

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **MAY 12, 2016**

4 **PRESENT:** Edward Frothingham, Chair; Daniel Schneider, Vice-chair; Clayton Platt; Aaron Simpson;
5 William Larrow; George Neuwirt, Alternate; Roger Landry, Zoning Administrator

6 **ABSENT:**

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

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

9 At the beginning of the meeting, the members present were: Edward Frothingham, Chair; Daniel
10 Schneider, Vice-chair; Clayton Platt; and, Aaron Simpson

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

14 Chairman Frothingham said that the applicants have asked to withdraw the case.

15 Mr. Simpson made a motion to accept the withdrawal. Vice Chair Schneider seconded the motion. The
16 motion passed unanimously.

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

20 Chairman Frothingham said that the applicants have asked to withdraw the case. Chairman
21 Frothingham read a letter from Mr. Tripoli to Mr. Landry (see attached).

22 There was a brief discussion regarding the case and the setbacks that were shown on the plan that Mr.
23 Tripoli presented.

24 Mr. Simpson made a motion to accept the withdrawal of Case #16-08. Vice Chair Schneider seconded
25 the motion. The motion passed unanimously.

26 Mr. Larrow arrived for the meeting.

27 **MINUTES**

28 Changes to the minutes from the April 14, 2016 Zoning Board Meeting: Change Line 32 to read "... they
29 can keep the square footage..." Change Line 86 to read "...take out of the current structure and be
30 turned..." Change Line 115 to read "...plumbing and not be utilized..." Change Line 156 to read
31 "...Permit as it relates to the..." Change Line 197 to read "...Mr. Edward Bailey and..."

32 Vice Chair Schneider made a motion to approve the minutes of April 14, 2016 as amended. Mr. Simpson
33 seconded the motion. The motion passed unanimously.

34 **CASE #16-09: PARCEL ID: 0135-0007-0000: SEEKING A SPECIAL EXCEPTION AS PER ARTICLE III,**
35 **SECTION 3.50-(I) TO REPLACE A PRE-EXISTING NON-CONFORMING STRUCTURE WITH A TWO (2) STORY**
36 **STRUCTURE INCREASING ROOF LINE HEIGHT FROM 13 FT TO 21 FT 4 IN. 19 LOVEJOY LN, JAMIE**
37 **MILLER.**

38 Louise Bonfiglio of McGray & Nichols Builders, and Brian Vincent of CLD Engineers, presented the merits
39 of the case.

40 Mr. Simpson asked for the correct mailing address for the applicant as the presented documents have
41 two different addresses. Ms. Bonfiglio said that Ms. Miller has moved and the correct address is the one
42 in Chicago.

43 Mr. Simpson asked and Mr. Landry confirmed that there is authorization for Ms. Bonfiglio to speak on
44 behalf of the applicants in the file.

45 Ms. Bonfiglio said that there was an existing building that was demolished more than two years ago,
46 which means that they have lost their grandfathering for the building. Vice Chair Schneider asked and
47 Mr. Landry explained that it was a pre-existing, non-conforming building but it was not replaced within
48 two years so they need to go through the Special Exception process. Vice Chair Schneider asked why
49 they are not asking for a Variance per Article VI, Section 6.32-(1)-(a) which states "Structures that have
50 been removed may be rebuilt, provided that within two years of removal, a building permit is applied for
51 and approved." Vice Chair Schneider continued that as that did not happen, it seems as though this
52 should be treated as a new construction so a Special Exception would not apply. There was further
53 discussion regarding this issue and the Board determined to listen to the cases.

54 Mr. Vincent said that they would like to present Case #16-10 before Case #16-09 as they do not think
55 that the first case applies to the proposal because Section 3.50-(i) mentions a preexisting, non-
56 conforming structure, but there isn't one, so they do not believe that Section 3.50-(i) applies. Mr.
57 Landry said that he advised the applicants to apply for this Special Exception because it is the way that
58 has always been handled around the Lake.

