

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **JULY 14, 2016**

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

6 **ABSENT:** George Neuwirt, Alternate

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

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

9 **MINUTES**

10 Changes to the minutes from the May 12, 2016 Zoning Board Meeting:

11 Vice Chair Schneider made a motion to accept the minutes of May 12, 2016 as presented. Mr. Platt
12 seconded the motion. The motion passed unanimously.

13 Changes to the minutes from June 9, 2016 Zoning Board Meeting:

14 Vice Chair Schneider made a motion to accept the minutes of June 9, 2016. Mr. Larrow seconded the
15 motion. The motion passed with three (3) in favor and one (1) abstention.

16 **CASE #16-11: PARCEL ID: 0118-0036-0000 & PARCEL ID: 0115-0006-0000: SEEKING A VARIANCE OF**
17 **ARTICLE III, SECTION 3.10 ALLOWING A SUBDIVISION / ANNEXATION OF TWO (2) PRE-EXISTING LOTS**
18 **MAKING LOT 0118-0036-0000 MORE NON-CONFORMING AND LOT 0115-0006-0000 LESS NON-**
19 **CONFORMING AND HAVING ROAD FRONTAGE. SHERYL & JAMES RITER, BURMA RD.**

20 James Riter presented the merits of the case.

21 Mr. Riter said that after the survey they determined that the Town did not have a part of lot 0118-0036-
22 0000. Mr. Riter gave a brief description of the ownership of the lot to explain the part of the parcel that
23 was not included on the Tax Maps.

24 Vice Chair Schneider asked if Mr. Riter has a drawing of how the lots are currently and what they are
25 proposing. Mr. Riter said that they have a survey completed by CLD Engineers. The Board said that they
26 did not receive a copy of the survey in their packets. Mr. Landry said that the survey was too big to
27 make a copy of it for the Board.

28 Mr. Simpson asked and Mr. Riter said that both lots will be less non-conforming if this application is
29 approved but one will be less non-conforming only because of the piece of land that the Town was
30 missing from the Tax Maps. Mr. Landry explained that the waterfront lot will be getting larger and will

31 get road frontage. The land that will be giving the parcel the road frontage will be taken from the parcel
32 that is across the street.

33 Mr. Larrow asked and Mr. Landry explained that the road frontage on the Lake lot will be approximately
34 142 ft. The lake lot will be less non-conforming, and the other lot will be more non-conforming. There
35 was further discussion regarding this matter.

36 There was a discussion about the Board getting plans in their packets to understand the cases.

37 Chairman Frothingham asked and Mr. Riter confirmed that lot 0118-0036-0000 is vacant. Chairman
38 Frothingham asked if it is a buildable lot. Mr. Landry said that it is vacant and smaller but would be a
39 buildable lot if they could meet the setbacks; there is Town Sewer on the road. Chairman Frothingham
40 asked and Mr. Landry confirmed that there are some wetlands on the lot.

41 Vice Chair Schneider asked if there is currently legal access to the house. Mr. Riter said that because he
42 owns both lots he drives across the property. Mr. Landry said that the waterfront lot technically does
43 not have any road frontage.

44 Mr. Platt asked and Mr. Riter said that the old septic system is on the house side of the road but they
45 now have Town sewer.

46 Vice Chair Schneider asked why they need the Variance and are not applying for the subdivision /
47 annexation. Mr. Landry explained that a lot cannot be subdivided if it is going to become more non-
48 conforming. Vice Chair Schneider asked why Mr. Riter is not merging the lots. Mr. Riter said that he
49 wants to be able to use the lot on the other side of the road as a separate building lot.

50 Mr. Riter explained to the Board again about the sliver of land that was never added to the Tax Maps.

51 Mr. Landry said that the Planning Board can approve a subdivision / annexation provided that it will be a
52 larger lot and not more non-conforming but if there is a lot that becomes more non-conforming the
53 Planning Board cannot give approval without a Variance from the Zoning Board.

54 Mr. Larrow asked if the new lot will be a building lot and Mr. Landry explained that Mr. Riter will be
55 taking a building lot and making it more non-conforming so it will no longer be grandfathered and will
56 have to meet the current setback requirements. The other lot will no longer be pre-existing either as
57 will not meet the definition.

