

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **APRIL 13, 2017**

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

6 **ABSENT:**

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

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

9 **ELECTION OF OFFICERS**

10 Mr. Larrow nominated Daniel Schneider as Chair. Mr. Simpson seconded the motion. Mr. Neuwirt said  
11 that he does not think that Chairman Schneider is the man for the job because he does not think that  
12 Chairman Schneider has a grasp on the issues that the Board faces or on how to make changes needed  
13 in order to expedite the process that has been started between the Zoning and Planning Boards. Mr.  
14 Neuwirt continued that he believes that Chairman Schneider will continue with the "same old, same  
15 old" and change will not happen the way that it needs to. For instance, at the last meeting there was a  
16 person in front of the Board without a letter authorizing her to represent an applicant and the Board  
17 talked to her instead of just saying that she did not have authorization. Mr. Neuwirt said that he does  
18 not believe that Chairman Schneider's proposed changes to give the Planning Board are in sync to what  
19 the Zoning Board is trying to do. There are no clear definitions of what needs to be changed. Mr.  
20 Neuwirt continued to explain his thoughts on this topic.

21 Vice Chair Platt said that he disagrees with Mr. Neuwirt. He thinks that Chairman Schneider has been on  
22 the Board a long time and has a good grasp of the Zoning process. He thinks that a lot of the definitions  
23 that Mr. Neuwirt is looking for are beyond the scope of the Town and are defined by State law. The  
24 authorization of the Zoning Board comes from the State and the court system and the Board cannot  
25 alter the definitions.

26 Mr. Larrow said that he made the nomination because in terms of being the Chair, he likes someone  
27 with experience. He thinks that Chairman Schneider brings Planning experience and that he has been on  
28 the Zoning Board. He understands the types of changes that Chairman Schneider wants to make with  
29 the Zoning suggestions that he brought forward and the Board is going to tweak them to make sense.  
30 Mr. Larrow continued that he does not think that any of the suggestions were only Chairman  
31 Schneider's approach, he feels as though they are to start the Board talking. He also feels as though the  
32 Zoning Ordinance is difficult but he has never heard anyone say that a committee should be created to  
33 come up with better Zoning definitions. He agrees with Mr. Neuwirt in that he struggles with a lot of the  
34 Zoning and he is not sure how to get there but he thinks that it partially has to come from Mr. Landry

35 and the Planner. Mr. Larrow continued that he understands what Mr. Neuwirt is saying but that he is in  
36 support of Chairman Schneider as Chair. Mr. Larrow continued explaining his thoughts.

37 Mr. Simpson said that he agrees with Mr. Neuwirt on some things but that Mr. Neuwirt does not speak  
38 for the entire Board about the things they want to do. He thinks that it is a little more complicated than  
39 just revising the Ordinance. He thinks that it would be good to get a whole new Ordinance if they could  
40 spend the money to get a new one. However, it is the Planning Board's responsibility. He thinks that  
41 Chairman Schneider is thoughtful and has some experience having been on both the Planning and  
42 Zoning Boards. All the members bring their own experience and it probably one of the more well-  
43 rounded Boards in Town. Mr. Simpson continued explaining his thoughts.

44 Mr. Neuwirt said that he thinks that the Board members are taking the easy way out. All of the Board  
45 members have made suggestions to changes to the Zoning Ordinance. He does not think that Chairman  
46 Schneider is very welcoming; applicants do not know what paperwork they are supposed to have or  
47 what criteria they are supposed to answer to, there is no direction. He feels as though it is the job of the  
48 Chairman to have an applicant feel welcome and not just dump a pile of responsibility onto their lap  
49 that they might not be totally prepared for. Mr. Simpson said that it is an applicant's responsibility to  
50 present their case and the Board is not the facilitator, Mr. Landry is the facilitator. The members need  
51 to be the impartial Board; if the Board can assist an applicant to get to a version of their proposal that  
52 the Board is comfortable with under the regulations that is OK but it is not the Board's responsibility to  
53 present the case.

