

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **SEPTEMBER 10, 2015**

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

6 **ABSENT:** William Larrow

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

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

9 Mr. Simpson made a motion to appoint Mr. Neuwirt as a voting member. Vice Chair Schneider seconded
10 the motion. The motion passed unanimously.

11 **CASE #15-22: PARCEL ID: 0148-0047-0000: SEEKING A VARIANCE OF ARTICLE III SECTION 3.40-C**
12 **REDUCING LAKEFRONT SETBACK FROM 50 FT TO 17 FT AND 20 FT ALLOWING CONSTRUCTION OF A**
13 **NEW DECK. 626 ROUTE 103 B, MICHAEL & MADELINE HANRAHAN.**

14 Allen Wilson and Michael Hanrahan presented the case. Mr. Wilson said that he would like to amend
15 the application to give more accurate distances. The shortest distance would be 18.3 ft, not 17 ft, and
16 the other distances range from that distance to 23.3 ft. Mr. Wilson explained that the proposal is for an
17 addition of a deck and the existing position of the house necessitates the deck to be within the 50 ft
18 setback.

19 Mr. Wilson said that the justification for the proposal is that it is not different than a lot of houses along
20 the lake and Mr. Hanrahan has pictures going around the lake to show that it is very common. It is not
21 degrading anyone's property and is not visually impacting anyone close by. Chairman Frothingham
22 asked and Mr. Hanrahan explained that some of the decks are fairly new and some are older. He went
23 around the lake on a kayak and took pictures and there are 20 to 25 decks that are similar size. Some
24 decks are even on the lake, which he assumes are the older ones, but there are a variety of different
25 types. Mr. Simpson asked if Mr. Hanrahan knows if the decks were grandfathered. Mr. Hanrahan said
26 that he does not know, some probably are, but others are new home constructions that have decks. Mr.
27 Simpson said that he does not think that this information is relevant as this is not a Special Exception.
28 Mr. Landry said that this would be applicable for the road front setback only.

29 Mr. Landry said that he saw on the drawings that they are up to 27.3% impervious surface with the
30 addition of the new deck. Mr. Wilson said that 27.3% is the existing impervious surface and the new
31 deck is a 5.2% increase. Mr. Landry said that the allowance is 25% and they are grandfathered at 27.3%
32 and they cannot go beyond that without a Variance on density. If the Board decides they want to
33 approve the deck it will have to be subject to obtaining a Variance on density.

34 Chairman Frothingham asked and Mr. Landry explained that because they are encroaching on the
35 Lakefront setback they automatically get 150 sq ft, encroaching no further to the lake than 12 ft. Mr.
36 Wilson said that the area of the proposed deck is 495 sq ft.

37 Vice Chair Schneider asked what are the reasons that the Board should approve the Variance. Mr.
38 Wilson said that it is the desire of the owners to have full use of their property. Mr. Hanrahan said that
39 it is fairly common on the lake based on the pictures that he took.

40 Mr. Neuwirt asked if there is an approved Shoreland Permit. Mr. Wilson said that they do not have one
41 yet, they are in the process of getting one.

42 Mr. Hanrahan said that they are not disturbing a lot of the property; there are two trees that are going
43 to be built around.

44 Mr. Landry said that the problem the Board is facing with granting a Variance like this is that the deck
45 creates a footprint that stays with the property forever. If Mr. Hanrahan was to sell the property the
46 next owner could request that the deck be enclosed for a three or four season space and they don't
47 have much choice but to allow them to do it because it is an existing footprint. Then there could be a
48 request for another 150 sq ft deck. Mr. Platt said that in the last 18 months the Board has been fairly
49 strict about not approving expansions like this in the Shoreland Zone. They have denied reconstructions
50 where people have tried to slip in bigger decks than they had before; they had one last month where
51 the person couldn't have a square deck, it had to be angled to stay out of the Zone.

52 Mr. Platt asked Mr. Landry where the 150 sq ft deck allowance is in the Zoning Ordinance. Mr. Platt said
53 that there is an allowance for people to have ingress and egress to their house. Mr. Landry said that you
54 are allowed 32 sq ft for a landing pad and set of stairs on any house.