58 Mr. Landry said that he thinks that this proposal is an improvement as the waterfront lot will have road
59 frontage. Mr. Larrow said that if Mr. Riter wants to build on the other lot he will need to meet the
60 regulations. Mr. Platt said that he thinks the Board should be clear that it is not necessarily a building
61 lot. Mr. Landry said that he does not think that the Board can say it is not a building lot. Mr. Simpson
62 said that it loses its grandfathering status. Mr. Platt said that if the Board approves the Variance it does
63 not just mean that it is a building lot. Mr. Landry said that the setbacks will need to be met and there is
64 Town sewer. Mr. Larrow said that if the Board approves the application he thinks that they should
65 mention the loss of the grandfathering rights.

66 Mr. Larrow asked if Mr. Riter intends to put a driveway in. Mr. Riter said that there is already a driveway
67 and a parking area.

68 Mr. Platt said that he first questioned whether the road lot was going to be a building lot but the
69 assessment has been around \$35,000 for years so the Town treats it like a building lot. There was a
70 discussion about the development of the lots.

71 Chairman Frothingham asked if anyone in the audience had any questions or comments.

72 Dean Stetson of 44 Burma Rd said that his family has owned a camp next to Mr. Riter's family for the
73 past 30 to 40 years. His interest in the process is that next to Mr. Riter is a triangular piece of land that
74 is owned by Mr. Leone that he is interested in purchasing in the future for consolidation purposes.

75 Vice Chair Schneider said that he does not want to see anything like this come before the Board again
76 without a plan. Mr. Landry suggested changing the application to say that all plans need to be 11 x 17.
77 Vice Chair Schneider said that he does not think that needs to be a requirement, just that when the
78 Board gets the package they have the necessary information to make a decision. Mr. Platt said that they
79 could be given eight (8) copies of the plan. Mr. Simpson said that they could ask for eight (8) copies of
80 the plan or one (1) 11 x 17 copy, which can be copied by the staff. Vice Chair Schneider said that he
81 does not feel as though the staff should have to make copies as there are places in the area to make
82 copies. Mr. Landry suggested changing the application to require eight (8) complete packages, whatever
83 the size of the plan submitted. The Board agreed with this suggestion.

84 Mr. Platt made a motion to approve Case #16-11: Parcel ID: 0118-0036-0000 and Parcel ID: 0115-0006-
85 0000, seeking a Variance of Article III, Section 3.10 allowing a subdivision / annexation of two (2) pre-
86 existing lots, making lot 0118-00036-0000 more non-conforming and lot 0115-0006-0000 less non-
87 conforming and having road frontage, Sheryl and James Riter, Burma Rd, with the understanding that
88 the Board offer no option as to the buildability of either lots with existing Zoning conditions.

89 Mr. Simpson said that he is not sure that there is a hardship for this case. Chairman Frothingham said
90 that there is not any road frontage. Mr. Simpson said that it is a pre-existing lot and does not need road
91 frontage and Mr. Riter could give himself an easement if he wanted to sell the other lot. Mr. Riter could
92 also give himself an exclusive easement to use the entire part on the waterfront and keep the
93 grandfathering status. Mr. Simpson explained to Mr. Riter about exclusive easements. Mr. Riter said
94 that he does not think losing the grandfathering status makes a difference.

95 Vice Chair Schneider asked if the parcel loses its pre-existing non-conforming status could Mr. Riter
96 rebuild his house on the existing footprint. Mr. Landry said that he could per Article 6.12 and read the
97 Ordinance to the Board. Mr. Simpson said that there is also a definition about non-conforming lots.

98 Mr. Platt said that he does not understand why if someone wants to add a small piece of land to their
99 property they get treated differently than all the neighbors, especially on the lake side. Mr. Platt said
100 that one reason he did not add anything to his motion is because there are towns that are changing this

101 rule and Sunapee could change the rule. Mr. Platt asked why if someone wants to add .07 acres to his
102 property he gets treated differently than the neighbors who get a 15 ft setback.

103 There was further discussion regarding adding a clause to the motion regarding grandfathering.

104 Mr. Platt withdrew his motion.

105 Mr. Simpson said that he does not feel that there is a hardship given that there is an ability to have an
106 exclusive easement. Mr. Platt said that an exclusive easement is not a good thing and usually when you
107 see them it is because people are trying to skirt subdivision regulations and not go to the Planning Board
108 for approval. Chairman Frothingham said that if the lots remain the way they are and they sell the other
109 lot to someone else then they'd be paying the taxes on land with an easement over it. There was
110 further discussion regarding this matter.

