

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **NOVEMBER 10, 2016**

4 **PRESENT:** Daniel Schneider; Clayton Platt; William Larrow; Aaron Simpson;

5 **ABSENT:** George Neuwirt; Roger Landry, Zoning Administrator

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

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

8 **ELECTION OF OFFICERS**

9 Mr. Simpson made a motion to appoint Daniel Schneider as the Chair. Mr. Larrow seconded the motion.  
10 The motion passed with three in favor and one abstention.

11 Mr. Simpson made a motion to appoint Clayton Platt as the Vice Chair. Mr. Larrow seconded the  
12 motion. The motion passed with three in favor and one abstention.

13 **CONTINUED: CASE #16-27: PARCEL ID: 0118-0007-0000: SEEKING A VARIANCE OF ARTICLE III,**  
14 **SECTION 3.10 TO INCREASE THE ROOF HEIGHT FROM THE MAXIMUM ALLOWED 25 FT TO 31 FT ON A**  
15 **PRE-EXISTING, NON-CONFORMING STRUCTURE REPLACEMENT. DUSTIN ALDRICH, 106 MARY'S RD.**

16 **CASE #16-35: PARCEL ID: 0118-0002-0000: SEEKING APPROVAL OF A SPECIAL EXCEPTION AS PER**  
17 **ARTICLE III, SECTION 3.50-(I) ALLOWING A PRE-EXISTING STRUCTURE TO BE REPLACED WITH A 10 FT**  
18 **HIGHER STRUCTURE IN THE SAME FOOTPRINT. DUSTIN ALDRICH, 106 MARY'S RD.**

19 There was a brief refresher of the case because the agenda was revised to include this case and not on  
20 the agenda given to the Board.

21 Mr. Aldrich continued presenting the merits of the case. He explained that the last time he was before  
22 the Board they recommended he ask for both a Variance and a Special Exception, which is scheduled for  
23 later in the meeting.

24 Chairman Schneider said that he thinks both cases should be heard at the same time. Mr. Simpson said  
25 that he was not at the meeting for the first presentation so he'd like everything to be restated.

26 Mr. Larrow said that he did not bring the information for Case #16-27 as it was not on the original  
27 agenda. Chairman Schneider said that there was not a lot of information in the original packet,  
28 however, there were professional drawings submitted with the Special Exception application.

29 The Board determined to hear both cases at the same time and then make individual decisions.

30 Mr. Aldrich said that he is looking to replace a structure with a new one that will be 10 ft higher. He  
31 came before the Board last month with a Variance request and added the Special Exception request per  
32 the Board. He has also had a more professional drawing done per the Board's request.

33 Mr. Aldrich said that the Variance is because of the footnote on the Table of Dimensional Controls which  
34 says "if a structure is allowed a reduced side or rear setback due to inadequate lot size, the portion of  
35 the structure in the area of reduced setback shall have a maximum height of 25 ft." The current  
36 structure is 21 ft and he is proposing going to 31 ft. Mr. Aldrich continued that the Variance requested is  
37 for Article III, Section 3.10 to build a new home of 31 ft, replacing an existing structure of 21 ft within the  
38 same footprint, which does not meet the height restriction footnote of the Table of Dimensional  
39 Controls.

40 Mr. Aldrich said that the proposed use would not diminish surrounding property values because the  
41 structure is 60 years old, sits on piers, and is in rough condition. The proposed structure will be new,  
42 aesthetically pleasing, and encourage an increase in surrounding property values rather than a decrease.

43 Mr. Aldrich said that granting the Variance would not be contrary to the public interest because the  
44 proposed structure will stay in the same footprint as it exists today, therefore, no public interest could  
45 be compromised.

46 Mr. Aldrich said that denial of the Variance would result in unnecessary hardship, the Zoning restriction  
47 as applied to the property interferes with the reasonable use of the property, considering the unique  
48 setting of the property in its environment because the lot that it sits on is a non-conforming lot with  
49 existing slopes that makes it difficult to meet this requirement. Mr. Aldrich asked the Board if Mr.  
50 Landry gave them the photographs that he had submitted. The Board said that they did not get copies  
51 in their packets.

52 Chairman White said that there are only four members of the Board present and Mr. Aldrich will need  
53 three votes in favor of his applications for approval but he can continue the cases until the next meeting  
54 if he would like. Mr. Aldrich said that he will proceed with the cases.

55 Mr. Simpson said that the pictures Mr. Aldrich submitted were in the case file. Mr. Aldrich said that one  
56 of the pictures shows the slope of the lot. The way that the Zoning Ordinance reads is that he has to  
57 measure from the lowest point to the highest point. The lowest point down towards the water is where  
58 the 31 ft measurement is from as it is not a flat surface but slopes. The lower level will be a walkout.

59 Vice Chair Platt said that setback distances are typically measured horizontally and not at a slope  
60 distance. Chairman Schneider said that Mr. Aldrich is talking about the roof height, the measurement is  
61 from the lowest point to the highest point of the roof, which is 31 ft.

