

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **SEPTEMBER 6, 2018**

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

6 **ABSENT:** Clayton Platt, Alternate

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

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

9 **MINUTES**

10 Changes to the minutes from August 2, 2018: Change Line 30 to read "...though a smaller shed on the
11 knoll could go within the setbacks..."

12 There was a brief discussion regarding Muzzey Brook and the water flow.

13 Mr. Lyons made a motion to accept the minutes as written. Mr. Larrow seconded the motion. The
14 motion passed unanimously.

15 **ZONING AMENDMENTS**

16 Chairman Schneider said that there will be a joint meeting of the Planning and Zoning Boards on
17 September 13, 2018 to discuss the Zoning Amendments. Chairman Schneider gave a copy of the
18 discussed Zoning Amendments to the Board for their review and explained the only change since the
19 last revision was to Section 6.13 as it mistakenly said it was created in 2017 and should have said 2018.

20 Vice Chair Simpson said that he has some changes that he'd like to propose but he can bring them up to
21 the Planning Board himself if needed. The first is regarding patios as they are defined as minor
22 structures not needing a Certificate of Zoning Compliance (CZC) and he wonders why a patio would not
23 need a CZC if it is in the Shoreland District. Ms. Gage explained that patios are permitted, however,
24 Land Disturbance Permits and DES Permits are still required; they do not require Variances or Special
25 Exceptions. There was further discussion regarding this matter.

26 Vice Chair Simpson asked if "Less Non-Conforming" should be defined and if something that is less non-
27 conforming requires a Variance if it is still within the setbacks but reduced. Chairman Schneider said
28 that he does not think that a structure that is increasing the setback would require a Variance. Ms. Gage
29 said that she is currently working with someone who wants to reconstruct a building that is already in
30 the setback into a new building with a slightly smaller envelope but a different use so she believes that
31 they need a Variance. The Board discussed and agreed to propose changing Section 6.12 to read "...may
32 be replaced in the same or smaller envelope by a new structure...". There was a discussion regarding
33 Section 3.50 (i)(1) as the Board feels that it is redundant given Section 6.13.

34 Ms. Gage said that she would like clarification as to when a CZC is required under Section 8.20. She
35 attended a Board of Selectmen meeting and there was a discussion regarding this issue and it opened up
36 a lot of questions; more specifically Section 8.21 (e). The Board determined that this is not something
37 that they get involved with and it is something to discuss with the Planning Board. Vice Chair Simpson
38 said that he thinks that there is a problem because exterior improvements are not included in the
39 wording. Chairman Schneider said that one issue that he has is that the CZC's are used as tools for
40 assessing. Vice Chair Simpson agreed that he thinks that is a mis-use of them but said that it does not
41 have anything to do with the Zoning Board.

42 Ms. Gage said that there are other parts of the Ordinance that may not have anything to do with the
43 Zoning Board but she would like to recommend some potential changes, mostly having to do with
44 erosion and sedimentation control plans and correcting some references that may be outdated. There
45 was a discussion regarding this matter. The Board recommended Ms. Gage speak with Charlie Hirshberg
46 regarding this issue.

47 Vice Chair Simpson said that Section 3.50 (f) could be broken up into subsections like 3.50 (a) and (b)
48 and (i). Chairman Schneider said that he does not know what the term "the ZBA may allow additions to
49 the structure" means. Vice Chair Simpson said that he thought it meant that this could be allowed if
50 additions are further out of the setback. Chairman Schneider asked if someone is allowed to expand a
51 structure along a setback while not encroaching further on the setback. Vice Chair Simpson agreed that
52 is how he reads it. Chairman Schneider said that it should say this if it is what it means. Mr. Lyons said
53 that it would make the property more non-conforming. Chairman Schneider said that he thinks that is
54 what it means. The Board decided to speak to the Planning Board regarding this matter.

55 There was a discussion regarding defining primary structures and about the hierarchy of structures in
56 Section 3.50 (b)(2).

57 Craig Goodwin, 138 Hamel Rd, said that he's been trying to learn more about the Zoning Ordinances so
58 he can comply with them and asked if the Board thinks that Section 3.50 (i) is redundant because of
59 Section 6.12. Chairman Schneider said that Section 3.50 (i)(1) is redundant because it is permitted by
60 right; the parts of the Ordinance that pertain to height are not superseded by anything. Vice Chair
61 Simpson said he does not understand why Section 3.50 (i) only references houses, garages, or
62 commercial buildings and not other structures.

