

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **AUGUST 10, 2017**

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

6 **ABSENT:** William Larrow; Michael Marquise, Interim Zoning Administrator

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

8 Chairman Schneider called the meeting to order at 7:03 pm.

9 Mr. Simpson made a motion to accept Mr. Lyons as a voting member for the meeting. Mr. Neuwirt
10 seconded the motion. The motion passed unanimously.

11 **CONTINUATION: CASE #17-07: PARCEL ID: 0118-0017-0000: SEEKING A VARIANCE OF ARTICLE III,**
12 **SECTION 3.10 TO REDUCE FRONT SETBACK FROM 50 FT TO 10 FT TO CONSTRUCT A GARAGE. 42**
13 **MARYS RD, RICHARD & JEANNE JAFFE.**

14 Richard and Jeanne Jaffe continued with the presentation of the merits of the case.

15 Mr. Jaffe gave the Board pictures of his house showing the house number as it was discussed at the
16 previous meeting.

17 Mr. Jaffe said that the Board should have received letters from Michael Marquise, the Town Planner /
18 Interim Zoning Administrator; Scott Hazelton, the Highway Director; and Dave Bailey, the Water and
19 Sewer Superintendent. Mr. Jaffe gave copies of the letters to the Board. Mr. Jaffe read highlights from
20 each letter and discussed them with the Board. There was further discussion about Mr. Marquise's
21 letter as he felt as though the application would not meet Special Exception Requirement #3 as the
22 garage closest to them is further back than the applicant's proposed garage and Mr. Simpson feels that
23 it is open to interpretation.

24 Mr. Jaffe said that Mr. Marquise's letter clarifies that they are looking for a proposed setback of 27 ft
25 from the centerline. Mr. Jaffe explained that he measured the properties around him and the closest
26 garage is 38 ft from the centerline. Mr. Jaffe gave the Board pictures of the garages on Mary's Rd and
27 Perkins Pond, which are all non-conforming. There was a discussion regarding these properties as Mr.
28 Jaffe believes that when Zoning was implemented most of the lots and /or the homes around Perkins
29 Pond became non-conforming.

30 Mr. Neuwirt said that at the last meeting the Board wanted to know exactly how far from the setback
31 Mr. Jaffe was asking for because the plan measured from the edge of the road, not the center of the
32 road. The Board also wanted to know where the road is located via documentation. There was further
33 discussion regarding this matter as Mr. Marquise's letter said that the Variance is for 27 ft from the

34 setback and the other letters and Mr. Neuwirt does not know why discussing other properties is
35 relevant.

36 Mr. Jaffe said that another question that was raised was if the proposed garage could be pushed back
37 further towards the pond. Mr. Jaffe showed the Board pictures of the site and said that the culvert and
38 the water coming onto the site is a problem. There was a discussion regarding the location of the shed
39 and the location of the discharge area of the culvert.

40 Mr. Jaffe showed the Board a copy of a survey done by Clifford Richer in 1996, which has been used as
41 the basis for all the plans for construction on the property. There was a brief discussion regarding this
42 plan and the site.

43 Chairman Schneider asked why the garage cannot be moved closer to the house. Mr. Jaffe said that it
44 would destroy the esthetic impact of the property. Chairman Schneider said that the garage would be
45 further back from the road. There was further discussion regarding this matter including the grade
46 change.

47 There was a conversation regarding the drainage pipe that goes across the road and how it drains on the
48 property and that the road keeps being raised; the Jaffe's paid for the culvert that the Town installed.

49 Chairman Schneider asked and there was no one in the audience with any questions regarding the case.

50 Mr. Jaffe said that the DES Shoreland Impact Permit includes the garage and they thought when they
51 were before the Board in 2015 that they were also getting approval for the garage. Mr. Jaffe said that
52 there are 23 homes on Mary's Rd and 11 have garages. Mr. Jaffe said that a majority of the garages on
53 Mary's Rd that are non-conforming were built after Zoning. There as further discussion regarding this
54 matter.

55 Vice Chair Platt said that the Shoreland Permit requires a pervious driveway and he does not believe
56 that bluestone is considered pervious. Mr. Jaffe said that Roger Landry did a calculation on the driveway
57 and said that they are still within the required percentage. Vice Chair Platt said that he thinks that the
58 2015 Variance request was granted subject to compliance with the State Shoreland Permit. There was
59 further discussion regarding this matter as Vice Chair Platt said that he would recommend if the Board
60 approves the garage that it be subject to the applicants installing a pervious driveway.

61 Chairman Schneider asked and Mr. Jaffe went over how his applications meets the five criteria
62 requirements for the Variance request per his application for the Board.

