TOWN OF SUNAPEE

PLANNING BOARD

DECEMBER 3, 2015

PRESENT: Peter White, Chair; Tanner Royce, Vice Chair; Shane Hastings; Richard Osborne; Sue Gottling, ex-officio member; Joseph Butler, Alternate; Joseph Furlong, Alternate; Michael Marquise, Planner

ABSENT: Kurt Markarian; Donna Davis Larrow

See attached sign in sheet

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

Chairman White appointed Mr. Butler to sit in for Mr. Markarian and appointed Mr. Furlong to sit in for Mrs. Larrow.

PROPOSED ZONING REGULATION AMENDMENTS AND CHANGES FOR 2016.

Chairman White read Amendment 1 which is:

Amendment #1: Amend Article IV Section 4.33 (B)(1) – **Shorelines – Specific Provisions –** by removing all local requirements for docks and deferring to state regulations.

The full text of Article IV, Section 4.33(B)(1) – Shorelines – Specific Provisions – as amended will be as follows:

Docks for boating and swimming facilities are permitted subject to required State permits and standards. ~~The width of the deck of a pier or dock shall not exceed six (6) feet. In lakes and ponds of less than 1,000 acres in size, the length shall be limited to twenty (20) feet. Docks or piers permitted on property with less than seventy-five (75) feet of shore frontage shall be no larger than 4 X 24 Feet. For properties with shore frontage of 75' or more, there shall be a minimum of seventy-five (75) feet of shore frontage for the first two-slip structures, and an additional seventy-five (75) feet of shore frontage on the property for each additional boating slip or securing location on a structure~~.

Chairman White read the Amendment and asked if there were any questions or if there was discussion regarding the Amendment.

Mr. Marquise explained that this Amendment has been recommended by Town Council as the Town does not have the right to regulate structures that are on the Lake.

Mr. Marquise said that the purpose of the public hearing is to approve the Amendments to go onto the ballot. The Board can change the words of the Amendment, however, not the intent.

Mr. Butler asked if an existing boathouse burns, and they want to rebuild it, if there are height restrictions and if they would come before the Board. Chairman White said that nothing would come before the Board, it is all done by the State and they are heavily policed and the State is strict with boathouses.

Vice Chair Royce made a motion to move Amendment One onto the ballot to send to the voters as written. Mr. Hastings seconded the motion. The motion passed unanimously.

Amendment #2: Amend Article IV Section 4.33 (B)(8)(b)(I) – Cutting and Removal of Natural Vegetation within the Natural Woodland Buffer – by adding to this section the requirement that the Board of Selectmen or their agent will review all cutting and clearing plans in the Natural Woodland Buffer including those reviewed by the Planning Board.

The full text of Article IV, Section 4.33(B)(8)(b)(I) – Cutting and Removal of Natural Vegetation within the Natural Woodland Buffer –as amended 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 having a diameter of six (6) inches or more at a point 4.5 feet above existing ground in any calendar year;
> >
> > (2) Removal of large areas of vegetation (over one thousand [1000] square feet) within the Natural Woodland Buffer in any calendar year.
> >
> > The Board of Selectmen or their agent shall review and approve the cutting of all trees having a diameter of six (6) inches or more, ~~which are not included above~~. In addition, on ponds, lakes or rivers, any cutting or removal of natural vegetation must be by permit from DES.

Chairman White read the Amendment and asked if there were any questions or any discussion on the proposal.

Chairman White said that he received an email from Mr. Jesanis who lives on Old Norcross Rd and is an abutter of the person who was there with the tree cutting plan. The email said that he would like the Board to consider two proposals, the first to the proposed Amendment #2. Chairman White read the email to the record (see attached). He was unaware of his neighbor's intent to remove over 20 trees and believed that he should have been advised of the plan. Chairman White continued that Mr. Jesanis proposed that the Amendment be changed to read "A cutting and clearing plan shall be subject to the approval of the Planning Board, after public notice, for the following." He does not think that there needs to necessarily be abutters' notices, however, he does think that there should be a public notice.

Chairman White said that he thinks that this is a good idea, however, he does not know if the change would change the intent of the Amendment. There was further discussion regarding this matter and the Board felt as though something like a tree cutting plan would have a major impact on abutters and that there should be notice.

Mr. Marquise said that he would recommend that the Board make an administrative action and say that all agenda items must be set 10 days in advance so that everything is put on the published agenda. Chairman White asked and Mr. Marquise confirmed that this could be handled under the rules and regulations. Mr. Marquise said that he does not think that Mr. Jesanis' proposed language changes the

intent of the Amendment and it could be added. He thinks that the Board should also make the change to the rules and regulations. There was further discussion regarding this matter.

Mr. Osborne asked about the wording of the last sentence which says that nothing on ponds, lakes, or rivers can be cut without a permit from DES, which means that people cannot even cut their lawns. He thinks that this should say that any cutting or removal of natural vegetation must be done by permit from DES, if applicable. Mr. Marquise asked if the Board felt as though this changes the intent of the Amendment. Mr. Osborne said that he thinks that the intent is that you can do anything that does not require a permit. Chairman White said that he thinks that it is more of a clarification than a change to the intent.

There was a discussion regarding the natural woodland buffer and the Shoreland Overlay.

Mr. Hastings made a motion to pass Amendment #2 on to the voters, as amended. Vice Chair Royce seconded the motion. The motion passed unanimously.

