

**TOWN OF SUNAPEE PLANNING BOARD AGENDA FOR
THURSDAY NOVEMBER 16, 2023
7:00 PM at the TOWN MEETING ROOM
23 EDMONT ROAD**

Join Zoom Meeting:

<https://us06web.zoom.us/j/87270669896?pwd=kILR95ayCMhyuWtgBll2Nll5LbMQGk.1>

Passcode: 969892

Notice is hereby given that the Sunapee Planning Board will hold a Public Hearing on Thursday, December 21, 2023, at 7:00 PM at the Town Hall to receive public input on the amendments to the Town of Sunapee Zoning Ordinance. The proposed amendments with full text are shown below.

SCHEDULE:

- ~~— August 17, 2023 — Initial Meeting with ZBA~~
- ~~— September 21, 2023 — Review of the preliminary text of amendments~~
- ~~— October 19, 2023 — Review the text of amendments~~
- ~~— November 16, 2023 — Final review of the amendment text~~
- **December 21, 2023 – First Public Hearing on Amendments**
- January 11, 2024 – Second Public Hearing on Amendments (if necessary)
- March 12, 2024 – Town Meeting vote

**Town of Sunapee Planning Board
Sunapee, New Hampshire
Notice of Public Hearing**

Notice is hereby given that the Sunapee Planning Board will hold a Public Hearing on Thursday, December 21, 2023 at 7:00 PM at the Town Hall to receive public input on the amendments to the Town of Sunapee Zoning Ordinance. The proposed amendments with full text are shown below.

Amendment #1

Amend Section 2.10 – Zoning Map & Description of Districts, Section 2.30 – District Purpose and Description, Section 3.10 – Table of Dimensional Controls, Section 3.20 – Table of Dimensional Controls Overlaid, Section 4.10 – Permitted Uses – All Districts, Section 4.60 – Planned Unit Development, Section 4.80 – Workforce Housing Development, Section 5.30 – Signs – General Requirements - to create a new Georges Mills Village Commercial district within the same boundaries as the existing Village Commercial district but with different dimensional controls and uses.

Full amended text of Section 2.10 – Zoning Map and Description of Districts will be as follows:

<i>GMVC</i>	-	<i>Georges Mills Village Commercial District</i>
VC	-	Village-Commercial District
VR	-	Village-Residential District
MI	-	Mixed Use I District
MII	-	Mixed Use II District
MIII	-	Mixed Use III District
R	-	Residential District
RR	-	Rural-Residential District
RL	-	Rural Lands District

Full amended text of relevant portions of Section 2.30 – District Purpose and Description will be as follows:

Village-Commercial Districts – The Village-Commercial Districts in the Town of Sunapee are patterned after the typical New England Town Centers. These areas are characterized by the highest densities of land use and also contain the mix of land uses associated with village centers, including commercial, public, institutional, and both single-family and multi-family land uses. In general, the two Village Commercial Districts are located in Sunapee Village (including Sunapee Harbor and Lower Village Area) and *in Georges Mills (the Georges Mills Village Commercial District), and are further described as follows:*
Georges Mills Village-Commercial District -

In Georges Mill Village, the *Georges Mills* Village-Commercial District is centered at a point at the intersection of Route 11 and Springfield Road and includes all the lands within a 600' radius of said point.

Village-Residential District –

In Georges Mills Village, the Village =Residential District begins at the intersection of Springfield Road and Oak Ridge Road and goes due west 1200', thence southerly to the intersection of Route 11 and the northerly terminus of Jobs Creek Road, then east-southeasterly to the shore of Lake Sunapee, then northerly along the shore of Lake Sunapee to the arc which defines the *Georges Mills* Village-Commercial District, thence westerly/northerly/easterly along the arc which defines the *Georges Mills* Village-Commercial District to the intersection with Springfield Road, thence northerly along Springfield Road to the point of beginning.

Residential District –

In the area surrounding Georges Mills Village, the Residential District begins at a point where the Towns of Sunapee, New London, and Springfield meet and goes southerly along the New London/Sunapee town line to the northerly shore of Lake Sunapee, thence northwesterly to the northerly intersection of Route 11 and Jobs Creek Road, thence northwesterly to the end of Meadow Brook Road, thence northerly to the Springfield town line at a point 600' westerly of Stony Brook Road, thence along the Sunapee/Springfield town line easterly to the point of beginning. This district includes all the lands within the area described above with the exception of the above with the exception of the Village-Commercial, *Georges Mills* Village-Commercial and Village-Residential areas described above.

