESENTED: Pursuant to Rule 206.06(b)(3), the issues to be considered at the hearing in this matter are as follows:

- (1) Whether Licensee violated RSA 310-B:18(II)(g) by allegedly failing, without good cause, to exercise diligence in developing, preparing and/or communicating the appraisal report for 2 Fernwood South in Sunapee, New Hampshire with a date of valuation of 04/01/20.
- (2) Whether Licensee violated RSA 310-B:18(II)(h) by allegedly acting with negligence and/or incompetence in developing, preparing and/or the appraisal report for 2 Fernwood South in Sunapee, New Hampshire with a date of valuation of 04/01/20.
- (3) Whether Licensee violated RSA 310-B:18(II)(f) and/or (i) by disregarding or violating any of the provisions of RSA 310-B or the rules adopted by the Board by allegedly failing to comply with any or all Uniform Standards of Professional Appraisals Practices (“USPAP”) in the appraisal report for 2 Fernwood South in Sunapee, New Hampshire with a date of valuation of 04/01/20, as more particularly set forth in an Appraisal Review Report authored by George LeMay, dated 02/15/22, including but not limited to:
 - a. The Appraisal does not generally report analysis of agreements of sale, options or listings of the subject as of the effective date as required by Standard Rule (“SR”) 2-2 (a&b)(viii), and/or SR 1-5(a).
 - b. The Appraisal does not generally provide an analysis of agreements of sale, options or listing of the subject that occurred within the three (3) years prior to the effective date as required by SR 2-2(a&b) and/or SR 1-5(a).
 - c. The Appraisal does not generally provide support for the opinion of reasonable exposure time as required by SR 2-2 (a&b) (vi & viii).
 - d. The Appraisal’s scope of work determination does not state identity of the client and any intended users as required by SR 2-2 (a&b)(i).
 - e. The Appraisal’s scope of work determination does not fully report the date and effective date of appraisal as required by SR 2-2 (a&b)(xi).
 - f. The Appraisal’s scope of work determination and work performed is insufficient to produce credible assignment results as required by the Scope of Work Rule.
 - g. The Appraisal’s Neighborhood does not fully discuss factors that affect marketability as required by SR 2-1(b), SR 2-2(a&b)(iii), SR 1-2(e)(1), SR 1-3(a) and/or SR 1-4(f).

- h. The Appraisal's Neighborhood does not have factors affecting marketability and market trends properly incorporated in the highest and best use analysis and value analysis as required by SR 2-2(a&b)(x) and/or SR 1-3(b).
 - i. The Appraisal's Highest and Best Use does not have an opinion as to the highest and best use of the land as required by SR 2-2(a&b)(x) and/or SR 1-3(b).
 - j. The Appraisal's Highest and Best Use does not provide support and rationale for HBU opinion of the land as required by SR 2-2(a&b)(x) and/or SR 1-3(b).
 - k. The Appraisal does not provide the appraiser's license or certificate number adjacent to or immediately below the appraiser's signature whenever the appraiser's signature is used in an appraisal report as required by RSA 310-B:16, II.
- (4) If a finding of misconduct is made pursuant to RSA 310-B:18(II), whether and to what extent Licensee should be subjected to one or more of the disciplinary sanctions authorized by RSA 310-B:18(III) and/or RSA 310:12.
- (d) **PRESIDING OFFICER:** Pursuant to RSA 310:10, IV, V, and VI and Rule 206.03 et seq., an individual employed as Hearings Examiner with the New Hampshire Office of Professional Licensure & Certification shall act as the presiding officer in this proceeding with the authority to do, among other things, the following: preside, regulate and control the course of a hearing; issue oaths or affirmations to witnesses; rule on questions of law and other procedural matters; issue final orders based on factual findings of the Board; issue subpoenas; hold prehearing conferences; render legal opinions; and make conclusions of law.
- (e) **HEARING COUNSEL/ADMINISTRATIVE PROSECUTOR:** Pursuant to RSA 310:10, III, the Chief Prosecutor (currently John Garrigan, Esq.), OPLC Division of Enforcement, 7 Eagle Square, Concord, N.H., 03301 (or his designee) shall serve as Hearing Counsel to represent the public interest.
- (f) **ATTORNEYS:** Pursuant to RSA 310:10, XI and Rule 206.06(b)(10), each party has the right to have an attorney represent them at the party's own expense.
- (g) **VOLUNTARY EXCHANGE OF DOCUMENTS:** Pursuant to Rule 206.18, the parties shall attempt to agree among themselves concerning the mutual exchange of relevant information. If these efforts prove unsuccessful, upon motion, discovery shall be further ordered when the parties cannot adequately address said issues voluntarily.
- (h) **MOTIONS:** Pursuant to Rule 206.12, parties shall file any motions or other requested relief in this matter with the Presiding Officer's Office, and provide a copy to the other parties. Unless good cause exists, all motions shall be filed at least ten (10) days before the date of any hearing, conference, event or deadline which would be affected by the requested relief. ***SEE PREHEARING CONFERENCE ORDER OF 08/22/23.***

(i) **OBJECTIONS:** Pursuant to Rule 206.12(d), any responses or objections to motions or other requested relief shall be filed in similar fashion within ten (10) days of receipt of such motion or other requested relief. **SEE PREHEARING CONFERENCE ORDER OF 08/22/23.**

(j) **EXHIBITS:** Pursuant to Rule 206.18(d), parties shall provide a final witness list, including a brief summary of their testimony, a list of proposed exhibits, and a copy of any proposed exhibits to the Presiding Officer's Office and the other parties no later than fourteen (14) days prior to the hearing. Respondent's exhibits shall be pre-marked for identification with capital letters; Hearing Counsel's exhibits shall be pre-marked for identification with Arabic numerals. **SEE PREHEARING CONFERENCE ORDER OF 08/22/23.**

(k) **MAILING ADDRESS FOR THE PRESIDING OFFICER'S OFFICE:** Pursuant to Rule 206.10(a), any and all petitions, motions, pleadings, proposed exhibits, or other documents shall be filed with the Presiding Officer:

Thomas Pappas, Jr., Hearings Clerk
The Presiding Officer's Office
7 Eagle Square
Concord NH 03301
hearingsclerk@oplcnh.gov

(l) **COMMUNICATIONS WITH THE BOARD AND PRESIDING OFFICER:** Routine procedural inquiries may be made by contacting Thomas Pappas, Jr. Any other communications with the Board or Presiding Officer must be in writing and filed as provided above. *Ex parte* communications (meaning "without the other party present and/or included") with the Presiding Officer and/or Board are specifically forbidden by law. *See, i.e.*, Rule 206.10(b) and RSA 541-A:36.

