

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **JANUARY 12, 2017**

4 **PRESENT:** Daniel Schneider; Clayton Platt; George Neuwirt; Aaron Simpson;

5 **ABSENT:** William Larrow; Roger Landry, Zoning Administrator

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

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

8 **CASE # 17-01: PARCEL ID: 0136-0004-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10 TO**
9 **REDUCE ROAD FRONT SETBACK FROM 50 FT TO 37 FT ALLOWING POST-CONSTRUCTION OF A**
10 **COVERED DECK AND ENTRYWAY AS PER SKETCH. 171 BURKEHAVEN HILL RD, NICHOLAS & CAROL**
11 **RUFFUS.**

12 Nicholas and Carol Ruffus presented the merits of their case.

13 Mr. Ruffus explained that he and his wife decided to build a deck and put a roof over it to replace the
14 old front steps and concrete walkway. The home was constructed in 1890 and it is a non-conforming
15 property as the house violates the 50 ft road setback.

16 Mr. Ruffus said that they decided to construct the covered deck because the house has a stone
17 foundation, though the previous owner had put a pump in, when it rains heavily water cascades through
18 the rocks and it wasn't an ideal solution. The covered deck dumps the water into the front yard and
19 away from the foundation. It also allows them to enter the house from the driveway through a covered
20 area.

21 Mr. Simpson asked and Mr. Ruffus confirmed that they have already constructed the covered deck. He
22 was misinformed and proceeded on that basis. He saw the front deck on the house across from him and
23 it is closer to the road than his deck. He was told that there was no building inspector, and he had asked
24 when he was buying the house for the CO's that the house had for any permits done. He was told that
25 there were not any CO's and he proceeded with bad advice. They purchased the home in October and
26 are not familiar with the procedures. Mr. Larrow asked and Mr. Ruffus said that the deck was
27 constructed in the latter part of October and into November. Mr. Larrow asked who gave him the bad
28 advice and Mr. Ruffus explained that he was told by the Town Office and his real estate agent.

29 Chairman Schneider asked how the Board should approve a Variance for something already built. Mr.
30 Ruffus said that during construction Mr. Landry passed by the property and advised him that he needed
31 a building permit and a Variance. Chairman Schneider said that after something is already built he
32 believes that an Equitable Waiver is required. Mr. Ruffus said that Mr. Landry recommended he apply
33 for a Variance. Vice Chair Platt said that he thinks that a Variance is more appropriate. Mr. Simpson
34 said that he does not think this falls under the requirements of an Equitable Waiver. Mr. Ruffus said

35 that he would have applied for the Variance and building permit before building the covered deck as he
36 wasn't trying to circumvent anything; the covered deck is on the front of the house and he wasn't trying
37 to hide anything.

38 Chairman Schneider asked and Mr. Ruffus explained that before they built the covered deck there was a
39 walkway leading up to a concrete stairway. The deck is within the perimeter of the walkway.

40 Mr. Simpson asked and Mr. Ruffus said that Mr. Landry did not say anything to him about applying for a
41 Special Exception. Mr. Ruffus said that Mr. Landry did say that there is a Zoning Amendment that will
42 define a patio as a structure and he thinks that a concrete walkway is a structure. Mr. Larrow said that it
43 seems as though Mr. Landry was thinking that this is a change within the setback, which requires a
44 Variance. Mr. Ruffus confirmed that the change is from 36 ft to 37 ft within the setback. Vice Chair Platt
45 said that the Board has never considered driveways or walkways structures.

46 Chairman Schneider asked who measured the distance of the setback violation. Mr. Ruffus said that he
47 measured it and his contractor did it as well.

