

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **OCTOBER 4, 2018**

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

6 **ABSENT:** William Larrow

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

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

9 **CASE #ZBA18-13: VARIANCE: MICHAEL MCLAUGHLIN; PARCEL ID: 0149-0024-0000; 725 ROUTE 103:**
10 **VARIANCE FROM ARTICLE III, SECTION 3.10 AND 3.40 (C) TO REPLACE EXISTING MOBILE HOME WITH A**
11 **NEW SINGLE FAMILY HOME WITH A 69 FT SETBACK FROM ROAD ON NEWBURY SIDE, AND A 10 FT X**
12 **12 FT DECK 27 FT FROM BODY OF WATER**

13 Chairman Schneider explained that there are only four Board members present and three votes are
14 required to be in favor of an application for it to be approved. The applicant chose to proceed with the
15 case with the four Board members.

16 Michael McLaughlin presented the merits of the case. Mr. McLaughlin said that he is seeking a Variance
17 to build a new structure in the place of a mobile home.

18 Chairman Schneider said that the proposal includes moving the envelope of the structure closer to the
19 road and there is also a small portion that is within the 50 ft Shoreland setback, not including the deck.
20 Mr. McLaughlin said that the deck is optional and they could just do a small 3 ft x 3 ft landing for an
21 egress. Chairman Schneider said that there is a small sliver of the proposed structure within the
22 Shoreland setback and it will require a Variance under Section 3.40 (c). Ms. Gage said that Section 3.40
23 (c) is listed on the hearing notice. Chairman Schneider said that he thinks that the deck is a separate
24 issue and separate vote, however, there is a small sliver of the house within the setback.

25 There was a discussion regarding the proposed plan, the location of the current building, and the
26 location of the proposed building. Mr. McLaughlin said that he is asking for a Variance from Section 3.40
27 (c) for the proposed structure. He was asking for a Variance from Section 3.10 for the deck but he does
28 not need to build the deck so he would not need that Variance.

29 Chairman Schneider said that he is concerned about the setback from the State road because he thinks
30 it is a State issue. He believes that NH DOT needs to confirm that there would not be an issue with this
31 proposal with their Right of Way and snow removal. Mr. Neuwirt asked and Ms. Gage confirmed that
32 the setback for a State highway is 75 ft. Ms. Gage said that she only had time today to research what
33 Sunapee's Ordinance requires for the setback and the Ordinate does not require notification to NH DOT.
34 She also spoke with the Highway Director and he said that the Variances are strictly allowed through the

35 Town. Vice Chair Simpson asked and Ms. Gage confirmed that there is not a requirement to notice the
36 State as an abutter. Chairman Schneider said that he knows that there have been other projects on
37 State highways where the State has been asked for an approval. Ms. Gage said that not notifying the
38 State could be an abutter error or the Board could condition an approval upon receiving something in
39 writing from NH DOT. She could reach out to them and they typically respond in one to two weeks. Ms.
40 Gage said that the Board does not require the Highway Director to give feedback on a reduced setback
41 for the Town roads. Mr. McLaughlin was asked and confirmed that he has an existing driveway.

42 Vice Chair Simpson asked and Mr. McLaughlin explained his facts supporting his Variance request. Mr.
43 McLaughlin said that the proposed use would bring up surrounding property values because it would be
44 a brand new house and not a mobile home. The neighbor across the street is excited because he is tired
45 of looking at the mobile home. Vice Chair Simpson asked and Mr. McLaughlin said that he does not
46 have a letter from any neighbors. Chairman Schneider asked and Mr. McLaughlin said that as far as he
47 knows the mobile home has been there since the 1950's. There was further discussion regarding how
48 the proposed house would increase the value of the property and surrounding property values.

49 Mr. McLaughlin said that granting the Variance would not be contrary to public interest because it
50 would be improving the area and have much better curb appeal. Vice Chair Simpson asked and Mr.
51 McLaughlin confirmed that there is a pre-existing structure on the lot. Vice Chair Simpson said that
52 there are grandfathered setbacks and asked why they will not work. Mr. McLaughlin said that he cannot
53 go towards the lake and the house is only 12 ft wide and the proposed structure is 20 ft wide. He could
54 replace it with another trailer or go up only 10 ft. Vice Chair Simpson asked and Mr. McLaughlin
55 confirmed that building a new house within the setbacks would be in the best interest of the public
56 because it would be replacing a dilapidated trailer. There was further discussion regarding this matter.

