

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **MAY 3, 2018**

4 **PRESENT:** Daniel Schneider, Chair; William Larrow; James Lyons, Jr.; George Neuwirt; Aaron Simpson;
5 Clayton Platt, Alternate; Nicole Gage, Zoning Administrator

6 **ABSENT:**

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

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

9 **CASE #ZBA18-06 & CASE #ZBA18-07: PARCEL ID: 0113-0021-0000: 60 RIDGEWOOD RD; RR DISTRICT**
10 **W/ SHORELAND OVERLAY; TIMOTHY L & BETTE L NOWACK. TWO VARIANCES FROM ARTICLE III,**
11 **SECTION 3.10 (RURAL RESIDENTIAL DISTRICT) TO PERMIT A GARAGE TO BUILD CLOSER TO THE**
12 **PROPERTY LINE THAN THE ORDINANCE ALLOWS, ASKING FOR A 10 FT RELIEF FROM THE 15 FT SIDE**
13 **SETBACK REQUIRED AND ASKING FOR A 20 FT RELIEF FROM THE 50 FT FRONT SETBACK REQUIRED.**

14 Ms. Gage explained that the property owners and their contractor, Mr. Neuwirt, have requested that
15 the case be deferred until the June meeting. Chairman Schneider said that he thinks that Mr. Neuwirt
16 should recuse himself from the case and remove himself from the table. Mr. Neuwirt recused himself
17 from the case.

18 An abutter to the property said that he objects to the deferment of the case as he cannot attend the
19 June meeting.

20 Vice Chair Simpson made a motion to appoint Mr. Platt to sit in lieu of Mr. Neuwirt. Mr. Larrow
21 seconded the motion. The motion passed unanimously.

22 Mr. Neuwirt asked to defer the case to the next meeting in June. Mr. Neuwirt was asked and explained
23 that they are applying for a Shoreland Permit but it is not complete. He also wants to make sure that
24 the plot plan and drainage plan are correct. There are some connected procedures to the project that
25 they want to make sure are included in the Shoreland Plan so it can be explained to the Board in its
26 entirety.

27 Mr. Lyons asked if there is a more current survey that shows the existing structures. Mr. Neuwirt said
28 that nothing has changed since the survey that was done in 2000. Mr. Lyons said that he wanted to
29 know where the centerline of the road is in relation to the garage. Mr. Neuwirt said that would be
30 explained in the hearing for the case.

31 Mr. Larrow asked and Mr. Neuwirt confirmed that he would like to defer the case until he has
32 everything complete. Mr. Larrow said that the Board has sat through many cases where they did not
33 have approved Shoreland Permit and asked if there is anything critically wrong with the application as

34 submitted as there is an abutter present who cannot attend the next meeting. Mr. Neuwirt said that he
35 did not bring the file with him and he is not ready to present the case. Chairman Schneider said that the
36 Board can make an approval conditional on a Shoreland Permit being received but cannot deny a case
37 because the Shoreland Permit has not been approved. Mr. Neuwirt said that the case has several facets
38 to it and he wants to make sure that they are addressing the abutters' concerns, the Town's concerns,
39 and the State's concerns. He has not been able to pull all the pieces together to present the case and is
40 asking for another month to do that. There was further discussion regarding this matter.

41 Jeff Fitzgerald said that he is an abutter to the property and the primary person whom the Variances are
42 being asked against as his property, from the road side, is to the left of the subject property. Ms. Gage
43 said that she does have a letter from Mr. Fitzgerald that the Board can review. Chairman Schneider said
44 that the letter can be read into the record during the hearing but that Mr. Fitzgerald can discuss his
45 concerns briefly. Vice Chair Simpson called for a point of order because if the Board is continuing the
46 case they should not be hearing anything about the case at this time. Chairman Schneider suggested
47 that Mr. Fitzgerald write a letter to the Board for the next meeting with his concerns if he cannot attend
48 the meeting. Mr. Fitzgerald said that if they are deferring the hearing he thinks it is reasonable to
49 schedule it during a time when all parties can be present. There was further discussion about this
50 matter.

51 Mr. Fitzgerald asked and the Board explained that under State RSA 677:2 he'd have 30 days to appeal
52 the Board's decision if the Variances are approved.