111 Vice Chair Schneider made a motion to approve Case #16-11: Parcel ID: 0118-0036-0000 and Parcel ID:
112 0115-0006-0000: seeking a Variance of Article III, Section 3.10 allowing a subdivision / annexation of
113 two (2) pre-existing lots making lot 0118-0036-0000 more non-conforming and lot 0115-0006-0000 less
114 non-conforming and having road frontage, with the statement that this Variance applies to the
115 movement of the lot lines only and does not apply to any existing or potential structures, which now or
116 may be in the future on these properties. Mr. Larrow seconded the motion. The motion passed with
117 four (4) in favor and one (1) opposed (Mr. Simpson).

118 **CASE #16-12: PARCEL ID: 0128-0049-0000: SEEKING A VARIANCE TO CONSTRUCT A RESIDENCE WITH**
119 **AN ATTACHED GARAGE LOCATED WITHIN 50 FT ROAD FRONT SETBACK. JOHN & PATRICIA BOSSE, 32**
120 **GARNET ST.**

121 **CASE #16-13: PARCEL ID: 0128-0049-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.40-J**
122 **ALLOWING CONSTRUCTION OF AN ENGINEERED RETAINING WALL 10 FT 6 IN HIGH FOR ACCESS TO A**
123 **NEW GARAGE. JOHN & PATRICIA BOSSE, 32 GARNET ST.**

124 **CASE #16-14: PARCEL ID: 0128-0049-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10**
125 **ALLOWING CONSTRUCTION OF A NEW GARAGE AND RETAINING WALL WITHIN THE MINIMUM 10 FT**
126 **SIDE SETBACK. JOHN & PATRICIA BOSSE, 32 GARNET ST.**

127 **CASE #16-15: PARCEL ID: 0128-0049-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10**
128 **ALLOWING CONSTRUCTION OF A NON-CONFORMING GARAGE EXCEEDING THE MAXIMUM HEIGHT OF**
129 **25 FT AS PER ZONING ARTICLE. JOHN & PATRICIA BOSSE, 32 GARNET ST.**

130 Chairman Frothingham recommended hearing all four (4) of the cases and then voting on each case
131 individually.

132 Charlie Hirshberg of CLD Engineers and P. Gail Bosse presented the merits of the cases.

133 Ms. Bosse gave a brief history of herself, her family, her connection to Sunapee and how she came to
134 purchase the property and now wants to build her retirement home on it.

135 Mr. Hirshberg gave an explanation of the existing conditions of the property. Currently, the garage is
136 right on the edge of the road and parking is limited to in the garage or on the road. The existing house
137 sits down in the buildable area but there is a shed that goes within 4 ft of the abutter's property line.
138 The property has a fair amount of elevation difference and most of the property along this stretch of
139 Garnet St have the same conditions. The most recent garages have been moved back so that there is
140 parking in front of them. Mr. Hirshberg continued that not many of the properties could meet the
141 Special Exception requirements, especially this one because if you look at the back side of the garage,
142 which is within the 50 ft road setback, the height from grade to the top reaches between 26 and 27 ft
143 for the existing garage and it sits close to the road. Moving the garage back means that there is no way
144 to meet 25 ft in height.

145 Mr. Hirshberg gave an explanation regarding the proposed house and garage. They are proposing
146 moving the garage away from the road but there is a 50 ft setback line. If they moved it all the way out
147 of the setback, the retaining walls that they are proposing would be twice as high and it would push the
148 entire house into the 50 ft waterfront setback. They tried to stay behind the 50 ft waterfront setback
149 with both the patio and the house and tried to meet the side setbacks for the house. Mr. Hirshberg
150 continued that the proposed garage will be in the side setback, however, the existing garage is in the
151 side setback as well as the front setback. The existing garage is 5 ft off the existing property line; they
152 are proposing moving the garage to 7.5 ft off the property line.

153 Mr. Hirshberg said that they are proposing moving the garage back to have room to park two vehicles on
154 the road side of the garage.

