

1 **TOWN OF SUNAPEE**

2 **PLANNING BOARD**

3 **SEPTEMBER 19, 2019**

4 **PRESENT:** Peter White, Chair; Michael Jewczyn, Vice Chair; Joseph Butler; Richard Osborne; Jeffrey
5 Claus; Randy Clark; Donna Larrow, Alternate Member; Suzanne Gottling, Ex-Officio Member; Michael
6 Marquise, Planner

7 **ABSENT:**

8 **See attached sign in sheet**

9 Chairman White called the meeting to order at 7:00 pm.

10 **ZONING BOARD AMENDMENTS**

11 Chairman White said that this meeting is to start going over the Zoning Amendments. They do not have
12 to get the exact wording, just an outline of the changes. He asked that people who speak for or against
13 a proposed Amendment limit the time that they speak so they do not spend more than 10 or 15
14 minutes per Amendment.

15 Mr. Marquise said that this hearing is the first night to look at these Amendments and the ones that the
16 Board agrees with will eventually be formatted for the public hearings in December and January and
17 then they go to Deliberative Session for a final review before going on the Warrant. There is a
18 secondary process for petitioned Zoning Amendments, which is other avenue for people to choose to go
19 if the Zoning Board does not move forward with something presented or if someone wants something
20 added to the Zoning Ordinance. The petitioned Zoning Amendments must also be presented at the
21 public hearing but they cannot be changed and must go directly to the voters as written.

22 ZBA Proposed Changes

23 Chairman White read the first proposed change from the ZBA: Special Exception 3.50 (k) – Change to “if
24 a pre-existing house is located *partially or* entirely within the 50 ft water bodies setback, additions may
25 be made to the structure provided that...”. The note that was included says “it is inconsistent to
26 provide a special exception for a structure that is entirely within the setback but not to one that is only
27 partially within the setback”.

28 Chairman White asked and Jim Lyons, a Zoning Board member, said that this proposal came from the
29 ZBA Chair, Daniel Schneider. Nicole Gage, the Zoning Administrator, explained that Mr. Schneider is
30 traveling and could not attend the meeting. Ms. Gage said that looking at the requirements of 3.50(k),
31 the structure needs to be at least 40 ft from the waterfront and if there is already a non-conforming
32 structure that is straddling the 50 ft waterfront buffer, everyone by right can expand in a conforming
33 area, so this could mostly be covered though it might capture something if someone wants to do an
34 expansion between 40 ft and 50 ft. The Board has not come across many cases on this regarding this
35 issue recently, so this may be something that they look further at and look at the examples. There was

36 further discussion regarding this proposed Amendment and it was determined to wait until Mr.
37 Schneider could explain the reason that he proposed this Amendment before deciding anything.

38 Chairman White said that the next proposed ZBA Amendment is to Section 4.10 - Add Accessory
39 Dwelling Units as Permitted by Special Exception in each District. Mr. Marquise said that he thinks
40 that the third ZBA Amendment goes with this as it is to add to Section 4.15 "(6) Accessory Dwelling
41 Units must meet the requirements of Section 4.90 (C) of this Ordinance". The note from the ZBA
42 says "to clarify that Accessory Dwelling Units are considered by the Ordinance as a use permitted
43 by Special Exception". Ms. Gage said that this Amendment is to make things more consistent as all
44 the permitted uses by right and Special Exception are listed in Section 4.10. Also, when the Board
45 was hearing a case for an ADU, there was a discussion as to if the general requirements under
46 Section 4.90 were the requirements. Mr. Marquise asked if this gets changed if the requirements
47 under Section 4.15 then get added to the ADU requirements. He can see if these Amendments are
48 approved then the Zoning Board will go expect that ADUs meet the requirements under Section
49 4.15 and there would be an issue with that because the State Statute limits towns to what is in
50 Section 4.90; he does not think that the 4.15 criteria can be added because the ADU requirements
51 must stand alone. Chairman White asked what criteria is used for an ADU and Mr. Marquise
52 explained that they use Section 4.90 because those are what were allowed by Statute. Chairman
53 White suggested that they be clearer. There was further discussion about ADUs and the proposed
54 Amendments.

