

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **JANUARY 8, 2015**

4 **PRESENT:** Edward Frothingham, Chair, Daniel Schneider, Vice-chair; Aaron Simpson; Clayton Platt;  
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 **MINUTES**

10 Changes to the minutes from the November 13, 2014 Zoning Board Meeting: Change line 151 to read  
11 "... as the Planning Board did not..." Change line 153 to read "...Planning Board wants the paperwork..."

12 Daniel Schneider made a motion to approve the minutes of November 13<sup>th</sup> as amended. William Larrow  
13 seconded the motion. The motion passed with three in favor and two abstentions.

14 Changes to the minutes from the December 4, 2014 Zoning Board Meeting:

15 Clayton Platt made a motion to approve the minutes from December 4, 2014. William Larrow seconded  
16 the motion. The motion passed unanimously.

17 **MISCELLANEOUS**

18 **CASE #15-01: PARCEL ID: 0148-0013-0000: SEEKING A SPECIAL EXCEPTION AS PER ARTICLE III, SECTION**  
19 **3.50-I-4 TO INCREASE ROOF HEIGHT 8 FT. ON A REPLACEMENT PRE-EXISTING NON-CONFORMING**  
20 **DWELLING. ERIC & KARINA SCHNEIDER, 118 HAMEL RD.**

21 Vice Chair Schneider said that he is not related to the applicant.

22 Eric Schneider presented the merits of the case.

23 Mr. Schneider said that his family has owned the camp on Mountain View Lake for over 30 years and it is  
24 on pillars and post and ledge. The septic system is currently unknown and they have applied for and  
25 received State and Town approval to redo the septic. Mr. Schneider continued that they are looking to  
26 demo the existing camp and replace it with a new, one and a half story home on the same footprint.  
27 Mr. Schneider said that they have received State and Town approval for the demo. The application is to  
28 be able to raise the roofline 8', keeping it below the 25' limit of the Zoning Ordinance, in order to get a  
29 partial second story.

30 Mr. Schneider explained the sketches that he included with the application to the Board. The first is the  
31 plan view which he included to show that they are not changing the footprint of the structure or

32 encroaching any further on the Lake. By increasing the roof overhangs, they are increasing the  
33 impervious area beyond the 50' setback from the Lake but the numbers that they submitted to the State  
34 and the Town are within the guidelines. The Town requires that there not be more than 25%  
35 impermeable area and they are at 24.7%. Mr. Schneider continued that the plan from Pierre Bedard  
36 shows the calculations.

37 Mr. Simpson asked for clarification of the roofline on the plan and Mr. Schneider explained that the  
38 existing roofline on the plan is the black dashes and dots and said that the roofline is not going to extend  
39 any further towards the Lake. Mr. Simpson said that under Article III, Section 3.50 (i) (1), it says "such  
40 enlargement or replacement will not increase the horizontal dimensions of the structure unless such  
41 horizontal increase would ordinarily be permitted by the Ordinance" and asked about the setbacks. Mr.  
42 Schneider said that within the 50' setback from the Lake there is no horizontal change in the structure.  
43 Mr. Simpson asked about the setbacks from the property lines and Mr. Landry explained that the  
44 setback for a pre-existing, non-conforming unit is 15' in the Zoning District and they are not exceeding  
45 the existing footprint. The camp itself is slightly smaller and the overhang is larger but does not exceed  
46 the waterfront encroachment or the side encroachments. Mr. Schneider said that the house itself is  
47 going to move further from the Lake but the roof is not going to get any closer. Mr. Larrow asked and  
48 Mr. Schneider confirmed that on the sides the roof will hang out a little more. Mr. Schneider said that it  
49 is his understanding that it is acceptable to go up to 18" beyond the foundation footprint. Also, when  
50 they calculate impervious area they are going to the edge of the roof. Mr. Simpson asked if they are still  
51 outside the 15' setback from the side setback. Mr. Schneider explained that the southwest corner is  
52 within the 15' setback. Mr. Simpson asked if the area where they are going outside the footprint meets  
53 the setback requirements. Mr. Schneider said that there is no issue with the road setback. The  
54 southwest corner of the existing structure is within the 15' side setback. The other side is more than 15'  
55 from the setback. Mr. Landry said that any overhang over 18" is considered part of the footprint. Mr.  
56 Simpson said that his concern is focused on Section 3.50 (i) (1), which says that it cannot be horizontally  
57 increased more than what would typically be permitted. Mr. Landry said that it would be permitted as it  
58 is beyond the 50' line.