Full amended text for a portion of Section 3.10 – Table of Dimensional Controls will be as follows:

Add a column titled “Georges Mills Village-Commercial” with the following dimensions:

Minimum Lot Size = *0.5 Acres*

Maximum Residential Density = *1 du/7,000 sf*

Minimum Road Frontage = *75'*

Minimum Front Setback (Rt 11, 103, 103B) = *75'*

Minimum Front Setback (All other roads as defied in Article XI) = *40'*

Side and Rear Setbacks for lots meeting or exceeding minimum lot size or lots which are not pre-existing = 10'

Side and Rear Setbacks for Pre-existing lots below minimum size – existing lots = 10'

Maximum Lot Coverage = 65%

Maximum Structure Height = 40'

Full amended text for a portion of Section 3.20 – Table of Dimensional Controls – Districts Overlaid will be as follows:

Add a column titled “Georges Mills Village-Commercial” with the following dimensions:

Minimum Lot Size (Shorelines) = 1.0 Acres

Minimum Lot Size (Aquifer) = 2.0 Acres

Minimum Lot Size (Wetlands) = 1.5 Acres

Maximum Lot Coverage (Shoreline Impermeable) = 45%

Maximum Lot Coverage (Shoreline Permeable & Impermeable Combined) = 65%

Maximum Lot Coverage (Aquifer) = 20%

Maximum Lot Coverage (Wetlands) = 0%

Full amended text for a Portion of Section 4.10 – Permitted Uses – All Districts will be as follows:

Georges Mills Village-Commercial District (GMVC)

Permitted by Right:

Accessory Uses

Bed & Breakfast

Inns

Home Business

Home Occupation

Single Family Dwellings

Two Family Dwellings

Multi-Family Dwellings (3 to 5 Units)

Municipal Buildings & Facilities

Museums & Galleries

Post Offices

Retail (Up to 2,000 SF/per lot)

Short Term Rentals Owner-in-Residence (STR-OIR)

Short Term Rentals Owner-Not-in-Residence (STR-ONIR)

Permitted by Special Exception:

Professional Offices and Clinics

Restaurants (excluding Drive-in & Drive-Thru Restaurants)

Parking Lots up to 15 spaces

Full amended text for Section 4.60(B)(4) – Planned Unit Development – General Requirements will be as follows:

(4) Permissible Zoning Districts – A Planned Unit Development is permitted in the Village-*Commercial*, Mixed-Use, and Rural-Residential Zoning Districts.

Full amended text for Section 4.80(C)(5) – Workforce Housing Development – General Requirements will be as follows:

(5) A Workforce Housing Development is permitted in the Village-*Residential*, Mixed-Use, and Rural-Residential zoning districts.

Full amended text for Section 5.31 – Sign Regulations – General Requirements – Size will be as follows:

5.31. **Size.** Signs in the Residential, Rural-Residential, Rural Lands, and Mixed-Use Districts shall not exceed 48 squares feet per side and total signage on any given lot may not exceed 96 square feet. Signs in the Village-*Commercial*, *Georges Mills Village-Commercial*, and Village-*Residential* Districts shall not exceed 24 square feet per side and total signage on any given lot may not exceed 48 square feet. Total signage includes any signs attached to the exterior of the buildings. Any structure or device used as a sign base or carrier will be considered in the square footage calculation.

Amendment #2

Amend Article II, Section 2.30 – District Purpose and Description – Water Resources Overlay District – Shorelines - to add Otter Pond Brook to the list of protected waterways. The State of New Hampshire DES considers it a fourth-order stream similar to the Sugar River which is already named.

Full amended text of Section 2.30 – District Purpose and Description – Shorelines will be as follows:

3) Shorelines – The Shoreline Overlay District shall be defined as all lands within 250 feet of lakes and ponds greater than 10 acres, ~~and~~ the Sugar River *and Otter Pond Brook* (fourth order streams) as shown on the Shoreline Overlay District Map on file in the Office of the Planning Board *and available on the Town of Sunapee Geographic Information Service (GIS)*.