(m) **EMAIL COMMUNICATIONS:** The parties and the Presiding Officer's Office have the option to agree to exchange e-mail addresses and the parties may agree that e-mail service of any and all documents going forward may be considered in compliance with Rule 206.11(a)(3) and 206.11(b)(3).

(n) **CONTINUANCES:** Pursuant to Rule 206.16, if you are unable to appear at any scheduled hearing, you must request a continuance from the Presiding Officer in writing and it shall be granted if the Presiding Officer determines that a continuance would assist in resolving the matter fairly under Rule 206.16(b). **SEE PREHEARING CONFERENCE ORDER OF 08/22/23.**

(o) **INTERVENTION: COMPLAINANT IS HEREBY NOTIFIED OF ITS RIGHT TO PETITION FOR INTERVENTION PURSUANT TO RULE 206.14. ANY FILED PETITION SHOULD STATE WITH PARTICULARITY: 1) THE PETITIONER'S INTEREST IN THE SUBJECT MATTER OF THE HEARING; 2) WHY THE INTERESTS OF THE EXISTING PARTICIPANTS AND THE ORDERLY AND PROMPT CONDUCT OF THE PROCEEDING WOULD NOT BE IMPAIRED BY ALLOWING THE PETITIONER TO INTERVENE; AND 3) ANY OTHER REASONS WHY THE**

PETITIONER SHOULD BE PERMITTED TO INTERVENE. THE INTERVENING PARTY SHALL CONTEMPORANEOUSLY COPY ALL PARTIES ON THE FILED PLEADING PURSUANT TO RULE 206.11. COMPLAINANT SHALL FILE ANY SUCH QUALIFYING PETITION TO INTERVENE NO LATER THAN 10/05/23.

(p) NON-ATTENDANCE AT HEARING: PURSUANT TO RULE 206.25, THE FAILURE OF A PARTY TO APPEAR AT THE TIME/PLACE SPECIFIED ABOVE MAY RESULT IN THE HEARING BEING HELD IN ABSENTIA (WITHOUT THAT PARTY PRESENT) AND THE BOARD MAY ISSUE A FINAL DECISION WITHOUT FURTHER NOTICE OR OPPORTUNITY TO BE HEARD.

(q) PREHEARING CONFERENCE: Pursuant to RSA 310:10, VI and Plc 206.06(b)(6), a non-public Prehearing Conference in this matter is hereby scheduled for **10/10/23 at 10:30 AM via Zoom**. The link is available at the Board's website at: [NH Real Estate Appraisers Board Meeting Information | NH Office of Professional Licensure and Certification](#). The specific issues to be addressed at the prehearing conference are as follows:

- (1) The distribution of exhibits and written testimony, if any, to the participants;
- (2) Opportunities and procedures for simplification of the issues;
- (3) Possible amendments to the pleadings;
- (4) Opportunities and procedures for settlement;
- (5) Possible admissions of fact and authentication of documents to avoid unnecessary proof;
- (6) Possible limitations on the number of witnesses and possible limitations on the scheduling of witnesses;
- (7) Possible changes to the standard procedures that would otherwise govern the proceeding;
and
- (8) Other matters that might contribute to the prompt and orderly conduct of the proceeding.
SEE PREHEARING CONFERENCE ORDER OF 08/22/23.

(r) RECORDING: A recording of the hearings shall be taken and preserved.

(s) FINDINGS OF FACT: Pursuant to RSA 310:10, VII: Boards shall be the triers of fact in all disciplinary and non-disciplinary proceedings. If, based upon the Board's findings of fact, the Presiding Officer concludes the Licensee has committed professional misconduct, the Board shall determine what if any sanctions to impose. *See* RSA 310:12.

(t) All prior consistent orders remain in full force and effect.

DATED: 8/23/2023

_____/s/ Nikolas K. Frye, Esq._____
Nikolas K. Frye, Esq., Hearings Examiner
Presiding Officer
New Hampshire Office of
Professional Licensure & Certification
7 Eagle Square
Concord, NH 03301

Town of Sunapee Position Description

Job Title:	Accreditation Manager	FLSA Status:	Non-Exempt
Department:	Police	Pay Grade:	14
Reports To:	Chief of Police	Date:	September 2023

ACCREDITATION MANAGER

GENERAL SUMMARY

Under the direct supervision of the Chief of Police, this civilian, non-sworn position performs highly responsible administrative work in planning, organizing, and managing the Department's accreditation process, and is the Department's primary liaison with the New Hampshire Law Enforcement Accreditation Commission (NHLEAC) on all matters concerning accreditation. Work consists of specific functions and processes of both administrative and professional character. Activities are often involved and complex. The primary duties of this position include reviewing, editing, amending, and/or developing Department written directives (rules and regulations, policies and procedures, etc.) to comply with NHLEAC standards. S/he is also responsible for ensuring that the Department is properly and adequately prepared to demonstrate its compliance documentation during the on-site assessment process. To accomplish these objectives and effectively manage the Department's accreditation process, the Accreditation Manager must have above average and effective organizational, interpersonal, and written communication skills.

ESSENTIAL DUTIES & RESPONSIBILITIES

[The following is not necessarily an all-inclusive list of job-related duties, knowledge, skills, abilities or working conditions. While this is intended to be an accurate reflection of the current job, the Board of Selectmen reserves the right to revise the job or to require that other or different tasks be performed as assigned to reflect changes in the position requirements or to reasonably accommodate individuals with disabilities. The employee may be required to perform other job-related duties requested by the Board of Selectmen. External and internal applicants, as well as position incumbents who become disabled as defined under the Americans With Disabilities Act, must be able to perform the essential duties (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case-by-case basis.]