55 Chairman White read the next ZBA proposal to clarify the term "owner occupied" in the definition
56 of Bed & Breakfast, Tourist Homes, Inns, Lodging & Boarding. The note reads "e.g., must the
57 owner of record physically occupy the dwelling and be present when accommodating guests?
58 How should this be treated if the owner of record is not a natural person?". Mr. Claus said that if
59 the owner is not occupying the business then it would be a hotel.

60 Michael Jesanis, 8 Old Norcross Rd, said that the definition of "Bed & Breakfast, Tourist Homes,
61 Inns, Lodging & Boarding" uses the term "owner occupied" and the Ordinance defines "owner" as
62 any person who is the agent of the owner. This could mean that it could be an employee whose job
63 is to run the institution, which would be more like a hotel.

64 Vice Chair Jewczyn said that he thinks that it comes down to determining what level of
65 commercialization the Board wants to have around the lake. If there are Board members who are
66 trying to stem commercialization then they will vote one way but if they are pro commercialization
67 and find it acceptable to have Bed & Breakfasts around town and interspersed with other homes
68 and other activities then they will vote the other way. This could open up the gates to say that any
69 agent of anyone can run a Bed & Breakfast, tourist home, etc.

70 Mr. Marquise said that this does not just concern the lake. The question as to what "owner
71 occupied" means is broad and the question is valid. There may need to be a single definition of
72 "owner occupied" that is more specific to a natural person. Vice Chair Jewczyn asked why the term
73 "owner occupied" is so important to this definition. Mr. Marquise said that it means that anyone
74 could run the business.

75 Ms. Gage said that “owner occupancy” is also referred to in ADUs and her understanding is that
76 came through the legislature. Mr. Marquise said that they will have to see how it was written in
77 the Statute to see if it is the same thing. He thinks that the term “owner” came up so that the
78 application cannot be made by just anyone.

79 There was further discussion regarding this proposal and “owner occupied” and Mr. Marquise said
80 that he will do more research as many properties are owned by LLCs or trusts.

81 Chairman White said that the next ZBA proposal is to change definition of “Dwelling Unit” to read “one
82 room or rooms connected together, constituting a separate, independent housekeeping unit
83 established for owner occupancy, rental, or lease, and containing independent ~~kitchen cooking,~~
84 sleeping, and sanitary facilities. *A kitchen is any room containing cooking or dishwashing capability.*”
85 The note says, “with the current availability of portable ovens, microwaves, instant pots, etc., the
86 presence or absence of an installed stove should not solely determine whether a unit is considered a
87 dwelling unit”. Ms. Gage said that her current interpretation of this Ordinance is that if she says that it
88 seems like an apartment then she calls it a dwelling unit. Chairman White said that he thinks that
89 years ago the appliance everyone considered would make something a dwelling unit was a stove. Vice
90 Chair Jewcyn asked about electric toilets and sanitary facilities. Chairman White said that the
91 definition of “dwelling unit” is something that is a challenging enforcement issue and he does not
92 doubt that there are many apartments that the Town is not aware of. Ms. Gage said that she does not
93 know if the ZBAs proposals help to make the definition clearer. Mr. Claus agreed and said that he
94 prefers the term “cooking” rather than “kitchen” unless the Board defines “kitchen”.

95 There was further discussion regarding this proposed amendment including the case that relates to the
96 reason for the proposed change and how to put it in the Ordinance to cover every situation but not be
97 too restrictive and about septic and sewer requirements. Mr. Marquise suggested looking at some
98 other town’s Ordinances to see how they define “dwelling unit”.

99 Chairman White said that the next recommendations come from Ms. Gage.

100 Chairman White said that the first recommendation is to change Article V (Sign Regulations), Section
101 5.20 (Signs Exempt from these Regulations) by adding “5.21 (e): one advertising or “open” flag attached
102 to the building, or one freestanding double-sided feather-style flag maximum 2.5 feet wide and no taller
103 than 10 feet from the ground below, is permitted for each business during open hours only”.

104 Vice Chair Jewcyn asked if this change will also permit banners. Mr. Marquise asked if this means that
105 the flags will be exempt from the size requirements to allow businesses to have another 25 sq ft of
106 signage during the day. Ms. Gage said that this includes flags and/or feather signs and this would allow
107 for one sign that is attached or not attached to the building. She has had businesses ask for the
108 feathered flags and not be able to put them out because they were over the maximum signage square
109 footage allowed.