53 The Board discussed continuing the hearing and their availability.

54 Mr. Neuwirt said that he does not know why the Board cannot have an abutter write a letter and then
55 consider that during the hearing for the case. Mr. Fitzgerald said that if the Board requires that he have
56 representation at the next meeting that will be at a cost to him. The Board explained that they would
57 not require it, it would be an option that Mr. Fitzgerald could decide to do. Chairman Schneider said
58 that a letter to the Board will be given consideration.

59 Vice Chair Simpson made a motion to approve the request to defer the case to the next hearing on June
60 7th. Mr. Larrow seconded the motion. The Board discussed having a hearing on June 21st instead of June
61 7th. Vice Chair Simpson amended his motion to change the date of the next hearing to June 21st. Mr.
62 Larrow seconded the amendment. The motion passed unanimously.

63 **CASE #ZBA18-08: PARCEL ID: 0225-0020-0000: 123 YOUNGS HILL RD; RR DISTRICT; DAVID & PAULINE**
64 **BAILEY. VARIANCE FROM ARTICLE III, SECTION 3.10 (RURAL RESIDENTIAL DISTRICT) TO PERMIT A 2-**
65 **LOT SUBDIVISION WHERE LOTS WILL BE LESS THAN THE 1.5 MINIMUM LOT SIZE REQUIRED.**

66 David Bailey presented the merits of the case.

67 Mr. Lyons recused himself from the case. Mr. Platt said that he cannot act as a voting member as he is
68 the surveyor for the case. Chairman Schneider explained that the Board only has four voting members

69 for this hearing and Mr. Bailey will need three positive votes for the application to be approved so the
70 case can be deferred. Mr. Bailey decided to proceed with the hearing.

71 Mr. Bailey presented a map to of the property to the Board.

72 Mr. Bailey explained that they first wanted to divide the property in half and have two equal lots but
73 have decided to divide the property so that one is 1.50 acres and one is 1.46 acres. Mr. Bailey said that
74 this is written on the application under the "Facts Supporting this Request", Criteria #1. Mr. Larrow said
75 that the map shows the property to be 2.95 acres and Mr. Bailey is asking for a 1.50-acre lot and a 1.46-
76 acre lot, which adds up to 2.96 acres. Mr. Bailey said that the lot should be 1.45 acres, not 1.46 acres,
77 though he thought it was 2.96 acres. There was further discussion regarding this matter.

78 Vice Chair Simpson said that the notice for the hearing says that there will be two lots less than 1.5 acres
79 and asked if that is an issue. Ms. Gage said that it is not significantly different, and she does not have
80 any concerns. Chairman Schneider said that he does not have any concerns as the Variance will be for
81 one lot, not two, and they are discussing hundredths of an acre. Vice Chair Simpson agreed that this is
82 less non-conforming.

83 Mr. Bailey said that he is looking for relief for the 1.50 acres minimum lot size requirement. He feels
84 that subdividing the lot is the best use of the property. The Board asked and Mr. Bailey went over the
85 criteria supporting his request per his application including that the lot has been assessed as a 3.10 acre
86 lot so he purchased it to clean up the property, subdivide it, sell one lot, and build a residence on the
87 other.

88 Mr. Larrow asked and Mr. Bailey said that he purchased the property approximately six months ago.
89 Chairman Schneider said that the side setback in the Zone is 25 ft from the lot line and there are a few
90 shed that are in the setback. Mr. Bailey said that they will be demolished. Chairman Schneider asked
91 and Mr. Bailey said that there should not be a problem with a condition of an approval that all the
92 setbacks be met.

93 Chairman Schneider asked and there was no one in the audience with any questions or comments
94 regarding the case.

95 Vice Chair Simpson said that one requirement for a Variance is that a property cannot be used without
96 the granting of the Variance. One of the hardship requirements criteria asks how "the Zoning restriction
97 as applied to the property interferes with the reasonable use of the property, considering the unique
98 setting of the property in its environment". The Ordinance itself cannot be the hardship and is not
99 grounds for the Variance to be granted. Mr. Bailey said that the property was advertised for sale as a
100 3.10-acre lot. Mr. Neuwirt said that the property card shows 3.10 acres as well. Vice Chair Simpson
101 asked how that is a hardship for the property in its environment. There was further discussion regarding
102 this issue. There was also a discussion regarding the location of the Rural Residential District.

103 Chairman Schneider asked and there were no further questions for Mr. Bailey. Chairman Schneider
104 closed the hearing to public input.