48 Mr. Ruffus said that he thinks that the covered deck blends nicely with the rest of the structure.

49 Mr. Neuwirt asked Mr. Ruffus when Mr. Landry went to see him to advise him that a permit was needed
50 why he didn't stop the construction. Mr. Ruffus said that he was not present at the time, he was having
51 eye surgery and was not home and the person there was told that they could weatherproof the
52 structure. Mr. Neuwirt said that weatherproofing does not mean finishing the structure. Mr. Ruffus
53 said that he thinks that the covered deck was close to completion at that point. Mr. Neuwirt said that
54 he thinks Mr. Ruffus just did what he wanted. Mrs. Ruffus said that if they were going to hide something
55 they would not put it on the front of the house. It is not something that they did to just do what they
56 wanted to do. They did call the Town Office and were told that they did not need a permit. Mr. Neuwirt
57 said that no one in the Town Office would say that there is no permit needed. Vice Chair Platt said that
58 the Town does not have a Building Inspector if that is what was asked. Mr. Neuwirt said that as he
59 understands Mr. Landry was doing a drive-around and saw what was going on and stopped. The house
60 was at risk as the roof was open and he advised whomever was there that he was permitting the roof to
61 be flashed so there was no damage to the house. Mr. Neuwirt continued that he thinks that when Mr.
62 Landry left there was no doubt that a permit was needed to complete the work but the work was
63 completed anyway.

64 Mr. Larrow asked for an explanation as to why an Equitable Waiver does not apply in this situation. Vice
65 Chair Platt asked and Mr. Simpson said that the definition of "Equitable Waiver" is part of the State
66 RSA's. Mr. Larrow said that this can't be the only time that something like this has happened. Vice Chair
67 Platt said that the Board has granted Variances for front porches before such as on Depot St. Mr.
68 Larrow said that the Board has granted Variances before but it was for things not yet built. Mr. Simpson
69 read to the Board from the Equitable Waiver RSA "that the violation was not noticed or discovered by
70 any owner, former owner, owner's agent or representative, or municipal official, until after a structure
71 in violation had been substantially completed, or until after a lot or other division of land in violation
72 had been subdivide by conveyance to a bona fide purchaser for value." Chairman Schneider asked and

73 Mr. Simpson said that he does not think that this applies here. Mr. Simpson continued reading from the
74 RSA “that the violation was not an outcome of ignorance of the law or ordinance, failure to inquire,
75 obfuscation, misrepresentation, or bad faith on the part of any owner, owner’s agent or representative,
76 but was instead caused by either a good faith error in measurement or calculation made by an owner or
77 owner’s agent, or by an error in ordinance interpretation or applicability made by a municipal official in
78 the process of issuing a permit over which that official had authority. That the physical or dimensional
79 violation does not constitute a public or private nuisance, nor diminish the value of other property in the
80 area, nor interfere with or adversely affect any present or permissible future uses of any such property.
81 That due to the degree of past construction or investment made in ignorance of the facts constituting
82 the violation, the cost of correction so far outweighs any public benefit to be gained that it would be
83 inequitable to require the violation to be corrected.” Mr. Simpson said that the Board does not have an
84 Equitable Waiver application or a Special Exception application before them. There was further
85 discussion regarding this matter.

86 Mr. Simpson said that he would like to hear from Mr. Landry regarding this case as he is the one who
87 spoke to the applicants.

88 Mr. Ruffus asked and Mr. Neuwirt confirmed that he rented him a jackhammer. Mr. Ruffus said that
89 when he rented the jackhammer from Mr. Neuwirt he told him what he was doing and he did not say
90 anything to him about requiring a permit or a Variance. Mr. Neuwirt said that he does not get involved
91 in micromanaging the Town, he was just renting Mr. Ruffus a tool. He does not stick his nose into
92 whether or not a permit is needed. He was under the assumption that as Mr. Ruffus is from a big town
93 and that he should know a permit is needed. Mr. Ruffus said that he lived in Rutland before moving to
94 Amherst and no permits were needed. Mr. Neuwirt said that it is not his job to police the Town, it is Mr.
95 Landry’s job to make sure that needed permits are acquired and if they are not then to handle it. Mrs.
96 Ruffus said that Mr. Neuwirt should have realized they are new in town and advised them that they
97 needed a permit. Mr. Neuwirt said that he does not pay attention to who is new in Town. Mr. Simpson
98 said that it is not a Board member’s obligation to notify someone that they need a permit. Mr. Ruffus
99 said that he was proceeding with work based on an assumption that he had and it would have stopped
100 him before starting if he was told that he needed a permit or a Variance; as a curtesy, he would have
101 expected something like that. Mr. Simpson asked and Mr. Neuwirt explained that Mr. Ruffus rented a
102 demo hammer from him to take out a set of concrete stairs. He was dropping off the hammer, he
103 wasn’t thinking about the requirement of a permit. It looked to him as though there was work being
104 done on both sides of the house and he didn’t question whether or not a building permit or a Variance
105 was needed. Mr. Simpson said that Mr. Neuwirt shouldn’t have questioned it.