155 Mr. Simpson asked and Mr. Hirshberg explained that the measurement of 7.5 ft on the plan is the
156 setback. The retaining wall is just over 10 ft high at the garage. If you look at the existing garage, there
157 is a retaining wall on the road side holding the grade against the garage and what is there now is over 42
158 inches. Mr. Larrow asked and Mr. Hirshberg explained that the wall will not sit on the property line.

159 Mr. Simpson asked about the difference between the Shoreland application that shows a 7.1 ft setback
160 and the Zoning application that shows a 7.5 ft setback. Mr. Hirshberg said that the Shoreland plan is
161 incorrect, it does not measure to the structure and has to be corrected.

162 Mr. Hirshberg said that they moved the garage as far as they thought that they could. The proposed
163 garage height at the 50 ft road setback is 30.8 ft to the peak, which is running from road to Lake. Mr.
164 Hirshberg was asked and explained that the proposed garage height at the road is 18 ft 3 7/8 in off the
165 garage floor.

166 Mr. Hirshberg said that the log cabin that sits up across the road has an angled view that looks between
167 this structure and the next. They did not want to move the garage over and obstruct that view. The
168 proposed garage will align at the road with the existing garage but they are in the side setback in order
169 to do this. Visually, the proposed garage is not a lot different from the existing, but the existing is right
170 at the road.

171 Vice Chair Schneider asked and Mr. Hirshberg explained that they cannot move the proposed garage
172 away from the side setback because they have an entry down below and need enough room to create
173 the entry. Also, if they take the existing garage out there is a cut stone wall right at the road that is
174 holding the road back and the garage is on piers. Mr. Hirshberg said that they want to retain the road;
175 also, the slopes are different on the other side and to create an area on the other side leaves a hole
176 where the existing garage is. Mrs. Bosse said that the house is very narrow as it is and if the garage gets
177 moved over they wouldn't have anything for the front of the house. Vice Chair Schneider said that he
178 thought they would say it could not be moved over because of the boulder. Mr. Hirshberg said that
179 there are a few obstacles and they do not want to get into a lot of dynamite.

180 Mr. Hirshberg said that what they are proposing is a garage that sits within the 50 ft road setback that
181 cannot meet the criteria for a Special Exception because of the height issue. They are asking for
182 Variances for the garage and the retaining walls to be within the front and the side setbacks and for the
183 height restriction.

184 Mr. Hirshberg said that the other walls they were able to work out so that they meet the standard
185 height requirements. There was a discussion regarding the height of the walls at the abutting property
186 and that the slope is the same.

187 Mr. Simpson asked about Case #16-13, seeking a Variance of Article III, Section 3.40-j to construction a
188 retaining wall 10 ft 6 in high. Mr. Hirshberg said that Section 3.40-j is where retaining walls are
189 discussed and they are asking for the height of the wall as it is over 42 inches in height and does not
190 meet the setback requirements.

191 Mr. Simpson asked and Mr. Hirshberg said that they are not terracing because it cannot be done, there
192 is no room.

193 Mr. Hirshberg said that they tried to keep the house the same width as what is there now. They are not
194 pushing the house to the south beyond its current footprint corridor; with this lot, because it is narrow,
195 the house becomes elongated. They tried to maintain not putting the house against the lakefront
196 setback and there is a patio that is outside the 50 ft setback.

197 Mr. Larrow asked if the density changed. Mr. Hirshberg explained that the density in terms of lot
198 coverage changes as the existing is 18% and they will be going to 29% because they have more surface
199 area with more parking, moving the garage away from the road, and the footprint of the house is bigger.
200 Chairman Frothingham asked how big the living area of the house will be and was shown on the plan.

201 Mr. Platt asked about the total pervious and impervious area. Mr. Landry said that it is roughly 34,000
202 square feet. Mr. Hirshberg said that the patio will be pervious; the difficulty in doing pervious at the
203 road is that it is all above the house and he did not want to put water under that section and have it be
204 up against structures. Mr. Platt asked and Mr. Hirshberg said that they meet the standards as the Town
205 has an allowance of 30% for impermeable and 50% total pervious and impervious.

206 Vice Chair Schneider asked about the status of the Shoreland application. Mr. Hirshberg said that the
207 plans are done but they were waiting for Zoning approval before submitting.