110 Ms. Gage said that she also recommends changing Section 5.31 Size because the total signage counts
111 the signs in Section 5.20, however, the signs in Section 5.20 are supposed to be exempt. She also thinks
112 that feather flags would fit under the signs that are exempt.

113 Mr. Claus said that he thinks this comes down to how much the Town wants to control the aesthetics on
114 these sites. He has worked in municipalities that allowed these types of flags and signs and others that
115 have not. Mr. Osborne said that they had an open flag attached to their sign. Mr. Clark said that some
116 of the feather flags available go high and asked if anyone has tried to do those. Ms. Gage gave some
117 examples of feather flags that businesses have wanted and asked what the Board would like to do
118 regarding flags.

119 Mr. Butler asked if the Town gets a lot of complaints and Ms. Gage said that she does, especially for
120 signs on State roads.

121 Mrs. Larrow asked if Section 5.31 relates to the size of the signs, including those in Section 5.20. Ms.
122 Gage said that if a business is already maxed out with their allowed square footage then they cannot put
123 up temporary signs. Mr. Marquise said that if a business wants to put up a temporary sign then it has to
124 be included in the maximum square footage. Mr. Clark asked if a business is allowed to apply for a
125 Variance or Special Exception in order to do an event or get a temporary sign because it seems limited
126 to not allow special event signs or flags. Chairman White agreed with Mr. Clark. Mrs. Larrow said that
127 the temporary signage should be taken into consideration when a business calculates their signs to start.
128 Chairman White said that a business might not know how big the temporary signs may be. Mrs. Larrow
129 said that a business should allot themselves an amount of square footage for temporary signage and
130 plan ahead.

131 Vice Chair Jewczyn asked about the temporary signs for voting and if people have to apply to have those
132 and if they can put signs up on the same properties where there are business signs. Ms. Gage said that
133 she does not do anything with political signs.

134 Mr. Marquise said that they could remove the statement that talks about the temporary signs so
135 someone who is maxed out can put a temporary sign up for three weeks. This would not allow someone
136 to put a feather flag up every day, those would have to be counted in the square footage.

137 Mr. Lyons said that he thinks that election signs are different and covered under the First Amendment.
138 He does not think that the Town should make any sign regulations regarding election signs. Vice Chair
139 Jewczyn said that he thinks that this could be challenged. Mr. Osborne said that if they take out the
140 temporary sign wording this would be covered.

141 Chairman White said that it sounds like this proposed Amendment needs to be discussed further at the
142 next meeting.

143 Ms. Gage said that regarding her request about tree cutting in the 150 ft Shoreland Overlay. It is
144 common for an arborist or tree professional to designate a tree as hazardous, however, if there are
145 more than five hazardous trees in the Overlay then they must go to the Planning Board. She has also
146 gotten pushback from people because the Town requires tree cutting permits for dead trees. The
147 Ordinance does talk about leaving the dead trees is encouraged for nature.

148 Vice Chair Jewczyn asked if people can have any type of sign that they want on the lake such as a barge
149 with a sign. Ms. Gage said that is the domain of the State; she only cares about what is on the land.

150 Mr. Marquise said that regarding the dead and dying trees, in the past he does not believe that Mr.
151 Landry considered those in the numbers, though he still required permits to ensure that the stumps
152 stayed in place. Chairman White said that it is not the removal of a dead tree is an issue, it is how it is
153 determined that the tree is dead. Ms. Gage said that she will need to do a site visit or get a
154 recommendation from a tree professional. Chairman White said that he is not sure how the Town
155 wants to take on the liability of deciding and it might be something that Ms. Gage discusses with
156 someone. If the Town does not want to take on the liability then he thinks some type of professional
157 would work. Mr. Butler said that if there is a safety issue of a dead tree falling then someone needs to
158 make the call. Ms. Gage said that if there is a threat of a tree falling then she tells people to take them
159 down and then worry about getting a permit. Chairman White suggested that if someone needs to
160 remove a hazardous tree then have them take pictures of them before they are removed.