Amendment #3

Amend Article III, Section 3.10 – Table of Dimensional Controls – Maximum Residential Density - to allow for a greater density in Village (Commercial & Residential) Districts by changing requirement to 1 dwelling unit/7,000 square feet of land area.

Full amended text of a portion of Section 3.10 – Table of Dimensional Controls will be as follows:

Maximum Residential Density	Village Commercial	1 du/ 10,000 7,000 Square Ft.
	Village Residential	1 du/ 10,000 7,000 Square Ft.

Amendment #4

Amend ordinance by deleting Article III, Sections 3.40(l) & 3.40(n) – Additional Requirements and Amending Article II, Section 2.30 – District Purpose and Description – Water Resources Overlay Districts and Add Section 4.34 – Steep Slope District – Specific Provisions - to create a new steep slope overlay district that will regulate construction on slopes exceeding 15%.

Full amended text of a portion of Section 2.30 – District Purpose and Description – Water Resources Overlay District will be as follows:

Water Resources Overlay Districts – This district is comprised of ~~three~~ four areas determined by naturally occurring phenomena. ~~This is an~~ These are overlay districts; ~~its~~ their boundaries are independent but contained within the ~~five~~ districts described above. The ~~three~~ four areas comprising the Water Resources Overlay Districts are:

4) Steep Slopes – The Steep Slope Overlay District is defined as all those areas mapped having a slope of 15% and an elevation change of at least 20’. This map has a title of “xxxxxx” and will be available in the Sunapee Planning/Zoning Office and available on-line as part of the Sunapee Geographic Information Service (GIS). If the applicant does not feel that the mapping is accurate, said applicant may hire a licensed land surveyor or licensed professional engineer to complete an on-site topography to accurately show the slopes.

Full new text of Section 4.34 – Steep Slope District – Specific Provisions will be as follows:

4.34 – Steep Slope District – Specific Provisions

A) The following standards shall apply to all construction on slopes between 15% and 25%:

- 1) *An erosion control plan per the specifications in Section 4.33(B)(8)(a)(I) must be submitted to the Town of Sunapee for all land disturbance over 1,000 square feet. If the land disturbance exceeds 5,000 square feet in area, the erosion control plan shall be prepared by a New Hampshire licensed professional engineer and submitted to the Town of Sunapee.*
- 2) *Land clearing in excess of 100,000 square feet that does not involve land disturbance must have an erosion control plan by a New Hampshire licensed professional engineer and be submitted to the Town of Sunapee.*
- 3) *All temporary erosion control measures must remain in place until the site is stabilized.*
- 4) *A maintenance program for the above must be included and endure the life of the project. It is the landowner's obligation to provide proof of adherence to this maintenance program on a regular basis and upon request by the Town of Sunapee.*

B) The following standards shall apply to all construction on slopes between 25% and 35%:

- 1) *An erosion control plan by a New Hampshire licensed professional engineer must be submitted to the Town of Sunapee if the land disturbance exceeds 200 square feet in area.*
- 2) *Land clearing in excess of 20,000 square feet that does not involve land disturbance shall have an erosion control plan prepared by a New Hampshire licensed professional engineer and be submitted to the Town of Sunapee.*
- 3) *Permanent stormwater control measures including retention areas, rain gardens, and/or infiltration structures must be designed by a New Hampshire licensed professional engineer and submitted to the Town of Sunapee for all projects with more than 2,000 square feet of impervious area.*
- 4) *All temporary erosion control measures must remain in place until the site is stabilized.*
- 5) *A maintenance program shall be part of the professional engineer's design and must be executed indefinitely. It is the landowner's obligation to provide proof of adherence to this maintenance program in conjunction with the professional engineer to the Town of Sunapee. A brief overview of the requirements of the maintenance program shall be filed with the Sullivan County Registry of Deeds.*

C) *The following standards shall apply to all slopes greater than 35%.*

- 1) *There shall be no land disturbance or construction.*
- 2) *All land clearing in excess of 10,000 square feet shall have an erosion control plan by a New Hampshire licensed professional engineer and be submitted to the Town of Sunapee. Forestry activities shall follow best management practices for erosion and sedimentation control.*
- 3) *A maintenance program for the above must be included and endure the life of the project. It is the landowner's obligation to provide proof of adherence to this maintenance program on a regular basis and upon request by the Town of Sunapee.*

Amendment #5

Amend Article III, Section 3.50(1) – Special Exceptions - to clarify language in subsections 4 & 5 on how this exception may be applied to the relocation of non-conforming structures.