63 Chairman Schneider asked and there was no further questions for the applicant. Chairman Schneider
64 closed the meeting to public comment.

65 Vice Chair Platt said that he views the hardship as the drainage and slopes of the property. With the
66 sewer, many of the cottages are going to be converted to be used as full time homes. He is not sure
67 that Zoning was meant to freeze the seasonal cottages in perpetuity. Vice Chair Platt continued
68 discussing his feelings regarding this matter.

69 Mr. Neuwirt said that he thinks the hardship issue has been proved with the steep slopes. He thinks Mr.
70 Jaffe did a good job in obtaining letters of support from Mr. Marquise, Mr. Hazelton, and Mr. Bailey.
71 The issue of the setback was answered to the best of Mr. Jaffe's ability and the questions the Board had
72 have been answered.

73 Mr. Simpson said that the only hardship he sees is one of Mr. Jaffe's own making by asking the Town to
74 put the drainage in, however, Mr. Jaffe should not be burdened with the drainage from the road. He
75 appreciates that Mr. Jaffe cites Section 1.20 of the Ordinance. Mr. Simpson continued that he thinks
76 that it is unfortunate that Section 2.30 – District Purpose and Description: Rural Residential District,
77 says: "the Rural-Residential areas of the Town of Sunapee are primarily characterized by low-density
78 residential housing and home-based businesses. There is also the opportunity in this district for low-
79 impact commercial uses in appropriate locations near existing utilities and highways. The Rural-
80 Residential District includes the remainder of the Town of Sunapee not specifically described in this
81 section" because it doesn't necessarily relate to places like Perkins Pond. Mr. Simpson continued
82 discussing his views regarding the application including that if the application is approved then he would
83 like the Shoreland Permit issue regarding the driveway addressed.

84 Mr. Lyons said that if Mr. Jaffe tries to meet the road setback it will infringe on the waterfront setback
85 and he'd rather things stay further from the waterfront. The property is steep sloping and Mr. Jaffe has
86 done a good job of getting a level area for the garage. Mr. Lyons continued that this seems to be
87 reasonable to him.

88 Chairman Schneider said that he agrees with Vice Chair Platt that if the application is approved it should
89 comply with the DES Shoreland Permit to have a pervious driveway. Mr. Jaffe submitted a copy of the
90 Shoreland Permit to the Board for the file.

91 Vice Chair Platt made a motion to approve Case #17-07: Parcel ID: 0118-0017-0000: seeking a Variance
92 of Article III, Section 3.10 to reduce front setback from 50 ft to 27 ft to construct a garage at 42 Marys
93 Rd, Richard and Jeanne Jaffe; all construction to proceed according to the approved Shoreland Permit
94 dated 11/17/2014, Permit #2014-02954 noting that the permit was approved with a pervious driveway
95 leading to the garage in front of the house. Mr. Simpson seconded the motion. The motion passed
96 unanimously.

97 **CASE #17-09: PARCEL ID: 0129-0032-0000: SEEKING A VARIANCE TO REPLACE THE EXISTING SIGN AT**
98 **CURB WITH AN INTERNALLY BACKLIT SIGN AS PER ARTICLE V, SECTION 5.31 & 5.33. THE PROPOSED**
99 **SIGN IS A DOUBLE FACE FREESTANDING 54.5" X 63" SIGN. 541 ROUTE 11, SUGAR RIVER BANK.**

100 Vice Chair Platt recused himself from the hearing. Mr. Simpson recused himself from the hearing.

101 Tom Dunn of Metro Sign and Awning presented the case on behalf of Sugar River Bank. Ann O'Clair, the
102 CFO of Sugar River Bank, gave verbal permission for the applicants to present the case. Chairman
103 Schneider asked that Ms. O'Clair submit a written statement as well.

104 Chairman Schneider explained that there are only three members of the Board present and in order to
105 approve the Variance three positive votes are needed. Chairman Schneider continued that the Board
106 will hopefully have four members at the next meeting and asked if Mr. Dunn would like to continue the
107 hearing until the next meeting. The applicants decide to proceed with the hearing.

108 Mr. Dunn explained that the bank is asking for an internally lit sign. They have customers 24 hours per
109 day and there are visitors in the area that might not be aware of the bank. Currently, the light is
110 externally illuminated and it is difficult to find the property.