106 Chairman Schneider asked if there is anyone on the Board who does not believe that it would be in the
107 best interest of the applicants to request a withdrawal until the next meeting for the Board to be able to
108 contact the Zoning Administrator. Mr. Simpson said that he would like Mr. Landry to be at the meeting
109 to tell the Board what he saw. Chairman Schneider said that Mr. Landry could give the Board a
110 statement and to determine whether or not an Equitable Waiver would be appropriate. The Board
111 decided to try and call Mr. Landry on speakerphone but there was no answer.

112 Vice Chair Platt said that he thinks that it comes down to whether or not there is any hardship. If there
113 is hardship the Board could grant a Variance. Mr. Simpson said that if not then it does not mean that
114 the applicants could not apply for an Equitable Waiver later.

115 Vice Chair Platt asked if the fact that the porch is already built prevents the applicants from getting a
116 Variance. Mr. Simpson said that he believes that it could be done after the fact. Chairman Schneider
117 asked and Mr. Simpson explained that it doesn't mean that an Equitable Waiver would be necessary.
118 There was further discussion regarding Equitable Waivers. Mr. Simpson said that the applicants did not
119 ask for an Equitable Waiver so the Board can't consider it.

120 Mr. Larrow said that if the Board is going to consider the Variance, they should hear the entire argument
121 from the applicants. Mr. Simpson said that he would like to hear from Mr. Landry before the Board
122 rules on the case. Mr. Larrow said that the applicants should go through their whole case and then if
123 the Board wants to hear from Mr. Landry they can continue the case.

124 Chairman Schneider asked if Mr. Ruffus had anything else to tell the Board. Mr. Ruffus explained that
125 Mr. Landry helped him fill out the Variance application. He was told to file an after the fact building
126 permit as well, which he did.

127 Mr. Neuwirt asked and Chairman Schneider said that there is only one person in the audience, Donna
128 Larrow, and he does not think that she would have a comment on the case.

129 Mr. Larrow asked the Board if they think that continuing the case is necessary. Vice Chair Platt said that
130 he is wondering what additional information Mr. Landry will have for the Board.

131 Chairman Schneider asked and Mr. Ruffus said that he did provide a sketch of the property before the
132 covered deck was put on. Mr. Simpson said that it is in the Board packets along with a picture. Mr.
133 Ruffus explained that the picture provided is of a house across the street from his house to show that
134 porch in relationship to the road. Mr. Larrow asked and Mr. Ruffus confirmed that the picture shows
135 that the house across the road is close to the center of the highway.

136 Mr. Larrow explained that the Board is asking for picture of before and after to give the Board
137 something to see what has been done.

138 The Board discussed if the applicants could have asked for a Special Exception and determined that a
139 Variance is probably accurate. The Board also discussed an older case that was similar to this one that
140 was approved, even though Mr. Simpson did not vote for it as he did not see the hardship.

141 Mr. Larrow said that it makes sense to him that someone would want to fix something with their home
142 to help with an issue such as this one where water is going into the basement. It might not meet all the
143 hardship criteria but he does not think that it is something the Board would have been against. Mr.
144 Simpson said that he does not think that water coming through a foundation is a hardship as it is
145 something that people deal with; old farmhouses in New England have these issues.

146 Chairman Schnedier asked Mr. and Mrs. Ruffus to go over their facts supporting their Variance request.

147 Mr. Ruffus said that the proposed use would not diminish surrounding property values because he
148 thinks that every home within the radius of this house has a front porch so he thinks it harmonizes
149 rather than detracts from the value. He believes that the front porch increases the value of his house
150 and creates a symmetry of the house itself because the main old structure is a gable structure and the
151 rear of the home has a shed roof so the front porch balances the look of the home.