208 Mr. Simpson asked if the pervious calculation is on the plan and Mr. Hirshberg said that the patio and a
209 walkway are pervious. Mr. Larrow said that the calculation is on plan "Z-1" on the bottom right.

210 Mr. Platt asked about the drainage. Mr. Hirshberg explained that the house has perimeter drains, which
211 are being kept separate from storm water. The pavement area by the road will be drained down to the
212 edge of the retaining wall and they are then swaling that along the right hand side. There are swales
213 along both sides of the property that go down along the sides that pick up the runoff as it comes off
214 portions of the roof. The swales take the water down to an infiltration area; when you do infiltration
215 you want to have them below the house. The infiltration area is sized based on a certain amount of
216 rainfall. The infiltration area is combined from both sides. Mr. Platt asked and Mr. Hirshberg said that
217 he does not think that the water from the driveway will affect the neighbor's wall. They are adding
218 stone to dissipate some of the energy so the area won't wash. Chairman Frothingham asked and Mr.
219 Hirshberg said that, currently, they show the house without gutters but they may add them; gutters
220 allow them to take the water and direct it to where they want. Chairman Frothingham asked if there
221 will be a way to catch debris going into the swales and infiltration area. Mr. Hirshberg said that the way
222 that the water is swaled in, debris would be caught in the infiltration area. The stone section that goes
223 to the surface and the debris and sediment are caught in the top 4 in and they will need to maintain the
224 area.

225 Mr. Hirshberg said that there are some issues with the road drainage. There is a hole in the pavement
226 that he has not seen the Town do anything about and the water that runs along the road ditch is going
227 into the hole and washing down through. Kent Goering of 34 Garnet St said that there are many issues
228 along the road as the water is not going down the road the way that it supposed to.

229 Mr. Simpson asked and Mr. Hirshberg confirmed that he is asking for a Variance of Section 3.10 for Case
230 #16-15 for the height of the structure. Mr. Hirshberg explained that they separated the two issues out
231 as they are asking for the Variance for the height issue because of the front setback as well as a Variance
232 for the structure to be within the front setback. Mr. Landry said that it is because it exceeds 25 ft. Mr.
233 Simpson said that he is trying to figure out which of the dimensional requirements they should be
234 looking at. Mr. Landry said that it is the footnote. Mr. Hirshberg said that they referenced Section 3.10
235 because there is not a specific item for that footnote.

236 Mr. Simpson asked why the garage needs to be 30.8 ft high. Mr. Hirshberg explained that because the
237 way the ground is they can't drop the floor of the garage. Mr. Platt said that it is only 18 ft on the road
238 side, which is one story. Mr. Simpson asked and Mr. Hirshberg confirmed that there is no living space
239 over the garage. Mr. Landry asked if they lowered the pitch of the roof could they be under the 25 ft
240 height requirement. Mr. Hirshberg said that he does not think that they can because they don't want
241 the floor of the garage to be lower than the road. Vice Chair Schneider said that the way the agenda is
242 written there is no height limit so if the Board approves the Variance they should say 30.8 ft at the 50 ft
243 setback line. The height on the road side, floor to peak, is 18.4 ft.

244 Chairman Frothingham said that in the Zoning Regulations under the definition of a rain garden that
245 there should be a catch basin which may be easier to catch debris.

246 Chairman Frothingham asked if anyone in the audience had any questions or comments.

247 Andrea Ridley of 30 Garnet St, an abutter on the side with the 10 ft wall, said that she would like to
248 make sure that there are some fail safe systems put into place so when they are building there is no
249 damage.