59 Mr. Platt made a motion to put Case #16-09 on hold while the Board hears Case #16-10. Vice Chair
60 Schneider seconded the motion. The motion passed unanimously.

61 **CASE #16-10: PARCEL ID: 0135-0007-0000: SEEKING A SPECIAL EXCEPTION AS PER ARTICLE III,**
62 **SECTION 3.50-(B) TO REDUCE ROAD FRONT SETBACK FROM 50 FT TO 37 FT 6 IN ALLOWING**
63 **RECONSTRUCTION OF A PREVIOUS PRE-EXISTING NON-CONFORMING STRUCTURE GARAGE WITH 2ND**
64 **FLOOR SLEEPING AREA. 19 LOVEJOY LN, JAMIE MILLER.**

65 Ms. Bonfiglio and Mr. Vincent presented the merits of the case.

66 Vice Chair Schneider said that this structure is not preexisting to he believes that a Variance is required.
67 Mr. Larrow said that the applicants are asking for a frontage that does not meet standards, regardless if
68 the building is preexisting or not. Mr. Vincent said that he believes that a Special Exception could be
69 applied for even if there was never a building on the site because Section 3.50-(b) does not require a
70 preexisting, non-conforming structure. There was further discussion regarding this matter.

71 Mr. Vincent said that they have a NH DES Shoreland Permit that is still current as it does not expire until
72 2017. Mr. Landry showed the Board a copy of the Permit.

73 Mr. Vincent said that there are five criteria for this Special Exception. The first criterion is that “the lot
74 for which the lesser front setback is requested is a preexisting lot and non-conforming due to size.” The
75 lot size is 0.72 acres and the minimum lot size in the Residential Zone is 1.0 acre. Mr. Vincent continued
76 that they have a certified boundary plan that he is not sure went in with the application.

77 Mr. Vincent said that the second criterion is that “the majority of lots on the same side of the road and
78 within 500’ either side of the subject lot have structures of equal or greater type which do not meet
79 front setback requirements (the hierarchy of structures from greater to lesser is house>garage>shed).”
80 Mr. Vincent continued that the lot is at the end of a cul-de-sac, so they can only go a little ways until
81 they are at the end of the street. The street extends up to Birch Point Rd so there are two lots on either
82 side. One of the lots has a garage that is 20 ft from the edge of the road (Map 135 Lot 8). And the one
83 on the other side has a small cottage on it that does not show on the Tax Map (Map 135 Lot 5), though
84 they have pictures showing the cottage. Mr. Platt asked about the lots across the street. Mr. Landry
85 said that you only use the properties on the same side of the street. Mr. Platt said it does look like both
86 the buildings across the street from the property have structures within the setback.

87 Vice Chair Schneider asked why the structure cannot be moved out of the setback as there is not a
88 building there currently. Ms. Bonfiglio explained that they cannot move the structure back because
89 there are existing utilities, a driveway, and an existing house. Ms. Bonfiglio showed Vice Chair Schneider
90 the plan. Mr. Platt said that this is not a condition of the Special Exception. There was further
91 discussion regarding this matter.

92 There was a discussion about whether the criterion two is related to buildings with structures or not as
93 Mr. Simpson felt that lots without structures need to be counted. There was a discussion about going
94 onto a different road if the road is shorter than 500 ft.

95 Mr. Vincent said that criterion three says that “the proposed structure for which the Special Exception is
96 being sought shall be no closer to the centerline of road right-of-way than any other structure of equal
97 or greater type used in the comparison in Paragraph (2), above.” Mr. Simpson asked and Mr. Vincent
98 confirmed that the proposed structure is a garage with a bunkhouse. If the compared structures were
99 sheds, for example, the proposed structure would not be equal. Vice Chair Schneider asked and Mr.
100 Vincent confirmed that they measured other structures on the street. Mr. Vincent said that the
101 structure on Lot 5 is estimated to be 20 ft from the centerline and the structure on Lot 8 is estimated to
102 be 15 ft from the centerline. Mr. Platt asked and Mr. Vincent confirmed that the building on Lot 8 is a
103 garage. Mr. Vincent said that the distance for the proposed structure is 37 ft 6 in.