152 Mr. Ruffus said that he believes that denying the Variance would do a hardship to them because of the
153 water coming into the house, which promotes mold. The front concrete steps had a separation from the
154 front of the home and were tilted backwards towards the house so water would cascade off and into
155 the structure itself. When they removed the concrete steps they found that the structure was
156 deteriorated. They also felt that the front porch, being covered, would protect the front entry of the
157 home. There was further discussion regarding the front entry area and the front porch.

158 Chairman Schneider said that he thinks that any motion to approve this Variance should be with a
159 condition that the front porch cannot be further enclosed without another Variance. Mr. Ruffus said
160 they do not have any intention of further enclosing the porch.

161 Mr. Simpson asked about the non-conformity of the house. Mr. Ruffus explained that he lot is 0.47
162 acres and must have been part of a larger lot as his neighbor's lot goes around the back part of his lot
163 and the other side of the property does not have a straight property line. The house is built almost on
164 top of the property line.

165 Mr. Ruffus said that he does not think that reducing the setback by 13 ft negatively affects his neighbors.
166 Also, he has spoken with his neighbors and they do not seem to have any problems with the front porch
167 and seem to think that it enhances the property.

168 Mr. Simpson asked and Mr. Ruffus confirmed that there is no survey of the property. Mr. Ruffus said
169 that there was a reference in the deed that there was a survey done but he could not find it and it was
170 not presented at the time of the closing.

171 Mr. Ruffus said that he thinks that there have been other Variances previously approved that are similar
172 to what he is asking for. If he had known that this property was in the state that it is in and had known
173 about its violation of the setbacks then he probably would not have proceeded in the purchase of the
174 property.

175 Mr. Simpson asked if the new porch extends beyond the eave of the garage. Mr. Ruffus said that he
176 cannot say yes or no but he believes that if it does then it is not by more than one or two feet. There
177 was further discussion regarding this issue.

178 Mr. Simpson asked why a structure of this size was necessary to deal with the hardship. Mr. Ruffus said
179 that the structure was replacing essentially the same footprint of what was there by one foot less. They
180 have replaced the walkway and steps by putting the porch there. Mr. Simpson said that if the walkway
181 is a structure on the ground then the front porch is less non-conforming. Vice Chair Platt said that he
182 thinks that a problem with thinking a driveway or a walkway as a structure is that it would mean that

183 every driveway would be non-conforming to the front setback and then a permit would be needed every
184 time someone wanted to put a walkway up to the house in. Vice Chair Platt continued that it is
185 something for the Board to think about that there was something else on the property before that did
186 provide access into the house, whether or not it was a structure is debatable. Mr. Simpson asked and
187 Vice Chair Platt said that he does not consider the steps a structure either.

188 Chairman Schneider asked and Mr. Ruffus said that he had a contractor do the work. Chairman
189 Schneider said that the contractors in the area should know that permits are needed.

190 Mr. Neuwirt said that a Variance does apply here because the structure is more non-conforming
191 because the square footage has been increased. Previously it was a three or four foot wide walkway.
192 Mr. Simpson said that Vice Chair Platt pointed out that it should not be counted as a pre-existing
193 structure as every driveway and driveway would have to be considered pre-existing structures.

194 Mr. Ruffus asked about Zoning Amendment #10 as he believes it answers any question as to whether if a
195 patio is a structure or not. Vice Chair Platt said that it has not passed and it has to go to voters to be
196 voted on in March.

197 Chairman Schneider asked and the Board confirmed that they do not have any additional questions for
198 Mr. and Mrs. Ruffus. Chairman Schneider closed the hearing to public input to discuss the case between
199 themselves.

200 Mr. Neuwirt said that he thinks that this is a classic example of where the Board needs to look at
201 something as if the project hasn't been built yet. He does partly see a hardship with the leaky
202 foundation as water in a house is never good and if you can mitigate the water away from the house it is
203 a good thing. The porch is on an eave wall and the volume of water there might be substantial. He is
204 trying to separate the fact that he thinks that the applicants were told that they should stop from
205 whether or not the project would have been approved anyways. There are no abutters to contest the
206 building and the project seems reasonable to him.