161 Chairman White asked Ms. Gage about her third recommendation which is regarding the termination of
162 unexercised Variances and Special Exceptions. Ms. Gage said that in 2013 the State legislature adopted
163 the RSA that says that Variances or Special Exceptions expire if not used within two years. In 2018, the
164 legislature clarified what would happen to Special Exceptions or Variances that were granted before
165 2013. The remedy was to amend the Ordinance and require a posting of a notice of termination at the
166 Town Office for a year and give people a deadline. Ms. Gage continued that she spoke to Mr. Marquise
167 about this issue and he suggested speaking to the Town's attorney and she did. After 1991, the Town's
168 Ordinance said that they would expire after one year and then it was amended in 2013 to say after two
169 years. The Town's attorney's response is that the Town's Ordinance is not that valid and that it is the
170 RSA that counts and he recommends that the Town adopt this and go through the process. Vice Chair
171 Jewczyn asked if it is legal to take away someone's right to do something without giving them notice and
172 asked if the Town should notify people about these expiring. Ms. Gage said that the legislature has
173 created a specific remedy that does not require Towns to actually notify anyone who received a Special
174 Exception or Variance before 2013. The requirement is to hang a notice up and make an amendment
175 that they expire within two years. Vice Chair Jewczyn asked and Ms. Gage said that it does not include
176 posting in a newspaper. Vice Chair Jewczyn said that there are some people who do not get out and
177 asked what happens if they do not see the posting. Ms. Gage said that this is the way that the law is
178 written.

179 Mr. Marquise said that he thinks that it is unfair to the Town because they put an expiration of two
180 years in the Ordinance in 2013 and now it seems that they will be opening the door to allow anyone
181 who had a Special Exception or Variance before 2013 to have it revalidated. Mr. Osborne said that the
182 Town's approvals came with an expiration of one or two years. Mr. Marquise said that now it opens it
183 up to say that people have two years to exercise their Special Exception or Variance. Mr. Osborne said
184 that he does not understand why the Town's attorney does not think that the Town's expiration date
185 was valid. Mr. Marquise said that he will keep this Amendment proposal on the list but try to vet it a
186 little more.

187 Chairman White said that the next proposed Amendment is regarding Article IV (Use Regulations) - By
188 adding the following to the end of Section 4.10: Notwithstanding the foregoing, the following permitted
189 uses and special exceptions will apply in the Residential and Rural Residential portions of the Shorelines
190 Overlay District:

191 Permitted Uses by Right: Single Family Dwellings; Home Occupations; Accessory Uses

192 Permitted Uses by Special Exception: Home Business

193 Mr. Marquise said that this proposed Amendment comes from a taxpayer who is in attendance.
194 Chairman White asked and Mr. Jesanis explained the reason for his proposal. Mr. Jesanis gave some of
195 his history living on the lake and how he learned about Zoning.

196 Mr. Jesanis said that he thought he knew Zoning until he was told that the property next to him was
197 going to be purchased and turned into a business conference center and could not determine how, in a
198 Rural Residential Zone, the Ordinance would allow a corporate conference center. The use definitions
199 are a little loose and, in this case, a Massachusetts corporation would have had 400 guests per month if
200 three members of the Zoning Board agreed with the use. It seems to be a big policy decision to leave in
201 the hands of the Zoning Board to allow them to say if corporations around the lake are good in the
202 Shoreland Overlay District. There are no other commercial businesses except for the Harbor and
203 Georges Mills and the Yacht Club. He thinks that the Planning Board needs to determine what they
204 think the policy of the lake should be and then put it to the voters instead of leaving it to the Zoning
205 Board. He has put together three proposed Amendments that are similar to other Ordinances around
206 the State. He has read all of the Zoning meeting minutes going back to 2005 and there have been
207 hundreds of cases, most having to do with dimensions. Only 35 of the cases since 2005 have dealt with
208 use and none of them were on the lake; the lake is a residential lake and he thinks that it should stay
209 that way.

210 Mr. Jesanis said that his first proposed Amendment, which is regarding the permitted uses in the
211 Shoreland Overlay District, is modeled after what is done in New London, Sandwich, and
212 Moultonborough. Along their shorelands, the residential areas are residential because that is the
213 character of those communities and he thinks that is the character of Sunapee's Shoreland as well.

214 Mr. Jesanis said that his second proposed Amendment is to Article IV (Use Regulations), Section 4.15
215 (Special Exception Criteria for Uses) to add "(6) that the proposed use will not cause or contribute to a
216 decline in property values of adjacent properties; and (7) that for lots in the Shorelines Overlay District,
217 the lot and its buildings are in full conformance with the lot size, density, and setback requirements of
218 the Ordinance without dependence on grandfathered rights, or are shown to be no more non-
219 conforming than the majority of lots on the same side of the road and within 500 ft of both sides of the
220 subject lot." He thinks that this would make it harder to get a Special Exception approved.

