

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **MARCH 9, 2017**

4 **PRESENT:** Daniel Schneider; Clayton Platt; George Neuwirt; William Larrow; Roger Landry, Zoning  
5 Administrator

6 **ABSENT:** Aaron Simpson;

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

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

9 **CASE #17-02: PARCEL ID: 0137-0011-0000: SEEKING A VARIANCE OF ARTICLE III SECTION 3.10 TO**  
10 **REDUCE ROAD FRONT SET-BACK FROM 75 FT. TO 20 FT. ALLOWING CONSTRUCTION OF A SHED ROOF.**  
11 **127 EDMONT ROAD, RICHARD & RAYLENE BLY.**

12 Sarah Farland explained that Mr. Bly is looking to have a safety exit as there are two disabled people in  
13 the home. The roofing provides easy access over the front so wheelchairs can go down the sidewalk and  
14 not have snow or ice drop on them. Mr. Bly is also asking for a roof for the back porch. Mr. Landry said  
15 that the back porch is not an issue as all the setbacks are met.

16 Chairman Schneider asked and Mr. Landry confirmed that this application is after the fact. Mr. Landry  
17 said that he called and sent a letter to Mr. Bly telling him that what was done is not allowed with the  
18 Zoning Regulations as it is not 75 ft from the centerline of the road. Mr. Bly responded immediately and  
19 Mr. Landry explained that they needed a Variance. Mr. Landry continued that Mr. Bly claimed that they  
20 did not know where the centerline of the road is located. The State has sent a letter confirming this and  
21 Mr. Landry said that he has no way of proving where it is located. Mr. Landry asked and Ms. Farland  
22 said that she does not know if the property has been surveyed.

23 Mr. Larrow asked and Ms. Farland explained that she works for the Blys taking care of one of the  
24 disabled family members. Mr. Larrow asked and Ms. Farland said that she does not have anything  
25 saying that she can represent Mr. and Mrs. Bly. Ms. Farland said that the contractor was also supposed  
26 to be at the meeting but did not show up. Mr. Landry said that he was told that Ms. Farland would be  
27 given something from the Blys authorizing her to speak on their behalf and Ms. Farland said that she  
28 was not. Chairman Schneider said that he thinks that this case has to be postponed until the applicants  
29 can attend the meeting or give Ms. Farland written authorization that she can represent them.

30 Mr. Larrow explained some of the questions that the Board will be asking and said that Ms. Farland isn't  
31 really in the position to answer them. Ms. Farland agreed and said that was why she was hoping the  
32 contractor would be at the meeting. Mr. Landry suggested that Ms. Farland also talk to Mr. Bly to see if  
33 there was ever a survey done of the property as it will help show the setback. Mr. Larrow said that the  
34 Board made determinations last time with the assumption that everything was correct and he does not

35 know if the person from the State who wrote the letter has any authority. There was further discussion  
36 regarding this issue and postponing the hearing.

37 Mr. Larrow made a motion to defer the case until the April meeting at which time the Board will hear  
38 the case to understand the boundaries of the property, the handicap access, and the State's  
39 understanding verses the Town's understanding regarding the right of way. Mr. Landry said that the  
40 Board needs to know if there was ever a survey done and if there was it needs to be brought to the  
41 meeting. There also needs to be a letter signed by Mr. Bly allowing someone to represent him. There  
42 also needs to be something from District Two regarding the right of way. Mr. Platt seconded the  
43 motion. The motion passed unanimously.

44 **CASE #17-03: PARCEL ID: 0149-0013-0000 & PARCEL ID: 0148-0025-0000: SEEKING A VARIANCE OF**  
45 **ARTICLE III SECTION 3.10 ALLOWING A REDUCTION IN REQUIRED LOT SIZE OF A PRE-EXISTING NON-**  
46 **CONFORMING LOT FROM .339 ACRES TO .330 ACRES ANNEXING .009 ACRES TO LOT #0148-0025-0000.**  
47 **699 ROUTE 103, MOUNTAIN VIEW TAVERN, LLC.**

48 Vice Chair Platt recused himself from the case as he is the surveyor for the properties.

49 Chairman Schneider said that there are only three voting members and the applicants will need a  
50 unanimous vote in favor of the application for an approval. The applicants have the option to defer until  
51 the next meeting when there is hopefully a full Board. The applicants decided to proceed with the case.