55 Chairman Frothingham said that the drawing shows steps going to the water and asked about the
56 configuration of the deck. Mr. Wilson explained that there is a boulder that the deck would be going
57 around. Chairman Frothingham asked if there is access to the deck from the southern part of the house.
58 Mr. Wilson said that the only access to the house would be on the west side facing the lake. Chairman
59 Frothingham said that he does not see why they feel as though they need the deck on the southern part.
60 Mr. Hanrahan said that it is not a necessity, it was more for privacy; that is the least of what their wants
61 would be, they want the deck across the front.

62 Chairman Frothingham said that his other question would be about the bump out on the north side of
63 the deck with the steps. He knows that they need steps off the deck but he is not sure that they need
64 two sets of steps nor does he know if they need the southerly part or the northerly part. They are
65 asking for a lot of square footage over the 150 sq ft a set of steps and landing.

66 Mr. Simpson asked what is there now. Mr. Hanrahan said that there is stones and a set of stairs. Mr.
67 Simpson asked if the stairs are considered a pre-existing structure. Mr. Landry said that stairs are
68 allowed. Mr. Platt asked if it is pea-stone and Mr. Hanrahan said that it is 1.5 inch stones all around in
69 the area they are talking about. Mr. Simpson asked if there were pavers and it was a patio if it would be

70 considered a pre-existing structure. Mr. Landry said that it would be. Mr. Simpson asked why this is not
71 and Mr. Platt said it is because it is drainage stone. Mr. Simpson said that the definition of a structure is
72 anything constructed or erected with a fixed location on the ground. Mr. Landry explained how a patio
73 would be a fixed location on the ground. Mr. Simpson asked and Mr. Hanrahan confirmed that he put in
74 the gravel.

75 Mr. Simpson said that he thought that the Board got rid of the 150 sq ft deck and just changed it to the
76 32 sq ft landing and stairs.

77 Mr. Landry asked and Mr. Hanrahan confirmed that the most important part of the deck to him is what
78 is directly in front of the house.

79 Mr. Simpson asked for Mr. Wilson and Mr. Hanrahan to go over the five criteria for a Variance that is in
80 their application. Mr. Wilson said that the proposed use would not diminish surrounding property
81 values because the majority of lakefront dwellings have decks for enjoyment of the view. Granting the
82 Variance would not be contrary to the public interest because, as stated, the decks are in keeping iconic
83 with the lakefront properties. Denial of the variance would result in unnecessary hardship because the
84 setting as a lakeside dwelling on a wooded location. It would detract from the full and reasonable
85 enjoyment of the property if denied. Mr. Wilson continued that the NH DES Shoreland application is in
86 process to ensure protection of the environment. Many of the other dwellings and lake houses have
87 similar decks so this is not adverse from the norm. A deck is not a living space, only a space to sit.
88 Similar decks are common to lakefront dwellings and nothing unusual is being requested. Granting the
89 variance would do substantial justice because it would enable the property owners to enjoy their
90 property in the same manner of their neighbors. Mr. Wilson said that the use is not contrary to the
91 spirit of the ordinance because normal rear setback is 15 ft with a Variance, nominal setback is 18 ft.
92 The Shoreland setback is 50 ft, however, the existing dwelling is within that setback. NH DES allows a 12
93 ft further encroachment on an existing dwelling.

94 Mr. Neuwirt said that there is no hardship; there is no steep slopes, there is no denied access to the
95 house, it is flat / level ground; of all the criteria that has to be proved, hardship is the hardest. He thinks
96 that Mr. Platt explained that it is not secret that the Board has been hard on people who come in with
97 their wants. You can't use reasonable use of the property to build a deck to put chairs and tables out as
98 a hardship.

99 Chairman Frothingham said that they are going to be over their percentage anyway, which alters the
100 dilemma. Mr. Simpson said that it does not alter their dilemma because any approval would be
101 conditional upon them having to attain approval for the lot coverage. Mr. Neuwirt asked and Mr.
102 Landry confirmed that they would need another Variance.

103 Mr. Simpson said that he cannot find the 150 ft allowance in the Zoning and believes that it was
104 amended out last year or the year before.