- Keeps abreast of all aspects of the accreditation process: the standards for accreditation as well as the various requirements of the process. Assesses and communicates the impact of any proposed changes in Department policies and practices to the Chief of Police.
- Conducts a thorough examination of the Department beginning with a comprehensive review of the standards: analyzes each standard to determine Department compliance; takes steps to achieve compliance where noncompliance is determined; organizes compliance documentation and prepares said documentation in the required manner for assessors to review.
- Prepares and submits periodic status reports to the Chief of Police throughout the self-assessment phase to monitor accreditation efforts and Department progress (both initial and follow-up reports).
- Identifies which optional standards the Department is in compliance with and those that SPD could be in compliance with in order to meet the Department's required mandatory percentage.
- Provides information on accreditation to Department personnel to ensure familiarization with the accreditation process. Ensures that each employee is aware of all standards that affect or apply to his/her assigned area of responsibility and receives training on how to demonstrate compliance with all standards connected to the employee's duties and responsibilities.
- Assists in the identification and development of new programs, systems, and procedures to achieve compliance with NHLEAC standards which may include the acquisition of new equipment or minor changes in the facility.
- Develops a self-assessment plan of action to achieve and maintain compliance with standards. Establishes work priorities and coordinates them to meet project deadlines.

Town of Sunapee Position Description

- Oversees and coordinates the Department's system for updating written directives. Assigns policy reviews and policy writing to individuals functionally responsible or connected to each standard and/or assists in the development of draft written directives for staff review.
- Serves as a liaison with other law enforcement agencies and staff with regard to the accreditation process.
- Maintains accreditation files to ensure re-accreditation, handling standards' updates and changes.
- Manages the software system for policy, training, CALEA, and other records.
- Prepares and submits documentation and/or reports to CALEA or NHLEAC, as required.
- Compiles and maintains all proofs of compliance with the law enforcement accreditation process.
- Serves as advisor to the Chief of Police and command staff on issues related to accreditation.
- Meets regularly with the Chief of Police and key members of the Department to report on accreditation efforts and activities.
- Develops and manages a department-wide monitoring/tracking system ensuring that all time-sensitive action items required by standards are completed on schedule (e.g., inspections, reports, annual documented reviews, analyses, etc.). Reviews compliance documentation to ensure compliance with standards.
- Prepare and present informational programs to the Sunapee community, Town Manager, and the Board of Selectmen describing the NHLEAC Program and the Department's participation in same using modern presentation techniques such as PowerPoint.
- Attends training programs offered by NHLEAC and/or the Northern New England Police Accreditation Coalition (NNEPAC) to stay abreast of program updates and changes.
- Performs other duties related to accreditation, as assigned by the Chief of Police.

SUPERVISION RECEIVED: Works under the direct supervision of the Chief of Police who outlines departmental policy, makes work assignments, and evaluates work. Works independently, within established Department policies exercising considerable judgment and tact in determining correct courses of action regarding the Department's accreditation program and related matters warranting the Chief's attention. Receives additional guidelines from federal and state constitutions, New Hampshire laws, Town personnel policies, court regulations, rules issued by the NH Police Standards & Training Council (PSTC). Consults with superior officers when guidance is needed and when required to do so by Department policy. The Chief of Police reviews work through review of PowerDMS records and archived material as well as oral and written feedback from NHLEAC staff and assessors.

SUPERVISION EXERCISED: This position has no supervisory authority or responsibilities. However, as authorized by the Chief of Police, makes assignments throughout the Department related to accreditation and enforces deadlines.

COMPLEXITY/SCOPE OF WORK: The work includes various duties involving different and unrelated processes and methods. The decision regarding what needs to be done depends upon the analysis of the subject, phase, or issues involved in each assignment, and the chosen course of action may have to be selected from many alternatives. The work involves conditions and elements that must be identified and analyzed to discern interrelationships. The work involves the execution of specific rules, regulations, or procedures and typically comprises a complete segment of an assignment or project of broader scope. The work product or service affects the accuracy, reliability or acceptability of further processes or services.

PERSONAL CONTACTS: Contacts are typically with Department personnel, other Town employees and elected officials, prosecutors, members of PSTC and NHLEAC, and accreditation managers and command/supervisory staff of other law enforcement agencies. The personal contacts with individuals or groups from outside the Department occur mostly in a moderately unstructured setting. For example, the contacts are not established on a routine basis; the purpose and extent of each contact is different; and the role and authority of each party is identified and developed during the course

Town of Sunapee Position Description

of the contact. The purpose is to obtain information and guidance from persons or groups related to the NHLEAC Program. The Accreditation Manager must be skillful in approaching the individual or group in order to obtain the desired effect, such as gaining information by establishing rapport with the person/group.

MINIMUM QUALIFICATIONS

Education & Experience

- High school diploma or GED equivalent.
- One (1) year of post high school education with course work in accounting, bookkeeping, math, secretarial science, or one year of police science or closely related course work.
- Minimum one (1) year of work experience in an office as a typist, secretary, or related area or one (1) year of work experience in a law enforcement Department as a Corrections Officer, public safety dispatcher, Law Enforcement Officer, or related area.
- Sufficient experience to understand the basic principles relevant to the primary functions of the job usually associated with a minimum of one (1) year of responsible secretarial and clerical experience in an office setting.
- A valid NH driver's license.
- Experience with office equipment and basic computer functions, or any equivalent combination of education and experience which demonstrate possession of the required knowledges, skills, and abilities.
- High degree of honesty, integrity, self-discipline, emotional stability and control; good judgment and common sense; self-motivated, and a positive attitude.
- Demonstrates a high degree of creativity, administrative loyalty, and dedication.
- Shall not currently be listed on an Exculpatory Evidence Schedule (EES) submitted by a Chief of Police or Sheriff in the State of New Hampshire to a County Attorney or the Attorney General of New Hampshire; or have been or currently be the subject of any *Laurie* or *Brady* material or information in any state; or on any established judicial record or list that would compromise a sworn Officer's Oath of Office or credibility as a result of sustained complaints or formal disciplinary actions.