52 Lance Harbour presented the merits of the case. He explained that he owns the property on  
53 Morningside Drive that is receiving the piece of property from Mountain View Tavern. Chairman  
54 Schneider asked and Mr. Harbour said that he has a letter authorizing him to speak on behalf of the  
55 owners of Mountain View Tavern.

56 Mr. Harbour said that he owns the front yards of two of the properties on the right side of his property.  
57 They went through the process of trying to annex those pieces of property to the neighbors through a  
58 subdivision / annexation process but what they discovered is the piece of railroad property that  
59 Mountain View Tavern owns blocks the Harbour's access to Hamel Rd. Mr. Harbour said that they went  
60 to the previous owner of the property and she offered to sell it to them but the current owners  
61 purchased the property before the sale could happen. Mr. Harbour continued that when he spoke with  
62 the current owners of Mountain View Tavern, they originally said that they would do an easement over  
63 the property but recently decided they preferred to sell it to them. The Harbours will own the top of  
64 their driveway and the owners of Mountain View Tavern will not have any liability for it.

65 Mr. Landry explained the previous case to the Board.

66 Chairman Schneider asked and none of the Board members had any questions for Mr. Harbour.  
67 Chairman Schneider closed the meeting to public input.

68 Mr. Neuwirt made a motion to approve Case #17-03: Parcel ID: 0149-0013-0000 and Parcel ID: 0148-  
69 0025-0000: seeking a Variance of Article III Section 3.10 allowing a reduction in required lot size of a  
70 pre-existing non-conforming lot from .339 acres to .330 acres annexing .009 acres to Lot #0148-0025-

71 0000, 699 Route 103, Mountain View Tavern, LLC. Mr. Larrow seconded the motion. The motion passed  
72 unanimously.

73 **MISCELLANEOUS**

74 There was a brief discussion regarding the Ruffus case. Chairman Schneider said that he does not know  
75 the difference between an Equitable Waiver and an “after the fact” Variance. Mr. Landry said that there  
76 is no “after the fact” Variance. Mr. Landry said that Mr. Ruffus assumed that a building permit was not  
77 required and spoke to Mr. Ruffus about the project but he then finished the job. An Equitable Waiver  
78 means that someone is totally naïve about the situation, such as he was told that a building permit was  
79 not needed. Mr. Ruffus didn’t ask the Town if a building permit was required, he only asked his real  
80 estate agent who didn’t know. There was further discussion regarding the case.

81 **MINUTES**

82 Changes to the minutes from the January 12, 2016 Zoning Board Meeting: Change the minutes to  
83 reflect that Mr. Larrow was present at the meeting. Change Line 24 to read “...buying the house  
84 whether the house had any permit.” Change Line 25 to read “...were not any Certificates of Occupancy  
85 and he proceeded...” Change Line 271 to read “...the third recommended discussion topic...” Change  
86 Line 350 to read “...this coming Town meeting, however, it will help...”

87 Vice Chair Platt made a motion to approve the minutes as amended for January 12, 2017. Mr. Larrow  
88 seconded the motion. The motion passed unanimously.

89 **MISCELLANEOUS**

90 There was a brief discussion regarding the Planning and Zoning Conference on April 29<sup>th</sup> in Concord. Mr.  
91 Landry said that they were also trying to get the Municipal Group to hold a Planning and Zoning  
92 Conference in Sunapee with local towns.

93 There was a discussion regarding the talking points for the joint meeting with the Planning Board that  
94 Chairman Schneider drafted.

95 Vice Chair Platt asked what will happen if the Zoning Amendment regarding patios being defined as a  
96 structure is voted down. Mr. Landry said that patios are considered structures unless they are  
97 impervious and not connected to the building. The Town has this in writing from the Town’s attorney  
98 and the Town lost a case on this issue in the past. Mr. Landry continued that an impervious patio is not  
99 really a footprint and the Assessing Department does not put them a value on them.