59 Mr. Schneider explained that the next plan is the existing elevations. The ground at the site is somewhat  
60 sloped and the current two bedroom camp has a pitched hip roof with the height at 16.5'. Mr.  
61 Schneider said that the next plan is the proposed plan that shows that they are replacing the two  
62 bedroom camp with a two bedroom house. On the Lake side, they are looking to increase to 22.5' in  
63 height, and on the road side they want to increase to 24.5'. The ground will be stepped down when  
64 they go from the road side to the Lake. Mr. Simpson asked and Mr. Schneider confirmed that there will  
65 be some fill needed as shown on one of the plans. Mr. Simpson asked if there was a restriction on fill in  
66 the Shoreland District. Mr. Landry said that there used to be a restriction but that they do not have one  
67 any longer. Mr. Simpson asked how much fill they are putting in and Mr. Schneider said that he does  
68 not know the volume but that in order to make the septic system gravity fed they have to have the sill of  
69 the new house 5' higher than the sill of the existing camp. Mr. Simpson said that he thinks that there is  
70 a problem as you can go up 10' additional feet but that they are bringing in 5' of fill and then another 8'  
71 of house increase. Mr. Schneider said that he thought that the up to 10' of house increase the

72 measurement was from the ground surrounding the structure. Mr. Simpson said that the new structure  
73 is being measured from a different place. Mr. Landry said that it says that the height of the building the  
74 vertical distance measured from the lowest ground elevation around the structure to the highest level of  
75 the roof. Mr. Landry asked where the 50' line is on the drawing and Mr. Schneider explained where it is  
76 located on the plan. Mr. Landry said that the height can't be higher than 10' from where they are within  
77 the 50' setback. Mr. Simpson said that the height also can't be 10' higher than the preexisting structure.  
78 Mr. Schneider said that they are raising the ground for the septic design. Mr. Simpson read the  
79 Ordinance that says that the height of the structure shall be no more than 10' additional in height than  
80 the preexisting structure. Mr. Schneider read the definition of height in the Zoning Ordinance. Mr.  
81 Landry said that the Ordinance says the measurement from the lowest ground level and does not say  
82 anything about the preexisting ground level. Mr. Simpson said that the structure can be no more than  
83 10' additional in height than the pre-existing structure. Mr. Platt asked and Mr. Schneider confirmed  
84 that the fill is not within the 50' setback though there is a little bit of elevation change to keep the  
85 foundation from being exposed. There was further discussion regarding the elevations.

86 Mr. Simpson asked about the deck and stairs and Mr. Schneider explained that it will be replaced in  
87 kind. It will be equal in height or a step down from the first floor.

88 Mr. Landry said that there is nothing that says you have to measure from the old grade level. Mr.  
89 Simpson said that you do have to measure from the height of the existing structure. Mr. Landry said  
90 that this is correct as far as the additional 10' but when you measure the height you measure from the  
91 lowest grade level. Vice-Chair Schneider noted that the problem the Board is having is how height is  
92 measured and he thinks that it should be from the ground, not from sea level. Mr. Simpson said that  
93 with a Special Exception the Board cannot make judgment calls. Mr. Simpson continued that he thinks  
94 that the height line of the building must be no more than 10' higher than the existing building. Mr.  
95 Clapp said that he does not see the 5' of fill on the Site Plan around the house. Mr. Schneider said that it  
96 is his understanding that directly next to the foundation they are allowed to bring in fill to protect it  
97 from frost. There was further discussion regarding the grade elevations and how the plan does not  
98 show the grades around the house now. Mr. Neuwirt asked if there is a plan that shows the existing  
99 grades and Mr. Platt said that the septic plan should show them. Mr. Schneider said that it shows the  
100 new elevation which is 504.5. The existing first floor level of the house is 499.5; they are increasing the  
101 grade by about 5'. Mr. Landry said that he thinks that the Board needs a cut to show the existing grade,  
102 the new finished grade, and the height to show that the new structure will not exceed the 10' height  
103 increase. Mr. Neuwirt said that he thinks that Mr. Simpson has a good point. Mr. Landry said that the  
104 Board has used the new lowest grade in the past. Mr. Clapp said that he thinks that the lower grade will  
105 be 498 based on what he sees. Mr. Schneider said that he will have boulders and fill and then drip line  
106 edges. Mr. Clapp said that it is not clear on the Site Plan that the grade will be raised almost 4' and  
107 boulders will be put in.