Knowledge, Skills & Abilities

- Working knowledge of Federal/State laws regarding law enforcement authority, jurisdiction, tasks and duties.
- Working knowledge of business English, spelling, arithmetic, and legal terminology.
- Working knowledge and understanding of NHLEAC standards and the accreditation process.
- Working knowledge of modern office equipment, including word processor.
- Knowledge of and proficiency in the use of current computer operating systems (e.g., Microsoft 365 including Word, Excel, PowerPoint, and Windows 10/11), other authorized computer programs and the Department RMS
- Knowledge of Town operations and organizations.
- Effective writing skills, including the ability to edit draft material.
- Good basic mathematical skills.
- Skill to develop and maintain working relationships with department personnel, other law enforcement and government agencies, PSTC, NHLEAC, NNEPAC.
- Good oral and written communication skills.
- Effective organizational skills and the ability to accomplish multiple tasks at the same time.
- Demonstrated ability to use computers and computer aided technology (software/hardware/peripheral items) or the ability to learn.
- Basic problem-solving ability.
- Ability to prepare and maintain accurate and complete reports.

Town of Sunapee Position Description

- Ability to deal with and maintain the confidentiality of Official Department Records and confidential information.
- High degree of self-initiation and the ability to work with little or no supervision.
- Ability to prepare effective correspondence and to perform tasks without referral to a supervisor.
- Ability to enter and retrieve data or information from a terminal, PC, or other keyboard device.
- Ability to tactfully, effectively, and efficiently delegate appropriate accreditation assignments throughout the Department and to enforce deadlines.
- Ability to establish and maintain effective working relationships with all Department employees, high level State, county, and local officials, Town department heads and employees, and the general public.
- Ability to prepare and present programs to the Sunapee community, Town Manager, and the Board of Selectmen about the NHLEAC Program and the Department's participation in same, using modern techniques such as PowerPoint when appropriate.
- Ability to evaluate situations based on training/experience and policy/procedures, and make good decisions.
- Ability to maintain required certifications for the Department's Records Management System.
- Ability to plan and organize a heavy workload and complete assignments in a timely fashion.
- Ability to do some legal and historical research.
- High degree of honesty, integrity, self-discipline, emotional stability and control, administrative creativity, loyalty and dedication; good judgment and common sense; self-motivated, and a positive attitude.

ADDITIONAL DESIRED QUALIFICATIONS: Associate's degree or above. Familiarity with PowerDMS, Crimestar, IMC, CSI, and/or other law enforcement software and records/document management systems and programs. Prior experience in a legal or law enforcement environment. Prior experience as an Accreditation Manager with a law enforcement agency. Prior experience as a law enforcement supervisor (Sergeant or above) with a law enforcement agency (preferably an agency in New Hampshire).

TOOLS & EQUIPMENT USED: Desktop and laptop computers, calculator, copier, fax machine, phone, and other general office equipment.

PHYSICAL DEMANDS

[The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.]

While performing the duties of this job, about seventy-five percent (75%) of the time is spent sitting/standing; frequently required to sit or stand for long periods of time; walk. The employee is frequently required to use hands to finger, handle, or operate objects, controls, or tools; reach with hands and arms. The employee must possess dexterity to manipulate keys, keyboards, operate control boards, and manage multiple tasks.

PRIMARY PHYSICAL REQUIREMENTS	FREQUENCY
Lift up to 10 lbs.	Occasionally required.
Lift 11 to 25 lbs.	Occasionally required.
Lift 26 to 50 lbs.	Occasionally required
Lift over 50 lbs.	Rarely required. Assistance may be available.
Carry up to 10 lbs.	Occasionally required.
Carry 11 to 25 lbs.	Occasionally required.
Carry 26 to 50 lbs.	Occasionally required.
Carry over 50 lbs.	Rarely required. Assistance may be available.
Reach above shoulder height.	Occasionally required.

Town of Sunapee Position Description

Reach at shoulder height.	Occasionally required.
Reach below shoulder height.	Occasionally required.
Push/Pull.	Occasionally required.

OTHER PHYSICAL CONSIDERATIONS	FREQUENCY
Twisting.	Occasionally required.
Bending.	Occasionally required.
Crawling.	Rarely required.
Squatting.	Occasionally required.
Kneeling.	Occasionally required.
Crouching.	Rarely required.
Climbing.	Rarely required.
Balancing.	Occasionally required.
Running.	Rarely required.

WORK SURFACES: Standard office desk and chair; tile and carpet surfaces.

HAND MANIPULATION	FREQUENCY
Grasping.	Constantly required.
Handling.	Constantly required.
Torquing.	Rarely required.
Fingering.	Constantly required.

COGNITIVE & SENSORY REQUIREMENTS	NEED
Talking.	Necessary for communicating with others.
Hearing.	Necessary for receiving reports and instructions from others and receiving information and taking instructions from others.
Sight.	Necessary for doing job effectively and correctly, specifically close vision, the ability to adjust focus, distance vision, color vision, and peripheral vision.
Tasting and Smelling.	May be needed to detect fuel leaks, smoke, intoxicated individuals, toxic fumes, chemicals and substances, and fluids.

WORK ENVIRONMENT

[The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.]

Works in an environment that consists of 100% inside/administrative duties in an office and throughout the Sunapee Safety Services building. The work environment can be stressful, particularly when dealing with difficult people or emergency situations.

SUMMARY OF OCCUPATIONAL EXPOSURES
May be exposed to toxic fumes, chemicals and substances, fuels and fluids.
Bloodborne Pathogens.

Town of Sunapee Position Description

Tasks and procedures performed by employee involve risks classified by the Center for Disease Control as:

Category I (Some emergencies may entail Category I exposure risk.)