Full amended text of Section 3.50(1) will be as follows:

(1) The ZBA shall allow any legal structure, whether a pre-existing, non-conforming structure *due to a dimensional setback* or a structure approved by prior variance or special exception, ~~which presently non-conforming to one or more dimensional setbacks~~ to be relocated, reconstructed, modified, or replaced by a new structure having the same purpose and use, provided that

- 1) The proposed structure's non-conformity ~~shall be lessened as determined by its location further from~~ to one or more property boundaries, or the water body, ~~from which the dimensional setback the structure is non-conforming to is established~~ is reduced; and
- 2) The proposed structures non-conformity shall not be increased as determined by its location closer to one or more property boundaries or the water body reference line, from which the dimensional setback the structure is non-conforming to is established; and
- 3) The proposed structure is no higher than the greater of 25' from the finished grade at its highest point within any setback or the maximum structure height applicable to the existing structure that may have been permitted by a prior Special Exception or Variance approved the Zoning Board of Adjustment; and
- 4) The *non-conforming, horizontal square footage of the* proposed structure is of the same or less *non-conforming, horizontal square footage of the* existing structure, and

- 5) ~~If the proposed structure is (a) in a water body setback and (b) widened relative to the existing structure on the side most closely parallel to the shoreline, the area directly behind and between it and the buildable area of the property is of no greater square footage than the comparable area associated with the existing structure~~ *Special exception 3.50(k) may not be used in conjunction with 3.50(l) for this application and may not be applied to the relocated square footage at any time in the future, and*
- 6) If the proposed structure is non-conforming to a water body setback, it is at least 25' from the water body at all points where the structure is proposed; and
- 7) *If the project is in the Shoreline Overlay District, a drainage and erosion control plan is prepared by a licensed professional engineer shall be submitted with the special exception application as part of the application and* ~~8) Approval of a special exception under this provision is contingent upon receipt of~~ *and an approved Shoreland Water Quality Protection Act (SWQPA) permit must be obtained prior to approval of the Certificate of Zoning Compliance, and*
- 9) ~~8) Approval of a special exception under this provision is contingent upon receipt of all state and local permits to ensure compliance with Article VII of this Ordinance and any related permits must be obtained prior to issuance of the Certificate of Zoning Compliance.~~

Amendment #6

Amend Article IV, Section 4.33(B)(8)(b)(I)(1) – Shorelines – Specific Provisions - by applying the cutting exemptions listed in 4.33(B)(8)(b)(VII) to 4.33(B)(8)(b)(I)(1) and adding hazardous trees to the list of trees exempt from Planning Board review.

Full amended text of Section 4.33(B)(8)(b)(I)(1) will be as follows:

- (I) A cutting and clearing plan shall be subject to the approval of the Planning Board for the following:
 - (1) Cutting within the Natural Woodland Buffer of more than five (5) trees in any 12-month period or ten (10) trees in any 5-year period having a diameter of six (6) inches or more at a point 4.5 feet above the existing ground. Trees that are determined by an arborist, forester, or Selectmen's agent to be dead, diseased, *hazardous* or dying are exempt from this requirement provided this determination is filed with the Selectmen's agent. *Trees that are considered exempt in the construction area described in subsection VII below are also considered exempt from this section.*

Amendment #7

Amend Article IV, Section 4.33 – Shorelines – Specific Provisions – Erosion Control - to limit what land disturbance is allowable within the 50' shoreline buffer.

Full new text of Section 4.33(B)(8)(b)(VIII) will be as follows:

(VIII) The existing grade within the 50' shoreline setback must remain unaltered unless, as part of a construction project, retaining walls must be installed to stabilize a steep slope area. Any level areas created by these walls must be re-vegetated with native species. Patios and grassed areas may only be created in the 10' exempted area around the structure as noted in subsection VII. Dock construction and beach replenishment projects that are approved by the State of New Hampshire DES are exempt from this requirement. A 4' wide pervious path is exempt from this requirement. Land disturbance for planting of trees, shrubs or other native plant species is allowed provided that it is done by non-mechanical means.