62 Mr. Aldrich said that the proposed work meets all the criteria for a Special Exception under Article III,  
63 Section 3.50-(i) and staying within these requirements helps to keep within the Spirit of the Ordinance.  
64 He could have asked for two Variances to go higher but wants to stay within the Spirit of the Ordinance.

65 Mr. Aldrich said that no fair and substantial relationship exists between the general purposes of the  
66 Zoning Ordinance and the specific restriction on the property because the non-conformity of the lot as  
67 well as the natural sloping conditions create a unique situation at this property. For these reasons he  
68 was unable to meet all the standards within the Zoning Ordinance. If this were a flat lot he'd have a  
69 story underground as a basement and the structure would be under 25 ft. Vice Chair Platt asked if the  
70 structure is under 25 ft on the higher side. Mr. Aldrich said that from the road side he does not have an  
71 exact answer as he does not have plans, however, usually a floor is about 10 ft so it would probably be  
72 around 21 ft or 22 ft.

73 Mr. Aldrich said that the Variance would not injure the public or private rights of others because all  
74 proposed work is within the property line limits and therefore will not create any burden to any public  
75 or private citizen.

76 Mr. Aldrich said that granting the Variance would do substantial justice because this will allow him to  
77 construct a home that is of a like kind to surrounding properties. There are three other houses on this  
78 road that are going through the same thing. Mr. Simpson asked and Mr. Aldrich said that he believes  
79 some of those properties have been granted Variances, one is owned by Priest, which is two doors down  
80 from him; the other property at the beginning of the road probably needed a Variance as it looks huge.

81 Mr. Aldrich said that the use is not contrary to the Spirit of the Ordinance because he is doing his best to  
82 make the most of the small lot; when determining how to proceed he kept the Spirit of the Ordinance in  
83 mind. He believes that the proposal is appropriate after researching the Ordinances thoroughly and  
84 meeting with Mr. Landry a few times.

85 Vice Chair Platt asked about the sketch and Mr. Aldrich explained the dashed line in the building is the  
86 walls and then the roofs are shown. The front part that has a dash is an enclosed space that is part of  
87 the living area. There is a deck on the higher side that does not have a dashed line. There was further  
88 discussion regarding the sketch.

89 Chairman Schneider said that Mr. Aldrich said at the previous meeting that the house was 1 ft away  
90 from the property line. Mr. Aldrich said that he measured from the corner of the deck and the porch is  
91 4 ft wide. The company he used for the drawing measured from the eave of the house to the property  
92 line and it showed that it is 5.28 ft. The deck to the line showed it was a 1ft so he was off by 0.28 ft.  
93 Vice Chair Platt said that the eave is not considered part of the structure in Sunapee; the Town gives 18  
94 in and it is not an area that can be expanded into. Mr. Aldrich said that he is not proposing going into  
95 that area. When he originally applied he gave the exact measurements of the house and the drawing he  
96 had done was more for the property based on the previous meeting with the Board.

97 Mr. Larrow asked and Mr. Aldrich explained on the drawing where the measurement to the 31 ft was  
98 measured. There was further discussion regarding the measurement.

99 Mr. Simpson asked why Mr. Aldrich cited Article III, Section 3.50-(i) and why the Board should consider  
100 it. Mr. Aldrich said that he thinks that his proposal falls under the Spirit of the Ordinance because you  
101 can go up 10 ft or less with a Special Exception. Chairman Schneider said that the Variance covers the

102 roof height within the side setback but Mr. Aldrich is also proposing raising the roof height outside the  
103 side setback; if it is less than 10 ft but meets all the other requirements then it qualifies for a Special  
104 Exception. Mr. Simpson said that Mr. Aldrich cites Section 3.50-(i) in his Variance application. Mr.  
105 Aldrich said that the Variance application was written first and then he applied for the Special Exception.  
106 However, he was also trying to show that he is not proposing building something huge, it seems like the  
107 Ordinance is built to keep people going higher than 10 ft when they rebuild so that is where he stopped.

108 Chairman Schneider asked if there was anyone in the audience with any questions or comments.

109 Peter White asked and Mr. Aldrich said that the existing roof height is 21 ft. Chairman Schneider asked  
110 and Mr. Aldrich said that the measurement is from the peak to the lowest point. Chairman Schneider  
111 asked and Mr. Aldrich confirmed that the land is sloping towards the water and he is measuring from  
112 the peak to the lowest point, not from the peak straight down. Chairman Schneider asked and Mr.  
113 Aldrich confirmed that if the peak to the ground was measured straight down the measurement would  
114 be less.

115 Chairman Schneider asked about the measurement on the lakeside and Mr. Aldrich explained that it  
116 goes up to the deck, which is roughly 6 ft, as the roof does not go all the way to the corner with the deck  
117 there. Chairman Schneider further explained his question and there was further discussion regarding  
118 that matter and about filling in an area to alleviate the problem.