221 Mr. Jesanis said that his third proposed Amendment is to Article XI (Definitions and Explanations): Bed &
222 Breakfast, Tourist Homes, Inns, Lodging & Boarding to change it to read "a type of lodging establishment
223 located within a single family dwelling in which up to 6 bedrooms are available to the general public as
224 overnight accommodations for paying, transient guests to whom a morning meal may be served. The
225 dwelling shall be managed by the owner of the property, who shall reside in the dwelling, or in a legal
226 accessory dwelling unit, as his or her principal residence. A dwelling defined herein shall not be used for
227 any other hospitality or business-related uses." This would go beyond the definition of "owner".

228 Mr. Butler asked about Sunapee Harbor and how it would relate to Mr. Jesanis' first proposed
229 Amendment. Mr. Jesanis said that the Harbor is not in the Rural Residential or Residential Districts.

230 Mr. Lyons and Mrs. Gottling mentioned businesses that used to be around the lake. Mr. Jesanis said
231 that in the past this proposed Amendment would have had a bigger impact than it would today. The
232 lake has been redeveloped as a residential lake and he does not believe it should be allowed to be re-
233 commercialize by Special Exception. Vice Chair Jewczyn asked and Mr. Jesanis said that he is saying that
234 Sunapee is a residential lake except for two exceptions in Sunapee and one in Newbury. Vice Chair
235 Jewczyn said that, historically, Sunapee was always a hotel and resort lake. He understands and
236 appreciates Mr. Jesanis' opinion, however, it seems like this should be something that the people
237 around the lake vote on. Mr. Jesanis said that this proposed Amendment would have to go to the
238 voters.

239 Mr. Jesanis said that if there had been a hearing before the Zoning Board regarding the proposed
240 corporate retreat there were 50 to 70 homeowners on and off the lake who were prepared to speak
241 against an approval. Additionally, LSPA was prepared to oppose the Zoning Board if it was approved.
242 Vice Chair Jewczyn asked Mr. Osborne said that the proposal was withdrawn; it was not heard by the
243 Zoning Board. Vice Chair Jewczyn asked and Mr. Jesanis said that he is proposing requiring something
244 like this needing a Variance instead of a Special Exception; someone who wants to do something that
245 drastic on the lake should have to get a Variance.

246 Vice Chair Jewczyn asked Mr. Marquise if Lake Sunapee is a residential lake. Mr. Marquise said that he
247 does not think that there is an answer to that question, it depends on where you are standing. Mr.
248 Butler asked how it can be defined as a residential lake when people are building docks and boathouses.
249 Mr. Butler said that he thinks that the defined business and residential areas should stay how they are
250 zoned and determine if the zoning needs to be changed in a particular area. Mr. Jesanis said that the
251 amendment would only apply to the Residential and Rural Residential Districts around the lake. The
252 intention is to apply it in the areas that are predominantly residential usage. Mr. Osborne said that this
253 will not change any existing uses. Mr. Butler asked and Mr. Jesanis confirmed that all of the Special
254 Exception or Variances requests for uses were off the lake for the past 15 years.

255 Mr. Marquise asked Mr. Jesanis if the Board approves his first amendment if he still believes they should
256 consider the next two amendments. Mr. Jesanis said that he thinks the third amendment is worth doing
257 because Bed & Breakfasts should be clarified. The second proposal is to make it harder to get a Special
258 Exception. Mr. Marquise said that he thinks that the second proposal subverts the point of a Special
259 Exception; if a proposal has to be conforming then there is no point to a Special Exception. Mr. Jesanis
260 said that his second proposed Amendment was not language that was found in other Ordinances,
261 though he did find the concept in other Ordinances. For example, the Town has a minimum lot size for
262 residential properties in different Zones. In other towns, a property that is smaller than the minimum
263 lot size may be grandfathered, however, if someone wants to do something that is not a residential use
264 that requires a Special Exception then there is a separate lot standard for that; essentially, the lot has to
265 be conforming to get that Special Exception. Beyond that, he also added that if the majority of the
266 neighbors are non-conforming then they should not be held to a different standard. The part regarding
267 property value of the abutting properties is found in many other Ordinances. Mr. Claus said that one of
268 the Special Exception criteria is that a proposal is not detrimental to the neighborhood. Mr. Jesanis said
269 that the withdrawal of the case made it so they do not know how the Zoning Board would have ruled on
270 that; the proponents of the proposal were taking it as a non-nuisance. Mr. Clark and Mr. Claus said that
271 they think that "detrimental" would capture property values and more.