57 Mr. McLaughlin said that denial of the Variance would result in unnecessary hardship because the
58 Zoning restriction as applied to the property interferes with the reasonable use of the property
59 considering the unique setting of the property in its environment because of the size of the Lake and Mt.
60 View Lake is important. Vice Chair Simpson asked and Mr. McLaughlin said that he cannot build a house
61 on the property and still meet the setbacks. The lot is completely non-conforming, even if he just
62 replaced the current mobile home.

63 Mr. McLaughlin said that denial of the Variance would result in unnecessary hardship because no fair
64 and substantial relationship exists between the general purposes of the Zoning Ordinance and the
65 specific restriction on the property because the area is full of non-conforming lots and the structures
66 were built before Zoning Ordinances and are much closer to the road than the 51 ft he is asking for.
67 Vice Chair Simpson said that he thought it was 52 ft per the drawing. Mr. McLaughlin said that he is
68 asking for 51 ft to give him another foot due in case of human error.

69 Mr. McLaughlin said that the Variance would not injure the public or private rights of other because it
70 would improve the other property values in the area.

71 Mr. McLaughlin said that granting the Variance would do substantial justice because it would be a new
72 house which would fit the surroundings better than the existing structure. Vice Chair Simpson asked

73 and Mr. McLaughlin confirmed that there are many other non-conforming structures in the area around
74 his property. Vice Chair Simpson asked what would happen if all the other owners asked for a Variance
75 based upon this reason. Mr. McLaughlin said it would have to be determined on a case by case basis
76 and not everyone will want to replace a mobile home with a new house. Vice Chair Simpson said it
77 could cause congestion in the area if everyone wants to build closer to the road. There was further
78 discussion regarding this matter.

79 Chairman Schneider said that there is a provision under Section 3.40 (o) that says that "For all new
80 construction projects in the Rural-Residential and Rural Lands Districts, the existing 25 ft vegetative
81 buffer extending back from the state right-of-ways of Route 11, Route 103, and Route 103B shall be
82 preserved." Mr. McLaughlin said that there are some pine trees in front that will stay and he will also
83 plant some shrubs so the house will not be seen from the road. Chairman Schneider continued to read
84 from the Ordinance "If no vegetation currently exists, then new plantings will be required, which shall
85 include both trees and evergreen shrubs. Plantings preferably will be grouped, not evenly spaced and
86 shall be located or trimmed to avoid blocking egress visibility. Driveways are exempt from this
87 requirement." Vice Chair Simpson said that the plan shows that there are trees that will be cut. Mr.
88 McLaughlin said that one tree has to be cut to put the septic system in, for which he already has
89 obtained State approval. There are four other trees that have to be cut because they are dangerous
90 trees to the existing mobile home. The tree cutting still meets the State's point system. Vice Chair
91 Simpson asked and Mr. McLaughlin explained the point system.

92 Chairman Schneider asked and there was no one in the audience who wished to speak about the case.

93 Vice Chair Simpson said that Mr. McLaughlin's answer on his application regarding the question that
94 says that the use is not contrary to the spirit of the Ordinance is that the area of Mt. View Lake needs to
95 be revitalized because it is so close to Mt. Sunapee. Mr. McLaughlin said that he has been coming to the
96 area since he was a kid and to him this is a nice area and driving down the road there is a dilapidated
97 mobile home. Vice Chair said that Mt. Sunapee is not in Sunapee. Mr. McLaughlin said that it brings
98 people to the area and it is all in the spirit of the area.

99 Chairman Schneider asked if Mr. McLaughlin wants to discuss the merits of the deck. Mr. McLaughlin
100 said that the deck is optional and he does not need it to be the size indicated. He can cut it to 3 ft x 3 ft
101 to have an egress. Chairman Schneider said that under the definition of "minor structure" in the Zoning
102 Ordinance it allows a 32 sq ft deck without needing approval; the definition reads "Thirty-two (32)
103 square foot open platform and associated stairs, which is no more than four (4) feet off the ground and
104 is used for access to a structure." Vice Chair Simpson said that Mr. McLaughlin has said that he is willing
105 to withdraw the request for the deck. Mr. McLaughlin said that if the deck is a deciding factor on the
106 project he is more than happy to not have it. Chairman Schneider said that he thinks the Board needs to
107 look at each request separately.