Amendment #8

Amend Article IV, Section 4.90 – Accessory Dwelling Unit - to allow for Accessory Dwelling Units to be placed in detached structures and require the owner to be in residence if the ADU is used for a short-term rental.

Full amended text Section 4.90 (C) – Accessory Dwelling Unit will be as follows:

- 1) An ADU will be permitted in all districts by special exception. The special exception will be based on items 2-9 in this section and not the requirements found in Section 4.15 (Amended 3/10/2020)
- 2) Only one (1) ADU is allowed per single family dwelling unit.
- 3) Owner occupancy is required in the main unit or ADU.
- 4) The ADU cannot be larger than 1,000 square feet. ~~It must be within or attached with heated space to the single family dwelling and there must be a connecting door between units~~
- 5) Setback dimensions for the ADU must meet the same guidelines as the single-family unit.
- 6) The ADU ~~addition~~ must comply with existing lot coverage standards as specified elsewhere in this Ordinance.
- 7) There shall not be more than 2 bedrooms in the ADU.
- 8) Septic designs and sewer hook-ups shall accommodate the number of bedrooms as required by Article VII of this ordinance.
- 9) Proper off-street parking must be provided per section 3.40(e) of this Ordinance.

10) *If an ADU is used as a short-term rental, the owner must be in residence during the time of the rental.*

Amendment #9

Amend Article IV, Section 4.95 – Short-term rentals - to confirm the maximum allowed occupancy and parking, and to stipulate what accessory structures are allowed to be used as short-term rentals.

Full amended text of Section 4.95 will be as follows:

For the purposes of this section, Short-term rentals shall include any single-family residence, two-family residence, or single-family residence with an additional room for rent. It shall not include bed & breakfasts, inns, or hotels/motels.

Short-term rentals shall meet the following standards:

- 1) Short-term Rentals Owner-in-Residence (STR-OIR) are allowed in all zoning districts. Short-term Rentals Owner-Not-in-Residence (STR-ONIR) are allowed in all the Mixed-Use Districts, Village-Commercial, *Georges Mills Village-Commercial*, Village-Residential and Residential Districts. They are permitted only ~~be~~ by Special Exception in the Rural-Residential District and prohibited in the Rural Lands District.
- 2) Occupancy shall be limited to two persons per ~~approved bedroom~~ *the number of bedrooms shown on the town assessing property card* plus one additional person per unit. *At no time shall a STR have an occupancy greater than 16 persons.*
- 3) The number of bedrooms used at the property must conform to the permit requirements from either the State of New Hampshire Department of Environmental Services Water Division Subsurface Systems Bureau (property on septic system) or the Sunapee Water and Sewer Department (property on municipal sewer).
- 4) Short-term rentals of single-family dwellings in their entirety (STR-ONIR) do not require Site Plan Review.
- 5) Short-term rentals with owners in residence (STR-OIR) do not require Site Plan Review.
- 6) Short-term rentals with owners not in residence (STR-ONIR) in either a single-family dwelling with an additional room for rent or a two-family dwelling requires Site Plan Review.
- 7) Short-term rentals that require Site Plan Review may apply via the Home Business requirements (Article V, Section D) in the Site Plan Review regulations.
- 8) Parking shall be 1 space/bedroom and a parking plan shall be submitted for review and approval. *The number of cars on the property during overnight quiet hours specified in the Sunapee Noise Ordinance shall not exceed the number of bedrooms in the STR.*
- 9) The exterior of the property must maintain a residential character.

- 10) Short-term rentals must comply with any registration process set forth by the Board of Selectmen.
- 11) A travel trailer, boat, *recreational vehicle, tent*, or other mobile enclosure shall not be used as a short-term rental. *These mobile enclosures shall also not be used to increase occupancy of the STR.*
- 12) Outside trash receptacles must be screened and meet the building setbacks in the district in which they are located.

Amendment #10

Amend Article IV, Section 4.95 – Short-term rentals - to limit the amount of time a short-term rental with an owner not in residence (STR-ONIR) may be operated to 120 days during a 12-month period.