119 Chairman Schneider said that he thinks that Mr. Aldrich is measuring conservatively by measuring from  
120 the top of the roof line to the lowest point rather than from the top of the roof line straight down as the  
121 roof is going to slope too. Vice Chair Platt read the definition of height which is “the vertical distance  
122 measured from the lowest ground elevation around the structure to the highest level of the roof  
123 (excluding cupolas, weathervanes, etc...)”

124 Vice Chair Platt said that he knows that the Board asked for a more professional sketch but what  
125 was provided looks to him as though it was done off aerial photos and the website. It does not look  
126 like someone went to the site and actually measured it. Chairman Schneider said that one of the  
127 requirements is that all lakefront properties seeking relief from setback requirements must have a  
128 professional recorded survey of the property and building locations. Mr. Aldrich said that he is not  
129 requesting relief from a setback requirement, he is not changing the footprint at all.

130 Mr. Simpson asked Mr. Aldrich about Section 3.40-(i) which says “the maximum height of any  
131 windowsill or roof eaves shall be no more than 30 feet above the grade directly below it.” Mr.  
132 Simpson asked if he has measured to see if he needs a Variance for this Ordinance. Mr. Aldrich said  
133 that the maximum height will be less than 30 ft because the lot slopes.

134 Mr. Larrow said that the pictures Mr. Aldrich submitted helps him visual the lot.

135 Mr. Simpson made a motion to approve Case #16-27: Parcel ID: 0118-0007-0000: seeking a Variance of  
136 Article III, Section 3.10 to increase the roof height from the maximum allowed 25 ft to 31 ft on a pre-  
137 existing, non-conforming structure replacement, Dustin Aldrich, 106 Mary’s Rd, subject to Shoreland

138 Permit requirements if necessary. Mr. Larrow seconded the motion. Mr. Simpson said that Mr. Aldrich  
139 is not enlarging the footprint and there isn't an issue regarding a survey as he is not enlarging the  
140 footprint. The Board does not have a good drawing of the building, however, Mr. Aldrich will be limited  
141 to what he has presented. He thinks that there is a hardship with the lot and it seems like a reasonable  
142 request. Mr. Larrow agreed with Mr. Simpson based on the pictures submitted. Chairman Schneider  
143 asked and Mr. Aldrich confirmed that he owns one of the adjacent properties. Vice Chair Platt said that  
144 he is a little concerned about when Mr. Aldrich tears the house down how he will know he is rebuilding  
145 in the same spot. A survey is not needed for the Shoreland Permit so it might be a good condition for  
146 the Variance that someone verify that the house is built within the same footprint. Vice Chair Platt  
147 made a motion to amend the motion to approve with the condition that a licensed land surveyor verify  
148 the new building is located in the same footprint as the old building. Mr. Simpson seconded the  
149 amendment. The amendment passed unanimously. The motion passed unanimously.

150 Vice Chair Schneider explained that the Variance covers the height of the building within the side  
151 setback, however, it does not cover the rest of the roofline that is being raised so Mr. Aldrich is  
152 requesting a Special Exception under Section 3.50-(i).

153 Vice Chair Platt asked and Chairman Schneider said that this will cover the other setbacks such as the  
154 road and lake setbacks. Mr. Aldrich said that the Special Exception is to raise the roofline for the part of  
155 the home that is not encroaching on the setbacks. Article III, Section 3.50-(i) says that a Special  
156 Exception is required to raise a roofline of a residence such as proposed in conjunction with the  
157 Variance filed on September 13<sup>th</sup> per the Zoning Board of Adjustment request.

158 Mr. Simpson asked and Mr. Aldrich confirmed that the living space and decks will all be in the same  
159 locations.

160 Mr. Aldrich went over his application for the Board along with the criteria listed under Article III, Section  
161 3.50 –(i). No increase in the horizontal dimensions is allowed unless such horizontal increase would  
162 ordinarily be permitted and he is not proposing any. The existing structure is a home. The existing  
163 structure is less than 24 ft, it is 21 ft. Mr. Aldrich continued that the r replaced structure will be no more  
164 than 10 ft additional in height, which is what is proposed. The roof changes are within the height  
165 requirements set forth in this Ordinance. The portion that they are discussing is not within the setback.  
166 Mr. Aldrich said that no abutter will be adversely affected for the same reasons given in the Variance  
167 request, which was just approved. All State and local permits are acquired to insure compliance with  
168 Article VII of the Ordinance, this requirement is for septic systems. He is OK with the Board stipulating  
169 that he hook up to Town Sewer. Mr. Simpson asked and Mr. Aldrich explained that he has not already  
170 hooked into the Sewer because a pipe burst in the house and it is not livable. Mr. Aldrich said that the  
171 proposal is consistent with the intent of the Ordinance as he kept the Spirit of the Ordinance in mind.  
172 He met with Mr. Landry, who seems to think that this is reasonable.

173 Mr. Aldrich said that he wrote a footnote that he will bring additional documents but was able to get the  
174 drawing to the Board prior to the meeting.