54 Mr. Neuwirt said that if the draft that Chairman Schneider has presented is a coalition of the most  
55 important aspects of all the proposed changes it is so far off the mark he can't even see straight. There  
56 is no addressing of the core problem, which is that there are no definitions. There was a change to the  
57 Zoning Ordinance this year and now alterations have been added to restorations and there are no  
58 definitions. Vice Chair Platt said that he was at two of the Planning meetings to discuss the Zoning  
59 changes and he was the only Zoning member there. Vice Chair Platt continued that Mr. Neuwirt did not  
60 participate last year. Mr. Neuwirt said that he did not know last year how to promote change as he was  
61 just an alternate. The statement that Mr. Simpson made that the Planning Board holds the authority  
62 isn't a fair statement because as members of the Zoning Board there is no one better qualified than  
63 them to advise the Planning Board. It is a copout to think that the Zoning Board will just dump it in the  
64 Planning Board's lap and then they have someone to blame. Mr. Larrow said that he doesn't hear it that  
65 way, he hears it that the Planning Board is the deciding factor. Mr. Simpson said that it is the Planning  
66 Board's decision on what to propose for Amendments by Statute. Chairman Schneider said that the  
67 Zoning Board is supposed to recommend changes to the Planning Board. There was further discussion  
68 regarding this matter.

69 Mr. Simpson asked if Mr. Neuwirt was done stating his concerns so they can return to the election of  
70 officers and Mr. Neuwirt said that he was not.

71 Mr. Neuwirt said that in the minutes of the March 2<sup>nd</sup> Planning Board meeting Lines 356 and 357 read  
72 "Mrs. Gottling asked and Vice Chair Larrow said that the Zoning Board did not have any input on the

73 Zoning Amendments." Mr. Neuwirt continued reading from the minutes "Mr. Marquise said that in the  
74 past there has always been Zoning Board input though and he does not think that it has happened in the  
75 past two years." It takes leadership on behalf of the Zoning Board and if they are being ignored they  
76 need to step into the roll to advise the Planning Board.

77 The motion to nominate Daniel Schneider as Chair passed with three in favor, one abstention, and one  
78 opposed.

79 Mr. Larrow nominated Clayton Platt for Vice Chair. Mr. Simpson seconded the nomination. Vice Chair  
80 Platt asked and Chairman Schneider said that he will not be traveling until November. The motion  
81 passed with four in favor and one abstention.

82 **CASE #17-02: PARCEL ID: 0137-0011-0000: SEEKING A VARIANCE OF ARTI CLE III SECTION 3.10 TO**  
83 **REDUCE ROAD FRONT SET-BACK FROM 75 FT. TO 20 FT. ALLOWING CONSTRUCTION OF A SHED ROOF.**  
84 **127 EDMONT ROAD, RICHARD & RAYLENE BLY.**

85 Chairman Schneider explained that the applicants have asked to continue the case for 30 days. The  
86 request was filed on April 6, 2017.

87 Mr. Simpson made a motion to continue the case to the next regularly scheduled meeting. Vice Chair  
88 Platt seconded the motion. The motion passed unanimously.

89 **CASE #17-04: PARCEL ID: 0138-0031-0000: APPEAL OF THE ADMINISTRATIVE OFFICER'S DECISION ON**  
90 **AN ALLEGED VIOLATION HAS BEEN RESCHEDULED FOR TUESDAY, MAY 23, 2017 AT 7:00PM. 64**  
91 **STAGECOACH ROAD, WHITE FAMILY REVOCABLE TRUST.**

92 Chairman Schneider explained that this case has been rescheduled and the Board does not need to take  
93 a vote on it. Vice Chair Platt asked and Chairman Schneider said that the Board will have a second May  
94 meeting for an Administrative Appeal. Mr. Simpson asked and Chairman Schneider said that the Board  
95 does not have any paperwork for the Administrative Appeal yet. Vice Chair Platt said that he was told  
96 that they will get the paperwork 7-10 days before the meeting because the attorneys are going back and  
97 forth. Chairman Schneider said that he does not know why the meeting is May 23<sup>rd</sup> instead of the  
98 regularly scheduled meeting. Vice Chair Platt said that he thinks that there was a conflict with the  
99 attorneys being available.

## 100 **MINUTES**

101 Changes to the minutes from the March 9, 2017 Zoning Board Meeting:

102 Mr. Larrow made a motion to accept the minutes. Vice Chair Platt seconded the motion. The motion  
103 passed with four in favor and one abstention.

