

1 **TOWN OF SUNNAPEE**

2 **ZONING BOARD**

3 **AUGUST 4, 2022**

4 **Chairman Claus called the meeting to order at 6:35 PM.**

5 **MEMBERS PRESENT IN THE MEETING ROOM:** Chairman Jeff Claus, Jamie Silverstein, Michael Jewczyn,
6 David Munn, Pierre Lessard.

7 **MEMBERS PRESENT VIA ZOOM:** David Andrews.

8 **ALSO PRESENT IN THE MEETING ROOM:** Shannon Martinez, Town Manager.

9 **PRESENT VIA ZOOM:** Laura Spector-Morgan, Town Attorney.

10 **CONTINUED**

11 **CASE 22-11 (Withdrawn) PARCEL ID: 0112-0005-0000 REQUESTING A VARIANCE OF ARTICLE III,**
12 **SECTION 3.10 TO ALLOW CONSTRUCTION OF A NEW SINGLE-FAMILY HOME AND 2 CAR GARAGE**
13 **WITHIN 30 FT. OF THE LAKE SUNAPEE REFERENCE LINE AND PARTIALLY WITHIN THE 50 FT. SETBACK.**
14 **39 TILSON POINT ROAD; RURAL RESIDENTIAL ZONE; JAMES & SUE CAMPBELL**

15 Chairman Claus announced that this case has been withdrawn.

16 **Ms. Silverstein made a motion to withdraw case 22-11 Parcel ID: 0112-0005-0000 requesting a**
17 **variance of Article III, Section 3.10 to allow construction of a new single-family home and 2 car garage**
18 **within 30 ft. of the Lake Sunapee reference line and partially within the 50 ft. setback. 39 Tilson Point**
19 **Road; rural residential zone; James & Sue Campbell**

20 **Mr. Munn seconded the motion.**

21 Mr. Jewczyn asked will this obviate their ability to come back and reintroduce this case and if this is a
22 dead issue.

23 Chairman Claus said that it is not a dead issue because any case can come back but as far as he recalls
24 per Ordinance it must be at some level measurement of difference from what they have requested
25 originally and to what are they going to request.

26 After a consultation with Ms. Spector-Morgan they have established that they as a Board do not need to
27 take any action or to make a motion to withdraw the case, just an announcement of withdrawn.

28 Mr. Jewczyn recused himself from the next case because it is believed that he has an interest.

29 **Chairman Claus made a motion to allow Pierre Lessard to sit in for Michael Jewczyn as an acting**
30 **member.**

31 **Ms. Silverstein seconded the motion.**

32 **The motion was voted in favor unanimously.**

Chairman Claus made a motion to allow David Andrews to sit in for James Lyons who is absent at this meeting as an acting member.

Ms. Silverstein seconded the motion.

The motion was voted in favor unanimously.

Chairman Claus recused himself from the next case.

Ms. Silverstein asked each member to introduce themselves for the purpose of the record and Pierre Lessard, David Munn, David Andrews, and Jamie Silverstein introduced themselves.

Ms. Silverstein called the next case.

NEW CASE

CASE 22-15 PARCEL ID: 0133-115-0000 APPEAL OF AN ADMINISTRATIVE DECISION MADE ON FEBRUARY 17, 2022, BY THE PLANNING BOARD REGARDING THE DECISION THAT NO SITE PLAN REVIEW WAS REQUIRED TO CONVERT THE MULTIFAMILY HOME LOCATED AT 22 MAPLE STREET TO A "TOURIST HOME". THE APPEAL WAS REQUESTED BY ANN BORDEIANU MAPLE STREET NEIGHBORS

Ms. Silverstein brought to applicants' attention that they only have four voting board members present at this meeting and that they would need three affirmative votes to prevail on their appeal. She asked them if they want to continue or reschedule for the next meeting and the decision on their side was to continue with the case.

Ms. Silverstein confirmed that they have received all the forms from the town, and they can begin.

Ann Bordeianu presented the case said that she had own the house on Maple Street for nine years and been a resident in Sunapee for six and a half years. She just wants to make sure that everybody who is there and everybody who is listening to this understands that she is not against short-term rentals and that in fact she owns one in Florida, and she knows the business very well. There are particularly good short-term rentals in Sunapee and many of them are good for businesses, some of them are good for residents but some hurt the town. Some of them hurry the neighborhoods and some of them hurt the residents and the business such as regulated bed & breakfast.

Ms. Silverstein emphasized that the purpose of tonight's discussion as a Zoning Board they can only look at two things: that the proposed use falls under the definition of a tourist home and was there a change of use from the previous.

Joan Puchtler continued explaining that in this case the six-apartment building that used to be a six dwelling is attempted to be converted into a tourist home and she cannot understand how that is allowed to go on.