175 Chairman Schneider asked and there were no further questions for Mr. Aldrich from the Board or from  
176 anyone in the audience.

177 Vice Chair Platt made a motion to approve Case #16-35: Parcel ID: 0118-0002-0000: seeking approval  
178 of a Special Exception as per Article III, Section 3.50-(i) allowing a pre-existing structure to be replaced  
179 with a 10 ft higher structure in the same footprint, Dustin Aldrich, 106 Mary's Rd. Mr. Simpson  
180 seconded the motion. Vice Chair Platt amended his motion that the approval be subject to hookup to  
181 Town Sewer. Mr. Simpson seconded the amendment. The amendment passed unanimously. Mr.  
182 Simpson said that he is concerned about the height changes in the setbacks. Vice Chair Platt said that  
183 he does not understand why the Variance did not cover everything. The motion passed unanimously.

184 Mr. Aldrich asked and the Board confirmed that he needs to hook up to Town Sewer, needs a Shoreland  
185 Permit, and needs a surveyor to measure the location of the current location, and a letter to testify after  
186 the structure is built that it is built in the footprint.

187 **CASE #16-32: PARCEL ID: 0104-0054-0000: SEEKING APPROVAL OF A VARIANCE AS PER ARTICLE VI,**  
188 **SECTION 6.12 TO REPLACE A PRE-EXISTING, NON-CONFORMING HOME WITH A NEW STRUCTURE**  
189 **APPROXIMATELY 10 FT HIGHER THAN THE ORIGINAL. RICHARD & LIN BROWN, 110 OAK RIDGE RD.**

190 **CASE #16-33: PARCEL ID: 0104-0054-0000: SEEKING APPROVAL OF A VARIANCE AS PER ARTICLE III,**  
191 **SECTION 3.40-(C) TO REDUCE LAKEFRONT SETBACK FROM 50 FT TO 22 ½ FT ALLOWING**  
192 **CONSTRUCTION OF A 150 SQ FT OPEN DECK. RICHARD & LIN BROWN, 110 OAK RIDGE RD.**

193 Dan Monette, CLD Engineers; Ethan Cole, the General Contractor for the project; Doug Gamsby, CLD  
194 Engineers; and Lin Brown presented the case. Mrs. Brown gave authorization for Mr. Monette, Mr.  
195 Cole, and Mr. Gamsby to speak about the case.

196 There was a brief discussion regarding the number of the house not being visible from the road.

197 Mr. Monette explained that the lot is non-conforming and the existing structure is a small camp that is  
198 set on piers. They are proposing building a new cottage in the same footprint except for a 150 sq ft deck  
199 on the front corner of the house. The Variance is for height as they are proposing increasing the height  
200 10 ft; the existing structure is about 17 ft and they are going to go to 27 ft.

201 Mr. Monette said that they have a DES Shoreland Permit that was submitted and accepted on  
202 November 7<sup>th</sup> and they are waiting for approval. They are seeking a Variance of Article VI, Section 6.12  
203 to permit a non-conforming structure with a height of 27 ft above the ground at the highest point within  
204 the road setback.

205 Mr. Simpson asked why the application falls under Section 6.12. Mr. Monette explained that Section  
206 6.12 is for non-conforming structures. Mr. Gamsby said that he asked the same thing but was told that  
207 the Table of Dimensional Controls footnote says that "if a structure is allowed a reduced side or rear  
208 setback due to inadequate lot size, the portion of the structure in the area of reduced setback shall have  
209 a maximum height of 25 ft." They do not meet this, which is why they needed to go to Section 6.12.  
210 Mr. Simpson said that they could have applied for a Variance under Section 3.20 such as the previous

211 case and a Special Exception under Section 3.50-(i). Mr. Monette said that they met with Mr. Landry  
212 and this is the direction they were given. Mr. Simpson asked and it was explained that this is a non-  
213 conforming structure because it is in the road setback and the lake setback.

214 Mr. Monette said that the proposed structure would not diminish surrounding property values because  
215 the proposed new construction improves the quality of the property by making a modern house where  
216 an existing camp was in the same footprint. It will make the property comparable to other  
217 neighborhood waterfront homes.

218 Mr. Monette said that granting the Variance would not be contrary to the public interest because the  
219 proposed new construction improves the character of the neighborhood and will be a benefit to public  
220 health, safety, and welfare by maintaining safe access to the property. They are not changing the  
221 driveway, it will be the same as it is now with the same off-street parking.

222 Mr. Monette said that denial of the Variance would result in unnecessary hardship as the Zoning  
223 restriction as applied to the property interferes with the reasonable use of the property, considering the  
224 unique setting of the property in its environment because the lot is non-conforming and pre-dates the  
225 Zoning requirements, so the Zoning Regulations are the unnecessary hardship in this case as the lot is so  
226 small. The only way to expand the footprint is to go upwards, which is what the Variance application is  
227 for. There is currently a one story cottage and the expansion will be a loft. The structure will be built to  
228 today's standards and building codes. The design intent is to restore the existing building and rebuild  
229 largely within the same footprint. The only exception to this is a 150 sq ft deck with a stoop for an  
230 entryway on the front of the building. The existing driveway, lawn areas, and unaltered areas will  
231 remain as is. The project will be low impact and it is a limited size lot so keeping the building in the  
232 existing footprint only allows them to expand vertically.