272 Vice Chair Jewczyn asked how Mr. Jesanis' proposed Amendments would mesh with the people who
273 rent their homes around the lake. Mr. Jesanis said that he does not believe that it would impact people
274 who rent their homes; these people rent houses to other people for residential use. He is trying to
275 restrict what the properties can be used for. The property next to him was not going to be used as a
276 residence but rather as a conference center. A residence would still be allowed, including renting out a
277 house or a room in a house. Chairman White asked about Airbnbs and Mr. Jesanis said that Airbnb is a
278 company that rents a home out for an owner; it is not different than a local real estate agency renting a
279 home out. He does not believe that his proposal changes anything with rentals.

280 Mrs. Larrow asked and Ms. Gage said that the proposal for the property next to Mr. Jesanis was not for
281 a conference center. Ms. Gage said that the application was for a Bed & Breakfast, Tourist Home, Inn,
282 Lodging & Boarding. Mr. Jesanis said that they were applying for this category because it was the only
283 thing that they could get a Special Exception for but it was not a Bed & Breakfast. Mrs. Larrow asked
284 why Mr. Jesanis was upset about the proposal. Mr. Jesanis said that they were going to run a corporate
285 conference center, disguised as a Bed & Breakfast. Mrs. Larrow asked and Mr. Jesanis defined a
286 "corporate conference center" as "corporate guests holding business meetings, retreats, 400 guests per
287 month, all business customers of the business who was buying the property". The proposal was not a
288 Bed & Breakfast that was renting to the public, the owner was not going to charge for its services. Mrs.
289 Larrow asked and Mr. Jesanis said that the house is approximately 15,000 square feet. Vice Chair
290 Jewczyn asked if there was not enough parking or if it was too crowded. Mrs. Larrow asked why the
291 proposal did not fit into the Bed & Breakfast, Tourist Home, Inn, Lodging & Boarding category; a Bed &
292 Breakfast is allowed in the Residential and Rural Residential Districts. Mr. Jesanis said that the proposal
293 was not actually for a Bed & Breakfast. Mrs. Larrow asked Mr. Jesanis to allow her to understand what
294 was going to happen on the property that was not one of the allowable uses. Mr. Jesanis said that there
295 was a company whose purpose was to not provide a bedroom, and a breakfast. Mrs. Larrow said that
296 when the Board discusses businesses, they discuss parking, an increased use of facilities, etc., and asked
297 if that was wrong with this proposal. Mr. Jesanis said that the proposal would have been an immense
298 use of the facility because they were promising 400 guests per month. Mrs. Gottling asked and Mr.
299 Jesanis said that there would have been 20 guests at a time. Mr. Jesanis said that they would have had
300 20 people at one time in 15,000 sq ft between the two houses and on one acre of land. Mr. Clark asked
301 if the owners could rent the property out for 20 guests. Mr. Jesanis said that the people using the
302 property would be using it for residential purposes; the purpose of this facility was not to provide
303 sleeping quarters and a breakfast meal. Mrs. Larrow said that there used to be many different places
304 around the lake that rented rooms for groups of people to have meals, stay overnight, etc. Mr. Jesanis
305 said that this is what happened 30 years ago; he does not think that it is the character of the lake today,
306 it is residential with no interruptions from these types of businesses. Mrs. Larrow said that the Board is
307 looking at the impacts that uses bring; she remembers when Seminole Point was an alcohol treatment
308 facility, which is not residential but was low impact. She appreciates Mr. Jesanis' position but looking at
309 what is allowed, she is trying to determine the big difference between a conference center and Bed &
310 Breakfast, hotel, etc. as she does not think that there is a huge difference. Mr. Jesanis disagreed with
311 Mrs. Larrow.