100 Mr. Neuwirt said that he went to the last Planning Board meeting and spoke to them for about an hour  
101 and a half about how he feels as though all the layering keeps creating confusion. Chairman Schneider  
102 said that the Zoning Board has to work with the Planning Board rather than against them and arguing  
103 with them or making it accusatory doesn’t work. The Planning Board’s focus is primarily on Site Plans,  
104 not on the Zoning Ordinances, so it is the Zoning Board’s job is go get the Planning Board to focus on  
105 them more. Mr. Neuwirt asked and Chairman Schneider said that he does not know if Mr. Neuwirt was

106 not being constructive as he was not there. Mr. Neuwirt said that his attitude going into the meeting  
107 was not to make anything personal, the bottom line is that the Zoning Ordinance is difficult to rule on  
108 and difficult to administer. Chairman Schneider asked and Mr. Neuwirt said that he told the Planning  
109 Board that he was not there on behalf of the Zoning Board. Mr. Neuwirt said that his intent in  
110 spearheading this endeavor is to create a Zoning Ordinance that is clear and easier to administer.

111 There was a discussion regarding driveways and patios and structures and the definition of structure as  
112 well as the impervious and pervious issue. Mr. Larrow asked and Mr. Landry said that he defines  
113 structures as to whether something is pervious or impervious per the Town's attorney. Chairman  
114 Schneider said that he would like this in writing from the Town's attorney. Mr. Landry said that the  
115 Town's attorney said that the Town should define what it means to be a fixed location. Mr. Landry  
116 continued that he is the one who has to make interpretations. The Zoning Board is the jury and they  
117 make decisions whether or not Mr. Landry has made a mistake or if something deserves relief from a  
118 Zoning Ordinance. Chairman Schneider said that he would like less interpretation and more substance.  
119 Mr. Neuwirt said that then things have to be more clearly defined.

120 Mr. Neuwirt said that he thinks that Chairman Schneider's draft of the Zoning issues is a good start but  
121 he does not think that it is enough. Chairman Schneider said that he thinks that it is a start and doesn't  
122 want to do too much at one time. Mr. Larrow asked Mr. Neuwirt if he thinks the entire Zoning  
123 Ordinance should be thrown out. Mr. Neuwirt said that he has not said that nor has he said anything  
124 that should make someone draw that conclusion. Mr. Larrow said that he draws that conclusion based  
125 on the fact that Mr. Neuwirt feels that what the Board has drafted is miniscule. Mr. Neuwirt said that is  
126 not what he meant. The Ordinance was started in 1987 and every time there is a change it just layers  
127 confusion on confusion and he thinks that it has to be unstitched to gain clarity. He does not think that  
128 the Zoning Ordinance needs to be thrown away because it is used to govern. He feels as though the  
129 patterns are continuing such as with the reclassification of patios. He is trying to spearhead an effort  
130 where the Zoning Ordinance will be easier to administer because there is less confusion. His perception  
131 is that the Zoning Board will have fewer cases due to confusing components of the Zoning Ordinance.  
132 Mr. Landry said that when he first came to the Town any recommended Zoning Amendments were first  
133 sent to the Town's attorney for review. This is not done any more and as a result there have been many  
134 changes made but they have not been reviewed by the Town's attorney. There was further discussion  
135 regarding this matter.

136 Mr. Neuwirt said that his intention is to get some clarity and make a Zoning Ordinance that is easier to  
137 administer and leaving all the personal stuff out. Chairman Schneider said that it sounds like a good  
138 thing.

139 Mr. Landry explained that for a few years there Zoning Amendments were written by a couple of people  
140 from the Zoning Board and a couple of people from the Planning Board meeting with him and Mr.  
141 Marquise and that he felt it worked well. There was further discussion about this matter and the Zoning  
142 and Planning Boards meeting for proposed Zoning Amendments.

143 Chairman Schneider said that he does not want five different opinions brought to the Planning Board, he  
144 would like to be unified. Mr. Neuwirt said that it is difficult because all the Board members have  
145 different interpretations on how something should be worded and it can be difficult to reach a  
146 consensus. He thinks things should be clear and to the point. Chairman Schneider said that is what he  
147 has tried to do and he'd like the Board to help make it better.

148 Vice Chair Platt made a motion to adjourn the meeting at 8:05 pm. Mr. Larrow seconded the motion.  
149 The motion passed unanimously.

150 Respectfully submitted,

151 Melissa Pollari

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153 Zoning Board of Adjustment

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155 Daniel Schneider

\_\_\_\_\_ Aaron Simpson

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157 Clayton Platt

\_\_\_\_\_ William Larrow

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159 George Neuwirt