250 Ms. Ridley gave a brief history of the property and said that she is worry about contaminants from a
251 previous owner's collection of things and is not sure that there has ever been a contamination test but
252 she is worried about the soil. Mr. Simpson said that he is not sure that this is in the Zoning Board's
253 jurisdiction. Glenn Hawkins of 29 Garnet St said that he is not sure that there is a problem on the site.
254 Mr. Landry said that if anything was ever reported it would go to the Heritage Bureau, which is part of
255 the Shoreland Permit review. Mr. Hirshberg said that the do a National Heritage Bureau (NHB) filing and
256 if there is anything that shows up in the database it would be part of the permit. DES also keeps records
257 of things that happen on sites. Mr. Larrow asked and Mr. Hirshberg said that DES does not typically
258 come out to take soil samples of sites. Mr. Larrow asked if they requested DES to do that would they
259 and Mr. Hirshberg said that they would if something showed up. Mr. Hirshberg said that the first thing
260 that will be done is that they will demo the structures and if something showed up during construction
261 that could come up. Typically, a builder has an asbestos inspection done. Mr. Larrow asked if Ms. Ridley
262 is suggesting having a fence so nothing can intrude on her property. Ms. Ridley said that is part of what
263 she is suggesting but she would like there to be a soil test to ensure that nothing is contaminated and
264 none of the contaminants go onto their property. Mr. Simpson said that it is a valid concern, however, it
265 is not a concern for the Zoning Board; it would be a better issue for DES or the Health Officer.

266 Mr. Larrow asked if normally in a construction zone they barrier the site. Mr. Hirshberg said that silt
267 fencing is dug into the grade. Mr. Landry said that there are plans for silt fencing and such and on a
268 Land Disturbance Bond he always adds hay bales as necessary.

269 Ms. Ridley said that the area between their two spaces is unstable and part of it is because of the way
270 the road was repaved and the holes that they are getting. They would like to have seismic testing to be
271 done to make sure that nothing happens with their house as they are so close. She isn't sure how
272 steady things are as there are wooden boards holding up some of the boulders at the road. There was a
273 discussion about getting the Road Agent involved as there are issues with the road. Mr. Hirshberg said
274 that the whole area with the boulders will be changed as the boulders are barely being held up. They
275 are building a wall that will tie into that area so that entire area will be secured. Mr. Simpson asked and
276 Mr. Hirshberg confirmed that the wall will be engineered.

277 Vice Chair Schneider asked if the Road Agent signs off on the building permit. Mr. Landry said that he
278 does not. Mr. Platt asked if they will require a driveway permit. Mr. Hirshberg said that they are not
279 changing the driveway location. Mr. Simpson asked and Mr. Platt said that you can expand a driveway.
280 Mr. Hirshberg said that they have parked vehicles at the edge of the gravel but it isn't very stable.

281 Mr. Platt said that if there is damage to an abutting property, either the engineer or the property owner
282 could be held liable. Ms. Ridley said that it would be good to have some “before and afters” so that if
283 there is damage they can tell what the damage is from. Mr. Platt said that he is not sure that is a Zoning
284 issue. Ms. Ridley said that she is not sure what are Zoning issues because they are asking to get that
285 close to her property to build the wall and she needs to be able to protect herself. Mr. Simpson said
286 that he is not sure that it is not an issue that the Board cannot put a condition on as it is different than if
287 there is toxic waste on the property.

288 Ms. Ridley said that the structure in front of their garage is similar to what they are proposing. Their
289 area, probably due to the drainage issues, has problems and she wants to make sure that there are no
290 heavy trucks turning around on her property nor any parking on her property so there is no additional
291 weight being added. Mr. Simpson said that the Zoning Board cannot tell them not to turn around in Ms.
292 Ridley’s property, she will have to flag the property and/or put up cones and/or no trespassing signs.

293 Mr. Simpson asked if the road issues have been discussed with the Road Agent or the Town Manager.
294 Ms. Ridley said that they have been reporting the issues for several years. Mr. Landry said that he will
295 be talking to the Road Agent about it.

296 Ms. Ridley asked about the work hours. Mr. Simpson said that work hours is a Town issue with public
297 nuisances. Mr. Landry said that he said that he’d ask the applicant to keep hours to not start earlier
298 than 7:00 am. Mr. Landry said that the police cannot shut down workers starting earlier. Also, there is
299 no Zoning Ordinance that says that there cannot be a certain decibel rating before a certain time.

300 Ms. Ridley asked if the wall that is already along the road is 10 ft tall. Mr. Hirshberg said that the wall is
301 over 42 inches, not 10 ft tall. Ms. Ridley asked and Mr. Hirshberg said that it will be 10 ft tall at the
302 corner of the new garage, not at the road. From the road, the wall goes in 20 ft, just to the corner of the
303 garage. There may be some shallow walls as well. Mr. Simpson asked and Mr. Hirshberg said that at the
304 road the wall will be more than 42 inches, just about what is there now. They are also placing stone
305 ruffraff around the wall so it will help the grade.