312 Mr. Marquise said that based on when they originally wrote the uses to try and get them in Town, they
313 were broad. He agrees, to a certain extent, that many of the uses that are in the Residential and Rural
314 Residential Districts probably do not apply to the Shoreland. However, Mr. Jesanis has taken the list and

315 cut it down drastically; for example, two-family dwellings are standard. He thinks that if the Board were
316 to take this as it is it should be done after another Master Plan process. There may be one or two items
317 that do not belong in the Shoreland but this seems drastic. Mr. Jesanis said that he did look at the last
318 Master Plan and the references to commercial development were all along Route 11 and Main St. There
319 are no references to commercial development in the Rural Residential areas but there is room to work
320 with the language if the Board feels as though there are uses that should be in there. Mr. Marquise said
321 that there are things listed that would not happen on the lots around the lake but he would hate to see
322 everything taken out without some thought.

323 Chairman White asked what the harm would be if the house next to Mr. Jesanis was a Bed & Breakfast.
324 Mr. Jesanis said that the challenge is policing it; he thinks that is why the Bed & Breakfast definition
325 needs to be tightened up. Chairman White asked and Mr. Jesanis confirmed that he would not allow
326 Bed & Breakfasts in the Shoreland Overlay.

327 A member of the audience said that Lake Sunapee Protective Association is doing a watershed plan that
328 is going to be completed in the next year; it might be worthwhile for the Board to hear what buildout
329 does on the lake.

330 Chairman White said that a lot of the houses on the lake have a lot of people in them. Mr. Jesanis said
331 that it happens for a weekend or a week, it does not happen full time. Chairman White said that the
332 proposal is taking away all of the uses that are allowed by right and Special Exception in the Residential
333 and Rural Residential portions of the Shoreland Overlay. This is a significant reduction of what is
334 allowed and merits a lot more discussion than what can be done at this meeting. Mr. Marquise said that
335 Mr. Jesanis does have a change to the Bed & Breakfast definition that he is proposing and the Board is
336 also discussing owner occupancy and maybe those things can be pursued instead of tackling something
337 that would take all those uses away.

338 Mr. Jesanis said that his definition of a Bed & Breakfast from other towns and every other Ordinance he
339 looked at was far less than the 10 bedrooms allowed in Sunapee. There are clearer limits on meal
340 service, meaning that a Bed & Breakfast only serves breakfast and is not a full-service hotel and the
341 owner would live in the property and it would be a dwelling. Vice Chair Jewczyn asked if this means that
342 someone could not hold a business meeting with people not staying at the Bed & Breakfast. Mr. Jesanis
343 said that if a person has guests over for a meeting then no one would know; however, when it is a
344 corporate entity the purpose of their ownership is a business purpose. The corporation was not going to
345 charge for rooms or breakfast because they were going to use the property for other things. Vice Chair
346 Jewczyn asked how intent is determined. Mr. Jesanis said that is why he is proposing not having
347 businesses on the properties; it will still have to be enforced and policed. Vice Chair Jewczyn asked and
348 Mr. Jesanis said that the mode of enforcement would probably be the same as for most Zoning issues
349 which is with abutters and other people in town telling the Zoning Administrator; then it is up to the
350 Zoning Administrator whether they choose to enforce or not. Mr. Jesanis said that there were
351 proponents of the proposal who felt as though the Ordinance was loosely written and they could walk
352 right through the Special Exception hearing. There was further discussion regarding this matter.

353 There was a discussion regarding "owner" and "owner occupied".

354 Chairman White asked and Mr. Jesanis explained that the changes between the current definition of
355 “Bed & Breakfast” and his proposed definition is that his includes a reduction in size as well as a
356 reduction in meals. Mr. Jesanis said that it is hard to run a conference center if you are only serving
357 breakfast; also, it defines that it is the owner’s residence. A member of the audience said that it is to
358 the benefit of the community if the Bed & Breakfast is only limited to serving breakfast because it means
359 that the people staying are eating other meals at other establishments. Ms. Gage asked and Mr. Jesanis
360 confirmed that the Bed & Breakfast would not have to serve breakfast but they cannot serve dinner.

