

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **APRIL 5, 2018**

4 **PRESENT:** Daniel Schneider, Chair; Aaron Simpson; William Larrow; Nicole Gage, Zoning Administrator

5 **ABSENT:** James Lyons, Jr.; George Neuwirt

6 **ALSO PRESENT:** See Sign-in Sheet

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

8 **ELECTION OF OFFICERS**

9 Mr. Simpson made a motion to postpone the election of officers until the next meeting. Mr. Larrow
10 seconded the motion. The motion passed unanimously.

11 **CONTINUATION: CASE #ZBA18-02: EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS: PARCEL**
12 **ID 0114-0006-0004 19 BROWN HILL RD., MARK BRUNELLE: FROM ARTICLE III, SECTION 3.10 OF THE**
13 **ZONING ORDINANCE TO PERMIT A WAIVER OF THE MINIMUM 25' SETBACK TO 19.6' SETBACK**

14 Chairman Schneider explained that Mr. Brunelle can choose to continue the case as there are only three
15 Board members present and all three votes will need to be in favor of the Equitable Waiver for it to be
16 approved. Mr. Brunelle decided to proceed with the hearing.

17 Mr. Brunelle said that the decision to continue the case at the last meeting was to allow one of the
18 abutters, Jim Aubuchon, to be present. He has spoken at length to Mr. Aubuchon, who has written a
19 letter to the Board in favor of the Equitable Waiver. Chairman Schneider asked and Mr. Aubuchon
20 confirmed that he is in favor of the Equitable Waiver. Chairman Schneider read the letter into the
21 minutes (see attached).

22 Chairman Schneider said that the Board received a letter and a packet of information from Clayton Platt.
23 Chairman Schneider read the letter into the minutes (see attached). Mr. Brunelle said that Mr. Platt has
24 been after him for six years because he started using a different surveyor. Mr. Brunelle said that in
25 regards to Mr. Hazelton's house in Springfield, two years after the house was built Mr. Hazelton wanted
26 to build a shed and had the property surveyed and found the house was two feet into the setback. Mr.
27 Brunelle had needed Public Service to run three poles into the property before starting construction on
28 the house and Public Service pulled one of the pins to put a pole in and then reset the pin three feet in
29 the wrong direction. Public Service admitted to doing this and paid for the survey. The Town of
30 Springfield then made Mr. Hazelton file for the Equitable Waiver. Mr. Brunelle continued that he did
31 not have any way of knowing that Public Service did this as he had set the pins and the Town of
32 Springfield Planning Board members had verified where the pins were located.

33 Mr. Brunelle said that he does not know what Mr. Platt is referencing in Grantham as everything met
34 the wetlands setbacks. The Town of Grantham had verified that his silt fence was set 75 ft from the
35 brook and they never had any problems.

36 Mr. Brunelle said that the house on Oak Hill in Springfield had a garage plan and he had set the pins at
37 50 ft from the centerline of Oak Hill because he thought that was the setback. The Town of Springfield
38 came out to measure and then told him that the setback was 60 ft and he had already poured the
39 foundation. They cut the garage foundation off the house and built the house without the garage.

40 Chairman Schneider asked and there were no questions or comments from anyone in the audience.
41 Chairman Schneider asked the Board if they had any questions or comments.

42 Mr. Simpson said that he is concerned about the good faith basis regarding the measurements. Though
43 Mr. Brunelle explained that Mr. Platt is biased towards Mr. Brunelle, but it does sound as is some
44 acknowledgement of similar problems in the past. Mr. Brunelle said that he explained the issue in
45 Springfield was that someone moved the pin. Mr. Simpson said that Mr. Brunelle has acknowledged
46 that in the past there have been issues with pin locations on buildings that he has constructed. Mr.
47 Brunelle said that he has built 10-25 houses per year for the past 35 years and sometimes mistakes are
48 made in the construction business. The one issue was on Oak Hill in Springfield and he didn't have to file
49 anything, he took the garage off. Mr. Brunelle continued that two of the things that Mr. Platt brought
50 up are with septic systems, not homes.

51 Mr. Simpson said that at the last meeting, Mr. Brunelle presented a letter that was signed by a realtor,
52 who is Mr. Brunelle's wife, and if evidence is presented that is subject to being challenged, Mr. Brunelle
53 needs to be ready for that. There was further discussion regarding this matter.

54 Lisa Hitchcock, Mr. Brunelle's wife, said that she has been selling real estate for 20 years. They have sold
55 many homes in Sunapee and this is the first home in Sunapee that they have had this type of issue with
56 and she'd like the Board to consider that they are talking about Sunapee. This was a mistake and not
57 intentional.

58 Mr. Larrow said that at the last meeting Mr. Brunelle was going to explore the possibility of purchasing a
59 chunk of land and wondered if that was pursued. Mr. Brunelle said that the abutters are in favor of the
60 Equitable Waiver and do not want to sell any land.

61 Chairman Schneider asked and Mr. Aubuchon said that there is a structure currently being built on his
62 property that abuts Mr. Brunelle's property. Mr. Aubuchon said that the structure is at the diagonal
63 opposite end of the property and not near Mr. Brunelle's property.