Chairman White read Mr. Jesanis' email to the Board. It was regarding Amendment #4 so the discussion was held until after discussion on Amendment #3.

Amendment #3: Amend Article VII Section 7.10 – Conversion Requirements – by allowing for an increased septic flow on a property if a licensed septic designer provides certification that the existing designed system has adequate capacity.

The full text of Article VII, Section 7.10 – Conversion Requirements – as amended will be as follows:

7.10 No structure shall be converted in any manner resulting in increased septic flow or water utilization without the approval of the New Hampshire Department of Environmental Services Water Division-Subsurface Systems bureau or approval from the Sunapee Water and Sewer Commission if on municipal sewer.

1) The approval of the New Hampshire DES Water Division Subsurface Systems Bureau or

2) Certification from a New Hampshire licensed septic designer that the existing designed system will handle the additional septic flow or

3) Approval from the Sunapee Water & Sewer Commission if on municipal sewer.

Chairman White read the Amendment and asked if there was any discussion or any questions.

Vice Chair Royce asked for clarification if the Amendment was the added language of #2. Mr. Marquise confirmed and said that it has been accepted as part of a procedure.

Mr. Osborne made a motion to move Amendment #3 to the ballot. Mr. Butler seconded the motion. The motion passed unanimously.

Amendment #4: Amend Article VIII Section 8.21(e) – Certificate of Zoning Compliance – Permit – to include both interior and *exterior* improvements as projects requiring permits.

The full text of Article VIII, Section 8.21(e) – Certificate of Zoning Compliance – Permit - as amended will be as follows:

8.21 Certificate Required if:

(a) a new structure is dimensionally changed or installed;

(b) an existing structure is dimensionally changed;

(c) additional dwelling units are to be added to existing structure;

(d) any municipal structure is to be constructed or dimensionally changed;

(e) major alterations/interior *or exterior* renovations are planned;

(f) a structure is to be demolished;

(g) a Site Plan Review approval has been granted by the Planning Board

Chairman White said that Mr. Jesanis also had another comment. Chairman White read the second comment into the record (see attached). Mr. Jesanis' second proposal was in regards to the process of obtaining a Certificate of Zoning Compliance (CZC) as he understands that if a Variance or Special Exception is not required then abutters are not notified of the request. The CZC requests are sometimes on the agenda for the Board of Selectmen, however, sometimes they are not. Without any notice, if abutter feels as though the Zoning Administrator has erred in not requiring a Variance or Special Exception, the abutter recourse is to ask for review by the Zoning Board. Depending on public meeting schedules, such review may not happen for up to two months, after which time such construction will be well along. Chairman White continued that Mr. Jesanis' proposal is to change Amendment #4 to include Section 8.22 to read that "Application shall be filed with the Board of Selectmen with copies provided to each abutter." Mr. Marquise said that he believes that it would not be appropriate to add this change at this time as it would change the intent of the Amendment.

Chairman White read Amendment #4 and asked if the Board had any questions or if there was any discussion on the Amendment.

Mr. Osborne asked about Article A and how a new structure would dimensionally change. Mr. Marquise said that it may be poorly worded but the Amendment is to Article E and he does not want to change the intent of the Amendment. Mr. Marquise said that they could remove the wording "is dimensionally changed" from that Article, however, that should be done next year.

The Board discusses Mr. Jesanis' proposal and decided that they will wait until next year to discuss the proposal.

Mrs. Gottling made a motion to approve Amendment #4 as read. Mr. Butler seconded the motion. The motion passed unanimously.

Amendment #5: Amend Article XI – Definitions and Explanations – by removing the reference to the screening of contractor yards from the definition of Home Occupation and placing it in the definition of Contractor's Yards.

The full text of Article XI – Definitions and Explanations – Contractor's Yards and Home Occupations – as amended will be as follows:

Contractor's Yards – A area used by builders, electricians, plumbers, excavators, roofers, yard maintenance, or other similar contracting service establishments for the storage of materials and equipment only. *Heavy equipment and materials shall be either screened or enclosed.* There shall be no service or sales on the site and any signs must be in accordance with Section 5.34 of this ordinance and specify for deliveries only. A Site Plan Review will be required. Any use of the contractor yard beyond this definition will require a variance from the Zoning Board of Adjustment.

Home Occupation – Any use that is customarily conducted in the home by the inhabitants of such home. A home occupation shall not involve on-site sales or customer service. There shall be no employees and no on-site signs, advertising or outside displays. The home occupation shall be subordinate and incidental to the primary residential use of the property and shall not change the residential character of the dwelling or neighborhood. The home occupation shall no generate noise, odor, traffic, or any other negative influence on the community or neighboring properties. ~~Heavy equipment and materials in contractor's yards shall be either screened or enclosed.~~

Chairman White read the Amendment and asked if there was any discussion from the Board and there were not comments or questions.

Vice Chair Royce asked and Chairman White confirmed that the intent of this Amendment is to remove a Contractor's Yard as a Home Occupation.

Mr. Osborne made a motion to move Amendment #5 to the ballot. Mr. Butler seconded the motion. The motion passed unanimously.

Amendment #6: Amend Article XI – Definitions and Explanations – by adding a definition for Maximum Residential Density which will clearly outline that residential dwelling units are the sole factor for determining allowable density.