105 Mr. Platt said that he thinks that when you buy a house on the lake you buy it with the existing rules of
106 the time. Many people have decks on the lake and have boathouses that you can't have now because

107 they were built before the rules of the Town. You can't just say that most of the other houses have
108 decks within the 50 ft so we can have it too; these are the rules that have been passed by the voter.

109 Mr. Platt asked if there were any neighbors present and there were none with comments or questions.
110 Chairman Frothingham asked if the Board had any other questions or comments for the applicant before
111 closing the public portion of the hearing.

112 Mr. Wilson said that he would like a resolution of the 150 sq ft deck rule. Mr. Landry said that it cannot
113 be done, it is no longer in the Zoning Ordinance; it was taken out in 2011. The current allowance is 32 sq
114 ft and is under the definition of a minor structure.

115 Chairman Frothingham closed the meeting to the public to allow for discussion amongst the Board.

116 Vice Chair Schneider said that he does not have any comments as everything has already been said. Mr.
117 Simpson said that he knows that it is gravel now but a yard or lawn is usable for enjoying the outside of
118 your house and he is not sure that this is a hardship as the regulations are written.

119 Vice Chair Schneider made a motion to approve Case #15-22: Parcel ID: 0148-0047-0000: seeking a
120 Variance of Article III Section 3.40-c, reducing lakefront setback from 50 ft to 17 ft and 20 ft allowing
121 construction of a new deck, 626 Route 103 B, Michael and Madeline Hanrahan, such approval granted
122 subject to conditions of the Shoreland Permit which needs to be applied for. Mr. Simpson seconded the
123 motion. The motion was denied unanimously due to the failure to prove hardship.

124 **CASE #15-23: PARCEL ID: 0146-0034-0000: SEEKING A VARIANCE OF ARTICLE III SECTION 3.10**
125 **REDUCING SIDE SETBACK FROM 15 FT TO 11 FT 9 IN ALLOWING CONSTRUCTION OF A NEW GARAGE.**
126 **193 WATERLOT RD, THOMAS CALLAHAN LIVING TRUST.**

127 **CASE #15-24: PARCEL ID: 0146-0034-0000: SEEKING A VARIANCE OF ARTICLE III SECTION 3.20**
128 **ALLOWING AN INCREASE IN IMPERMEABLE LOT COVERAGE FROM 25% TO 29.8% ALLOWING**
129 **CONSTRUCTION OF A NEW GARAGE AND DRIVEWAY EXTENSION. 193 WATERLOT RD, THOMAS**
130 **CALLAHAN LIVING TRUST.**

131 The Board determined to hear both cases together and then vote on them individually.

132 Charlie Hirshberg of CLD Engineers and Tom and Sharon Callahan presented the case.

133 Mr. Hirshberg explained that the applicants recently purchased the property. It is accessed through
134 Oakledge but it is not actually part of Oakledge. Mr. Simpson explained that they built Oakledge around
135 this house. Mr. Hirshberg said that the property is abutted by two lots that are Oakledge properties and
136 the house does not have frontage on Waterlot Rd, it just has a right of way to the lot. The lot is .36 acres
137 and the house is relatively small, under 1400 sq ft of footprint and is 1.5 levels. Mr. Hirshberg continued
138 that the applicants recently sold their house to move to this house and they are going from a house with
139 a fair amount of storage space to a house with no storage space. They want to have a garage and also
140 need storage space.

141 Mr. Hirshberg said that the lot is fairly unique. When you enter the lot it is not that wide and they spent
142 a fair amount of time looking at how to add a garage, whether to have it attached or detached. They
143 determined that the best plan is to have an attached garage because they are eliminating some of the
144 other impervious areas in order to create the garage footprint area.

145 Mr. Hirshberg said that sheet C-1 of the submitted plans is the existing conditions plans and shows the
146 footprint as it exists as well as the bluestone driveway. A new septic system was put in last year. On the
147 plan the areas that are tan are the impervious areas that are existing which it is 30.7%. The existing
148 exceeds the lot coverage of 25%. Mr. Hirshberg continued that they can't build a garage without it
149 being in a setback. Mr. Landry said that they went through three or four different scenarios with him.
150 Mr. Hirshberg said that one of the limitations is they can't put the garage on the septic system nor on
151 the banks. The leach field is actually under current portions of the parking area and there was a
152 question about whether it was built to withstand that as the septic plans did not show that. They have
153 cut back on the amount of drive there and reduced the parking so that it would not be over the septic.
154 Mr. Hirshberg was asked and said that the leach field is not shown on the plan but explained its location
155 to the Board.

