

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **APRIL 26, 2016**

4 **PRESENT:** Edward Frothingham, Chair; Aaron Simpson; George Neuwirt, Alternate

5 **ABSENT:** William Larrow; Daniel Schneider, Vice-chair; Clayton Platt; Roger Landry, Zoning
6 Administrator

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

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

9 Mr. Simpson made a motion to appoint Mr. Neuwirt as a voting member. The motion passed
10 unanimously.

11 Chairman Frothingham said that there are only three Board members present for the meeting.

12 **CASE #16-07: PARCEL ID: 0207-0007-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10**
13 **REDUCING REAR SETBACK FROM 25 FT TO 5 FT ALLOWING CONSTRUCTION OF A 16' X 16' SHED. 16**
14 **MAURERS LANE, LINDA & TERESA KALVAITIS.**

15 Teresa Kalvaitis of 16 Maurers Lane presented the merits of the case.

16 Ms. Kalvaitis explained that after they submitted their paperwork they had a conversation with their
17 abutter and they have figured out a different way to put the same structure on the property that would
18 work out better for both parties.

19 Ms. Kalvaitis said that she would like to postpone the hearing so that she can submit the new paperwork
20 to Mr. Landry. Mr. Simpson asked and Ms. Kalvaitis confirmed that she would like a continuance.

21 Mr. Simpson made a motion to continue the hearing. Mr. Neuwirt seconded the motion. The motion
22 passed unanimously.

23 **CASE #16-08: PARCEL ID: 0115-0025-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.40-(C)**
24 **REDUCING LAKEFRONT SETBACK FROM 50 FT TO 22.3 FT ACCOMMODATING CONSTRUCTION OF A 10**
25 **FT WIDE DECK AS PER DRAWING. 21 NORTH SHORE RD, DOMINIC TRIPOLI.**

26 Dominic Tripoli of 21 North Shore Rd presented the merits of the case.

27 Mr. Tripoli explained that he was before the Board in October of 2014 and they asked for three things at
28 that meeting. One was to put an addition on the house and another was to lift the building and put in a
29 basement. They also turned the building slightly because they encroached upon their neighbor's
30 property and it made it slightly more conforming.

31 Mr. Tripoli said that the reason that they are asking for the Variance is because what they thought was
32 going to be a remodel turned into more than what was anticipated with things they found out about the
33 structure.

34 Mr. Simpson said that before they get into the case, Mr. Tripoli should be aware that there are only
35 three members. Chairman Frothingham said that as there are only three members to vote, Mr. Tripoli
36 can ask for a continuance. Mr. Simpson said that Mr. Tripoli would need all three members to vote in
37 favor of the project to receive an approval. Mr. Tripoli said that he does not want to continue the
38 hearing.

39 Mr. Tripoli said that he is asking for a 2 ft Variance; the original deck on the building was 8 ft, the
40 structure is a newer structure and with an 8 ft deck he does not have enough room.

41 Mr. Tripoli gave the Board copies of letters from abutters he obtained to make sure that there were no
42 problems with neighbors.

43 Mr. Simpson asked and Mr. Tripoli said that the original deck size was 8 ft. The last time that they were
44 before the Board they had a Shoreland Permit that gave them permission to have a 4 ft expansion of the
45 deck, which would have made it a 12 ft deck but it was voted down at the Zoning Board meeting. They
46 have modified the plan to have it be a 10 ft deck. Mr. Tripoli said that he does understand that the State
47 Shoreland Permit can be overruled by the municipality.

48 Mr. Simpson said that he does not remember the previous case. Mr. Tripoli gave Mr. Simpson a copy of
49 the meeting minutes from that hearing.

50 Mr. Simpson asked and Mr. Tripoli confirmed that the side setbacks were previously reduced from 15 ft
51 to 9 ft on the east side of the property.

52 Chairman Frothingham said that the other issue that he sees is the landing and stairs that go down
53 towards the water as it looks like it will reduce the side setback. Mr. Tripoli said that there are stairs
54 that are closely abutting one of the neighbor's but those stairs are not used any more. Chairman
55 Frothingham asked if they will be removed. Mr. Tripoli said that the original stairs going down to the
56 water they are still using but the stairs on the side they are not. Chairman Frothingham showed Mr.
57 Tripoli the plans showing stairs that appear to be encroaching more on the setback. There was further
58 discussion regarding this matter.