108 Vice Chair Simpson asked how far the deck will be from the ground. Mr. McLaughlin said that he is not
109 sure; close to the house it is only 3 ft off the ground but 8 ft to 10 ft from the house there is an elevation

110 change. Vice Chair Simpson asked and Mr. McLaughlin said that if he goes out 10 ft it will be higher than
111 42 inches.

112 Vice Chair Simpson said that he believes there is also an issue with the lakefront encroachment with the
113 house. Chairman Schneider said that he believes that proposed new structure is no closer to the lake
114 than the existing structure. Vice Chair Simpson said that he is referring to the sliver that Chairman
115 Schneider indicated at the beginning of the hearing. Chairman Schneider said that Mr. McLaughlin
116 applied for a Variance for Section 3.10 and Section 3.40 (c), and the application does not indicate that it
117 is only for the deck. There was further discussion regarding this matter as Chairman Schneider believes
118 that the way the hearing was noticed covers the need for two Variances, one for the front setback and
119 the other for the shoreland setback.

120 Clayton Platt arrived at the meeting.

121 Vice Chair Simpson asked and Mr. McLaughlin said that he did not receive any assistance from the
122 Zoning Administrator on the application. Mr. Neuwirt said that the application is strange because does
123 not indicate how much relief Mr. McLaughlin is seeking. Mr. McLaughlin said that he does not think that
124 "strange" is accurate. Mr. Neuwirt said that the application is not what the Board is used to dealing with
125 because it says that the deck will be 27 ft from the body of water, not that he is seeking relief of 23 ft.
126 Mr. McLaughlin said that they do not have to have the deck. Vice Chair Simpson said that his issue is
127 that Mr. McLaughlin applied for two different Variances on one application. Chairman Schneider asked
128 and Vice Chair Simpson said that he believes that there is a fee schedule and there are two Variance
129 requests. Chairman Schneider said that the Board has heard plenty of cases where they have requested
130 two Variances. Mr. McLaughlin asked if there is a law that requires separate applications. Vice Chair
131 Simpson said that the issues were not addressed separately; it is not about Mr. McLaughlin, it is more
132 about what he would like to see happen and is why he asked if Mr. McLaughlin had assistance from the
133 Zoning Administrator.

134 There was a discussion regarding Section 3.50 (k).

135 Chairman Schneider asked if any Board members had any additional questions for Mr. McLaughlin and
136 there were none so he closed the hearing to public comments.

137 Mr. Lyons requested that the Board discuss the deck before discussing the house and Chairman
138 Schneider agreed.

139 Mr. Lyons said that the deck is an encroachment on the lake and the request should be turned down.
140 Chairman Schneider agreed with Mr. Lyons.

141 Mr. Neuwirt said that if Mr. McLaughlin does not build the deck and moves the house the amount
142 required for the sliver to not be in the setback then only one Variance would be required. Chairman
143 Schneider said that the 50 ft setback runs through the existing house and the sliver is more of a
144 technicality, it is not significant. The plan is good because if the deck is excluded then the house is not

145 getting closer to the lake. He would just want an assurance from NH DOT that they do not have a
146 problem with the proposal. There was further discussion regarding the proposal.

147 Chairman Schneider opened the hearing to allow Mr. Neuwirt to ask Mr. McLaughlin if he has a State
148 approved Shoreland Permit. Mr. McLaughlin said that he does not have an approval but he will get one.

149 Mr. Simpson asked and Mr. McLaughlin said that the proposed structure is 30 ft from the ground; from
150 the top of the sill to the peak it is 28 ft. There was further discussion regarding the height of the
151 structure.

152 Chairman Schneider closed the meeting to the public and said that any motion should include approval
153 from NH DOT, a Shoreland permit, and a vegetation requirement.