207 Chairman Schneider said that he walks and drives the road frequently and when he went to look at the
208 property he did not realize the porch was new.

209 Mr. Simpson asked Mr. Neuwirt if he thinks that an eight foot wide porch was necessary. Mr. Neuwirt
210 said that you either do it all the way or don't do it at all. There is a certain amount of space to get from
211 Point A to Point B. The deck doesn't exceed the width of the old walkway to the house and even though
212 the side of the driveway is now being used, it seems to about stay the same. Mr. Simpson asked and Mr.
213 Neuwirt said that it looks as though there is one step from the driveway onto the porch.

214 Vice Chair Platt said that the Board has been told about the water and they typically hear about the
215 snow, rain, etc. and the safety about getting into a house. The Board has determined that it is
216 reasonable to have a roof over the front door and maybe a deck to have one step rather than three or
217 four. It is not that close to the road and there is no impact to traffic or snow removal.

218 Mr. Larrow said that when he looked at the drawing he looks at the difference between the 36 ft and
219 the 37 ft and that it hasn't done anything to the neighborhood. He does not think that it has created
220 anything that should not be there. The Board doesn't like dealing with things already built but he does
221 not think that it is not a good use of the property.

222 Mr. Simpson said that he thinks that there is more hardship here than with another case that was
223 previously approved. However, he does not know that this was the only solution.

224 Vice Chair Platt made a motion to approve Case # 17-01: Parcel ID: 0136-0004-0000: seeking a
225 Variance of Article III, Section 3.10 to reduce the road front setback from 50 ft to 37 ft allowing post-
226 construction of a covered deck and entryway as per sketch attached, 171 Burkehaven Hill Rd, Nicholas
227 and Carol Ruffus, conditioned on the fact that the deck not be enclosed into a screened porch of any
228 kind or a living space without a Variance. Mr. Neuwirt seconded the motion. Mr. Simpson said that he
229 thinks that the Board needs to discuss setback cases without surveys. He does see hardship with this
230 case though. The motion passed unanimously.

231 **MINUTES**

232 Changes to the minutes from the December 8, 2016 Zoning Board Meeting: Change Line 93 to read
233 "...area is 1,102 to 1,114." Change Line 94 to read "...probably 1110 in front of the house." Change line
234 95 to read "...go to 1,114 but it is not..." Change Line 204 to read "...the Zoning Board recognizes
235 should..." Change Line 210 to read "...some cases we hear are people applying for a Variance..." Change
236 Line 213 to read "...Mr. Landry's life easier." Change Line 224 to read "...there are less conflicts."

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

239 **MISCELLANEOUS**

240 Chairman Schneider gave the Board copies of an email that he sent to Peter White, Chairman of the
241 Planning Board, regarding setting up a joint meeting along with Mr. White's response.

242 Chairman Schneider said that the Planning Board would like to meet on February 2nd. Mr. Simpson said
243 that he is not able to meet that day. Chairman Schneider asked if everyone on the Board could meet on
244 January 24th. Mr. Larrow said that he cannot be at the meeting on the 24th. Mrs. Larrow said that they
245 could try as they are flying back on the 24th. Everyone but Mr. Simpson can go on the 2nd.

246 Chairman Schneider said that he has different thoughts and ideas from the different members of the
247 Board and he would like to get a general consensus from everyone. Though he understands not all the
248 members will agree on everything, he wants to get everyone's thoughts on ways to improve the Zoning
249 Ordinance.

250 Chairman Schneider said that he wants to get all the most important things down for the joint meeting.

251 Chairman Schneider said that the first proposed change would be to the definition of "Structure." The
252 Board has issues with the definition as it says "anything constructed or erected with a fixed location on
253 the ground, or attached to something having a fixed location on the ground." The Board agreed that the
254 definition is awkward.

255 Mr. Larrow asked and Chairman Schneider confirmed that the Board was going to ask Mr. Landry to get
256 definitions from the Town's attorney. Chairman Schneider said that Mr. Landry has not done it yet.