64 Chairman Schneider asked and Mr. Brunelle confirmed that Mr. Aubuchon's property is 5.22 acres and
65 Mr. Brunelle's property is 1.70 acres.

66 Chairman Schneider closed the meeting to public input.

67 Mr. Larrow said that he does not disagree with Mr. Simpson in terms of expecting everything being
68 forthcoming, however, the information given to the Board by Mr. Platt does not have anything to do
69 with Sunapee. There is no land to be purchased and the abutter does not have any concerns with the
70 Equitable Waiver. Mr. Larrow continued that he thinks that this was an honest error and the Board
71 doesn't have another way to judge this.

72 Chairman Schneider said that he agrees with Mr. Larrow. Though at a minimum it was extremely
73 careless to build close to the property line, the only entity that should have an interest is the abutter,
74 who is in support of the Equitable Waiver. He does not see that others really have an interest in this and
75 he does not see that Mr. Platt has standing in this, though he is able to present his opinion. Given that
76 the abutter is in support, he does not see a problem granting the Waiver.

77 There was a discussion about Equitable Waivers and what is an honest mistake and what is carelessness
78 and about gross negligence. Chairman Schneider read from NH RSA 674:33-a Equitable Waiver of
79 Dimensional Requirements. There was a discussion regarding if this was a failure to inquire or a good
80 faith error.

81 Mr. Simpson asked and Chairman Schneider said that the lot is in the Rural Residential Zone.

82 Mr. Larrow requested and Chairman Schneider opened the meeting to public comment.

83 Mr. Brunelle said that they are discussing two other incidents Mr. Platt brought to the Board and one
84 was where Public Service moved the pins. Public Service admitted to it and paid for the survey. Mr.
85 Simpson said that Mr. Brunelle is an experienced builder and would know better than a normal person.
86 Mr. Brunelle said that he's had two issues in 35 years and this is the first time he's had to file an
87 Equitable Waiver. Mr. Simpson said that the only thing that he thinks that Mr. Brunelle has going for
88 him is that his abutter does not think that there is a problem.

89 Chairman Schneider closed the hearing to public comments.

90 There was a discussion regarding the size of the property as it is not sub-dividable.

91 Chairman Schneider asked how many Board members were in favor of granting the Equitable Waiver
92 and all three Board members were in favor.

93 **MINUTES**

94 Changes to the minutes from December 14, 2017: Change Line 21 to read "...this meeting room and the
95 living quarters..." Change Line 27 to read "...this issue. Attorney Hanson Gave a copy of the letters from
96 the doctor to the Board." Change Line 28 to read "...and associated bathroom in order to..." Change
97 Line 170 to read "...maintains its existing footprint..." Change Line 173 to read "...said that on the
98 application..."

99 Mr. Larrow made a motion to approve the minutes as amended. Mr. Simpson seconded the motion.
100 The motion passed unanimously.

101 Changes to the minutes from March 15, 2018: Change Line 27 to read "...has any case precedents that
102 supports..." Change Line 29 to read "...the appeal goes..." Change Line 50 to read "...notice of intent,
103 though he..." Change Line 88 to read "...the Board is not made up of engineers..." Change Line 111 to
104 read "...difficult to see it." Change Line 155 to read "...that they would rather sell..."

105 Mr. Larrow made a motion to accept the minutes as amended. Mr. Simpson seconded the motion. The
106 motion passed unanimously.

107 **MISCELLANEOUS**

108 Ms. Gage said that Clayton Platt would like to be an Alternate Member of the Board. The Board decided
109 to waive the interview process.

110 Mr. Simpson made a motion to approve Clayton Platt as an Alternate of the Zoning Board of
111 Adjustment. Mr. Larrow seconded the motion. The motion passed unanimously.

112 Ms. Gage said that there is another person, Jeff Clause, who is interested in being an Alternate Member
113 and she has suggested that he sit in at an upcoming meeting. The Board said that after Mr. Clause
114 submits an application he will be interviewed as a potential Alternate member.

115 Ms. Gage gave the Board copies of the new Zoning Ordinance as well as new Land Use books.

116 There was a discussion regarding scheduling Zoning hearings as the Board wants to have one meeting a
117 month, unless there are too many applications and then they would like to have a second meeting. The
118 Board has 30 days from the date of receiving an application to hold a hearing and there are times,
119 depending on when the application comes in, that they miss the 30 day window. There was further
120 discussion regarding this matter.

121 There was a discussion regarding foundation inspections.

122 There was a discussion regarding the Rules of Procedures and updating them and having a work meeting
123 to prepare a draft of them for the Board. Mr. Simpson said that he would work on them with Ms. Gage.

124 Mr. Simpson made a motion to adjourn the meeting at 8:28 pm. Mr. Larrow seconded the motion. The
125 motion passed unanimously.

126 Respectfully submitted,

127 Melissa Pollari

128

129

130

131

132 Zoning Board of Adjustment

133 _____

134 Daniel Schneider

Aaron Simpson

135 _____

136 Jim Lyons

William Larrow

137 _____

138 George Neuwirt