Category II (Activity performed without blood exposure may occur in emergency)

Category III (Task/activity does not entail predicable or unpredictable exposure to blood)

This position typically does not involve Category I exposure risk, however, if employee is trained in first aid, some emergency procedures may entail Category I exposure risks.

EXPECTATIONS OF ALL EMPLOYEES:

An employee's job performance must support and exhibit the Department's standards by demonstrating the following.

Integrity – We respect the law and the human dignity of all people. We will adhere to the highest ethical standards and accept responsibility for our decisions and actions. We will adhere to the highest ethical standards and accept responsibility for our decisions and actions.

Service – We will strive to be responsive to and improve the quality of life in our community by providing a safe environment for all. We are committed to protecting life and property and reducing fear, and will promote a safe community through developing a partnership with residents and visitors to prevent and solve crime.

Fairness – We are dedicated to protecting the rights of all people. We believe that all people deserve impartial, effective, and efficient police services. We recognize that enforcement can and should co-exist with empathy, compassion, and kindness. We will treat the public and our colleagues with courtesy and respect.

Professionalism – We will be firm and consistent in the performance of our duties and responsibilities. As positive role models, we will take pride in maintaining the quality of our services through our performance, appearance, and continued education and training.

NON-DISCRIMINATION STATEMENT: The Sunapee Police Department is committed to diversity and inclusion with adherence to high ethical standards. It is the policy of the Department not to discriminate in the treatment of, or access to, or employment in, its programs, services or activities on the basis of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation or disability, except when such factor is a bona fide occupational requirement.

Approval

Date

I have had the opportunity to read this position description and understand its contents.

Employee Signature

Date

(Print Name)

Expenditure Report Monthly BOS

Fund: GENERAL FUND Periods: 2023-01 thru 2023-08 [66.67% of Year] Include: - Expenditures

(Seg1-FUND - Seg2-PRIMARY)	Total Budget	PTD Expended	YTD Expended	Encumbered	Available	% Exp.
01 - GENERAL FUND						
4130 - GENERAL GOVERNMENT: EXECUTIVE	335,472.88	202,439.91	202,439.91	0.00	133,032.97	60.34
4140 - TOWN CLERK TAX COLLECTOR	245,982.01	153,617.90	153,617.90	0.00	92,364.11	62.45
4141 - ELECTIONS	9,609.73	5,616.32	5,616.32	0.00	3,993.41	58.44
4150 - FINANCIAL ADMINISTRATION	534,784.66	331,942.95	331,942.95	0.00	202,841.71	62.07
4152 - REVALUATION OF PROPERTY	105,000.00	47,759.70	47,759.70	0.00	57,240.30	45.49
4153 - LEGAL EXPENSES	20,000.00	31,243.13	31,243.13	0.00	(11,243.13)	156.22
4155 - PERSONNEL ADMINISTRATION	1,000.00	4,981.74	4,981.74	0.00	(3,981.74)	498.17
4191 - PLANNING AND ZONING	379,758.13	187,172.52	187,172.52	0.00	192,585.61	49.29
4194 - GENERAL GOVERNMENT BUILDINGS	399,493.40	212,719.35	212,719.35	0.00	186,774.05	53.25
4195 - CEMETERIES	15,875.70	3,672.78	3,672.78	0.00	12,202.92	23.13
4196 - INSURANCE NOT OTHERWISE ALLOCATED	12,472.86	11,697.01	11,697.01	0.00	775.85	93.78
4197 - ADVERTISING AND REGIONAL ASSOCIATION	14,769.51	12,118.74	12,118.74	0.00	2,650.77	82.05
4199 - OTHER GENERAL GOVERNMENT	31,979.03	17,016.36	17,016.36	0.00	14,962.67	53.21
4210 - PUBLIC SAFETY: POLICE	1,059,500.94	579,954.24	579,954.24	0.00	479,546.70	54.74
4215 - AMBULANCE	66,300.00	66,293.00	66,293.00	0.00	7.00	99.99
4220 - FIRE	395,360.67	166,290.55	166,290.55	0.00	229,070.12	42.06
4229 - SAFETY SERVICES BUILDING	159,973.64	120,726.14	120,726.14	0.00	39,247.50	75.47
4290 - EMERGENCY MANAGEMENT	500.00	164.68	164.68	0.00	335.32	32.94
4312 - HIGHWAY AND STREETS	2,107,571.18	896,662.09	896,662.09	0.00	1,210,909.09	42.54
4316 - STREET LIGHTS	15,000.00	6,291.62	6,291.62	0.00	8,708.38	41.94
4324 - SOLID WASTE DISPOSAL	608,753.85	391,016.07	391,016.07	0.00	217,737.78	64.23
4411 - HEALTH: ADMINISTRATION	1,761.00	754.31	754.31	0.00	1,006.69	42.83
4414 - PEST CONTROL	500.00	0.00	0.00	0.00	500.00	0.00
4415 - HEALTH AGENCIES AND HOSPITALS	15,000.00	9,224.00	9,224.00	0.00	5,776.00	61.49
4442 - DIRECT ASSISTANCE	47,360.00	20,574.22	20,574.22	0.00	26,785.78	43.44
4520 - PARKS AND RECREATION	231,337.70	126,377.49	126,377.49	0.00	104,960.21	54.63
4550 - LIBRARY	535,987.31	323,837.80	323,837.80	0.00	212,149.51	60.42
4583 - PATRIOTIC PURPOSES	300.00	300.00	300.00	0.00	0.00	100.00
4589 - OTHER CULTURE AND RECREATION	6,500.00	5,000.00	5,000.00	0.00	1,500.00	76.92
4611 - CONSERVATION: ADMINISTRATION	5,300.00	1,608.29	1,608.29	0.00	3,691.71	30.35
4711 - DEBIT SERVICE: PRINCIPAL - LONG-TERM BONDS AND NOTES	94,105.00	94,104.10	94,104.10	0.00	0.90	100.00
4721 - INTEREST - LONG-TERM BONDS AND NOTES	40,953.00	31,609.45	31,609.45	0.00	9,343.55	77.18
4723 - INTEREST ON TAX AND REVENUE ANTICIPATION NOTES	1,000.00	0.00	0.00	0.00	1,000.00	0.00
4900 - WARRANT ARTICLES	809,371.00	463,235.50	463,235.50	0.00	346,135.50	57.23
4931 - TAXES ASSESSED FOR COUNTY	0.00	0.00	0.00	0.00	0.00	0.00
01 - GENERAL FUND	8,308,633.20	4,526,021.96	4,526,021.96	0.00	3,782,611.24	54.47
	8,308,633.20	4,526,021.96	4,526,021.96	0.00	3,782,611.24	54.47