Ms. Bordeianu said that most of the peoples present on this meeting are from the 22 Maple Street or surrounding area and most of them have signed the letter that she had sent to the Board so they are here to discuss their concerns about the Planning Board's approval back in February to convert six long-term residential apartments to six short-term transient tourist homes that will be used for short-term rentals. The owner of the building was very upfront about her intentions and her application. This is a complicated case that has been going on for six months, so she summarized that basically this situation

70 is just a big loophole to run a large short-term rental business under the guise of a tourist homes that
71 are of approved use on Maple Street. She knows that short-term rentals are not allowed in village
72 residential district or if anywhere in Sunapee for that matter, so they argue that the term short-term
73 rental apartments do not qualify as tourist homes. Nobody asked the neighborhood anything about this
74 during the approval process because the site plan review was never required. If this is allowed than the
75 building will be forever a tourist home. Even short-term rental attorney Cordell Johnston defines tourist
76 a homes as inadequate term. These tourist homes/short-term rentals may be potentially grandfathered
77 in and making them immune to the future short-term regulations which is what the town is working on
78 and that is a concern. So, what are they asking from the Board is to figure it out and stop all this. They
79 are asking the Board to cancel or disqualify the tourist home change of use and revert the building back
80 to long-term rentals which it has been for almost a hundred years, the building was built in 1930.

81 Ms. Silverstein clarified that that is outside of their purview. They can remand the decision back to the
82 Planning Board for them to view a site review but at this meeting they can discuss whether 22 Maple
83 Street is a tourist home by a definition of the Ordinance.

84 Ms. Bordeianu asked for a clarification if the Board can determine whether it qualifies as a tourist home
85 and then send it back to the Planning Board to which Ms. Silverstein answered affirmative and added
86 that there will be compliance issue which the town has to follow up on.

87 Ms. Spector-Morgan, Town Attorney also added that the property owner can appeal the decision that
88 the Board will make.

89 Ms. Bordeianu further asked about invoking the Article 4.2 from the Ordinance.

90 Ms. Silverstein answered that is not what they are discussing about right now and they need to discuss
91 whether it is a tourist home. She had watched the video of the Planning Board meeting and when the
92 owner was asked will it be owner occupied, she had answered affirmative multiple times.

93 Ms. Bordeianu read the definition of a tourist home from the Ordinance, and it defines it as an owner-
94 occupied single-family dwelling in which no more than ten rooms are used to provide transient sleeping
95 accommodations with meals served to guests only. She than asked how an owner can of a six tourist
96 homes can possibly occupy each of them for 120 days a year as per Ordinance as the owner applied for.
97 About the single-family dwelling the definition she read was a single residential building containing one
98 dwelling unit designed for occupancy by not more than one family. The argument was that since 1930
99 this building has been a multi-family dwelling not a single-family dwelling; this change of use to become
100 a six tourist homes is not possible because it is not a single-family dwelling. The third point of argument
101 was that the definitions state that meals are served to guests only and each of six dwellings contains a
102 full kitchen so the renters can make their own meals. During the hearing, the owner was never asked if
103 she can prepare meals for her renters every day like the bed & breakfast operator does. Ms. Silverstein
104 asked if they are interpreting that as a requirement because according to her interpretations the term
105 meals served to guests only does not mean that the owner must serve the meals to the guests, but it
106 means that the owner is prohibited to serve meals to people who are non-guests. Ms. Bordeianu
107 continued that based on the facts the owner has applied for six tourist homes and was approved for that
108 by the Planning Board on February 17. Then on May 5 there was a letter that said that the Planning
109 Board have confirmed that her property may be used as a tourist home limited to six existing rental

110 units one of which must be owner occupied per definition. So, this approval for six somehow got
111 approved for one, changed to one.

112 Ms. Silverstein asked if their contention is that 22 Maple is not a tourist home of the Ordinance, and the
113 answer was affirmative. The Board did not have any questions at this point, and she opened the session
114 to the public.

115 Jill Butler expressed her concerns about the Airbnb and mentioned that there were so many people and
116 cars at that house and unknown people are coming and going and the concern is not only that meals are
117 served but that there are so many kitchens and six units, so it is not just a home. Ms. Silverstein brought
118 it her attention that they cannot use the appeal to change the Ordinance. She said that her husband is
119 on the Planning Board, and he had brought it up several times that he felt that the neighborhood should
120 be made aware of what is going on, particularly if they are making changes.

121 Ed Scrivani owns 24-26 Maple Street said that he owns a property across the street and noted that by
122 the definition a tourist home is owner-occupied single-family dwelling which this one clearly is not.

123 Lisa McHugh, 8 Maple Street agreed that it is not a tourist home.

124 Josh Wroblewski, 18 Maple Street asked about properties tax pay to which Ms. Silverstein that is outside
125 of their purview. He also expressed his opinion that the property does not meet the definition of a
126 tourist home.

127 Michael Jewczyn was referring to Section 9.2 Subsection 9.12 site plan review requirement because the
128 Planning Board should give a special consideration to home businesses, but it was his feeling that they
129 were dealing with one aspect of whether the actual use of change and the larger issue here.