The full text of Article XI – Definitions and Explanations – as amended will be as follows:

Maximum Residential Density – The maximum number of residential dwelling units allowed within a specified area. Density shall only be calculated using a Dwelling Unit as defined elsewhere in this article. Office spaces, commercial spaces, motel rooms, and other commercial uses do not fall under the requirements of residential density.

Chairman White read the proposed Amendment and asked if there was any discussion on the proposal.

Vice Chair Royce asked about the goal of adding this language. Chairman White said that he thinks it was the result of a case that was heard.

Vice Chair Royce made a motion to move Amendment #6 to the ballot. Mr. Hastings seconded the motion. The motion passed unanimously.

Amendment #7: Amend Article XI – Definitions and Explanations – Structures (minor) – by adding patios as minor structures and give limitations to height, size, and future use as a footprint.

The full text of Article XI – Definitions and Explanations – Structures (minor) - as amended will be as follows:

Structures, 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 form the ground surface provided 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 platform and associated stairs, which is no more than four (4) feet off the ground and is used for access to a structure

6) Patio constructed from pervious materials, less than 150 square feet in area and less than 12" above the existing ground elevation. Patios will not be considered a footprint for future construction.

Chairman White read the Amendment and asked if there were any questions.

Vice Chair Royce said that his concern is that patios could be built in stages of less than 150 sq ft each year. Chairman White said that he thinks that it would be 150 sq ft total and if they were adding on to the patio it would no longer be a minor structure. Vice Chair Royce said that he believes that patios should be considered the same as decks as they can create outdoor living spaces. Mr. Marquise said that he thinks that this makes current practice defined and stricter. Mrs. Gottling said that the book defines it as "Structure, Minor" and Mr. Marquise said that he will fix it for the Amendment.

Mr. Furlong made a motion to accept Amendment #7 on the ballot. Vice Chair Royce seconded the motion. The motion passed unanimously.

PARCEL ID: 0132-0039-0000: SEEKING APPROVAL OF A SITE PLAN REVIEW TO OPEN AND OPERATE A 600 SQUARE FEET RETAIL STORE IN EXISTING BUILDING. CORY & RENEE FLINT, 87 LOWER MAIN ST.

Cory Flint and Brenda Huff presented the merits of the case.

Chairman White explained the process of accepting an application as complete to the applicant.

Mr. Markarian said that the application was filed in advance, fees were paid, notices were posted and abutters were notified. In terms of the Article V completeness, he thinks that there needs to be a conversation about what is being asked for as normally in a home business environment they look at simple drawings but he does not know if this qualifies and in a commercial use there are more substantial drawings showing the whole property. Mr. Marquise said that for a full Site Plan the application is more incomplete than complete and he cannot say that they should move forward

without hearing more about what is being done. Chairman White said that he does not think that a retail space can be a home business, especially if it is rented out.

Mr. Flint said that he has spoken with the Police Chief, the Fire Chief, and the Road Agent and he was told that all the Department Heads had signed off on the plan and that Mr. Landry was going to be at the meeting. Chairman White asked and Mr. Flint said that Mr. Landry did give him the checklist of the requirements. Mr. Flint said that he did do many of the items on the checklist and has some plans that he can show the Board.

Mr. Flint said that the property was built in 1822 and he has photographs that show that it was commercial property and was used as a country store, a gas station, and a diner. Many of the fixtures show that and when he purchased the house the first time it was first investigated by his attorney and it was found that it was run as a country store for an amount of time in the 50's and into the 60's. Since then it has been residential use but is zoned commercial. Mr. Flint passed the pictures that he had around to the Board.

Chairman White asked what the proposed retail business will be. Mrs. Huff explained that her business, a children's shop called Tattered Pages, was run in the Harbor from 2006 to 2011. It had books, toys, games, puzzles, etc. and she closed it for several reasons. She has retired from teaching and after two years of being retired she realized she missed the shop and wanted to reopen it.

Mrs. Huff said that her plan is to be open Wednesday through Saturday, 10:00 am to 5:00 pm; the opening and closing hours when there would not be a lot of school traffic. She does not believe that there will be a lot of parking needed, though hopefully she will have many customers. She did approach the Riverway and they did not have anything available and this property was a perfect opportunity for her business.

Chairman White was asked if this business falls under a home business. Chairman White asked and Mrs. Huff said that she does not live at the property, so the rules for a home business and/or a home occupation do not apply. This would be a business and requires a Site Plan and the Board needs to determine if the application is complete or if they require additional information.

Vice Chair Royce asked if this is an existing use and if it is a permitted use. Mr. Marquise said that it is a change in use to a permitted use as there are no Zoning issues. The question is if there is enough information to move forward with the application as complete or if there is too much information needed to accept it as complete.

Mrs. Gottling asked if it the property will also remain a home. Mr. Flint said that he and his family will still reside at the house. The layout is very much divided, except for a doorway that he had installed. It has two meters, one of which he had rewired to just be for the hot water heater, however, it used to be considered two units. Mr. Flint explained more history of the property to the Board and said that he is not going to say that there isn't a possibility that he'd want to put another business in the building in the future as it has been two businesses in the past. Mr. Flint said that he thinks that there has been a lot of positive growth on Lower Main St and that being between the two schools will be good for the business.

Mr. Flint said that he has met with the Fire Chief, Chief Cahill, and Mr. Hazelton and has done a lot of what was suggested to him. He was told that they had all signed off on the plan. Mr. Flint said that he

had given a plan with the proposed parking layout to Mr. Landry and he thought that there were signoffs from the Department Heads.