156 Mr. Hirshberg said that sheet C-2 shows the proposed plan. They are putting the garage alongside the
157 house. The house for the abutting lot is 200 ft up the hill so there is no structure or use at the end of
158 that lot as it is filled with boulders. Mr. Simpson said that there is a footpath shown and asked if it goes
159 anywhere. Mr. Hirshberg explained that it is not an impervious path, just a walk way in between the
160 trees.

161 Mr. Hirshberg said that the best scenario that they came up with was to put the garage on the side of
162 the house. Part of the porch that is there now will be removed. The garage will be small, 22 ft x 22 ft,
163 and a lot of the garage is where there is porch now. The driveway that they connect with will be brick
164 pavers so it will be pervious. Mr. Hirshberg continued that they optimized the location and made the
165 garage away from the 50 ft setback. There are some trees that they can save by not pushing it right up
166 to the 50 ft setback. If they had pushed it up to the setback they would have added more driveway
167 instead they have reduced the amount of impervious driveway that exists now. The result was
168 impervious area of 29.8% versus 30.7%. Adding the pervious only takes them to 35% so they are not
169 pushing the limits of the combined pervious and impervious.

170 Mr. Hirshberg said that this location worked well for a garage. They are only 4 ft from the side setback
171 and is the most reasonable plan when you look at total site impact.

172 Vice Chair Schneider asked if they can make the rest of the driveway pervious. Mr. Hirshberg said that
173 some of it is not flat and bricked pavers on a non-flat driveway can be clipped when the driveway is
174 plowed. Mr. Landry said that pervious pavers become impervious after a period of time. Mr. Hirshberg
175 said that they can't be heavily sanded because the sand plugs the holes. Mr. Landry said that he knows
176 of some people who have pressure washed them to try and get the sand out it embedded the sand
177 further into the pervious paver so they ended up taking them out and washing them to clean them out.
178 Mr. Simpson asked if they went back to the next rise to the grade of 1106 with pervious pavers what the

179 percentage would be. Mr. Hirshberg said now they have 800 sq ft and going back that far would add
180 another approximately 300 sq ft. Mr. Simpson said that if they did what Vice Chair Schneider suggested
181 and added more pervious pavers they would reduce the lot coverage below 29.8%. Mr. Hirshberg said
182 that the reason that they added the pavers where they did is because they are building the grade up.
183 Coming off the existing drive the grade drops down and they need to build it up and bring materials in
184 and build a retaining wall. The pervious section is kind of a built up section so his concern with bringing
185 it back further is that it is boulder upon boulder underneath the existing drive. Mr. Simpson asked and
186 Mr. Hirshberg explained on the plan what he is talking about.

187 Mr. Platt asked and Mr. Landry confirmed that the proposed plan is more conforming to the lot
188 coverage than what is existing. Mr. Platt said this should be covered under whatever regulation they
189 have that says that if something is less non-conforming it does not require a Variance. Mr. Landry said
190 that it is not part of the regulations but the Board can make that decision. The regulations say that it
191 has to be 25% or less impervious surface and a total of 40% or less impervious and pervious surface. Mr.
192 Simpson asked and Mr. Landry said that the proposed application is still non-conforming but it is less
193 non-conforming than what it is currently. Mr. Landry said that they do have an improved Shoreland
194 Permit that allows them to go to 29.8% impervious coverage.

195 Vice Chair Schneider asked and Mr. Hirshberg said that the retaining walls will be less than 36 in as they
196 are in the setback. They determined where the garage floor needed to be and one step down is a
197 reasonable step from the main floor. That allowed them to keep the drive just 2 ft over the grade there.

198 Mr. Landry said that any excavation over near Bay Point Rd and digging at the boulders creates a never
199 ending flow on the property. Mr. Hirshberg said that was one of the concerns with this property as
200 there is an underground stream not far off the property. If they try and move materials they don't know
201 where the water is going to go.