233 Mr. Monette said that no fair and substantial relationship exists between the general purposes of the  
234 Zoning Ordinance and the specific restriction on the property because the design intent is to build a new  
235 cottage within the existing building footprint. No other site features are effected and the site will  
236 remain largely as is by limiting site impacts and providing a loft that meets current building codes,  
237 vertical expansion is required. The proposed cottage is consistent and in most cases modest for this  
238 area.

239 Chairman Schneider asked and Mr. Monette confirmed that the proposed cottage is 27 ft and the  
240 existing cottage is 17 ft. Chairman Schneider asked and Mr. Gamsby confirmed that the northerly side  
241 of the structure is within the side setback. Mr. Gamsby said that he submitted an existing conditions  
242 plan as well as a proposed plan. Vice Chair Platt said about a quarter of the house is within the setback.  
243 Chairman Schneider asked if any of the proposed structure's height within the side setback will be more  
244 than 25 ft. Mr. Monette said that it will not be as the roof slopes on either side and the peak is in in the  
245 center. Mr. Gamsby said that the side setback is OK, the front setback is where the peak will be.  
246 Chairman Schneider said that he thinks that this should qualify for a Special Exception under Section  
247 3.50-(i).

248 Mr. Larrow said that it appears to him that the corner of the house to the water is 22 ½ ft and if they put  
249 the deck on it will be less than 22 ½ ft from the water. Mr. Gamsby asked for a point of order to  
250 continue discussing the height of the cottage. Chairman Schneider said that the discussion regarding  
251 the deck can be tabled.

252 Chairman Schneider asked and Mr. Monette confirmed that the structure at its highest peak will be 27  
253 ft.

254 Mr. Simpson said that to get a Variance the building is required to be in the same or smaller footprint.  
255 Vice Chair Platt said that the deck is a separate issue and this application is for the height. Mr. Simpson  
256 said that he is looking at the plans and it shows the house is in a different location than the current  
257 house. The proposed house is moved. Chairman Schneider said that the Variance application says that  
258 they will be constructing a new structure largely within the same footprint. Mr. Monette said that the  
259 deck is what is changed. The house is on piers, which will remain.

260 Chairman Schneider asked why Mr. Landry told the applicants to get a Variance under Section 6.12. Mr.  
261 Simpson said it is because you cannot build a house with a roof height higher roofline unless they apply  
262 for a Variance. Chairman Schneider said that he believes that a Special Exception would be applicable.

263 Mr. Larrow said that the application for Case #16-32 should not have said "largely" if they stick with the  
264 Variance for the height and don't take into consideration the deck. It is not the original footprint as it is  
265 worded "largely". Vice Chair Platt asked and Mr. Monette confirmed that they are rebuilding the house  
266 on the existing piers. Mr. Larrow said that the Variance application does not only address the height.  
267 Mr. Monette said that the structure is within the existing footprint and the application for the next case  
268 should be about the deck. Mr. Gamsby said that he did give Mr. Landry updated plans and Mr. Simpson  
269 found them in the file.

270 Mr. Simpson said that there are two letters in the case file and read them into the record.

271 The first letter is addressed to the Chairman of the Sunapee Zoning Board of Adjustment, dated  
272 November 7, 2016, and says "On behalf of an abutter, Opal W. Stockwell, having a property on 104 Oak  
273 Ridge Rd and neighboring property owners William B. and Betty A. Stockwell, having properties on 96  
274 Oak Ridge Rd and 82 Springfield Rd, we support the approval of the Variances being sought by Richard  
275 and Lin Brown concerning 110 Oak Ridge Rd. The Browns use the land and pond gently, they are good  
276 neighbors, and we support their wishes." The letter is signed by William B. Stockwell, one of the  
277 owners.

278 The second letter is addressed to the Sunapee Zoning Board Members and says "None of our Otter Pond  
279 Protective Association members are able to attend this meeting on November 10<sup>th</sup>. If some of us could  
280 have been there, it would be to support Richard and Lin Brown for Case #16-32 and Case #16-33." The  
281 letter is signed by Gerald Shelby, President of the Otter Pond Protective Association.

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



283 Chairman Schneider asked and Mr. Monette confirmed that they have submitted the Shoreland Permit  
284 application, however, it has not been approved yet.

285 Chairman Schneider said that a motion for approval should state clearly that it is only for the roof height  
286 to 27 ft within the original footprint and subject to any conditions of a Shoreland Permit.

287 Mr. Gamsby said that the property is on Town Water and Sewer, which is not stated on the plan.

288 Mr. Gamsby said that he has a revised set of plans that shows one dimension being different and  
289 explained it to the Board.