Chairman White said that because this is a business, it is at a different level and the Board needs to make sure that they have as much information as possible. The merits look at the days and hours of operation, etc. and if it is approved, they set the foundation for moving forward. They will want to make sure that there is not a parking problem as they will be more confined than they were in the Harbor, especially as there will be residents living there. Mr. Flint said that with Mr. Landry and Mr. Hazelton's ideas that they went the parking the way that they have shown it and also the four parking spaces, though with the square footage they only need three. Mr. Flint said that the square footage is about 500 sq ft but he has put 600 sq ft on the plan in case they need a little extra room.

Mr. Flint said that they have added a new railing and done some other work to try to make it look like a store front.

Mr. Marquise said that he did not find anything with signatures in the file. Mr. Flint said that he spoke with Mr. Landry and he said that he had it and that he'd be at the meeting with it.

Mr. Osborne asked what items are incomplete on the application. Mr. Marquise said that he does not have a plan that shows the perimeter boundary survey, the tax map and lot number, names and address of property owners, a site location map, north point, bar scale and appropriate dates, location of existing and proposed buildings, square footage, contours, streams and waterbodies, sewage, water, utility lines, lighting, landscaping plans and the location of fire alarms. Chairman White explained that normally when a business is going into a spot they do a survey of the property and then have a plan that will show where all of these listed items are going to be. It is used as sort of a place setting for moving forward so that if there are any changes made then they have something to refer to.

Chairman White asked if there has been a plot plan or survey done at any time. Mr. Flint said that he believes that a survey was done when they purchased the property the second time, however, he did print a copy of the tax map.

Mr. Flint said that they have installed safety lighting and an electrician is returning to move a smoke detector. He was assured by Mr. Landry that everyone had signed off on the plan. Chairman White asked and Mr. Flint confirmed that he went over the plan with Mr. Landry. Mr. Flint continued that the only thing that he had left for Mrs. Huff to complete as part of this first step was the signage. He thought that he had all his ducks in a row. The parking was the biggest issue and he thought the Board would have questions about the parking. The fencing has been removed except for the piece that divides his property from Lower Winn Hill Rd. There is also topsoil that he has not been able to remove due to the need of a Shoreland Permit. He has also extended stone into the parking area and has been experimenting with the parking area.

Mr. Osborne asked if the interior is set for a retail space. Mr. Flint said that the original counter is still there and the building has been completely rewired and set up with multiple outlets.

Mr. Flint asked if the Board was not comfortable with this use, what they would be comfortable with as he is paying taxes for being in a commercial zone. Chairman White said that it is not the use, the Board

is concerned with a commercial impact on the lot. It is the Board's job to look over the plan and make sure that things are accounted for.

Mr. Marquise said that anything that is part of the required items the Board can waive. He would recommend waiving the boundary survey as the property is bounded by two roads and the river. There isn't really a property line issue. The Board could accept the application as complete, subject to the need of a more complete drawing that the applicant could do.

Chairman White explained that just because they say that Tattered Pages is going into the space, if they get approval for the retail space it is not specifically for that business. Mr. Flint said that he understands and that if any of the Board members want to stop by and look at the space they are more than welcome to do that.

Mr. Flint said that he has copies of the deeds if the Board would like them. Chairman White explained that deeds are more for civil issues unless they explain what can or cannot be done on the property, if they show right of ways on properties, etc.

Mrs. White asked if the Board has questions about the signage. Chairman White said that they will if they move forward. The thing that the Board needs to talk about is if they feel comfortable with what they have in order to move forward to the merits of the case. There was further discussion regarding the plan and application and any waivers the Board may decide are applicable.

Chairman White asked the Board about their thoughts. Mr. Osborne said that he thinks that it is up to the applicant about if he wants to start the clock now or wait to get more information together and then return for another meeting as he is positive that there will be issues that will not be answered at this meeting. Vice Chair Royce said that even if the waivers are granted, he thinks they will still end up continuing the case on the merits side. He is not sure it makes sense to waive a bunch of things and then still have Mr. Flint return. Mr. Flint asked about the time table and Chairman White explained that if the Board accepts the application as complete then they have to make a decision within 65 days. Mr. Flint said that he first started talking to Mr. Landry in September and then they decided that they were going to move ahead in October. He feels confident that he could get the Board everything that they need within 30 days and that he did go through the list that Mr. Landry gave him. Chairman White said that he thinks that the most important thing is a drawing showing the lighting, signage, etc. Mr. Flint said that he is confident that he can get everything that the Board needs.

Mr. Marquise said that if the Board is comfortable with the waiver then he thinks that it is better to have them accept the application as complete and then go over everything they would like on the drawing to help ensure that Mr. Flint would not have to return again in February.

Vice Chair Royce asked for clarification of the waivers besides the boundary survey. Mr. Marquise said that he thinks that that is the only waiver necessary so everything else can be left on open for discussion.

Vice Chair Royce made a motion to accept the application on Parcel ID: 0132-0039-0000 for a Site Plan Review to open a retail store in the existing building at 87 Lower Main St as complete. Mr. Butler seconded the motion. Vice Chair Royce amended his motion to add the waiver of the boundary survey. Mr. Butler seconded the amendment. The amended motion passed unanimously.