111 Chairman Schneider said that Section 5.31 discusses the size of the sign. Mr. Dunn said that the total
112 area of the proposed sign is 23.8 sq ft. It is consistent with the existing sign, which has a cap which is
113 73" wide. The proposed sign will be 63" high, the current sign is 48" high. They are asking for 54.5" for
114 the sign, which is slightly less than the existing sign. Chairman Schneider and Mr. Dunn confirmed that
115 the plan says that the square footage per sign says 23.8 ft per side. Chairman Schneider said that he
116 thinks that square footage complies with the Zoning Ordinance which says: "signs in the Village-
117 Commercial and Village-Residential Districts shall not exceed 24 sq ft per side and total signage on any
118 given lot may not exceed 48 sq ft." Ms. O'Clair said that it is her understanding per Roger Landry that
119 the legs of the sign are considered part of the square footage as it factors in all structural components.
120 Mr. Simpson read the last sentence of Section 5.31 which says: "any structure or device used as a sign
121 base or carrier will be considered in the square footage calculation."

122 Mr. Dunn asked and Ms. O'Clair said that the square footage of the sign on the building is 15.3 sq ft. Mr.
123 Dunn said that the square footage of that sign is also used as part of the calculation of the total square
124 footage of signs on the property. Chairman Schneider asked and Mr. Dunn said that the total square
125 footage of the proposed sign is 63 sq ft per side if they square off the whole sign from grade to the top.

126 Mr. Lyons asked and Mr. Dunn explained that the current sign is 9 ft high.

127 Mr. Lyons asked if the intent is to light the sign 24 hours per day. Mr. Dunn said that they will be lit
128 starting at dusk.

129 Chairman Schneider said that he thinks that the square footage is calculated based on just the structure
130 and the sign. Mr. Dunn said that the two legs of the sign are 10" wide and 76.5" high so they are 5.3 sq
131 ft each for a total of 10.6 sq ft. The total square footage is 34.4 sq ft per side. Chairman Schneider
132 asked and Mr. Dunn said that the square footage of the existing sign is 29 sq ft per side. Mr. Neuwirt
133 asked and Mr. Dunn confirmed that the square footage of the sign on the building is 15.3 square feet.
134 The existing sign is a total of 29 square feet per side. They are asking for approximately an additional 5
135 sq ft per side. Mr. Neuwirt asked and Mr. Dunn confirmed that they are asking for 11 additional square
136 feet.

137 Chairman Schneider said that he does not see anything in the Ordinance regarding the height of signs.

138 There was another discussion regarding the current square footage of the sign and the proposed square
139 footage of the sign.

140 Chairman Schneider asked and Mr. Dunn explained that the Variance for Section 5.33 is for internally
141 illuminating the sign. There is a competing bank that has internal illumination via the time and
142 temperature changing. Chairman Schneider said that he checked and that bank has had that sign since
143 before the Zoning Ordinance was established in 1987.

144 Chairman Schneider asked if anyone in the audience has any questions or comments regarding the case.

145 Linda Schultz, an abutter of the property, said that she will not be able to see the glow but she is
146 concerned that it will add to the downtown glow. If this internally lit sign is permitted, there is nothing
147 to stop someone else from asking for an internally lit sign. She does not think it will add to downtown
148 and thinks that there are enough lights to let people know that it is a commercial area.

149 Mr. Platt asked if there can be a discussion regarding old lighting verses LED lit signs. Mr. Dunn
150 explained that LED lighting is much more energy efficient and there is the ability to easily dim the lights.
151 They are more reliable so they stay lit longer and the sign does not become partially illuminated.

152 Mr. Platt asked and Mr. Dunn said that the sign is 63" wide; the overall depth is 8".

153 Ms. Schultz said that she is concerned because the sign has to be lit 24 hours per day. Added to the
154 Dunkin Donuts sign it is becoming very bright and noisy in town. Mr. Dunn said that an internally lit sign
155 can be subtler than an externally lit sign. Mr. Dunn gave further explanation regarding this matter as
156 the sign can be made so only the graphics light up.

157 Mr. Lyons asked if the bank conducts business after 5:00 pm and Mr. Dunn explained that there is a 24-
158 hour ATM. Ms. O'Clair said that the bank is opening Friday evenings until 6:00 pm.

159 Chairman Schneider asked and Mr. Dunn went over the facts supporting the Variance request per the
160 application submitted. There was a discussion regarding some of Mr. Dunn's facts as Chairman
161 Schneider believes that residences will be impacted by the sign.

162 Mr. Dunn said that if the amount of light for the internal illumination is an issue they could illuminate
163 just the graphics. Instead of the entire background being white and lit, only the graphics would be lit
164 and the background would be opaque. There was further discussion regarding this option.