154 Mr. Neuwirt said that he has no issues with the project except for the deck. Chairman Schneider agreed
155 and said that he'd like NH DOT to sign off on the proposal. Mr. Lyons said that he is fine as long as the
156 deck will not be built. Chairman Schneider said that the motion can include that the proposed deck is
157 not approved.

158 Mr. Lyons made a motion to approve Case #ZBA18-13; seeking a Variance subject to State DOT approval
159 with regard to the highway; State Shoreland approval; and that the vegetation be planted between
160 Route 103 and the structure consistent with Section 3.40 (o); and that the proposed deck is not
161 approved. Vice Chair Simpson seconded the motion. Chairman Schneider amended the motion to
162 include that the proposed deck toward the lake is specifically not approved. Vice Chair Simpson
163 seconded the motion. The Board passed the motion on the amendment unanimously. Vice Chair
164 Simpson said that he thinks that the structure is too high, however, the Planning Board chose not to
165 present the recommendations submitted to them. He is not happy that there is not another Variance
166 for the lake setback. Chairman Schneider said that the Board is voting on Section 3.40 (c) for the sliver.
167 Vice Chair Simpson disagreed and moved to call the vote. The motion passed unanimously.

168 Vice Chair Simpson made a motion to appoint Clayton Platt as a voting member on the next two
169 hearings. Mr. Lyons seconded the motion. The motion passed unanimously.

170 **CASE #ZBA18-14: VARIANCE: W. JEFFREY BAKER REVOC TRUST & MARIE D'AMOUR BAKER REVOC**
171 **TRUST; PARCEL ID: 0136-0061-0000; 40 BIRCH POINT RD: VARIANCE FROM ARTICLE III, SECTION 3.10**
172 **TO ALLOW THE RELOCATION OF AN EXISTING 22 FT X 10 FT DECK AND BUILD A 22 FT X 12 FT**
173 **ADDITION AT THE WEST SIDE.**

174 Harry Seidel presented the merits of the case on behalf of the applicants. Brian Vincent of Fuss & O'Neil
175 and Donald Holmes, the builder, were also present to discuss the merits.

176 Vice Chair Simpson asked if this site has received any prior Variances or Special Exceptions. Mr. Seidel
177 said that there have been three requests. One in 2005 was denied as the owner at the time requested a
178 very long and very tall structure. The owner then requested Mr. Seidel to draw a new plan and it
179 required a Variance of 7.5 ft for the side setbacks and was only 24 ft long and 40 ft wide. He believes
180 that the lot was originally a right of way down to the lake for the land that is in the middle of the circle

181 that is now owned by the Town; the lot is non-conforming and grandfathered. Around 2011, the current
182 owners requested a Variance for the storage shed because the utilities run down the middle of the lot
183 and they could not build on them. There were no conditions on any of the Variances. Mr. Seidel said
184 that the little house is now too small and the owners would like to increase the size by 12 ft towards the
185 lake and another Variance is required.

186 Mr. Seidel gave pictures of the property to the Board for their review.

187 Mr. Seidel said that they have needed to get permission from the adjacent property owner in order to
188 build on the site and he has gotten a contract to build a small access road on the abutting property.
189 However, they are not going to do that because Mr. Holmes brought over the person who does
190 excavation and they worked out how they can get over the existing vegetation and over the property
191 lines a little bit without having to build an access road.

192 Mr. Seidel said that the current building is 24 ft wide and they would like to build a 22 ft wide addition
193 that goes towards the lake 12 ft. The existing building has a 10 ft deck and they would like to push that
194 towards the lake as well. Chairman Schneider asked and Mr. Seidel confirmed that the proposed
195 structure will not be any wider than the current structure, it will actually come in 1 ft on either side.

196 Mr. Seidel said that there was a mistake on the plan that he submitted so he did new drawings. The
197 mistake was they need to move the retaining wall so that it curves; it will not be higher, it will just be
198 relocated. The Board said that the retaining wall does not have anything to do with them and the
199 Variance. Mr. Seidel was asked and confirmed that the plan submitted to the State includes the tweak
200 to the retaining wall; they are just currently waiting for the approval.