130 Ms. Bordeianu asked whether other points about the Ordinance would trigger a site plan review and
131 mentioned Section 8.23(c) no certificate for multi-family dwelling should be issued without a site plan
132 review, and that this is a six-family dwelling. Ms. Silverstein pointed that this already was a multi-family
133 home, and this was just a conversion from a long-term rental to short-term rental. Ms. Bordeianu said
134 that it was a conversion from long-term rental to six tourist homes to be used as short-term rentals.
135 Section 8.21(h) also states that interior renovations of the home well more than \$25,000 should go to
136 site plan review but Ms. Silverstein pointed that it would need a CZC and has nothing to do with site plan
137 review. The other point for site plan review according to Ms. Bordeianu is that the Town Manager had
138 mentioned multiple times that there are concerns for Sunapee Police and Fire officials about converting
139 22 Maple to tourist home to be used for short-term rentals. The last thing she mentioned about this was
140 that a Planning Board member stated at least eight times during a meeting in February that there are
141 issues with the rentals in the neighborhood and he had asked that the Board to get the feedback from
142 the neighbors, and that should be used in consideration for site plan review in the change of use.

143 Joan Puchtler asked if the Board is going to look at if they can take this six apartments unit and turn it
144 into one dwelling tourist home and the answer from Ms. Silverstein was that they are going to look is
145 does this property meets the definition of a tourist home and does the change of use require a site plan
146 review at which part they will remand the decision back to the Planning Board.

147 Lisa Hoekstra firstly wanted to apologize to Trina for the harsh she had spoken about her in February
148 and with the phrase we do not know what we do not know pointed that questions were not asked in the

meeting back in February and because they did require site plan review for the 22 Maple Street, it feels like there were a lot of unknowns and what they were asking the Planning Board and what they would like to ask the Zoning Board is to bring it back to the Planning Board is that site plan review will offer the neighborhood reassurance that the questions have been asked and that they have been answered.

Cheryl Summerton is a primary abutter to 22 Maple Street she lives across the street from the garage and the driveway, so she experiences the high-volume traffic in that driveway. She lived in that village residential district for about 22-23 years and emphasized that it is residential single-family, two-family minimal impact commercial use. She is not against short-term rentals but she is against the change of use on this property without her being notified and she does not know if that comes from the Zoning or Planning Board, but she was very disappointed that they have let them down as a neighborhood by not notifying none of them that the use of this apartment building is changing. The change of use makes a significant impact on their safety, security, and property value. She does not want this property to get grandfathered before the final decision is made.

Terry H. wanted to go on record saying that reading the definition of a tourist home this does not need that definition and they need to send it back and do it correctly.

David Andrews via ZOOM wanted to ask couple of questions: how many buildings there for this property are to which the answer was one building with six apartments. The second question was how many rooms each apartment has, and it was established that there were 1-3 rooms for each apartment so total of nine rooms and each of those have full kitchen and a bathroom. He also asked does the owner occupy a unit to which they answered that they have not seen the owner living there. She had told some neighbors that she is going to rent 1-2 units and use the remaining for her own needs. They cannot dispute compliance to the owner-occupied part, but they can dispute that she cannot possibly owner occupy all six units.

Ms. Silverstein closed the public session and asked the board members to step in the backroom with their laptops.

Ms. Silverstein reopened the meeting for deliberative session at 7:41PM and asked if any of the Board members have thoughts, questions or comments and herself commented that in her opinion she does not think that this falls under the definition of a Tourist Home.

Ms. Silverstein made a motion to grant the administrative appeal and find that a six-unit multi-family dwelling cannot be a tourist home because it is not a single-family home, nor can it qualify as a six tourist homes because none of those apartments are a single-family dwelling. They therefore reverse the Planning Board's decision that a proposed use of the property in 22 Maple Street is a tourist home. The change of use from long term rental of the property to short term rentals is not a permitted use in the village residential district and they believe that the change of use does in fact require site plan review.

Mr. Lessard seconded the motion.

The motion was voted in favor unanimously.

Ms. Silverstein announced that every party agreed by this decision may file a motion for a hearing with this Board within 30 days.

188 Town Manager Martinez informed Ms. Spector-Morgan that they would like to have a follow-up
189 conversation with her and whether they should go non-public for that.

190 Peter White, Chairman of the Planning Board asked for clarification based on their decision that the
191 property did not meet the definition of a tourist home and it is not allowed. So, they send it back to the
192 Planning Board; Planning Board cannot act on something that does not meet the Ordinance, so is that
193 the appropriate path to take.

194 Ms. Spector-Morgan pointed that the property owner can appeal the decision of the Zoning Board. If
195 they decide not to do that, the Planning Board's decision has been reversed by them and in the
196 meantime the property cannot be used as a short-term rental.

197 Mr. Lessard asked if and how is the property owner going to get notified of the decision.

198 Ms. Spector-Morgan said that she will send the property owner the decision.

199 MISCELLANEOUS: Review Minutes from Previous Meeting(s).

200 There were no Minutes reviewed.

201 **Chairman Claus made a motion to adjourn the meeting at 7:50PM. Mr. Munn seconded the motion.**
202 **The motion was passed unanimously.**

203 Respectfully submitted

204 Rajmonda Selimi