The full new text of Section 4.95(13) will be as follows:

- 13) *An STR-ONIR shall not be operated as a short-term rental more than 120 days in a 12-month period.*

Amendment #11

Amend Article VIII, Section 8.21(h) – Certificate of Zoning Compliance – Permit - to reduce the threshold for requiring certificates of zoning compliance for interior renovations to \$15,000.

The full amended text of Section 8.21(h) will be as follows:

- (h) interior renovations in excess of ~~\$25,000~~ \$15,000 not included in (a)-(g) above (no fee will be required for a permit under this subsection)

Amendment #12

Amend Article VIII, Section 8.25 – Revocation or Lapse of Building Certificate - to extend validity of Certificate of Zoning Compliance to 24 months.

The full amended text of Section 8.25(b) will be as follows:

8.25 Revocation or Lapse of ~~Building~~ Certificate of Zoning Compliance

- (b) *If a construction project for which a Certificate of Zoning Compliance has been issued is not substantially completed after 24 (twenty-four) months, the Selectmen or Agent shall, at the expiration of 12 months during which no earnest or*

~~substantial effort has been made to carry out the construction or alterations authorized in a certificate of zoning compliance, declare and send notice to the holder thereof that said Certificate has lapsed. Said Certificate may be reinstated provided new application and fees are submitted on application of the proposed user to the Selectmen or Agent. Reinstatement of the Certificate will be subject to the approval status of any previously issued Special Exception or Variance from the ZBA or Site Plan Review of the Planning Board.~~

Amendment #13

Amend Article XI – Definitions – Marina - to update the definition of a Marina

Full amended text of Article XI – Marina will be as follows:

Marina – A *waterfront* facility whose principal use is the provision of publicly available services for the securing, launching, storing, servicing *or* repairing ~~or sales~~ of watercraft or other marine equipment. *A marina may include sales of watercraft or other marine equipment, however, a non-waterfront commercial business that sells watercraft or other marine equipment is considered a retail use and not a marina use per Article IV of this ordinance.* A facility for short-term docking that is ancillary to other land uses is ~~considered a commercial use and~~ not a marina.

Amendment #14

Amend Article XI – Definitions – Structures - to address what constitutes a temporary structure and require that they be on-site for no more than 90 days in a 12-month period.

Full amended text of Article XI – Structures will be as follows:

Structure – Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Structure includes but is not limited to a house, garage, deck, shed, building, swimming pool, billboard, pier or wharf. It shall not include a minor structure or landscaping feature such as a driveway, walkways, patios, rock walls and retaining walls less than 42” in height. *It also does not include temporary structures provided they are not on site more than 90 days in a 12 month period, do not exceed 200 square feet and are placed to meet the zoning setback of the district they are located.*

Amendment #15

Amend Article XI – Definitions – Structures, Minor - Amend Article XI – Definitions – Structures, Minor - to limit the number of platforms/stairs that can be considered minor structures and add bob-houses/ice-fishing shanties to the list.

Full amended text of Article XI – Structures, Minor will be as follows:

Structure, Minor – A minor structure is exempt from the terms of this Ordinance and shall not require a Certificate of Zoning Compliance. Minor structures shall include the following:

- (1) Fence measuring less than five (5) *feet* high from the ground surface provide that the fence is constructed in such a manner as to allow the fence owner the ability to maintain both the fence and fence owner’s land, if any, on the neighbor’s side of the fence.
- (2) Mail Box
- (3) Flag Pole
- (4) Dog House
- (5) Thirty-two (32) square foot open platform and associated stairs, which is no more than four (4) feet ~~of~~ off the ground and is used for access to a structure. *Only one of these platform/stair structures per lot shall be considered as a minor structure.*
- (6) Gym/swing sets for private residential use.
- (7) Pergolas (8’x10’ maximum footprint)
- (8) *Bob houses or ice-fishing shanties that do not exceed 150 square feet*

Schedule

~~August 17, 2023 – Initial Meeting with ZBA~~

~~September 21, 2023 – Review full preliminary text of amendments~~

~~October 19, 2023 – Continue to review text of amendments~~

~~November 16, 2023 – Final review of text of Amendments/Prepare for Public Notice~~

December 21, 2023 – First Public Hearing on Amendments

January 11, 2024 - Second Public Hearing on Amendments (if necessary)

March 12, 2024 – Town Meeting vote