201 Mr. Seidel said that they do have letters from both abutters in support of the application.

202 Mr. Seidel read the criteria for questions one and two on the application submitted for the Variance.

203 Mr. Vincent explained the proposed stormwater management system to the Board. The proposed
204 addition will have a drip edge that will go to a reservoir and the deck will have stone underneath for the
205 water. The stairway, which was built around 2011, was designed to be pervious except for the stone
206 steps. Additionally, in order to keep the total area of the lot even less pervious than it currently is, the
207 owners have decided to use pervious pavers for the entry driveway and small parking area. That will
208 decrease the total impervious area of the lot from what is currently 29.8% to 24.8%. Mr. Vincent said
209 that they will have two stone infiltration interceptors on one of the edges to slow down and trap the
210 storm water before it causes erosion. It will be perpendicular to the structure and will go into the
211 ground and then down the lot. There was further discussion regarding the storm water management.

212 Vice Chair Simpson asked if the lot can be accessed from the lake by a barge and it was explained that
213 the lot has a rocky shoreline and would probably be more work.

214 Mr. Lyons asked if the storm water management system does not get the sediment cleaned out what
215 will happen with the site in terms of erosion. Mr. Vincent explained that it will require maintenance and
216 will need to be cleaned out; there will also be mulch on the site. Mr. Neuwirt asked and Mr. Vincent

217 explained that the State is now asking for a maintenance management plan to be mapped out. There
218 was further discussion regarding this matter and further discussion regarding the storm water
219 management system.

220 Mr. Seidel continued reading the criteria for the Variance from the submitted application and said that
221 he thinks the width of the lot and that it is a grandfathered non-conforming lot makes this lot unique
222 and meets the hardship; nothing can be done on this lot without a Variance and they are asking for 2.5
223 ft of relief. The deck is already existing and is just being moved.

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

226 Vice Chair Simpson asked and Mr. Seidel confirmed that the lot tapers. Vice Chair Simpson said that the
227 reduced setback will be 7.5 ft and asked what the current house setback is. Mr. Seidel said that the
228 original approval was for 7.5 ft but because of the tapering they had to come in a foot. The deck is very
229 close to the 7.5 ft so he might suggest that they come in another foot.

230 Vice Chair Simpson asked and Mr. Seidel said that there will be five bedrooms in the house after the
231 addition is finished; they will add another bedroom in what is current open space. There is town sewer
232 on the property.

233 Mr. Neuwirt said that he thinks that this is a good project, however, this is not a textbook case for
234 meeting the criteria for hardship. There is supposed to be some special feature with the land that
235 without relief from the Ordinance they would not be able to have reasonable use of the property. Mr.
236 Seidel said that there has to be something unique about the property, it can be geographical or
237 dimension. Mr. Neuwirt said that they already have reasonable use, it is not like the Board would be
238 preventing them from doing something critical to the property which would prevent them from
239 experiencing a critical use; they have been happy with the house but now would like to have an
240 expansion. It is hard for him to look at the project and say that without it the owners would not be able
241 to enjoy the house. Mr. Seidel said that the house is very tight and they think that if they had more
242 room it would be better. There was further discussion regarding this matter.

243 Chairman Schneider asked and there were no additional questions so he closed the meeting to public
244 input.

245 Chairman Schneider said that he agrees with Mr. Neuwirt but sometimes legislation cannot devise
246 regulations that work in all instances. If the Board denies the application it hurts the applicant because
247 they cannot do what they want but if they approve the application it does not hurt the community or
248 the neighborhood; the two abutters both approve the proposal. Chairman Schneider continued to
249 explain his thoughts regarding the proposal.

250 Chairman Schneider re-opened the meeting.

251 Vice Chair Schneider asked and Mr. Seidel said that the addition is 22 ft 9 inches high so it is below 25 ft.

252 Mr. Vincent said that on the plan there is a geographical error as it shows that there is only 10 ft in
253 width, not 12 ft as stated on the plan and in the application.

254 Chairman Schneider said that Mr. Platt was concerned because people were saying that the Board
255 required neighbors to approve cases. This a not a requirement but it is good when applicants go to the
256 neighbors to get support and neighbors are not fighting each other.

257 Vice Chair Simpson said that he thinks that this is a good project and well thought-out; it will be an
258 improvement, but it is not your typical hardship case.