Cash Flow 2013

Financial results are presented

	January	February	March	April	May	June	July	August	September	October	November	December	YTD Summary
Cash - First of the month	8,390,905.35	6,921,332.50	5,096,999.69	4,191,167.26	2,526,008.02	2,807,235.78	8,526,644.38	8,476,029.40	7,968,513.05	6,691,113.62	5,387,031.22	7,736,969.57	8,390,905.35
Revenues													
Tax Collector Receipts	339,451.19	310,945.42	160,566.38	43,251.37	581,417.40	8,118,758.84	1,242,375.15	91,008.02	112,288.96	44,718.15	1,540,802.23	6,538,810.10	20,944,462.21
Planning & Zoning Receipts	70,856.60	83,428.94	93,010.88	107,961.12	93,613.96	109,657.50	95,467.22	57,365.20	103,615.68	93,453.60	80,091.78	85,467.50	1,073,902.57
Transfer Station Receipts	4,828.12	2,847.70	3,163.05	36,457.35	9,531.60	38,478.50	11,395.17	3,561.92	10,510.28	21,729.29	4,730.79	15,312.14	189,565.92
Other Receipts	20,435.74	37,322.70	8,147.88	9,470.74	34,837.29	25,840.40	45,953.58	1,070.48	22,741.09	23,645.15	68,924.63	290,005.30	692,194.89
Total Revenues:	438,834.15	440,532.26	277,085.19	199,175.12	719,835.25	8,292,735.24	1,395,506.12	153,005.62	258,269.24	191,617.65	3,746,302.94	6,831,327.91	22,944,246.69
Expenses													
Payroll	273,883.76	271,039.45	183,606.74	253,438.97	253,116.00	286,519.09	268,477.92	221,382.85	246,170.16	255,609.10	240,249.95	280,027.64	3,043,681.63
Capital	-	-	-	-	-	-	-	-	-	-	-	-	107,837.49
Operating Expenses	1,404,646.89	1,913,519.65	1,555,069.30	1,151,771.09	253,715.72	1,100,072.19	1,386,592.19	376,679.13	492,082.88	417,825.12	357,336.70	370,592.15	17,084,902.81
Debt/Lease Payments	45,939.78	-	-	-	-	22,972.89	-	-	2,110.73	-	-	106,484.67	268,538.06
Total Expenses:	1,724,470.43	2,184,559.10	1,335,377.83	1,808,508.27	506,831.72	1,409,664.17	1,655,070.11	598,061.98	1,241,393.77	1,173,494.53	1,006,369.49	5,861,258.58	20,504,959.99
Payroll - as a % of YTD	9.1%	8.9%	6.0%	8.3%	8.3%	9.4%	8.8%	7.3%	8.1%	8.4%	8.2%	9.2%	
Capital - as a % of YTD	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	
Operating Expenses - as a % of YTD	8.2%	11.2%	6.7%	9.1%	1.5%	6.4%	8.1%	2.2%	5.8%	5.4%	4.3%	31.0%	
Debt/Lease Payments - as a % of YTD	17.1%	0.0%	0.0%	0.0%	0.0%	8.6%	0.0%	0.0%	1.2%	0.0%	0.0%	73.2%	
Transfers and Adjustments	183,936.57	80,325.97	(152,460.21)	55,826.09	(68,224.23)	1,163,762.47	(208,949.01)	62,459.99	294,274.90	322,205.50	389,995.10	(173,096.49)	1,950,056.65
Actual Cash - End of the month	6,921,332.50	5,096,999.69	4,191,167.26	2,526,008.02	2,807,235.78	8,526,644.38	8,476,029.40	7,968,513.05	6,691,113.62	5,387,031.22	7,736,969.57	8,880,135.40	8,880,135.40
Cash - Beginning of the month	1,469,472.85	1,824,132.81	1,905,832.43	1,665,139.24	281,227.76	8,219,408.00	8,219,408.00	1,906,119.81	1,507,516.55	(407,516.15)	(407,516.15)	(407,516.15)	

Revenue Report Monthly BOS

Fund: GENERAL FUND Periods: 2023-01 thru 2023-08 [66.67% of Year] Include: Revenues -