290 Chairman Schneider said that there are only four Board members present and an approval will need  
291 three out of the four votes and the decision can be postponed if Ms. Brown would like. Ms. Brown said  
292 that she would like to proceed.

293 Chairman Schneider closed the meeting to public comments.

294 Mr. Simpson made a motion to approve Case #16-32: Parcel ID: 0104-0054-0000: seeking approval of a  
295 Variance as per Article VI, Section 6.12 to replace a pre-existing, non-conforming home with a new  
296 structure, 10 ft higher than the original, in the same or lesser footprint, Richard and Lin Brown, 110 Oak  
297 Ridge Rd, subject to Shoreland Permit to be received. Mr. Larrow seconded the motion. Vice Chair Platt  
298 said that considering that the structure is going on the same piers he does not see the point of clarifying  
299 that the structure remain in the same footprint. Chairman Schneider asked and Mr. Gamsby confirmed  
300 that CLD has already done a survey and they will verify the new structure's location. The motion passed  
301 unanimously.

302 Mr. Gamsby said that he and Mr. Cole spoke to Mr. Landry about the deck and he had explained that  
303 you can increase the distance from an existing structure up to 12 ft closer to a waterbody, if it is 150 sq  
304 ft or less. The Board said that they had not heard of this rule and Mr. Gamsby said that he could not find  
305 it in the Ordinance. Mr. Monette said that he did find the Regulation in the DES rules. There was  
306 further discussion regarding this issue and that the Board thinks that this Regulation was repealed.

307 Mr. Larrow asked and Mr. Gamsby confirmed the location of the deck on the plan. Mr. Larrow asked  
308 and it was explained that the plans submitted did show the deck.

309 Mr. Larrow said that when he walked off the distance he did not get the same measurement from the  
310 corner of the building to the water as the plan shows. Mr. Gamsby said that they measured to the  
311 reference line of the water, which is the actual State accepted elevation of Otter Pond. Mr. Larrow said  
312 that the corner of the house is 22 ft to the water. Mr. Gamsby said that the elevation on the day that  
313 Otter Pond was surveyed it was 1,124.29 but the reference line elevation is 1,124.62 so it varies. The  
314 other day it could have been higher or lower than the reference line elevation.

315 Mr. Cole gave further explanation regarding the plan of the deck and how it should be noted on the  
316 plan.

317 Vice Chair Platt said that he thinks that the Board has been consistent with saying that they do not  
318 believe not having a deck is a hardship.

319 Chairman Schneider said that it does look like there would be room to move the house back and then  
320 add the deck and they would not increase the non-conformity. Vice Chair Platt said that would require  
321 more construction and moving the piers. Mr. Gamsby said that part of the plan is to not move the piers.

322 Mr. Gamsby asked if the deck was moved back to be square with the building if it would be acceptable.  
323 Mr. Larrow said that it would be if it was square against the building and doesn't go into the setback.  
324 Chairman Schneider said that it would not increase the non-conformity; it would require a different  
325 proposal but he thinks that it would be better. Mr. Larrow said that the drawing showed the deck  
326 different but he was told that drawing is wrong. Mr. Cole said that they would be willing to change the  
327 deck. Vice Chair Platt said that they could move the deck to the road side of the house if they really  
328 want deck space.

329 Mr. Cole asked if the deck is increased towards the west if it would increase the non-conformity. Vice  
330 Chair Platt said that it would increase the non-conformity as it is increasing the footprint within the 50 ft  
331 setback.

332 There was further discussion regarding the deck as the Board said that they are leaning towards not  
333 approving the deck as they have turned down others before.

334 Mr. Monette said that the deck is also part of the storm water management as they have a stone pad  
335 under the deck so the roof gutters and such are going under the deck to prevent water from running  
336 into the pond.

337 Vice Chair Platt said that he does not see a hardship and he thinks that the Board has determined that  
338 not having a deck is not a hardship. There was further discussion regarding decks and patios and  
339 structures.

340 Ms. Brown asked if they can make a little stair area. Vice Chair Platt said that they can have 32 sq ft as a  
341 minor structure for stairs and a landing.

342 Mr. Cole said that the cottage pre-exists Zoning and the Browns would like to be able to enjoy the  
343 outdoors while impacting the property in a minimal way, which a deck allows. By virtue of the location  
344 of the camp it does present a hardship for them to construct a small deck. There is also significant tree  
345 coverage and the deck has been positioned in order to prevent any trees being cut. The intent is to  
346 place the deck on some drainable stone.

347 Mr. Monette asked if it is acceptable to build a 6 ft wide path to the waterfront. Vice Chair Platt said  
348 that paths are not considered to be structures but there might be a rule in the Shoreland regulations  
349 regarding paths. Mr. Monette said that he was wondering if they could balance out the deck with the  
350 path and instead of having a large wide path they could do the small 150 sq ft deck.