Chairman White asked Mrs. Huff how big her space was in the Harbor. Mrs. Huff said that it was about 700 sq ft but she had things that were fillers that did not really sell. Her intent is to stick to things that did sell and she was looking for a smaller space so she would not have to deal with fillers. Mr. Butler asked about the dimensions of the room and Mr. Flint said that it is 26 ft by 21 ft. They are providing a bathroom for Mrs. Huff, not a public bathroom, but he didn't know the measurement of that space so that is why they listed 600 sq ft.

Mr. Flint said that the Fire Chief was happy with the window sizes, the three exits, and he just needed to move the smoke alarm from one space to another and put in two safety lights.

Chairman White asked if Mr. Hazelton and Chief Cahill are both OK with traffic backing out onto Lower Main St. Mr. Flint said that he was surprised by that as he had diagonal parking in his mind but Mr. Hazelton suggested the straight parking. He was concerned with frost setting in so he has removed topsoil in that area already and put some stone in to prepare the lot. He left the fence to define the border of the parking area.

Chairman White asked if Mrs. Huff will have deliveries at the building. Mrs. Huff said that she gets deliveries at her house, not to the property.

Mrs. Huff was asked and said that her hours will be 10:00 to 5:00 Wednesday through Saturday and then by appointment. When she had the shop in the Harbor, in the winter when she was closed she sometimes had people call and ask her to come in if they forgot something.

Chairman White asked about employees. Mrs. Huff said that she'd have two at the most but only one at a time, and typically only if she wanted to go away on vacation or take a day off. There would be three people total, but one person at a time.

Mr. Butler asked if there is any exterior lighting or safety lighting. Mr. Flint said that one exterior porch light has been installed. Chief Cahill asked him to install a motion light for the parking area, which he will install, but there is also a light on the corner of the road that illuminates the parking area. Chairman White said that the Board will want to make sure that they are pointed down and only light the property.

Chairman White asked about signage. Mrs. Huff said that she is making her own signs, one is approximately 5 ft by 1 ft that would go under the eaves on the left as you are facing the entrance. There is a shorter one, which is 3 ft by 1 ft that would go under the eaves on the right. There is also a tree light sign that is a list of items and will go on a corner post; everything will be attached to the building.

Vice Chair Royce said that the Board will want to see on the plan where the lighting and signs will be located.

Chairman White asked if the parking meets the requirements. Mr. Marquise said that it does as the requirement is 1 space for every 200 sq ft and 1 space per employee. Chairman White asked and Mr. Flint confirmed that the driveway where they park now will be used by the residence and Mrs. Huff will also be able to park in the driveway as well. Chairman White said that the parking that Mrs. Huff will be able to use should be put on the plan.

Mr. Marquise said that he has a concern about the layout the intersection and backing onto Lower Main St. Mr. Marquise asked if the parking could come off Lower Winn Hill onto the driveway and go parallel. Mr. Flint said that it could, and it would not be hard to do but it would have to be done in the spring. However, Mr. Hazelton did not want diagonal parking and both him and Chief Cahill said they preferred the straight parking. Vice Chair Royce said that going straight in seems to be consistent with how Albees does it as well. Mr. Osborne said that the visibility is good there. Mr. Marquise said that the issue is someone backing out onto Lower Main St and not seeing someone coming from North Rd. Vice Chair Royce said that he has had that issue with Albees but that this property is not directly across from North Road like that property is. Mr. Marquise said that the Board relies on the input of Mr. Hazelton and Chief Cahill so it may be good to get comments from them. It might make more sense to park parallel to the house, even if they lose a space. Mr. Marquise continued that he will talk to Mr. Hazelton and Chief Cahill and then follow up with Mr. Flint.

Mrs. Gottling asked how the retail space will be 26 ft by 21 ft if the front of the plan is listed as 40 ft. Mr. Flint explained that on the left side is a screen porch, which is what will remain in front of the residential section but there will be parking in front of the screen porch. The 21 ft is only taking up half of the front of the house.

Chairman White said that the difficulty with this type of parking is snow removal. Mr. Flint said that he would be doing that and it would probably be done by snow blower.

Mr. Butler asked and Mr. Marquise confirmed that this property is Zoned Village Commercial, it is right on the edge of the district.

Chairman White asked if there was anyone in the audience with any questions or comments.

Barbara Sullivan said that she would like to see the business get open as soon as possible though she understands that there are rules.

Chairman White said that it sounds as though the Board just needs the completed plan as Mr. Marquise will talk to Chief Cahill and Mr. Hazelton about the parking. Mr. Flint said that seeing as there is a parking predicament with Albees, he did meet with Mr. Hazelton about the parking.

Chairman White said that the Board will need a plan to scale of the whole lot showing the existing buildings, the parking, signage, landscaping, lighting, etc. Mr. Marquise said that he would also like the residential and commercial entrances to be on the plan so they can see the pedestrian circulation. Mr. Osborne said that they will also need the retail portion of the building to be on the plan. Mr. Flint asked if they need pictures of the interior or exterior. Chairman White said that he does not think that they need pictures, just the plan.

Chairman White said that he believes that they will need to continue the hearing until the next meeting in January. Mr. Flint asked if there was any way do anything so Mrs. Huff could try and open before Christmas. Mr. Marquise said that the Board did allow a soft opening without full Planning Board approval once in the past and it did not work out. Vice Chair Royce said that they have given conditional approvals before but that the list for this case seems too extensive. There was further discussion regarding the drawing and signoffs needed. Mr. Marquise said that the Board does meet on the third

Thursday of the month and that could be an option. The Board decided to continue the meeting until December 17th.