257 There was a discussion as to whether a patio should be considered a structure or if it is a reasonable use
258 of one's property and if making another pervious area on the ground makes a difference. Mr. Neuwirt
259 said that pervious should be pervious no matter what. Vice Chair Platt said that he disagrees because it
260 is not just if a structure is pervious or impervious as to whether something should be approved. The
261 Board agreed that the definition of "Structure" needs to be better worded.

262 Chairman Schneider said that another suggested change is to add the definition of "Hardship." It is a
263 statutory definition and Chairman Schneider said that he has printed the Statute; people who are
264 applying for Variances should be able to get the definition. Mr. Simpson said that the definition is
265 Statutory but there has been a lot of judicial gloss over the years. Vice Chair Platt said that his concern is
266 that the interpretation of hardship it is always in flux. Mr. Simpson read the Statute's definition of
267 hardship. There was further discussion regarding the definition of hardship and how the Supreme Court
268 has interpreted the definition. The Board also spoke about the format of the application of a Variance.
269 There was a discussion regarding the different thoughts people have regarding hardship.

270 There was a discussion regarding how abutters may or may not influence cases.

271 Chairman Schneider said that the third recommend discussion topic is whether someone who is
272 changing the footprint of the structure should always need to come in for a Variance. Vice Chair Platt
273 gave an example of a house that was built in 2003 that he does not think received a Variance because in
274 2003 it was not required because the house was more conforming than before. The Board discussed
275 changing the wording of the Ordinance so that it does not still have "footprint" or so that "footprint" has
276 a definition. The Board wants to make it so if a change is made so that the house is situated better on
277 the lot then it will not require a Variance.

278 Chairman Schneider said that another discussion point is regarding when an owner makes a change to a
279 non-conforming structure. The Board would like to have plans drawn by licensed surveyors
280 demonstrating that the requirements have been met.

281 The Board discussed adding an Ordinance that non-conforming structures such as porches cannot be
282 enclosed without a Variance.

283 The Board discussed all the different height requirements in the Ordinance and making them more
284 cohesive and better defined. Chairman Schneider said that height should be defined as the vertical
285 distance measured from the ground at any given point in a structure. Mr. Simpson asked about
286 someone who wants to change the grade of a lot and how that should be measured. There was further

287 discussion regarding this matter and where the measurement should be taken from if there is a walkout.
288 Mr. Neuwirt said that as long as the completed structure fits into the spirit of the Ordinance, which is to
289 not have structures over 40 ft tall, how high the structure was before should not make a difference.

290 There was a discussion regarding houses built into a slope and the Steep Slope Ordinance. There was
291 further discussion regarding height and adding fill to a lot and the measurement from the lowest point
292 of the land to the highest point of the building and the maximum height that the Board thinks is
293 appropriate and the height restrictions within setbacks. The Board discussed that there are too many
294 height definitions and that it is confusing and about the thought that height should be measured from
295 the lowest adjacent grade and that the height of a structure can be no more than 40 ft. The Board
296 discussed the footnote on the bottom of Article III and if this Ordinance is being proposed to be changed
297 this year.

298 The Board discussed the organization of the Zoning Ordinances as they feel it is confusing.

299 The Board discussed that the definition of height cannot be used for the entire structure as there are
300 height restrictions within setbacks and slope issues.

301 The Board discussed their thoughts about the definition of slope and how the slope is measured and if a
302 slope should be determined by a survey before someone gets a building permit as well as if the slope
303 should be applied for the building envelope or the entire lot and if verbiage needs to be added to ensure
304 people know what slope is and how and where it is measured and if there should be anything like
305 driveways that should be exempt. The Board determined that they want to talk to the Planning Board
306 and Mr. Landry for their ideas.

307 Chairman Schneider said that he is bothered that if something doesn't have a kitchen it is not a dwelling
308 unit. Mr. Simpson said that Water and Sewer has its own definition of a dwelling unit and there should
309 be some conformity between the two entities so there is less confusion. Mr. Neuwirt said that he
310 believes in the honor system and if someone says that they are not going to put in food preparation
311 facilities, how can the Board enforce whether or not someone puts in a microwave. Mr. Simpson said
312 that Chairman Schneider is saying that beds and a toilet and a separate entrance should define if
313 something is a dwelling unit. The Board also discussed the Accessory Dwelling Unit (ADU) Amendment
314 that is going to voters this year. Mrs. Larrow explained that there has to be an adjoining doorway
315 between an ADU and the main house. There was further discussions regarding ADUs and dwelling units.
316 There was also a discussion regarding someone who wants to add a bunkhouse or carriage house that
317 does not have a kitchen so is not considered a dwelling unit.