306 Mr. Simpson asked why the garage needs to be within the 10 ft side setback. Mr. Hirshberg said that to
307 create the access where it presently exists and to stay out of the view line across the street.

308 Vice Chair Larrow asked the width of the proposed garage. Mr. Hirshberg said that it is 24 ft and the
309 existing is a little narrower, it is 20 ft.

310 Mr. Hirshberg said that the log cabin sits on the hill and appears to look between the two properties.
311 Mr. Hawkins said that he looks over the ridge of the house, his deck parallels the road. Mr. Hirshberg
312 said that because they already have a garage there now they did not want to move the garage into Mr.
313 Hawkin’s view. Mr. Hawkins asked why the cannot put a 6 on 12 pitch for the roof. Mr. Hirshberg said it
314 would bring it down some, they are at a 9 on 12 pitch; they were trying to match the house and are
315 below the peak of the house with the ridge of the garage. Mr. Hawkins asked and Mr. Hirshberg
316 confirmed that the house will be three (3) stories tall, a walkout on the lake side, the main floor, and the
317 upstairs. Mr. Simpson asked about Mr. Hawkin’s view and Mr. Hirshberg showed the house location and

318 garage location on the plan. There was further discussion regarding the pitch of the roof and the height
319 of the garage.

320 Mr. Goering said that the house that he lives in was built almost the same time as the Bosse's house but
321 their house was renovated. Mr. Goering said that he thinks that the points that have been made are
322 good but that he feels that this is a reasonable proposal and he does not have any serious issues with it.

323 Mr. Goering asked and Mr. Hirshberg confirmed that the retaining wall will be designed by engineers.
324 Mr. Hirshberg explained that the walls are typically Redirock walls and Redirock has a structural
325 engineer in New Hampshire who would design the wall.

326 Mr. Simpson asked if there are grade restrictions. Mr. Landry said that you cannot cut more than 20 ft
327 vertical into a bank with more than a 25% pitch. Mr. Simpson asked and Mr. Landry confirmed that this
328 is not an issue with the case as they are not cutting more than 20 ft vertical into the bank.

329 Mr. Platt asked if it would make sense to fill in the area between the walls the two (2) properties if the
330 neighbors were in agreement. Mr. Hirshberg said that it might make sense depending on what the
331 Town does as the hole is feeding water into the ground. There was further discussion regarding the
332 holes in the road.

333 Mr. Platt asked why they are cutting so many trees in the middle of the lot. Mr. Hirshberg said that it
334 was based on the plan from the landscape architect and a five (5) year cutting plan. There is a square
335 footage calculation that was not completely clear so they may need to change the plan. Mr. Landry said
336 that every tree above 4.5 inches in diameter within 150 ft of the shoreline will be identified before he
337 issues a building permit. You can't cut more than 50% of the basal area within 150 ft, measured at
338 breast height within a 20 year period. Mr. Hirshberg said that there are a lot of trees on the lot.

339 Mr. Platt said that it is distressing to see this house come in for four (4) Variances for what seems like a
340 minor change of the preexisting non-conforming garage to what they are proposing. He feels like at
341 some point the Board needs to look at the Zoning Regulations and get out of the requirement that you
342 can only build in the footprint.

343 Mr. Simpson said that it seems like Ms. Ridley's concerns about being too close to her property are
344 alleviated if they are further away from the property. Mr. Simpson said that he is not sure that there is a
345 hardship to put the garage where they want even though the preexisting building was within the
346 setback. Vice Chair Schneider said that he agrees with Mr. Simpson. Mr. Platt said that he thinks it is
347 different if they are rebuilding the garage in the same place, they are just sliding it back and it will not be
348 closer to the property line. Mr. Hirshberg explained that the current garage is 5 ft from the property line
349 and it will be 7.5 ft from the property line as they gain as they slide down the hill. The lower end of the
350 garage will meet the setback.

351 There was further discussion regarding the road and the holes and filling the area between the two
352 properties in with fill to support both walls.