104 **MISCELLANEOUS - DRAFT OF THE TALKING POINTS FOR THE JOINT MEETING WITH THE PLANNING**  
105 **BOARD.**

106 Mr. Simpson asked and Chairman Schneider confirmed that one of the Zoning Ordinances that did not  
107 pass had to do with patios. They wanted to add patios to the list of structures and it was also voted  
108 down. Vice Chair Platt said two years ago it was voted down to add patios to the list of minor  
109 structures, which would not need a building permit.

110 Chairman Schneider said that he is not trying to compile a complete list of everything wrong with the  
111 Zoning Ordinance but a start of the most important and most frequent things that the Board runs into.  
112 He has asked Board members at every meeting to give comments on the list so that it is not just his list.  
113 Chairman Schneider asked if the list is something that the Board can support, though he understands  
114 that it is not complete.

115 Mr. Simpson said that for a time the Board looked at the issue of structures as there were no minor  
116 structures but there were things that were listed as structures and then the Planning Board came up  
117 with the list of minor structures. Chairman Schneider said that swing sets and pergolas were added to  
118 the list of minor structures this year. There was further discussion regarding minor structures.

119 Vice Chair Platt said that his biggest issue with the Zoning Ordinances is that if someone is trying to do  
120 something more conforming than it was before he does not understand why a Special Exception or a  
121 Variance is needed. Mr. Simpson said that then the Board is relying on an agent to make the proper  
122 determination. Vice Chair Platt said that they would be relying on the Zoning Administrator. Mr.  
123 Simpson said that the Board would be asking the Zoning Administrator to make decisions when his job is  
124 to help applicants through the process and he could make a decision that the Board might not agree  
125 with. Chairman Schneider agreed that is a possibility but said that it is possible for the Zoning  
126 Administrator to do that now too.

127 Mr. Larrow said that at the last meeting Mr. Landry said that it depends on if something is pervious or  
128 impervious as to whether it is a structure or not. The Board challenged this and Mr. Landry said that it  
129 came from the attorneys. Mr. Simpson said that he is tired of hearing that things come from the  
130 attorneys or that it is how it was done in the past. There was further discussion regarding this issue.

131 Mr. Platt said that he thinks that there is a structural problem with someone filing an appeal of Mr.  
132 Landry's decision. If someone wants to file for an appeal they have to pay \$150.00 and wait 30 days or  
133 45 days and then if you lose you have to pay to file for another appeal. Also, when someone files for an  
134 appeal the Town's attorney becomes involved. It should not be this hard and the opportunity to  
135 formally question Mr. Landry's decision is difficult. Mr. Simpson asked Mr. Platt what the Board should  
136 do about this issue. Chairman Schneider said that what the Board is trying to do is reduce the number  
137 of interpretations, he would like things to be decided more by Ordinance and less by interpretation.

138 Mr. Simpson said that the Board should come up with language for things that are less non-conforming  
139 with criteria, however, he would want strict compliance with the criteria. Chairman Schneider said that  
140 the proposed language says "the alteration of or replacement of a non-conforming structure, which  
141 measures from any point in any direction or dimension, increases the non-conformity." Mr. Simpson  
142 said that he does not like if something is within the setback that the parts of the house that are outside  
143 the setback are treated differently because the structure is one building.

144 Mr. Larrow said that his suggestion is to do the same thing that they do for decks. Decks that are 150 sq  
145 ft or less are allowed and he thinks that they can create parameters for patios as well. There was a  
146 discussion regarding this topic.

147 There was a discussion regarding dimensions and footprints and Section 3.10 and Section 6.12 and  
148 setbacks and non-conforming uses.

149 Vice Chair Platt said that he would like for someone who wants to replace their house to be able to call a  
150 builder who can tell them what they can do without needing a Zoning Variance. The Planning Board  
151 complains that the Zoning Board issues too many Variances but a lot are because the house is more  
152 conforming then it was before. Mr. Larrow said that they should not be looking at the percentages or  
153 the number of Variances granted. Chairman Schneider said that a lot of the issue has to do with how  
154 the agendas are written.