351 Chairman Schneider asked if there was anyone in the audience with comments or questions and there  
352 were none.

353 Mr. Cole asked if the pre-existing structure within the setback creates a hardship. Mr. Simpson said that  
354 he thinks that it deserves merit to be considered that they are constructing in the exact same footprint.  
355 The lot does have other locations where the deck could be located. Vice Chair Platt said that when the  
356 Board has approved decks they have typically been when the house has been moved back and the  
357 square footage within the setback had remained the same.

358 Mr. Monette said that the deck is mostly on the side of the structure, not the front of the structure.

359 Vice Chair Platt said that he believes that the applicants should be able to come before the Board with a  
360 slightly different configuration rather than reapplying. Chairman Schneider said that he thinks that the  
361 Board needs to vote on the application as presented and then the applicants can reapply if they would  
362 like.

363 Chairman Schneider closed the meeting to public comments.

364 Case #16-33: Parcel ID: 0104-0054-0000: seeking approval of a Variance as per Article III, section 3.40-  
365 (c) to reduce lakefront setback from 50 ft to 22 ½ ft allowing construction of a 150 sq ft open deck,  
366 Richard and Lin Brown, 110 Oak Ridge Rd, subject to Shoreland Permits. Mr. Larrow seconded the  
367 motion. Vice Chair Platt said that he does not see a hardship to not have a deck and the deck could be  
368 built outside the setback. Vice Chair Schneider and Mr. Larrow agreed. Mr. Simpson said that he would  
369 be more incline to approve the application if it was less non-conforming, he does not think he would  
370 require it to be outside the setback. The problem is that it is more non-conforming and there is not any  
371 hardship. The motion failed unanimously.

372 **CASE #16-34: PARCEL ID: 0234-0010-0000: SEEKING APPROVAL OF A VARIANCE OF ARTICLE III,**  
373 **SECTION 3.10 TO REDUCE ROAD FRONT SETBACK FROM 75 FT TO 63 FT ALLOWING CONSTRUCTION OF**  
374 **A NEW GARAGE. MARK MCLEAN, 440 ROUTE 103.**

375 Mark McLean presented the merits of his case.

376 Mr. McLean explained that there is an existing garage and he is proposing adding on to that structure.  
377 He measured from the centerline of Route 103 to the front wall of the new structure he wants to  
378 construct and it was 63 ft.

379 Mr. McLean said that he submitted a drawing and explained that the new front wall will be set back 4 ft  
380 from the front wall of the existing garage. He did not have a survey done, however, he does have a goal  
381 to get the property surveyed as the Town's map still shows the lean to on the front of the existing  
382 garage, which he removed roughly 8 years ago.

383 Chairman Schneider asked and Mr. McLean confirmed that the structure he wants to build sits further  
384 away from Route 103 than the existing garage.

385 Mr. Larrow asked if the new structure encroaches on the side setback. Mr. McLean said that he does  
386 not believe that it does. Mr. Simpson asked and Mr. McLean confirmed that the lot is in the Rural  
387 Residential Zone. Mr. McLean said that the corner of the current structure to the side property line is  
388 roughly 28 ft 9 in and the new corner will be 22 ft +/- . Vice Chair Platt said that he believes that the side  
389 setback is 15 ft for a non-conforming lot, and he believes this lot is non-conforming. Mr. Simpson said  
390 that the Rural Residential Zone requires 1.5 acres and this is 1.2 acres so it is a non-conforming lot.

391 Vice Chair Platt asked if there is anywhere else on the property to build the garage. Mr. McLean said  
392 that there isn't and said that he wanted to add onto the current garage. The septic system is at the  
393 other end of the house and he did not want to encroach on that.

394 Chairman Schneider asked and Mr. McLean confirmed that he would adding the additional structure to  
395 the end of the current garage.

396 Mr. McLean said that he is not doing any paving in front of the garage and it will all be natural  
397 landscaping.

398 Mr. Simpson asked and Mr. McLean explained that there will be a door from the existing garage and  
399 then a sliding door on the front and a sliding door on the gable end.

400 Chairman Schneider asked and Mr. McLean confirmed that the garage will not have plumbing. He will  
401 add electricity via the existing garage, which is on its own circuit.

402 Chairman Schneider said that it is his understanding that the only reason the Variance is needed is  
403 because there is a 75 ft setback for Route 103 and part of the structure is 63 ft from the setback.

404 Chairman Schneider asked if there was anyone in the audience with any questions or concerns.

405 Mr. White asked and it was confirmed that this property is in the Rural Residential District. Mr. Larrow  
406 said that it does not say it on the application, it says Rural, which could be either Rural Residential or  
407 Rural Lands. Vice Chair Platt said that the setback is different for the different Zones.