259 Mr. Platt said that he thinks this is a modest proposal and the amount of relief that is being requested is
260 minimal.

261 Mr. Lyons said that there is a third abutter, the lake itself. The engineering has been done in such a way
262 that will minimize any effect the project will have on the lake. He'd prefer to see a plan to dig out the
263 drywell and to have bushes and shrubs instead of mulch but they are well above the 50 ft mark.

264 Chairman Schneider said that he thinks a motion should say that they will be reducing both side
265 setbacks to 7.5 ft as it is not specifically stated on the notice of hearing even though it is on the
266 application.

267 Mr. Platt made a motion to approve case #ZBA18-14; Baker Revocable Trusts; Tax Map 136 Lot 61; 40
268 Birch Point Rd: Variance from Article III, Section 3.10 to allow the reduction of both side setbacks to 7.5
269 ft to allow the relocation of an existing 22 ft x 10 ft deck and addition to the house; all work to proceed
270 subject to the Shoreland Permit that is in progress. Mr. Neuwirt seconded the motion. The motion
271 passed unanimously.

272 Mr. Seidel said that he will mention to the Baker's that the Board would like to see greenery and
273 shrubbery.

274 **CASE #ZBA18-15: EQUITABLE WAIVER: ROBERT J & NORA C SPAULDING, JR. PARCEL ID: 0146-0009-**
275 **0000; 80 UPPER BAY RD: EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS FROM ARTICLE III,**
276 **SECTION 3.10 TO PERMIT 20 FT SETBACK WHERE NORMALLY 25 FT IS REQUIRED.**

277 Robert Spaulding presented the merits of the case.

278 Mr. Spaulding explained that he purchased the lot in 2004 or 2005 and Steven's Engineering did a survey
279 and used the wrong pins; they used the pins from Oakledge and not the ones that should have been
280 used for his lot. Chairman Schneider asked and Mr. Spaulding explained that his house is in Fisher's Bay
281 but abuts Oakledge. Mr. Spaulding said that he had another survey done and it showed that the house
282 is within the setback.

283 Chairman Schneider asked and Mr. Spaulding said that he does not have the original survey.

284 Mr. Spaulding said that he wanted to add to on to the back of the house but could not obtain a permit
285 because the building is not compliant. He needs to obtain an equitable waiver to make the house
286 compliant and be able to obtain a building permit.

287 Mr. Neuwirt asked and Ms. Gage confirmed the property was discovered to not be compliant when Mr.
288 Spaulding brought in his application to obtain a building permit and she asked if there was a Variance for
289 the building to be built in the setback. Ms. Gage explained that Mr. Spaulding was aware that the
290 structure was over the setback and when she asked him about it Mr. Spaulding said that there was a
291 new survey done and they found that there was an error. Mr. Neuwirt said that the non-conformity was
292 discovered one year after the house was built. Ms. Gage explained that she was not aware of it until Mr.
293 Spaulding came in for a permit.

294 Vice Chair Simpson asked and Mr. Spaulding explained that he became aware of the issue when his
295 neighbor told him that he used the wrong pins but at that point it didn't matter and he didn't know he
296 couldn't do anything; he just knew he needed to get a corrected survey. He hired Pierre Bedard and got
297 a new survey done and he found out that the setback wasn't correct. They also had to dig up and move
298 the septic system because it went into the neighbor's yard.

299 Mr. Neuwirt asked and Mr. Spaulding confirmed that the non-conformity was discovered one year after
300 the house was built. Mr. Platt said that the neighbor had a survey done and that is why the septic
301 system needed to be moved. Mr. Spaulding said that he didn't think about setbacks, all he wanted to do
302 was handle the septic issue.

303 Allen Randall, 77 Turtleback Rd, said that his lot is south of Mr. Spaulding's. He had a survey done in
304 2006 and there was a breakpoint in his line and there was a pin there, however, not at the corner of the
305 property. Mr. Neuwirt asked and Mr. Randall confirmed that the septic system was already installed
306 when he had his survey done and he had him move it.