108 Mr. Simpson asked if Mr. Schneider has to qualify under 3.50 (k). Mr. Landry said that he does not.

109 Mr. Neuwirt said that there is a lot more fill needed to make up the grade elevation. Mr. Landry said  
110 that the Board needs to have a site elevation to show the new stone wall, the amount of fill, the grade

111 of the top of the new foundation, and the net distance from the top of the roof to the top of the fill. Mr.  
112 Landry continued that a cross section of the house, with the new foundation, fill line, etc. is needed.  
113 The only thing that is on the current plan is the old grade. There was further discussion regarding the  
114 grade change, amount of fill, and temporary impact area.

115 Mr. Simpson suggested that Mr. Schneider consider asking for a Variance instead of trying for the  
116 Special Exception. Mr. Schneider asked if Mr. Simpson would approve a Variance with the  
117 documentation that he has now. Mr. Simpson said that he cannot commit himself but he'd have more  
118 ability to use his judgment than with a Special Exception. Vice Chair Schneider said that he disagrees  
119 with Mr. Simpson on his opinion about height and grade. Mr. Neuwirt asked and Mr. Landry confirmed  
120 that the Board has always interpreted the Ordinances that they height would be measured from the  
121 new grade.

122 Mr. Schneider asked if the Board was to vote on this application and does not get approved if he can  
123 return before the Board. Mr. Simpson said that Mr. Schneider could not ask for a Special Exception but  
124 he could come back for a Variance or change the plan dimensionally. Vice Chair Schneider asked Mr.  
125 Schneider how it would affect him if he had to wait for a month. Mr. Schneider said that it would affect  
126 the house design. Mr. Clapp said that it could affect him if the case is continued and then denied and  
127 then he has to come back for a Variance in March. There was further discussion about this issue.

128 Mr. Larrow said that he does not disagree with Mr. Simpson's interpretation but that he is struggling as  
129 the Board has approved plans like this in the past. Mr. Landry said that a cross section of the plan would  
130 benefit the Board. Mr. Platt said that he would like to see the grading around the house. Mr. Neuwirt  
131 said that usually there is an existing conditions plan and then a proposed conditions plan. The Board  
132 explained to Mr. Schneider that if the Board does not approve the Special Exception he needs to apply  
133 for a Variance unless he changes something dimensionally on the plan. There was further discussion  
134 about this matter.

135 Mr. Schneider asked that the Board vote on the Special Exception in order to avoid the month of  
136 additional scheduling and the cost of Mr. Bedard updating the plans.

137 **Vice Chair Schneider made a motion to approve Case #15-01: Parcel ID: 0148-0013-0000: Seeking a**  
138 **Special Exception as per Article III, Section 3.50-I-4 to increase roof height 8 ft. on a replacement pre-**  
139 **existing non-conforming dwelling, Eric & Karina Schneider, 118 Hamel Rd subject to the condition that**  
140 **such approval must meet the conditions under Shoreland Impact Permit 2014-01991. William Larrow**  
141 **seconded the motion. Mr. Simpson said that the vote should be on 3.50-I, not just I-4. Vice Chair**  
142 **Schneider seconded the motion to approve the application as per Article III, Section 3.50-I. Aaron**  
143 **Simpson seconded the amendment.**

144 Mr. Platt said that he does not think that the grades meet the criteria of the Shoreland Permit that was  
145 filed with the State. Vice Chair Schneider asked and Mr. Landry said that the Permit says that any fill  
146 used shall be clean sand, gravel, rock or other suitable materials. Mr. Schneider asked and Mr. Platt  
147 explained that the retaining walls are meant to support the change in grade to bring the grade up 5'.

148 Chairman Frothingham asked and Mr. Schneider confirmed that he was advised that it is permissible to  
149 raise the grade directly around the foundation.

150 Mr. Simpson asked about one of the plans and Mr. Schneider explained that it is a tree cutting plan.

151 **Chairman Frothingham called for a vote on the motion. The motion passed with three in favor and**  
152 **two opposed.**

153 Daniel Schneider made a motion to adjourn at 8:22 pm. Aaron Simpson seconded the motion. The  
154 motion passed unanimously.

155 Respectfully submitted,

156 Melissa Pollari

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158 \_\_\_\_\_

159 Edward Frothingham

\_\_\_\_\_ Aaron Simpson

160 \_\_\_\_\_

161 Clayton Platt

\_\_\_\_\_ Daniel Schneider

162 \_\_\_\_\_

163 William Larrow

\_\_\_\_\_ George Neuwirt, Alternate