63 **MOTION FOR REHEARING FOR CASE #ZBA18-12: RSA 677:2 AND 677:3; VARIANCE DENIED**
64 **08/02/2018; MOTION FOR RECONSIDERATION RECEIVED 08/22/2018; SUSAN KENT, APPLICANT /**
65 **OWNER; PARCEL ID: 0104-0006-0000: 1008 MAIN ST, GEORGES MILLS: VARIANCE FROM ARTICLE III,**
66 **SECTION 3.40 (C) FOR A PROPOSED STORAGE SHED TO BE PLACED WITHIN 50-FT OF MUZZEY CREEK**
67 **(BODY OF WATER).**

68 Chairman Schneider asked and there was no one in attendance regarding the case.

69 Chairman Schneider asked if anyone on the Board saw any new evidence that was not available when
70 the case was first presented. Vice Chair Simpson said that the Board could have been more detailed in

71 their denial. Chairman Schneider agreed and said that he does not think that the proposal meets the
72 criteria related to public interest. Vice Chair Simpson said that the Board also could have said that there
73 is not a hardship because the shed could have been built within the setbacks versus asking for a
74 Variance. Mr. Larrow said that Ms. Kent did not want to build a smaller shed to be able to put it within
75 the setback. Chairman Schneider said that he does not find that having more things than your house
76 will hold to be a hardship. Vice Chair Simpson said that there was not a hardship because there was
77 space available on Ms. Kent's property to build a shed, however, she did not want to do that.

78 Mr. Lyons said that the issue is if the Board should rehear the case or not; not discuss the pros and cons
79 of the case. Vice Chair Simpson said that they are discussing things that would be addressed if the case
80 was reheard. Mr. Lyons said that the issue is to rehear the case. Mr. Larrow said that it has to be based
81 on new evidence. Mr. Lyons said that there is no one at the meeting to present new evidence.
82 Chairman Schneider explained that the evidence was submitted in the documents the Board received in
83 their meeting packet but he did not see anything new. Vice Chair Simpson said that the only thing
84 different was that snow could fall into the shed in a different location and that the shed cannot be built
85 within the setbacks. Mr. Lyons said that he is not sure that he believes that. Mr. Larrow said that he
86 does not understand the issue with the snow falling and how it is relevant. There was further discussion
87 regarding this matter.

88 Vice Chair Simpson said that Mr. Neuwirt recused himself as a member of the Board and participated as
89 a citizen, as was his right. Mr. Lyons said that he did not understand Ms. Kent's attorney's comment
90 regarding Mr. Neuwirt because he does not surrender his rights as a citizen and appropriately recused
91 himself.

92 Mr. Lyons made a motion to rehear Case ZBA18-12: RSA 677:2 and 677:3; Variance denied 08/02/2018;
93 motion for reconsideration received 08/22/2018; Susan Kent, applicant / owner; Parcel ID: 0104-0006-
94 0000; 1008 Main St, Georges Mills; Zoned VR (Village Residential) with Wetlands and Shorelines Overlay
95 District; Variance from Article III, Section 3.40 (c) for a proposed storage shed to be placed within 50-ft
96 of Muzzey Creek (a body of water). Mr. Larrow seconded the motion. Vice Chair Simpson said that he
97 thinks that it would be beneficial for the Board to elaborate why there was no hardship though he does
98 not think anything additional should be added at this point. Mr. Larrow said that there is room to put up
99 a shed and still meet the setback requirements, however, it would not meet what the applicant wanted
100 to do in terms of size. He thinks that there may also be other options for storage of furniture, which the
101 applicant was not open to, for example, adding on to the house. There were other options than a shed
102 of the proposed size to be in the setback, however, none of those options were accepted as being
103 options. Mr. Simpson asked if the Board should reopen the case and issue a new order. Chairman
104 Schneider said that the motion is to rehear the case. Vice Chair Simpson said that the Statute says that
105 an applicant can apply for a rehearing in respect to any matter determined in the action or proceeding.
106 Mr. Larrow said that the Board needs to determine if they are going to rehear the case or not. Chairman
107 Schneider said that the Board is only determining whether or not to have a brand new hearing and
108 called for a vote. The motion to rehear the case failed unanimously.

109 **ZONING AMENDMENTS**

110 Vice Chair Simpson asked if Equitable Waivers should be defined in the Zoning Ordinance. Chairman
111 Schneider said that he thought that the Ordinance refers to the Statute because it is always changing.
112 Vice Chair Simpson asked if "Equitable Waiver" should be one of the terms actually defined in the
113 Zoning Ordinance. There was further discussion regarding this matter and the Board determined that
114 they will discuss a possible definition at the joint meeting with the Planning Board.

115 Vice Chair Simpson made a motion to adjourn the meeting at 7:44 pm. Mr. Larrow seconded the
116 motion. The motion passed unanimously.

117 Respectfully submitted,

118 Melissa Pollari

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120

121

122 Zoning Board of Adjustment

123 _____

124 Daniel Schneider, Chair

Aaron Simpson, Vice Chair

125 _____

126 James Lyons, Jr.

William Larrow

127 _____

128 George Neuwirt

Clayton Platt, Alternate