202 Mr. Landry asked if Oakledge has reviewed the plan and signed off on it. David Macdonald, a
203 representative of Oakledge, said that they have reviewed the plans and are comfortable with it. He also
204 has an email from Kevin McClintock who is one of the abutters who said that he is OK with the plan.
205 Vice Chair Simpson asked and Mr. Macdonald confirmed that Mr. McClintock is the abutter whose
206 setback is being infringed on.

207 Mr. Simpson said that he has a question about the Variance for the side setback as Mr. Hirshberg said
208 that they are going with a smaller garage and if it is width or depth. Mr. Hirshberg said that it is both as
209 a typical garage is 24 ft x 24 ft. Mr. Landry said that 22 ft x 22 ft is tight.

210 Chairman Frothingham closed the meeting to the public and asked the Board if they have anything more
211 to discuss before moving on to a motion.

212 Vice Chair Schneider said that the current impervious area is 30.7% and the proposed impervious area
213 will be reduced to 29.8%, still non-conforming but less non-conforming.

214 Mr. Neuwirt said that he thinks that the project is reasonable and they could have asked for a further
215 reduced setback to get a bigger garage. He feels that Mr. Hirshberg did a good job in creating an
216 environment where the property conforms better and they have made an effort to make it better.

217 Mr. Platt said that he thinks that the lot has hardships with the size of the lot, the access, and the
218 location of the septic system.

219 Mr. Platt made a motion to approve Case #15-23: Parcel ID: 0146-0034-0000: seeking a Variance of
220 Article III, Section 3.10 reducing side setback from 15 ft to 11 ft 9 in allowing construction of a new
221 garage, 193 Waterlot Rd, Thomas Callahan Living Trust, all construction to proceed according to
222 Shoreland Permit 2015-02013. Mr. Simpson seconded the motion. The motion passed unanimously.

223 Mr. Simpson made a motion to approve Case #15-24: Parcel ID: 0146-0034-0000: seeking a Variance of
224 Article III, Section 3.20 allowing an increase in impermeable lot coverage from 25% to 29.8% allowing
225 construction of a new garage and driveway extension, 193 Waterlot Rd, Thomas Callahan Living Trust
226 subject to compliance with the Shoreland Permit 2015-02013. Vice Chair Schneider seconded the
227 motion. The motion passed unanimously.

228 **CASE #15-25: PARCEL ID: 0104-0001-0000: SEEKING A VARIANCE OF ARTICLE III SECTION 3.10**
229 **ALLOWING THE ADDITION OF ONE APARTMENT WHICH WOULD TOTAL THREE (3) UNITS ON A NON-**
230 **CONFORMING LOT TOTALING APPROXIMATELY 13,000 SQ FT. 1040 MAIN ST, GEORGES MILLS, H.**
231 **STETSON FLETCHER, III.**

232 H. Stetson Fletcher, III presented the case.

233 Mr. Fletcher explained the location of the property and gave pictures of the property to the Board. Mr.
234 Fletcher said that he purchased the property a number of years ago. They were an importer and
235 distributor of Blundstone boots and they sold worldwide. Over a period of time the building use
236 expanded and contracted based on the number of employees but it was the main office building for the
237 distribution center. The property has had various uses such as apartments and offices. He has sold the
238 business and a separate section of the business being the retail portion of the business, Sugar River
239 Outfitters, was sold to his son, who has sold that business. Mr. Fletcher continued that what they are
240 interested in now is to find the best use of the property.

241 Mr. Fletcher said that presently they have a one family in the main house and then the office. The office
242 has separate heat, electricity, and a bathroom. Mr. Simpson asked if the office is considered a separate
243 dwelling unit. Mr. Fletcher said that there is just one kitchen present. Mr. Landry said that the office is
244 considered a dwelling unit, though they do not have a clear definition. Mr. Simpson asked and Mr.
245 Landry said that is pre-existing, non-conforming. Vice Chair Schneider said that the two properties used
246 to be one and in May of 2011 the Zoning Board allowed the property to be subdivided though it was
247 already non-conforming. Mr. Fletcher said that they are here for the main house property, not the
248 Sugar River Outfitters property which now belongs to his son. Mr. Simpson asked and Mr. Landry
249 confirmed that this is currently non-conforming use and the Zoning Board approved subdividing the
250 property into two non-conforming lots. Mr. Platt asked and Mr. Landry explained that they require