105 Chairman Schneider said that he would like a condition that if the Variance is approved there will be no
106 buildings in the side setbacks as he is concerned about the sheds. Mr. Neuwirt asked and Mr. Bailey
107 confirmed that all the buildings are being torn down.

108 Vice Chair Simpson asked why the plan says that it is a preliminary draft. Mr. Bailey said there was a
109 question regarding the leach fields, but they have done the leach field designs. Vice Chair Simpson said
110 he still doesn't understand why it says that it is a preliminary plan. Ms. Gage said that the Planning
111 Board in the subdivision hearing will have the final approval of the plan. Vice Chair Simpson said that he
112 does not think that the Planning Board should get a survey that is substantially different than the one
113 presented to the Zoning Board. Mr. Neuwirt said that the Zoning Board will be voting that one lot is
114 1.50 acres and the other is 1.45 acres and no buildings can encroach in the 25 ft setbacks so that will be
115 covered. There was further discussion regarding this matter.

116 Vice Chair Simpson made a motion to approve Case #ZBA18-08: Variance: Parcel ID: 0225-0020-000;
117 123 Youngs Hill Rd; Rural Residential District; David and Pauline Bailey; request for a Variance from to
118 Article III, Section 3.10, Rural Residential District, to permit a two lot subdivision where one lot will be
119 less than the 1.50 minimum lot size requirement; conditioned that any structures built on the lots meet
120 the side setbacks requirements; also conditional is that the plan the Zoning Board is seeing is presented
121 to the Planning Board. Chairman Schneider said that he'd like the motion amended to include existing
122 buildings not to be in the side setbacks and that the smaller lot to not be less than 1.4 acres. Vice Chair
123 Simpson amended his motion to include that the approval is conditional on the current buildings and
124 any new construction be out of the side setbacks; that a copy of the Plan the Zoning Board is seeing be
125 presented to the Planning Board; and that one lot is 1.50 acres and the other lot no less than 1.40 acres.
126 Mr. Neuwirt seconded the motion. The motion passed unanimously.

127 MISCELLANEOUS

128 Chairman Schneider said that he has discussed with Mr. Marquise having a joint meeting with the
129 Planning Board to discuss Zoning Amendments; the first meeting will be in September on the second
130 Thursday of the month. Chairman Schneider asked that the Board members send him their proposed
131 changes and he will do a draft to discuss at the next meeting.

132 There was a discussion regarding the Notices of Decisions and changing how they are done.

133 There was a discussion regarding Mr. Bailey's case as the original map had two 1.48-acre lots and the
134 application had one 1.50-acre and one 1.45-acre lot. There was a discussion regarding if Ms. Gage is
135 required to bring complete and consistent applications to the Board and if the Zoning Board can have a
136 completeness requirement. Ms. Gage said that she has to be cautious about preventing applications
137 getting to the Zoning Board even though she might think that the application is incomplete.

138 MINUTES

139 Changes to the minutes from April 19, 2018: Change Line 29 to read “Mr. Berger then said that he did...”
140 Change Line 36 to read “...the jamb above them.” Change Line 40 to read “...and screens with...”
141 Change Line 86 to read “...10 ft by 20 ft but the application...”

142 Mr. Larrow made a motion to approve the minutes as amended. Mr. Lyons seconded the motion. The
143 motion passed with four in favor and one abstention.

144 **MISCELLANEOUS**

145 There was a brief discussion regarding Mr. Neuwirt speaking to the Selectboard regarding Building
146 Permits and other concerns he had.

147 Ms. Gage explained that the Equitable Waiver Ordinance was Amended at the March meeting and a
148 description of an Equitable Waivers is to be available with all application forms and Ms. Gage had a
149 suggestion as to how to update the application for the Equitable Waiver. There was further discussion
150 regarding this matter including if a definition needs to be added to the Ordinance.

151 Ms. Gage asked and the Board confirmed that they would like an ongoing agenda item to discuss
152 potential recommendations for changes to the Zoning Amendments.

153 Mr. Lyons made a motion to adjourn the meeting at 8:19 pm. Vice Chair Simpson seconded the motion.
154 The motion passed unanimously.

155 Respectfully submitted,

156 Melissa Pollari

157

158

159 Zoning Board of Adjustment

160 _____

161 Daniel Schneider, Chair

Aaron Simpson, Vice Chair

162 _____

163 James Lyons, Jr.

William Larrow

164 _____

165 George Neuwirt

Clayton Platt, Alternate