Account #	Account Title	Est. Revenue	PTD Rev.	YTD Rev.	Uncollected	% Coll.	Prior YTD Rev.
01 - GENERAL FUND							
3110 - PROPERTY TAX REVENUE							
01-3110-01-900	PROPERTY TAXES-CURRENT	0.00	10,437,472.00	10,437,472.00	(10,437,472.00)	0.00	0.00
01-3110-10-850	TAX COLL-REFUND/REBATE/ABATEME	0.00	(1,225.17)	(1,225.17)	1,225.17	0.00	0.00
3110 - PROPERTY TAX REVENUE		0.00	10,436,246.83	10,436,246.83	(10,436,246.83)	0.00	0.00
3120 - LAND USE CHANGE TAX - GENERAL FUND							
01-3120-01-901	LAND USE CHANGE	0.00	6,495.00	6,495.00	(6,495.00)	0.00	0.00
3120 - LAND USE CHANGE TAX - GENERAL FUND		0.00	6,495.00	6,495.00	(6,495.00)	0.00	0.00
3190 - PENALTIES AND INTEREST							
01-3190-01-902	INTEREST & COSTS	0.00	27,984.08	27,984.08	(27,984.08)	0.00	0.00
3190 - PENALTIES AND INTEREST		0.00	27,984.08	27,984.08	(27,984.08)	0.00	0.00
3210 - BUSINESS LICENSES AND PERMITS							
01-3210-01-910	UCC FILING	0.00	975.00	975.00	(975.00)	0.00	0.00
3210 - BUSINESS LICENSES AND PERMITS		0.00	975.00	975.00	(975.00)	0.00	0.00
3220 - MOTOR VEHICLE PERMIT FEES							
01-3220-01-906	AUTO REGISTRATIONS	0.00	691,601.00	691,601.00	(691,601.00)	0.00	0.00
01-3220-01-907	SNOWMOBILE AND ATV FEES	0.00	254.00	254.00	(254.00)	0.00	0.00
3220 - MOTOR VEHICLE PERMIT FEES		0.00	691,855.00	691,855.00	(691,855.00)	0.00	0.00
3230 - BUILDING PERMITS							
01-3230-01-909	SITE PLAN REVIEW FEES	0.00	740.04	740.04	(740.04)	0.00	0.00
01-3230-01-910	CERTIFICATE OF COMPLIANCE FEES	0.00	1,265.00	1,265.00	(1,265.00)	0.00	0.00
3230 - BUILDING PERMITS		0.00	2,005.04	2,005.04	(2,005.04)	0.00	0.00
3290 - OTHER LICENSSES, PERMITS AND FEES							
01-3290-01-901	BOND HEARING FEES	0.00	150.00	150.00	(150.00)	0.00	0.00
01-3290-01-902	REDEMPTION COSTS	0.00	133.01	133.01	(133.01)	0.00	0.00
01-3290-01-907	BOAT REGISTRATIONS/FEES	0.00	12,379.92	12,379.92	(12,379.92)	0.00	0.00
01-3290-01-911	LOT MERGER FEES	0.00	75.00	75.00	(75.00)	0.00	0.00
01-3290-01-912	DOG LICENSES/FEES	0.00	4,544.00	4,544.00	(4,544.00)	0.00	0.00
01-3290-01-914	PERMIT TO EXCAVATE FEE	0.00	600.00	600.00	(600.00)	0.00	0.00
01-3290-01-915	VITALS-BIRTH & DEATH	0.00	1,918.00	1,918.00	(1,918.00)	0.00	0.00
01-3290-01-917	TOWN CLERK FEES	0.00	544.50	544.50	(544.50)	0.00	0.00
01-3290-01-918	MISC. TC/TC OVERAGES	0.00	11.28	11.28	(11.28)	0.00	0.00
01-3290-01-919	WETLANDS APPLICATIONS	0.00	1.00	1.00	(1.00)	0.00	0.00
3290 - OTHER LICENSSES, PERMITS AND FEES		0.00	20,356.71	20,356.71	(20,356.71)	0.00	0.00
3353 - STATE - HIGHWAY BLOCK GRANT							
01-3353-01-928	HIGHWAY BLOCK GRANT	0.00	85,744.74	85,744.74	(85,744.74)	0.00	0.00
3353 - STATE - HIGHWAY BLOCK GRANT		0.00	85,744.74	85,744.74	(85,744.74)	0.00	0.00

Revenue Report Monthly BOS

Fund: GENERAL FUND Periods: 2023-01 thru 2023-08 [66.67% of Year] Include: Revenues -

Account #	Account Title	Est. Revenue	PTD Rev.	YTD Rev.	Uncollected	% Coll.	Prior YTD Rev.
<u>3354 - STATE - WATER POLLUTION GRANTS</u>							
01-3354-01-795	STATE OF NH - WATER GRANT	0.00	7,376.77	7,376.77	(7,376.77)	0.00	0.00
3354 - STATE - WATER POLLUTION GRANTS		0.00	7,376.77	7,376.77	(7,376.77)	0.00	0.00
<u>3379 - INTERGOVERNMENTAL REVENUE</u>							
01-3379-01-935	TOWN OF SPRINGFIELD-TS	0.00	60,232.00	60,232.00	(60,232.00)	0.00	0.00
3379 - INTERGOVERNMENTAL REVENUE		0.00	60,232.00	60,232.00	(60,232.00)	0.00	0.00
<u>3401 - INCOME FROM DEPARTMENTS</u>							
01-3401-01-320	FIREWORKS PERMIT FEE	0.00	180.00	180.00	(180.00)	0.00	0.00
01-3401-01-321	PHOTOCOPY INCOME	0.00	50.49	50.49	(50.49)	0.00	0.00
01-3401-01-586	RECYCLING INCOME-ALUMINUM	0.00	7,094.15	7,094.15	(7,094.15)	0.00	0.00
01-3401-01-588	RECYCLING NEWSPAPER	0.00	3,041.40	3,041.40	(3,041.40)	0.00	0.00
01-3401-01-589	RECYCLING SCRAP METAL	0.00	5,835.30	5,835.30	(5,835.30)	0.00	0.00
01-3401-01-937	MISC. GENERAL GOVT INCOME	0.00	200.00	200.00	(200.00)	0.00	0.00
01-3401-01-939	MISC. HIGHWAY DEPT INCOME	0.00	6,150.00	6,150.00	(6,150.00)	0.00	0.00
01-3401-01-942	STANDARD POWER INCOME NET METERING	0.00	972.83	972.83	(972.83)	0.00	0.00
01-3401-01-948	MISC. TOWN OFFICE INCOME	0.00	110.00	110.00	(110.00)	0.00	0.00
01-3401-01-950	ZBA INCOME	0.00	932.00	932.00	(932.00)	0.00	0.00
01-3401-01-959	[IA] HWY-MATERIALS SOLD	0.00	400.00	400.00	(400.00)	0.00	0.00
3401 - INCOME FROM DEPARTMENTS		0.00	24,966.17	24,966.17	(24,966.17)	0.00	0.00
<u>3404 - GARBAGE - REFUSE CHARGES</u>							
01-3404-01-940	SUNAPEE T/S TICKET SALES	0.00	34,929.50	34,929.50	(34,929.50)	0.00	0.00
3404 - GARBAGE - REFUSE CHARGES		0.00	34,929.50	34,929.50	(34,929.50)	0.00	0.00
<u>3501 - SALES OF MUNICIPAL PROPERTY</u>							
01-3501-01-966	SALE OF TOWN OWNED PROPERTY	0.00	11,000.00	11,000.00	(11,000.00)	0.00	0.00
01-3501-01-970	CHECKING ACCOUNT INTEREST EARNED	0.00	32,394.59	32,394.59	(32,394.59)	0.00	0.00
01-3501-10-813	PISTOL PERMIT FEE	0.00	70.00	70.00	(70.00)	0.00	0.00
3501 - SALES OF MUNICIPAL PROPERTY		0.00	43,464.59	43,464.59	(43,464.59)	0.00	0.00
<u>3504 - FINES AND FORFEITS</u>							
01-3504-01-938	DOG FINES	0.00	50.00	50.00	(50.00)	0.00	0.00
01-3504-01-939	PARKING FINES	0.00	1,655.00	1,655.00	(1,655.00)	0.00	0.00
01-3504-01-941	REPLACEMENT TRANSFER STATION TAGS	0.00	25.00	25.00	(25.00)	0.00	0.00
01-3504-01-945	[IA] PD COURT RESTITUTION	0.00	0.00	0.00	0.00	0.00	0.00
01-3504-01-946	PD DISCOVERY	0.00	250.00	250.00	(250.00)	0.00	0.00
3504 - FINES AND FORFEITS		0.00	1,980.00	1,980.00	(1,980.00)	0.00	0.00
<u>3506 - INSURANCE DIVIDENDS AND REIMBURSEMENTS</u>							
01-3506-00-000	MISC REVENUE	0.00	2,278.28	2,278.28	(2,278.28)	0.00	0.00
3506 - INSURANCE DIVIDENDS AND REIMBURSEMENTS		0.00	2,278.28	2,278.28	(2,278.28)	0.00	0.00