59 Mr. Simpson asked and Mr. Tripoli confirmed that the deck will be moved out another 2 ft. Mr. Tripoli
60 continued that when they moved the house so that it was less encroaching on his neighbor's property it
61 moved the house back about 1.5 ft.

62 Jim Fuller, an abutter of Mr. Tripoli, said that nothing that they are going to do affects him or his
63 property. Mr. Neuwirt asked and Mr. Fuller confirmed that he is in support of the project.

64 Chairman Frothingham said that if the house was moved back 1.5 ft then the 2 ft addition is more like 6
65 in closer.

66 Mr. Simpson asked and Mr. Tripoli confirmed that he asked for three Variances in 2014. Mr. Neuwirt
67 asked if this would be a fourth Variance. Mr. Simpson said that as the full minutes were not brought, he
68 cannot tell.

69 Mr. Simpson said that the minutes say that one of the Variances was to reduce the side setback from 15
70 ft to 9 ft, allowing construction of a 9 ft x 30 ft addition. Mr. Simpson asked if Mr. Tripoli built a 9 ft x 30
71 ft addition. Chairman Frothingham said that he is confused about the addition because the house was
72 replaced. Mr. Tripoli said that they wanted to do the addition because they wanted to make the rooms
73 on the backside larger, which is why they asked for the 9 ft x 30 ft. addition.

74 Mr. Neuwirt asked and Mr. Tripoli confirmed that the original project was an addition to the entire 30 ft
75 of the house by 9 ft deep. There is also a right of way down one side of the property. Mr. Neuwirt said
76 that he remembers that there was a conversation about if the setback was measured from the edge of
77 the right of way or the edge of the property.

78 Mr. Simpson said that the plan shows a 6 ft setback, not a 9 ft setback. Mr. Tripoli said that it is
79 unfortunate that Mr. Landry is not at the meeting as it would help as he explained to him that the
80 drawing is not to scale. Mr. Neuwirt said that they are going by the dimensions written on the drawing.
81 Chairman Frothingham said that that the hearing can be continued if Mr. Tripoli requests it to be. Mr.
82 Simpson said that he is confused about what is being presented and they don't have the full minutes so
83 he can't figure out what Mr. Tripoli was granted as it says that the Variance was for a 9 ft setback and
84 the drawing shows 6.67 ft. Mr. Tripoli gave the Board a copy of another plan that was done by Tom
85 Dombrowski, a surveyor. Mr. Neuwirt asked if the plan shows what is currently existing as the date says
86 September 15, 2014. Mr. Tripoli confirmed that it was done prior to the new construction. Mr. Simpson
87 said that the new plan shows that there is less than a 9 ft setback now, which was what the Variance
88 was granted for, and now Mr. Tripoli is asking for something else. Mr. Simpson asked and Mr. Tripoli
89 said that Bill Evans, his engineer, drew the new plan. Mr. Neuwirt asked and Mr. Tripoli confirmed that
90 it is supposed to represent existing conditions.

91 Chairman Frothingham said that one thing that he thinks Mr. Tripoli will want to change is the steps
92 because the drawing of what is was existing shows the stairs going down the face of the deck and on the
93 new plan it shows them going down the side, which is even closer to the lot line.

94 Mr. Neuwirt said that there are two different kinds of hatch patterns and asked if they are all built
95 already except for the 2 additional feet. Mr. Tripoli explained that on the plan where the 2 additional
96 feet will go.

97 Mr. Simpson said that he is still confused as there is one arrow on the side that shows 6.67 ft and there
98 is another arrow that says 11.64 ft. Mr. Neuwirt said that the plan is confusing because the Board does
99 not care about roof overhang if it is 18 in or under.

100 Mr. Simpson said that he recommends the hearing be continued if Mr. Tripoli agrees. Mr. Tripoli asked
101 if he needs an architect or a surveyor. Chairman Frothingham said that he recommends Mr. Tripoli
102 speak with Mr. Landry about the discussion. Mr. Tripoli said that Mr. Landry was the one who scheduled

103 his meeting for this night because the Board had a full agenda and he feels badly that he is not present
104 as they have had numerous discussions about it and he thought that he would be at the meeting.
105 Chairman Frothingham said that when the Board gets over so many cases they don't know how long
106 each will take so they try to have a reasonable number of cases on the agenda. Mr. Tripoli asked and
107 the Board confirmed that they knew he would not be at the last meeting.