155 Chairman Schneider said that he agrees that the Board needs to get away from the concept of footprint  
156 and more into conformity or non-conformity. Chairman Schneider said that the new draft of Section  
157 6.12 says that if non-conformity is increasing anywhere then they need to come before the Board.  
158 However, if non-conformity is not increasing then they don't need to. Mr. Simpson said that creates  
159 other problems. There was further discussion regarding this matter.

160 Mr. Neuwirt asked for someone to explain to him what a non-conforming structure is. Mr. Simpson said  
161 that it is a structure that does not fit the setback requirements. Chairman Schneider said that it is a  
162 structure that does not comply with the requirements of Section 3.10. Mr. Neuwirt said that this is a  
163 waste of time. Mr. Simpson said that Chairman Schneider is proposing language for Section 3.10. Mr.  
164 Neuwirt said that it is a waste of time for the Board to be discussing something that does not have a  
165 definition in the Zoning Ordinance and asked why they are not starting with the basics. Mr. Platt asked  
166 Mr. Neuwirt for the definition of a non-conforming structure. Mr. Neuwirt said that the Town of  
167 Hanover's definition of a non-conforming structure is "a structure or part therefor that complied with all  
168 applicable laws, ordinances, and regulations when it was built but does not comply with the Zoning  
169 Ordinance presently in effect." Vice Chair Platt said that sounds good. Mr. Neuwirt continued that it is  
170 that simple and then the Board can start building. Mr. Simpson said that Mr. Neuwirt is not being very  
171 constructive and he just wants things his way. Mr. Neuwirt said that he wants to start with the basics  
172 because applicants don't know if their structures are non-conforming without definitions. Mr. Simpson  
173 said that definition needs to be added but that alone will not solve the problem.

174 Mr. Neuwirt asked to discuss the definition of footprint. Vice Chair Platt suggested getting rid of  
175 footprint. Chairman Schneider said that the draft gets rid of footprint.

176 Mr. Simpson asked if everyone agrees on the definition of a non-conforming structure that it is one that  
177 does not currently meet the requirements of Section 3.10 but at the time it was built complied with the  
178 Zoning Ordinances.

179 Mr. Neuwirt left the meeting.

180 Vice Chair Platt said that it would be good to have a definition as to what an increase in non-conformity  
181 is. Mr. Simpson said that there is a definition for a non-conforming lot. There was further discussion  
182 regarding having a definition of a non-conforming structure because Hanover's definition does not  
183 include if someone gets a Variance and if the words "pre-existing" or "due to a Variance or Special  
184 Exception or Equitable Waiver" needs to be added to the definition.

185 There was further discussion regarding the wording of Section 6.12 and Section 6.32 and putting  
186 requirements into the Procedures.

187 There was a discussion about adding a definition for pergola as it is close to a porch and the Board does  
188 not want porches to be enclosed. There was a discussion regarding retaining walls and the various  
189 issues with height in the Ordinance. There was a discussion regarding setbacks for height for some  
190 areas of Town such as Lake Ave and Hamel Rd.

191 Vice Chair Platt said that the Planning Board received new Zoning Ordinance books at their meeting.  
192 Chairman Schneider said that six months ago he requested new Zoning Handbooks that are put out by  
193 the State six and the Board has not yet received them.

194 There was a discussion about the conference held on April 29<sup>th</sup> as many of the members cannot attend.

195 Mr. Simpson asked if the issue regarding slope has been resolved. Chairman Schneider said that he is  
196 not a builder and the Ordinance says that there should be no construction on slopes that exceed 25%  
197 and have an elevation change of more than 20 ft; he does not know how that is measured. Mr. Simpson  
198 asked if the slope is measured before or after landscaping is completed. Vice Chair Platt said that you  
199 are not supposed to disturb a slope. Chairman Schneider asked if the entire structure is measured. Vice  
200 Chair Platt said that most Towns delineate areas where nothing is allowed to be built. Mr. Simpson  
201 asked about someone who builds their house in the side of a slope. Vice Chair Platt said that you are  
202 not supposed to do that and the 20 ft elevation change is significant; other towns have the same  
203 requirements. Mr. Simpson said that Newbury has an overlay district and suggested looking at how  
204 other towns handle slopes. There was further discussion regarding slopes and the Board agreed to get  
205 examples from other towns.