353 Ms. Ridley said that she is not sure where they ended up on the seismic testing issue. Mr. Hirshberg said
354 that he can explain what is done for sewer projects because for many sewer projects they blast right in
355 front of houses and there is usually photo documentation that is done. Mr. Simpson asked if they are
356 going to be blasting. Mr. Hirshberg said that they are not as far as he is aware of at this point. Mr.
357 Landry said that normally if there is blasting the company sets up seismographs on the property lines to
358 protect themselves. Mr. Simpson asked if they normally inspect neighbor's houses and it was explained
359 that is not normal as in this area they would use a small charge. Many contractors are now hammering
360 the rocks. Ms. Ridley asked and Mr. Hirshberg confirmed that they currently do not know if they will
361 need to blast. Mr. Hirshberg asked and Ms. Ridley said that she believes that they ran into ledge on
362 their property. Mr. Landry said that things have changed in the past 10 to 12 years as more contractors
363 are hammering the ledge out now.

364 Mr. Simpson asked about Case #16-13 and the retaining wall being 10 ft 6 in within the setback. Mr.
365 Hirshberg said that the way that it is worded, it just says within the setback. Mr. Simpson asked and Mr.
366 Hirshberg confirmed that they are asking for the Variance for both the front and the side setbacks. Mr.
367 Simpson asked about Case #16-14 and if it is the same thing. Mr. Hirshberg said that this Variance is for
368 the garage. Mr. Landry explained that one Variance is for the height of the wall being over 42 inches
369 and the other is for the garage; Case #16-13 is for the retaining wall and Case #16-14 is for the garage.
370 There was further discussion regarding this issue as well as the wording of Case #16-12.

371 Mr. Platt made a motion to approve Case #16-12: Parcel ID: 0128-0049-0000: seeking a Variance to
372 construct an attached garage located within 50 ft road front setback, John and Patricia Bosse, 32 Garnet
373 St, as shown per drawings done by CLD Engineering, Sheet Z-1, dated January, 2016; all work to proceed
374 to DES Shoreland Regulations and Permits. Mr. Larrow seconded the motion. The motion passed with
375 four (4) in favor and one (1) opposed (Mr. Simpson).

376 Mr. Platt made a motion to approve Case #16-13: Parcel ID: 0128-0049-0000: seeking a Variance of
377 Article III, Section 3.40-j allowing construction of an engineered retaining wall 10 ft 6 in high for access
378 to a new garage, John and Patricia Bosse, 32 Garnet St, for the front and side setbacks; said wall to be
379 approved by an engineer and construction is to proceed according to all DES Regulations and Permits as
380 shown on CLD drawing Z-1, dated January, 2016. Vice Chair Schneider seconded the motion. The
381 motion passed with four (4) in favor and one (1) opposed (Mr. Simpson).

382 Mr. Platt made a motion to approve Case #16-14: Parcel ID: 0128-0049-0000: seeking a Variance of
383 Article III, Section 3.10 allowing construction of a new garage within the minimum 10 ft side setback,
384 John and Patricia Bosse, 32 Garnet St, all work will be done as presented on drawing Z-1 by CLD
385 Engineering dated January, 2016 and will proceed according to DES Regulations and Shoreland Permits.
386 Mr. Larrow seconded the motion. The motion passed with three (3) in favor and two (2) opposed (Vice
387 Chair Schneider and Mr. Simpson).

388 Vice Chair Schneider made a motion to approve Case #16-15: Parcel ID: 0128-0049-0000: seeking a
389 Variance of Article III, Section 3.10 allowing construction of a non-conforming garage exceeding the
390 maximum height of 25 ft as per Zoning article, subject to the conditions that the height of the garage not

391 be greater than 20 ft at the front of the garage and 31 ft at the 25 ft setback; construction to be
392 consistent with Plan Z-1 dated January, 2016; and, subject to DES Shoreland approval conditions. Mr.
393 Platt seconded the motion. Vice Chair Schneider amended his motion that the setback is 50 ft, not 25 ft.
394 Mr. Platt seconded the amendment. The amendment passed unanimously. The motion passed with
395 four (4) in favor and one (1) opposed (Mr. Simpson).

396 The meeting was adjourned at 9:01 pm.

397

398 Respectfully submitted,

399 Melissa Pollari

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403

404 Edward Frothingham

Aaron Simpson

405

406 Clayton Platt

Daniel Schneider

407

408 William Larrow

George Neuwirt, Alternate