104 Mr. Vincent said that criterion four is that “the proposed structure is no closer than 10 ft to the right of
105 way line of the road.” The proposed structure meets this requirement as it is about 25 ft from the right
106 of way to the nearest corner. Mr. Simpson asked and Mr. Vincent said that Lovejoy Lane is 14 ft wide
107 according to the drawing. Mr. Landry said that Lovejoy Lane is a Town road and the Town says that it is
108 2 rods, or 33 ft, wide. Mr. Platt asked what this measurement is based on and Mr. Landry said that it is
109 from the road book the Town Manager has in her office. Mr. Platt said that he thinks that the survey
110 shows the edge of the right of way. Mr. Larrow said that the building will be further away than the
111 other two buildings.

112 Mr. Vincent said that criterion five says that “the portion of the proposed structure encroaching on the
113 front setback shall be no higher than 25 ft.” Mr. Vincent said that the proposed structure is to be a little
114 more than 21 ft. Mr. Simpson asked and Ms. Bonfiglio confirmed that height will be the maximum for
115 the entire building.

116 Mr. Simpson asked if they had measured the distance of the buildings to the center of the road for Lot
117 13 or the center of the cul-de-sac for Lot 12 along Lovejoy Ln. Mr. Landry said that the lots are on the
118 other side of the street so they cannot be used for the case. Mr. Vincent said that he does not know the
119 distances for those buildings.

120 Vice Chair Schneider said that he thinks that he was incorrect when he said the case needed a Variance.

121 Mr. Platt asked and Ms. Bonfiglio confirmed that the location of this building will be exactly the same as
122 the previous building as when they designed the building they did not know they would lose their
123 grandfathering so they stayed in the footprint.

124 Mr. Simpson made a motion to approve Case #16-10: Parcel ID: 0135-0007-0000: seeking a Special
125 Exception as per Article III, Section 3.50-(b) to reduce road front setback from 50 ft to 37.6 ft allowing a
126 lesser front setback for 19 Lovejoy Ln, Jamie Miller, conditioned on providing a stamped survey and
127 subject to compliance of Shoreland Impact Permit #2012-01677. Mr. Platt seconded the motion. The
128 motion passed unanimously.

129 **CASE #16-09: PARCEL ID: 0135-0007-0000: SEEKING A SPECIAL EXCEPTION AS PER ARTICLE III,**
130 **SECTION 3.50-(I) TO REPLACE A PRE-EXISTING NON-CONFORMING STRUCTURE WITH A TWO (2) STORY**
131 **STRUCTURE INCREASING ROOF LINE HEIGHT FROM 13 FT TO 21 FT 4 IN. 19 LOVEJOY LN, JAMIE**
132 **MILLER.**

133 The structure meets the Zoning requirements with the approval of Case #16-10.

134 Ms. Bonfiglio asked to withdraw Case #16-09.

135 Mr. Platt made a motion to approve the withdrawal of Case #16-09. Mr. Simpson seconded the motion.
136 The motion passed unanimously.

137 **MISCELLANEOUS**

138 There was a discussion about the Special Exception criteria that measures distance and what should be
139 done for cul-de-sacs and neighborhoods.

140 The Board discussed Special Exceptions and the requirement to approve them if they meet all the
141 criteria.

142 **MINUTES**

143 Changes to the minutes from the April 26, 2016 Zoning Board Meeting:

144 Chairman Frothingham made a motion to approve the minutes as written. Mr. Simpson seconded the
145 motion. The motion passed.

146 Chairman Frothingham made a motion to adjourn at 7:55 pm. Vice Chair Schneider seconded the
147 motion. The motion passed unanimously.

148 Respectfully submitted,

149 Melissa Pollari

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154 Edward Frothingham

Aaron Simpson

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156 Clayton Platt

Daniel Schneider

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158 William Larrow

George Neuwirt, Alternate