108 Mr. Neuwirt asked the other Board members why the issues are being clouded by what are alleged
109 violations. Mr. Simpson said that he wants to know what the previous Variances that were granted. Mr.
110 Neuwirt asked why the Board cannot be specific about voting on the case before them and then deal
111 with the potential violations and why Mr. Landry would not deal with the potential violations. Mr.
112 Simpson and Mr. Neuwirt discussed what they remembered about the previous cases. After more
113 discussion, Mr. Neuwirt said that Mr. Simpson's argument is that the plan that Mr. Tripoli wants to do
114 may not be accurate. Chairman Frothingham said that it is hard to make a fair judgement if the plan is
115 wrong. Mr. Neuwirt asked and it was confirmed that if there are encroachments the Board does not
116 handle them. Mr. Simpson said that he knows that the Board approved two different Variances but they
117 only received a partial set of minutes. Mr. Tripoli gave the Board the rest of the meeting minutes.

118 Mr. Neuwirt said that a line on the plan clearly shows that Mr. Tripoli is asking for 2 additional feet off
119 the existing deck. Mr. Neuwirt showed Mr. Tripoli on the plan where he thinks that the new footprint
120 will end up. Mr. Tripoli said that he believes that is where the 12 ft deck would have been but they are
121 not doing that. Mr. Neuwirt said that the plan should be accurate, the Board is not supposed to
122 redesign things, they are trying to make decisions based on merits and the plans submitted.

123 Chairman Frothingham suggested the stairs be moved. Mr. Simpson suggested Mr. Tripoli speak with
124 Mr. Landry about the stairs. Mr. Tripoli agreed that the stairs should not be drawn on the plan where
125 they are because they should be in a different area. Mr. Neuwirt said that they need a plan that is more
126 accurate. There was further discussion about this issue.

127 Mr. Simpson said that he thinks that the minutes are wrong. Mr. Tripoli said that he pulled out his
128 section. There was further discussion regarding the minutes and the previous Variance requests.

129 Mr. Neuwirt said that he thinks Mr. Tripoli should ask for a continuance and submit a new plan.

130 Mr. Neuwirt said that another issue is the hardship issue, which is item 3 on the application, as Mr.
131 Tripoli's argument is that 8 ft is OK but 10 ft would be better because it would give added space for
132 recreational use. Mr. Neuwirt continued that Mr. Tripoli's reason is not a hardship so his advice is that
133 when he comes back before the Board they will need to see some reason that the rules should be bent
134 that does not include that he can only put 4 chairs on the deck and not 5 or 6. Hardship means that
135 denial of the Variance would deny you a reasonable use of the space. The Board seems to get caught in
136 whether or not the applicant can prove that the Board would be denying reasonable use; it is the
137 hardest part of the Variance to prove. Mr. Simpson explained that hardship usually comes down to
138 something about the property or the structure that they are stuck with. Mr. Tripoli has a non-
139 conforming lot and basically anything that he wants to do is non-conforming and the Board needs to
140 determine whether or not to give relief.

141 There was a discussion regarding continuing the hearing. Chairman Frothingham said that in the
142 minutes from October 2014 the motion for the approval of Case #14-21 limited the deck to 8 ft.
143 Chairman Frothingham read the motion. Mr. Tripoli said that it sounds as though he should withdraw
144 the application. Mr. Neuwirt said that his advice would be to continue the hearing and then if he
145 decides he wants to withdraw it he can. The Board asked and Mr. Tripoli said that he would like to
146 continue the hearing with the understanding that he may decide to withdraw the application.

147 Mr. Simpson made a motion to continue Case #16-08: Parcel ID: 0115-0025-0000: seeking a Variance
148 of Article III, Section 3.40-(c) reducing lakefront setback from 50 ft to 22.3 ft accommodating
149 construction of a 10 ft wide deck as per drawing, 21 North Shore Rd, Dominic Tripoli. Mr. Neuwirt
150 seconded the motion. The motion passed unanimously.

151 **MINUTES**

152 Changes to the minutes from the April 14, 2016 Zoning Board Meeting:

153 The minutes were continued to the next Zoning Board meeting.

154 Mr. Neuwirt made a motion to adjourn at 7:57 pm. Mr. Simpson seconded the motion. The motion
155 passed unanimously.

156 Respectfully submitted,

157 Melissa Pollari

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161 _____

162 Edward Frothingham

Aaron Simpson

163 _____

164 Clayton Platt

Daniel Schneider

165 _____

166 William Larrow

George Neuwirt, Alternate