361 Mr. Marquise said that he has put these proposals on his list to discuss at the next meeting.

362 Mr. Marquise said that his first proposed Amendment is to make changes to Wetland Overlay District to
363 better define important wetlands and establish a buffer around the wetlands area. The current
364 Wetlands Overlay District is very broad and talks about any poorly and very poorly drained soils on the
365 NRCS maps; there are a lot of them and there is a list of things that cannot be done on them. Many
366 years ago, the Town started a prime wetlands process that they did not finish but there were maps that
367 identified 23 areas in town that are really wetlands, not just areas that may or may not be wetlands. He
368 would like to narrow down the Wetlands Overlay District to 20 or 25 areas that are more specifically the
369 very poorly drained soils. Mr. Butler asked and Mr. Marquise explained that the National Resources
370 Conservation Service has defined what the Town currently uses but the maps are very old. Not every
371 wetland in Sunapee would be in the District and they would still be protected through the State,
372 however, the wetlands in the Overlay District would have a buffer. Mrs. Gottling said that Sunapee is
373 one of the few Towns without a wetlands buffer. Mr. Butler asked and Mr. Marquise said that he will
374 talk to the Town’s Conservation Commission regarding this matter. There was further discussion
375 regarding this proposal.

376 Mr. Marquise said that his second proposal is to add Minimum Lot Sizes and Lot Coverage for the
377 Overlay Districts in the recently approved Mixed Use III District. This goes back to the change to the
378 Ordinance that created the Mixed Use III District. There is no Shoreland Overlay in that District and the
379 Aquifer Overlay may not be applicable but there are Wetlands and the Board should add lot sizes or put
380 not applicable. Vice Chair Jewczyn asked and Mr. Marquise said that he thinks that the lot sizes will be
381 similar to the others.

382 Mr. Butler asked about the Route 11 project and Mr. Marquise explained that a year ago the Town
383 applied for funds and it was not approved. He believes that there was a meeting today but he has not
384 heard anything about it.

385 Mr. Marquise said that his third proposal is to add a 25 ft Buffer Requirement for the highway in the
386 recently approved Mixed Use III District. Currently there is a buffer requirement on the State Highways
387 but Mixed Use III was not added to the list under Section 3.40(o) and it needs to be added.

388 Mr. Marquise said that Ms. Gage recommended adding a definition for a pergola. Ms. Gage said that
389 she does not think that this needs to be defined.

390 Mr. Marquise said that he thinks that there is an error in Section 9.12 and it needs to be changed from
391 home occupation to home business because home occupations are exempt from the Site Plan process.

392 Mr. Marquise said that he has something else to discuss that was not sent to the Board as proposed
393 Amendments. The Ordinance says that a fence less than 5 ft high is a minor structure and does not
394 require a permit but must be built to allow owner the ability to maintain both sides of the fence. Mr.
395 Marquise asked how the Board should define being able to maintain both sides of a fence. Mr. Butler
396 said that they used to keep a fence one foot from the boundary line to allow space to go around and
397 paint. Ms. Gage said that she does not know if one foot is enough. Mr. Butler said that if they say three
398 feet then the neighbor might have to cut the grass and it can become an issue. Chairman White asked
399 and Ms. Gage said that she gets questioned about it quite a bit and she tells people it is up to
400 interpretation but must be a reasonable amount. There was further discussion regarding this matter
401 and the Board agreed to leave this as is.

402 Ms. Gage asked the Board to verify that they want to continue that fences that are less than 5 ft high are
403 minor structures and if someone wants to put up a 5 ft fence it needs to meet setbacks. The standard
404 panel size for a fence is 5 ft and people have been interpreting it to say that if there is a fence 5 ft or
405 under it does not need to meet setbacks but the Ordinance says that the fence must be less than 5 ft.
406 She wants to make sure that it is the Board's intent that a fence that is 5 ft high is considered a structure
407 that must meet setbacks. Mr. Marquise said that he thought that the Board was trying to encourage 4 ft
408 fences and allow for a post and for the fence to be off the ground a bit; they were not trying to
409 encourage 5 ft fences because when those come off the ground they go to 5 ft 4 inches or higher. Ms.
410 Gage asked and Mr. Marquise said that if a fence is 5 ft then they are a structure.

411 Mr. Butler asked and Mr. Marquise said that the Zoning Amendments do not say whether the Planning
412 Board approves them or not unless it is a petitioned Amendment. There was further discussion
413 regarding this matter.

414 Mr. Marquise said that he will work on finalizing the proposed Amendments for the next meeting.

415 Chairman White closed the meeting at 9:16 pm.

416 Respectfully submitted,

417 Melissa Pollari

418 Planning Board

419 _____

420 Peter White, Chairman

421 _____

422 Joseph Butler

423 _____

424 Jeffrey Claus

425 _____

Richard Osborne

Randy Clark

Michael Jewczyn

426 Donna Davis Larrow, Alternate

Suzanne Gottling, ex-officio member