Revenue Report Monthly BOS

Fund: GENERAL FUND Periods: 2023-01 thru 2023-08 [66.67% of Year] Include: Revenues -

Account #	Account Title	Est. Revenue	PTD Rev.	YTD Rev.	Uncollected	% Coll.	Prior YTD Rev.
<u>3916 - TRANSFERS FROM TRUST AND AGENCY FUNDS</u>							
01-3916-01-987	CEMETERY EXPENDABLE TRUST	0.00	(260.00)	(260.00)	260.00	0.00	0.00
3916 - TRANSFERS FROM TRUST AND AGENCY FUNDS		<u>0.00</u>	<u>(260.00)</u>	<u>(260.00)</u>	<u>260.00</u>	<u>0.00</u>	<u>0.00</u>
01 - GENERAL FUND		<u>0.00</u>	<u>11,446,629.71</u>	<u>11,446,629.71</u>	<u>(11,446,629.71)</u>	<u>0.00</u>	<u>0.00</u>
		0.00	11,446,629.71	11,446,629.71	(11,446,629.71)	0.00	0.00



Town of Sunapee
Board of Selectmen Monthly Meeting
Finance Department

September 5, 2023

As part of the Finance Departments' month end closing procedures, the Department has provided the following documents to the Select Board:

- Cash balances and cashflow report, prepared by Finance Director
- Revenue report from the Town's financial software, MTS
- Expense report from MTS
- Trial balance from MTS

Please find attached the documentation for the month ending August 31, 2023. Please note the last payroll of August has not yet been entered into MTS and will not show up in the expenditure reports yet. Cash has been reconciled between the bank statements and MTS for July 2023. We intend to have cash reconciled for August 2023 by September 15th.

Expenditures for fiscal year 2023 so far are within budget expectations, but with additional consulting, legal, and cleaning costs, expenses are expected to trend higher than in previous fiscal years. Fiscal year's 2023 total budget is \$8,308,633.20, with the following funding sources as voted at Town Meeting:

Funding Sources	
2023 Operating Budget Article #16 - Raise & appropriate	7,345,054.30
2022 Encumbrances	154,207.90
2022 Warrant Article #18 - Harbor Parking Improvements	29,071.00
2022 WARRANT ARTICLE #19 - NEW DUMP/PLOW TRUCK FOR HIGHWAY	195,000.00
2023 Warrant Article #21 - Transfer to Highway & Transfer St	135,000.00
2023 Warrant Article #22 - Transfer to Used Highway Equipment	25,000.00
2023 Warrant Article #23 - Transfer to Town Buildings Maintenance	20,000.00
2023 Warrant Article #25 - Transfer to Town Road Bridges Cap	100,000.00
2023 Warrant Article #26 - Transfer to Dirt Roads Paving Cap	25,000.00
2023 Warrant Article #27 - Cemetery Expendable Trust Fund	3,800.00
2023 Warrant Article #28 - Transfer to Conservation Commission	1,500.00
2023 Warrant Article #29 - Transfer to Milfoil Control Non-C	5,000.00
2023 Warrant Article #30 - Transfer to Veteran's Field Capital	50,000.00
2023 Warrant Article #31 - Capital Reserve Fund	220,000.00
Total Funding Sources	8,308,633.20

The Town is currently expected to spend approximately \$7,915,919.96 in the general fund by year-end, less than the budget by \$392,713.24. Please note these are estimates; they are not exact and will change as the year continues and actual expenses are paid. We recommend that any additional expenses that were not budgeted for fiscal year 2023 that can reasonably be postponed be held off until fiscal year 2024.

The Finance Department is anticipating several budgetary transfers will be needed closer to year-end to accommodate for several Departments that will be in deficit, the primary one being the Legal Department. If current expenditure trends continue, the Planning and Zoning Department is anticipated to be under budget by at least \$30,000; we are requesting that should it be necessary to transfer \$30,000 from the Planning and Zoning Department budget to the Legal Department.

Revenues for the current year up through August 31, 2023 are overall in line with revenues received through August in 2022.

The Finance Department will be available to answer questions from the Select Board regarding the year-to-date revenues, expenses, and trial balances.

Best,

Katherine Pomeroy

Interim Finance Director