MISCELLANEOUS

Chairman White explained to Mr. Jesanis their decisions regarding his proposals.

PARCEL ID: 0115-0053-0000: APPROVE THE OPERATION OF A CONTRACTOR YARD ALREADY IN EXISTENCE AND AS RECOMMENDED BY THE ZONING BOARD OF ADJUSTMENT ON OCTOBER 8, 2015. KEVIN BARTON, 94 PERKINS POND RD.

Kevin Barton presented the merits of the case.

Chairman White asked for more details regarding the case. Mr. Marquise said that as he understands, this Contractor's Yard began in 2004 and recently came to Mr. Landry's attention. It went to the Zoning Board and they decided that it did not need a Variance because it was pre-existing. Mr. Barton said that it was because in 2004 it was considered a home business and what he was doing was allowed then. There has been a change in Zoning and now it would not be allowed.

Chairman White asked and Mr. Barton confirmed that he has already been to the Zoning Board who determined that he did not have to go before them, but that he needed to come to the Planning Board. Vice Chair Royce said that Mr. Barton was seeking a Variance but the Zoning Administrator made the case that he did not need a Variance because it was a pre-existing Contractor's Yard. It seems as though there is conflicting information about that, as at one point in the discussion they talked about how it only began on that specific location on the property three years ago. There was also a discussion about how there are two parcels, one of which contains the home and the other which contains the Contractor's Yard. Mr. Barton said that there are two parcels and the Contractor's Yard is not the parcel where his home is located. Vice Chair Royce said that it is not a permitted Use in the Zone and cannot be a home business as there is not a home on the lot. Mr. Barton said that he owns both lots. Vice Chair Royce said that he does not think that makes a difference. Mr. Barton said that there is going to be a home on that lot and asked if he has to cease and desist until that is built. Vice Chair Royce said that it would not matter because it would fall under the new Zoning Regulations. It goes back and forth in the minutes of the Zoning Board and it seems as though the Zoning Administrator was pushing that it was a Contractor's Yard prior to the acceptance of the term Contractor's Yard and that was the reason for not needing a Variance. Chairman White said that if it was pre-existing prior to the Zoning change then it was allowed. Mr. Barton said that the business was on the property beginning in 2004 and he did the subdivision later in 2004 so it was originally on the same lot. Chairman White asked if it is the Planning Board's purview. Mr. Marquise said that it was the Zoning Board's decision that if they were going to say that the business was pre-existing then it needed to come before the Planning Board for a Site Plan Review. Vice Chair Royce said that a member of the Zoning Board did abstain as he said that he did not think that he could put a condition on something that the Board did not vote on as there was no Variance. Chairman White said that if it is pre-existing then no one can make Mr. Barton come before the Board. Vice Chair Royce asked what pre-existing means as in the minutes it is quoted as saying that three years ago a new portion of the property was established as a Contractor's Yard. There may have been a Contractor's Yard on the property but three years ago another portion was opened up. Chairman White said that there are no limits on Contractor's Yards. Mr. Barton said that a pre-existing

business can be expanded 50% and he is at that now and he does not want to get bigger. Vice Chair Royce asked and Mr. Barton confirmed that the Contractor's Yard was moved and expanded. Vice Chair Royce said that the property was subdivided and it is confusing as to if it remained a home business.

Chairman White asked and Mr. Barton explained that there are approximately 24 acres there and he subdivided the lot into one lot that is about 22 acres, and the other that is about 2 acres, where the house is located. The Contractor's Yard is in the middle of everything and the closest neighbor is 600 to 800 ft away. Mr. Barton was asked how this came up and explained that he began to build a tractor shed and Mr. Landry said that he needed a Variance for the Contractor's Yard.

Vice Chair Royce asked when the property was subdivided and Mr. Barton said that it was done in 2004. Vice Chair Royce said that the definition of a Contractor's Yard that was adopted in 2007 is different than it is now and the definition was adopted in 2004 and prior to that there were no Contractor's Yards. He does not know how that affects a 2004 subdivision, being that it was adopted into the language. Chairman White asked and Mr. Marquise confirmed that Zoning Amendments go into effect prior to voting when they are publicly noticed so the definition would have gone into effect in the late part of 2003.

Chairman White asked and Mr. Barton confirmed that the property was subdivided in 2004 and the Contractor's Yard ended up on the parcel without the home on it. Mr. Barton said no one can see the Yard and over all the years no one has complained. When he subdivided he moved it up the site so that it did not create a mess close to the house. Vice Chair Royce said that the minutes say that the area that is being used as a Contractor's Yard has only been used as a Contractor's Yard for the past three years and asked if that stops the grandfathering.

Chairman White said that he is confused as to why Mr. Barton is before the Board because if it was a pre-existing Contractor's Yard he would not have to come before them. If it was a new Contractor's Yard then there would have needed to be some action from the Zoning Board. Mr. Marquise said that the Zoning Board did not take action so in his opinion the Zoning end has been cleared up, it is a pre-existing, non-conforming use. Chairman White said that the Planning Board does not have any purview over pre-existing conditions. Vice Chair Royce said that it is his interpretation that the Zoning Board did not say that and that the Zoning Administrator continued to forcefully push forward with that being a grandfathered situation, rather than the Zoning Board making a decision. Chairman White said that the Zoning Administrator is just and advisor, the Zoning Board is the voting body. Mr. Barton said that Aaron Simpson is the one who asked him why he was before the Zoning Board.