318 The Board discussed about if they all want to be on the same page for all the proposed changes before
319 talking to the Planning Board or if they believe that they can all discuss their own opinions with the
320 Planning Board.

321 Chairman Schneider said that many of the Variances that they hear are for Article VI: Non-conforming
322 structures. He feels as though this should be part of the dimensional controls and moved to be in Article
323 III or right after Article III rather than back in the book.

324 Chairman Schneider said that he thinks that defined terms should be highlighted or underlined or
325 capitalized so that people are aware and can look up the definitions. Mr. Neuwirt said that this will
326 show off the inadequacy of how many definitions Sunapee does not have. New London has 172
327 definitions and Sunapee has 69. There was further discussion regarding the lack of definitions in the
328 Zoning Ordinance as well as some definitions that are not referenced in the Zoning Ordinance.

329 The Board discussed if the Zoning Ordinances should be professionally written and how much it costs.

330 There was a discussion regarding the proposed Zoning Amendment to Article III, Section 3.50 (b)(2) that
331 will change the wording of the Ordinance from “the majority of lots on the same side of the road and
332 within 500 ft either side of the subject lot” to “the majority of lots on the same side of the road and
333 within 500 ft both sides of the subject lot”. Vice Chair Platt said that he thinks that there should be
334 separate districts for Lake Ave, Hamel Rd, Mountain View Lake, etc. where every property is non-
335 conforming and decide an acceptable setback. There was further discussion regarding this issue.

336 Chairman Schneider discussed a change to Article III, Section 3.50 (f) which says “if a pre-existing
337 primary structure is non-conforming due to an inadequate front setback, the ZBA may allow additions to
338 the structure providing such changes do not further decrease the front setback.” The Board discussed
339 this Ordinance as they believe that making something less non-conforming should not always require a
340 Variance. Mr. Simpson said that they have had quite a few cases in the past two years where people
341 have requested a Variance of one of the criteria for a Special Exception and he does not think that the
342 Special Exception is part of the Ordinance. He does not believe that someone can get a Variance for
343 Special Exception criteria, either they meet the criteria for a Special Exception or they can apply for a
344 Variance but the criteria for a Special Exception do not qualify for a Variance. For a Special Exception, all
345 of the criteria must be met; the base element of what an applicant is asking a Variance for should not be
346 based on the Special Exception criteria. There was further discussion regarding how this should be
347 spelled out or how the issues can be taken care of and if Article III, Section 3.50 should be eliminated.

348 The Board discussed having another meeting with just the Zoning Board to continue discussing their
349 thoughts about the Zoning Ordinances. Mrs. Larrow said that she thinks that what the Zoning Board is
350 doing is great but it will not have an impact on this coming Town meeting but will help for next year.

351 There was a brief discussion regarding the petitioned Zoning Amendment to rezone a 600 ft wide area
352 on the side of Route 11 from Jobs Creek Rd to Brown Hill Rd and that the Planning Board can only say
353 whether or not they recommend the petition or not, it still has to go onto the ballot.

354 The Board determined to meet again to talk about Zoning Ordinances on January 24th. The Board
355 members will email Chairman Schneider with suggestions, however, they will not email them to the
356 entire Board. Chairman Schneider said that he will notify Mr. White that the Zoning Board would like to
357 wait to have a joint meeting and that he will notify the Town that he would like them to notice a
358 meeting for January 24th to discuss potential improvements to the Zoning Ordinance

359 Mr. Simpson made a motion to adjourn the meeting at 9:46 pm. Vice Chair Platt seconded the motion.
360 The motion passed unanimously.

361 Respectfully submitted,

362 Melissa Pollari

363

364 Zoning Board of Adjustment

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366 Daniel Schneider

Aaron Simpson

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368 Clayton Platt

William Larrow

369

370 George Neuwirt