408 Mr. White asked the Board to consider Article III, Section 3.40-(o) if they approve the Variance  
409 application. Mr. Simpson read the Ordinance "For all new construction projects in the Rural-Residential  
410 and Rural Lands Districts, the existing 25' vegetative buffer extending back from the state right-of- ways  
411 of Route 11, Route 103, and Route 103B shall be preserved. If no vegetation currently exists, then new  
412 plantings will be required, which shall include both trees and evergreen shrubs. Plantings preferably will  
413 be grouped, not evenly spaced and shall be located or trimmed to avoid blocking egress visibility.  
414 Driveways are exempt from this requirement." Mr. McLean asked and the Board confirmed that there  
415 will need to be vegetation between the addition and Route 103. Mr. McLean said that he did have a  
416 tree taken down a few years ago because power lines run through that area. He does have an  
417 ornamental shrub in place of the tree. There was further discussion regarding this matter.

418 Mr. Simpson asked and Mr. McLean confirmed that he is not going to use this space as living space. The  
419 building will have a trussed roof with a 12 / 5 pitch and will not have any plumbing. Vice Chair Platt

420 asked and Mr. McLean confirmed that the garage will not be used for commercial use. Chairman  
421 Schneider said that the Board could make this a condition of approval.

422 Mr. Larrow said that the only concern he had was how the building related to the side and rear setbacks.  
423 Vice Chair Platt said that the Board could make this a condition of approval. Mr. McLean said that he  
424 was going to have a survey done after the building was constructed so that it could be submitted to the  
425 Town for future assessment. Vice Chair Platt said that the Board's concern is that after the survey is  
426 done he would find the garage closer to the property line than expected.

427 The Board confirmed that the lot is in the Rural Residential District.

428 Chairman Schneider closed the meeting to public comment.

429 Mr. Simpson made a motion to approve Case #16-34: Parcel ID: 0234-0010-0000: seeking approval of a  
430 Variance of Article III, Section 3.10 to reduce road front setback from 75 ft to 63 ft allowing construction  
431 of a new garage, Mark McLean, 440 Route 103, subject to confirmation from a surveyor that the rear  
432 setback is at least 15 ft for the new structure; compliance with Article III, Section 3.40-(o) about  
433 vegetative buffers; subject to any easements in that location for power lines; and not to be used as a  
434 separate living space without returning to the Board for permission. Mr. Larrow seconded the motion.  
435 Vice Chair Platt said that he thinks that the proposal makes sense and will not require a second driveway  
436 permit from the State. Mr. Simpson he said that he thinks that the fact that the proposed structure is  
437 further away from Route 103 means it is will be less encroaching. The motion passed unanimously.

438 **CASE #16-36: PARCEL ID: 0128-0054-0000: SEEKING APPROVAL OF A VARIANCE AS PER ARTICLE III,**  
439 **SECTION 3.10 TO REDUCE ROAD FRONT SETBACK FROM 50 FT TO 26 FT ALLOWING CONSTRUCTION OF**  
440 **A NEW HOME ON A PRE-EXISTING, NON-CONFORMING LOT. RUDNICK ASSET TRUST, LAKE AVENUE.**

441 Vice Chair Larrow said that he did survey the property in 2001 and his plan is cited, however, he does  
442 not feel as though there is any economic interest or anything else that will have any bearing on a  
443 decision.

444 There was a discussion as to whether there is authorization from the Rudnick Asset Trust for Dan  
445 Monette and Doug Gamsby of CLD Engineers to present the merits of the case on their behalf. Mr.  
446 Simpson said that Mr. Rudnick signed the application but the fact that the Board does not have five  
447 people and there is no one with authorization to waive the lack of a full Board which does not make him  
448 feel as though they should go ahead with the hearing.

449 Vice Chair Platt made a motion to continue Case #16-36 Parcel ID: 0128-0054-0000: seeking approval of  
450 a Variance as per Article III, Section 3.10 to reduce road front setback from 50 ft to 26 ft allowing  
451 construction of a new home on a pre-existing, non-conforming lot, Rudnick Asset Trust, Lake Avenue  
452 until the next Board meeting pending written authorization from the land owner for representation or  
453 from an appearance by the land owner. Mr. Larrow seconded the motion. The motion passed  
454 unanimously.

455 **MISCELLANEOUS – ZONING AMENDMENTS**

456 There was a brief discussion regarding the next hearing for the Zoning Amendments and some of the  
457 Amendments.

458 **MINUTES**

459 Changes to the minutes from the October 26, 2016 Zoning Board Meeting: Change Line 33 to read  
460 “across the street are rental cabins...” Change Line 200 to read “...hearing versus this hearing.” Change  
461 Line 205 to read “...he thinks that questions are whether...” Change Line 209 to read “...has admitted  
462 that, and completed minutes, and reviewed...” Change Line 214 to read “...tell them that, not have...”  
463 Change Line 384 to read “Vice Chair Schneider asked...” Change Line 662 to read “Vice Chair Schneider  
464 adjourned...”

465 Mr. Simpson made a motion to adjourn the meeting at 9:18 pm. Mr. Larrow seconded the motion. The  
466 motion passed unanimously.

467

468 \_\_\_\_\_

469 Daniel Schneider

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Aaron Simpson

470 \_\_\_\_\_

471 Clayton Platt

\_\_\_\_\_

William Larrow

472 \_\_\_\_\_

473 George Neuwirt