Vice Chair Royce asked who determines if it is a grandfathered use. Chairman White said that the Zoning Board makes that decision. Mr. Butler said that the Zoning Board has already determined that it is a grandfathered use.

Mr. Barton said that he thinks that the Zoning Board thought that the Planning Board would want to know about lighting, signage, etc. Mr. Barton said that there is not going to be any signs.

Chairman White said that if this was a new Contractor's Yard the Board would be all over it, but with the Zoning Board not taking any action, they said it was pre-existing. The Board cannot look at anything and determine that Mr. Barton has to do something. Chairman White asked what the Board needs to do and

Mr. Marquise said that the minutes of the Zoning Board meeting says that they recommend Site Plan Review, and he does not think that they can require it. Mr. Marquise asked if Mr. Barton feels as though he needs something from the Planning Board to satisfy the Zoning Board. Mr. Barton said that he does not feel as though he needs anything. Mr. Barton asked the Board if there are any recommendations that they want to make to him as far as running the Contractor's Yard. Chairman White said that his concerns would be noise and screening but the Yard is far enough from the road.

Mr. Marquise asked if the Board feels as though the presence of a shed would trigger a Site Plan Review on an existing Contractor's Yard. Mr. Barton said that it says in the Zoning Regulations that for a Contractor's Yard materials and equipment must be screened or under cover.

There was further discussion regarding the Zoning Board's non-decision of the Variance as well as the shed. Mr. Barton explained what he stores on his lot.

Mr. Marquise asked if the shed changes the character of Mr. Barton's business. Mr. Barton said that it allows him to do the same thing that he has been doing, it just puts his tractor back under a cover. Mr. Marquise said that the shed did not change the character of the use and he does not think that the Board can go through the process of a Site Plan Review on a grandfathered use.

Mrs. Gottling asked if Mr. Barton knew he needed a permit to put the shed up. Mr. Barton said that he should have known but that part has been cleaned up and he paid the after the fact fine.

There was another discussion about the Zoning Board and the decision that they agreed that the Contractor's Yard was grandfathered. Vice Chair Royce said that he disagrees with the way that the Zoning Board handled the case but that it does not make a difference. There was a discussion regarding the need for a motion.

Mr. Furlong made a motion to accept Parcel ID: 0115-0053-0000, approval the operation of a Contractor's Yard already in existence and as recommend by the Zoning Board of Adjustment on October 8, 2015, Kevin Barton on 94 Perkins Pond Rd. Mr. Butler seconded the motion. There was a discussion regarding the motion and the Zoning Board's motion. Mr. Furlong withdrew his motion for Parcel ID: 0115-0053-0000. Mr. Butler withdrew his second of the motion.

Chairman White asked and there was no one in the audience regarding the case.

Mr. Furlong made a motion on Parcel ID: 0115-0053-0000 that the Planning Board finds that no Site Plan Review is required due to the fact that this is a pre-existing, non-conforming use. Mr. Hastings seconded the motion. The motion passed with six in favor and one abstention.

PARCEL ID: 0225-0052-0000: SEEKING APPROVAL OF A SITE PLAN REVIEW TO OPEN AND OPERATE A SALES AND SERVICE ESTABLISHMENT FOR CONSTRUCTION LASERS AND SURVEY EQUIPMENT. DMH PROPERTIES, LLC, 1 ROUTE 11.

Mr. Marquise said that the application was filed in advance, fees were paid, abutters were notified, and notices were posted. The application falls under Article V of the Site Plan Regulations and is an amendment to a previous Site Plan. He has been through the checklist and everything is done and there

are sign-offs from all of the Departments. Mr. Marquise said that he believes that the application is complete.

Vice Chair Royce made a motion to accept the application as complete for Parcel ID: 0225-0052-0000, for the approval of a Site Plan to open and operate and sales and service establishment for construction lasers and survey equipment, DMH Properties, LLC, 1 Route 11. Mr. Butler seconded the motion. The motion passes unanimously.

Alan LaRose and Joseph Wallace presented the merits of the case.

Mr. LaRose said that New England Laser had been in existence for 20+ years and was previously owned by Carroll Concrete. They purchased the company in 2008 and have tripled or quadrupled the business since then and they are looking for some new space. This building will give them double the amount of space that they have now. The business is low impact as all that they do is clean and calibrate equipment for surveyors and contractors. Most of the business is done via UPS and FedEx, very few people come to the shop, though they do hope to change that as they would like to have a showroom and start doing some open houses. They also go out and pick up the equipment from customers.

Mr. LaRose said that they currently have one other full time employee and sometimes have part time employees.

Mr. LaRose said that they are not the current owners of the property. They have been given permission to ask for the approval as they are considering purchasing the property but they need the approval first.

Mr. LaRose said that prior to this the property was used as a restaurant and it was a higher impact, especially with traffic concerns. The most traffic that they get is FedEx and UPS once or twice a day.

Chairman White asked and Mr. LaRose said that they are not looking to do anything to the site, they will be making changes to the building. Down the road they may look to add some warehouse space but then they will need to ask for approval.

Chairman White aske and it was confirmed that this property has access on two road. Mr. LaRose said that they will talk to UPS and FedEx and ask that they access them from Post Office Rd as there is an entry there.