206 Mr. Simpson said that Mr. Marquise can confirm a lot of the reasons for the wording behind some of the  
207 Ordinances.

208 The Board briefly discussed dwelling units and the Board agreed that it is acceptable as it is written.

209 Chairman Schneider said that he will propose different definitions of height, he will define a non-  
210 conforming structure, and he will remove numbers four and five from his proposal. He will then send  
211 out a revised version to the Board.

212 Mr. Simpson asked and Chairman Schneider confirmed that he would like to change the organization of  
213 certain things in the Ordinance. Chairman Schneider said that he thinks the Ordinances are very badly  
214 organized. Mr. Simpson said that it might be helpful to have a Table of Contents. Vice Chair Platt said  
215 that the older books have them. Mr. Simpson said that some of the definitions can be moved around as

216 he is not sure why they are in the back. Vice Chair Platt said that he thinks it could be confusing to  
217 change the numbers of the Articles for when someone wants to look back at previous cases. Chairman  
218 Schneider said that there are some things that are buried in the back of the book. Mr. Simpson said that  
219 he thinks it would be helpful to have an index as well as a table of contents. Chairman Schneider said  
220 that he thinks that non-conforming structures should be next to the Table of Dimensional Controls. Mr.  
221 Simpson said that is a major revision. Chairman Schneider said that it should be easy to do. Mr.  
222 Simpson said that he thinks that it will have to be approved by the Planning Board and then it will have  
223 to go to voters. Chairman Schneider said that he is not sure that if something does not change the  
224 wording if it has to go to voters. Mr. Simpson said that he does think that there are some things that  
225 can be done but some things relate to Variances and other things relate to Special Exceptions. There  
226 was further discussion regarding adding an index to the Zoning Ordinance.

227 Mr. Simpson said that he wishes that Mr. Neuwirt stayed for the meeting and gave the Board copies of  
228 the definitions that he wanted to use. Mr. Larrow said that if the members are going to be a collective  
229 Board working together he does not think that people should say "it is my football and take it and go  
230 home." Mr. Simpson said that he has too limited time to do what Chairman Schneider is doing and he is  
231 happy with Chairman Schneider making proposals for the Board. Vice Chair Platt said that they are all  
232 elected officials. Mr. Larrow said that he wants to work together but he gets the feeling from Mr.  
233 Neuwirt that it is his way or the highway. Mr. Simpson said that he got the same feeling and Mr.  
234 Neuwirt did not say anything constructive until he said that the Board wasted 20 minutes. Mr. Larrow  
235 said that weakens the Board and what they are trying to accomplish. He realizes that the Board  
236 members are elected officials but he thinks that something should be done. Mr. Simpson said that  
237 normally the Chair should talk to a Board member but in this case it might be a mistake. Chairman  
238 Schneider said that he will talk to Mr. Neuwirt. Mr. Simpson said that Mr. Neuwirt already expressed his  
239 dissatisfaction with Chairman Schneider as Chair. Mr. Simpson asked if any of the Board members  
240 besides himself has a good working relationship with Mr. Neuwirt and Vice Chair Platt said that he gets  
241 along with Mr. Neuwirt. Mr. Larrow said that he does not have a lot of experience with Mr. Neuwirt.  
242 Mr. Simpson said that this discussion might need to be be non-public under RSA 91-A, and that there  
243 should be a copy of the RSA in the meeting room for Boards to review. Chairman Schneider said that he  
244 thinks that it is unfortunate that one of the members does not think that he can work with the rest of  
245 the Board. Mr. Simpson said that they are all elected officials and that everyone does the best that they  
246 can and hopefully Mr. Neuwirt feels more part of the group then not part of it.

247 Vice Chair Platt made a motion to adjourn the meeting at 8:30 pm. Mr. Larrow seconded the motion.  
248 The motion passed unanimously.

249 Respectfully submitted,

250 Melissa Pollari

251

252

253 Zoning Board of Adjustment

254 \_\_\_\_\_

255 Daniel Schneider

Aaron Simpson

256 \_\_\_\_\_

257 Clayton Platt

William Larrow

258 \_\_\_\_\_

259 George Neuwirt