165 Ms. Schutlz said that when they moved to Town about seven years ago they spoke to the Town about
166 removing a street light that was on Pleasant Place and right outside their house. She thought there was
167 a Dark Sky Initiative, however, she is not sure if there is in Sunapee. There was further discussion
168 regarding this matter.

169 Mr. Simpson said that he believes that the Zoning Ordinance requires down lighting, which is what the
170 Town was willing to do to address the Dark Sky Initiative. The Town also went through the cost and
171 effort of putting in new street lights with lower illuminated lighting. The Town is in the process of
172 making Route 11 more of a "Main Street" by putting trees up and de-commercializing it. The Bank is
173 looking for a bigger sign and an internally lit sign and there are Ordinances in place regarding both of
174 those requests.

175 Chairman Schneider closed the meeting to public comment and suggested that the Board discuss each
176 Variance separately.

177 The Board discussed the Variance for Section 5.31 regarding the size of the signs including the
178 measurements of the current sign and the proposed sign. Mr. Neuwirt said that he is not satisfied with
179 the reasons for hardship that have been given and continued to explain his feelings on the matter.
180 Chairman Schneider said that it might be different because of the type of business as it is a bank and
181 people need to know where things are located. There was further discussion regarding these issues and
182 that the bank has already exceeded the square footage allowance for signs.

183 Chairman Schneider opened the meeting to the public so the applicants could address the issues
184 presented.

185 Ms. O'Clair said that there is a very narrow opening on the side of the property where the sign is
186 located. There is not a lot of area where they can put a sign on the street side of the building. When it
187 is lower to the ground, the way that it currently is, it gets missed. Raising it will give people some more
188 orientation as to how to access the property. Mr. Neuwirt said that the hardship stated on the
189 application is that a competitor is allowed to have a lighting sign. There was further discussion
190 regarding these issues.

191 Mr. Dunn asked if there is a possibility for the Board to defer judgement for them to try and address the
192 Board's concerns. The Board agreed to this request.

193 Mr. Neuwirt made a motion to defer Case #17-09: Parcel ID: 0129-0032-0000: seeking a Variance to
194 replace an existing sign at curb with an internally backlit sign as per Article V, Section 5.31 and 5.33. The
195 proposed sign is a double face freestanding 54.5" x 63" sign, 541 Route 11, Sugar River Bank. Mr. Lyons
196 seconded the motion. The motion passed unanimously.

197 Mr. Simpson said that as a Point of Order, it may have been too far into the process to grant a
198 continuance of the case as it had already been presented. There was further discussion regarding this
199 matter.

200 **MINUTES**

201 **Changes to the minutes from the July 13, 2017 Zoning Board Meeting:** Change Line 5 to read "...James
202 Lyons, Jr., Alternate Member." Change Line 18 to read "..Perkins Pond do not conform..." Change Line
203 48 to read "...things it will not require another notice..." Change Line 134 to read "... he thinks that this
204 application..." Change Line 175 to read "...said that the Board only has to..."

205 Mr. Simpson made a motion to accept the minutes as amended. Mr. Neuwirt seconded the motion.
206 The motion passed unanimously.

207 **PROPOSED ZONING AMENDMENTS**

208 Chairman Schneider said that there will be a joint meeting with the Planning Board to discuss the
209 proposed Zoning Amendments on September 7th.

210 There was a discussion regarding the proposed Zoning Amendments that Chairman Schneider has
211 compiled.

212 There was a discussion regarding the wording of the Special Exception criteria 3.50 (b) (2) which says:
213 “the majority of lots on the same side of the road and within 500’ of both sides of the subject lot have
214 structures of equal or greater type which do not meet front setback requirements” as well as about 3.50
215 (b) (3) which says: “the proposed structure for which the Special Exception is being sought shall be no
216 closer to the centerline of road right-of-way than any other structure of equal or greater type used in
217 the comparison in Paragraph (2).”

218 Vice Chair Platt said that he thinks that Lake Ave needs to be its own Zone.

219 There was a discussion regarding finding cases to back up the reasons behind the proposed Zoning
220 Amendments.

221 There was a discussion regarding how each case has a separate folder and past cases are not combined
222 with new cases.

223 Vice Chair Platt made a motion to adjourn the meeting at 8:52 pm. Mr. Simpson seconded the motion.
224 The motion passed unanimously.

225 Respectfully submitted,

226 Melissa Pollari

227

228 Zoning Board of Adjustment

229 _____

230 Daniel Schneider

_____ Aaron Simpson

231 _____

232 Clayton Platt

_____ William Larrow

233 _____

234 George Neuwirt

_____ Jim Lyons, Alternate