307 Vice Chair Simpson asked and Mr. Spaulding confirmed that he is not asking for a Variance for the side
308 setback. Mr. Spaulding said that they are outside the 30 ft setback that Fisher's Bay is asking for; he just
309 needs to be compliant before he receives a building permit.

310 Mr. Platt said that he does not see a problem with the proposal as it seems to be an honest mistake and
311 was done more than 10 years ago.

312 Chairman Schneider asked and there were no additional questions or comments so he closed the
313 meeting to public input.

314 Chairman Schneider went through the criteria for an Equitable Waiver and the Board agreed that the
315 case meets all of the criteria.

316 Vice Chair Simpson made a motion to approve the Equitable Waiver for ZBA#18-15; application of
317 Robert J and Nora C Spaulding, Jr; Tax Map and Lot: 0146-0009-0000; 80 Upper Bay Rd: Equitable
318 Waiver of Dimensional Requirements from Article III, Section 3.10 to permit a 20 ft setback where
319 normally 25 ft is required. Mr. Neuwirt seconded the motion. The motion passed unanimously.

320 **INTERVIEW JEFFREY CLAUS FOR ALTERNATE POSITION**

321 The Board members interviewed Jeffrey Claus for an alternate position. Mr. Claus explained that he is
322 currently an alternate Planning Board member. He is a landscape architect and has been experience
323 submitting plans for commercial and public works and presenting to Boards. He met with Ms. Gage and
324 she asked if he wanted to serve on one of the Board and he decided that the Planning Board would be a
325 good fit. However, since then he has decided that he also wants to be involved with the Zoning Board.
326 Ms. Gage said that she checked with NHMA's legal council and one Planning Board member can sit on
327 another Land Use Board so he is able to sit on the Zoning Board under RSA 676:7. Mr. Claus said that
328 there is a relationship between the two Boards. Vice Chair Simpson said that the Planning Board has
329 criticized the Zoning Board in the past for approving things and asked Mr. Claus about the two projects
330 that they just approved that were not standard hardship cases. Mr. Claus said that he felt the same way
331 as the Zoning Board because it can be hard to prove nothing. His experience is that Boards are less
332 flexible with hardship but that might be the difference between commercial and residential; the
333 addition to the house would not have been accepted in his experience. Mr. Neuwirt said that the
334 abutter's approval did sway part of the approval process in that case and there can be grey areas. There
335 was a discussion about the application process and how it may or may not impact the Board's decision
336 as well as how the applications should be completed. There was further discussion regarding the cases
337 that were heard.

338 The Board agreed that Mr. Claus would be a good addition as he will bring a new perspective to their
339 discussions.

340 Vice Chair Simpson made a motion to appoint Jeff Claus as an alternate to the Zoning Board. Mr. Lyons
341 seconded the motion. The motion passed unanimously.

342 **MINUTES**

343 Changes to the minutes from September 6, 2018: Change Line 36 to read "The Zoning Board
344 determined that this..." Change Line 40 to read "...that is a misuse of them..." Change Line 45 to read
345 "The Board suggested Ms. Gage could speak with..."

346 Mr. Lyons made a motion to accept the minutes as written. Vice Chair Simpson seconded the motion.
347 The motion passed with one abstention.

348 **ZONING AMENDMENTS**

349 Ms. Gage said that she has until October 11th to give her recommendations for Zoning Amendments to
350 the Planning Board. She is going to ask them for clarification regarding the Certificate of Zoning
351 Compliance Ordinance. Chairman Schneider said that the Zoning Amendment discussion is not on the
352 Planning Board's agenda for the October meeting. There was a brief discussion regarding joint Planning
353 Board and Zoning Board meetings.

354 **MISCELLANEOUS**

355 Chairman Schneider said that he will not be at the next Zoning Board meeting.

356 Vice Chair Simpson made a motion to adjourn the meeting at 9:19 pm. Mr. Lyons seconded the motion.
357 The motion passed unanimously.

358 Respectfully submitted,

359 Melissa Pollari

360

361

362

363 Zoning Board of Adjustment

364 _____

365 Daniel Schneider, Chair

_____ Aaron Simpson, Vice Chair

366 _____

367 James Lyons, Jr.

_____ William Larrow

368 _____

369 George Neuwirt

_____ Clayton Platt, Alternate