Mr. LaRose showed the Board a plan of the proposed changes to the building and explained the room layout. Chairman White asked and it was explained that upstairs is storage. Mr. LaRose said that they will use the space as a boneyard for spare parts.

Chairman White asked and it was explained that they do not have any chemicals or hazardous waste. Mr. LaRose said that they just use laundry detergent and other cleaning supplies. Mr. Wallace said that they will produce less waste than the restaurant did. Mr. LaRose said that they are planning on eliminating three of the four bathrooms and making some changes to the electrical.

Mr. Marquise asked if the applicants feel that they will need to lose any of the parking for delivery space. Mr. LaRose said that he does not see the need for more parking. Mr. Wallace said that the contractors that come to see them are not coming with their big trucks and the deliveries are not done with semi-trailers, just regular delivery trucks. Mr. Marquise said that this would only need about 15 to

16 spaces based upon the highest use of retail and based on the number of employees so parking should not be an issue.

Chairman White asked and Mr. LaRose confirmed that they will be using the existing signage locations and making some improvements to the landscaping. They have plans to paint the building and get it fixed.

Chairman White asked and Mr. Wallace confirmed that they are currently located at Carroll Concrete for 14 years and they have been renting from them for about 8 years.

Mrs. Gottling asked and Mr. LaRose said that they are supposed to close on the property in two weeks and they are hoping to begin construction in January and move in February and operate shortly thereafter.

Mr. LaRose was asked about employees and said that it is the two of them and another technician. As the business grows they hope to add another technician and another sales person and possibly a part time secretary. They have plenty of parking and room to accommodate that. There is seldom that they have more than one customers on site.

Chairman White asked and Mr. LaRose said that the hours of operation are 7:00 am to 5:00 pm, Monday through Friday.

Chairman White asked and as there was no one with any further questions or comments he closed the public input part of the meeting.

Mr. Osborne made a motion on Parcel ID: 0225-0052-0000, seeking approval of a Site Plan Review to open and operate a sales and service establishment for construction lasers and survey equipment, DMH Properties, LLC, 1 Route 11. Mr. Furlong seconded the motion. The motion passed unanimously.

CONCEPTUAL: PARCEL ID: 0129-0012-0000: REVIEW PLANS TO OPEN AND OPERATE AN AUTOMOTIVE REPAIR AND REHAB BUSINESS IN VILLAGE COMMERCIAL DISTRICT. LEONARD & LISA POLLARI (OWNER), ALBEE AUTOMOTIVE (APPLICANT).

Mr. Marquise said that the conceptual has been withdrawn according to Mr. Landry.

PARCEL ID: 0113-0005-0000 & PARCEL ID: 0113-0004-0000: LOT MERGER, JAMES A ROONEY, 170 BROWN HILL RD & BROWN HILL RD.

Mr. Marquise explained that the lot merger is for two fairly larger parcels on Brown Hill Rd. There is a house on one lot and a house on the other and Mr. Rooney wants to put them together. Both lots are big enough and this will just make them bigger.

Vice Chair Royce made a motion to accept the lot merger for Parcel ID's: 0113-0005-0000 and 0113-0004-0000 at 170 Brown Hill Rd. Mr. Butler seconded the motion. The motion passed unanimously.

ADMINISTRATIVE CHANGES

The Board discussed making an administrative change to have anything that has to be voted on or acted on by the Board to be on the agenda and posted and not added. Mylars and conceptual reviews do not

require votes and those could be added after an agenda is published. The agendas with cases must be published in the paper 14 days prior to the meeting. The Board determined that they want the posted date of the agendas to be the Monday before the week before the meeting (9 days before the meeting).

Mr. Osborne made a motion to require that all cases that require a Board action to be put on an agenda nine days prior to the scheduled Planning Board meeting. Mr. Furlong seconded the motion. Mr. Osborne amended his motion to change "an agenda" to "a posted agenda". Mr. Furlong seconded the amendment. The motion passed unanimously.

MISCELLANEOUS

Mr. Marquise introduced Randy Clark to the Board. Mr. Clark explained that he just purchased a home on North Rd. He is in law school and wants to do some volunteer work for the Town. He has done some Planning work for some other Towns and has a background in Civil Engineering and Sustainable Development as well as a legal background and he thinks that he would be a benefit to the Board. Mr. Clark continued that Mr. Marquise recommended that he join the Board as an alternate. There was further discussion regarding this matter. The Board would like to appoint Mr. Clark as an alternate and will sign the appointment sheet at the meeting in two weeks.

PARCEL ID: 0101-0008-0000: REVIEW AND SIGN MYLAR ON SUBDIVISION / ANNEXATION; NOEL EASTMAN, JR.

The Board reviewed and signed the Mylar.

Changes to the Minutes from the October 1, 2015 meeting: The minutes were postponed until the December 17th meeting.

Changes to the Minutes from the November 5, 2015 meeting: The mintues were postponed until the December 17th meeting.

Mrs. Gottling made a motion to adjourn at 9:19 PM. Mrs. Butler seconded the motion. The motion passed unanimously.

Respectfully submitted,

Melissa Pollari

Planning Board

_____	_____
Peter White, Chairman	Tanner Royce, Vice Chair
_____	_____
Donna Davis Larrow	Kurt Markarian

_____	_____
Richard Osborne	Shane Hastings
_____	_____
Suzanne Gottling, ex-officio member	Joseph Butler, Alternate Member