251 10,000 sq ft per dwelling unit in this Zone. Mr. Simpson asked if the Board approved a Variance to go
252 from one residence to two dwelling units, one being a business, and one being a residence. Mr. Landry
253 said that it did not talk about the dwelling units as they were there before, they just talked about
254 subdividing the lot. Mr. Simpson said that there was just one house. Mr. Landry said that part of the
255 house is an office and has been for a number of years. Mr. Simpson asked and Mr. Landry said that it is
256 not a home office, it is a separate business. Mr. Simpson asked if it is permitted. Mr. Platt asked if the
257 office can be converted to an apartment without any Zoning Variance. Mr. Simpson said that he is not
258 sure that he agrees with Mr. Landry. Vice Chair Schneider said that he would like to know how long it
259 has been a separate office and residence. Mr. Landry said that he does not know how long it has been a
260 separated. The whole lot before the subdivision was pre-existing, non-conforming in terms of the
261 number of dwelling units. Mr. Platt said that he does not understand how lot 1-1 is non-conforming.
262 Mr. Landry said that lot is fine but the lot they are discussing has two dwelling units now, an office and a
263 residence. Mr. Simpson said that unless Mr. Fletcher previously came before the Board to establish two
264 dwelling units on the property there are not two dwelling units. Mr. Neuwirt asked and Mr. Simpson
265 explained that he is familiar with the property and it was a house. His concern is that they are coming
266 before the Board with two dwelling units and they want to make it three dwelling units and the two
267 dwelling units were never permitted. Mr. Landry said that it could pre-exist zoning. Mr. Simpson said
268 that it does not pre-exist zoning as he grew up with someone who lived in the house.

269 Mr. Platt said that it does not seem as though there is enough parking for three dwelling units. Mr.
270 Fletcher said that presently there is a driveway coming off Prospect Hill and off that there is parking.
271 They have fit as many as five cars between the house and the road. There is also parking spaces along
272 the stone wall that is parallel to Old Main St. They have more than ample parking as far as what his
273 understanding of what the requirements are.

274 Mr. Fletcher said that the property is on Town Water and Sewer. There will be no changes to the
275 outside of the building, which is one of the reasons that he brought the picture to show the trees and
276 antiquity and character of the house. It is one of the older houses in the area and one of the purposes
277 of him doing what he wants to do is to preserve the house and make it affordable for him to do that.
278 Mr. Simpson said that he is not necessarily opposed to what Mr. Fletcher is talking about but he does
279 not think that it is pertinent.

280 Mr. Fletcher said that directly across the street from his property is a nine unit condominium complex.
281 Another building across the street, which he believes is the old post office, is a multi-unit apartment
282 building. On the same side of the street as his building, going towards Sunapee, is a multi-family
283 building. Up and down Main St a majority of the buildings are all these types of dwellings. Mr. Fletcher
284 continued that the only exception to this is Lot 48, which is a single small house directly across the
285 street. Mr. Platt asked if Lot 2 has a multi-family house. Mr. Fletcher said that there is an apartment
286 and a business. Another one that is further down is the former doctor's office building.

287 Mr. Fletcher said that for generations this has been the center of Georges Mills and what it has always
288 been is multi-families and light commercial real estate. He does not want to do anything to the outside
289 of the footprint but he wants to make the main house into an upstairs two bedroom apartment and a

290 downstairs two bedroom apartment. In order to make that happen he has minor internal changes that
291 he would have to do, adding a separate entrance on the first floor leading upstairs, dividing the main
292 living room to have two bedrooms down stairs, and adding a tiny kitchenette upstairs. Mr. Fletcher gave
293 the Board a copy of the plans of what he would like to do upstairs and downstairs. There will be no
294 changes made to the outside and few changes to the inside as he wants to preserve the antiquity and
295 the look of the property while creating what would be the best use of the property as an investment for
296 his family.

297 Mr. Neuwirt said that with the application for the Manor they had a site plan that showed the layout of
298 the parking spaces. Mr. Neuwirt said that the Board does not have a plan that shows the layout of the
299 parking spaces for this application. Mr. Landry said that there is a sketch. Mr. Platt said that it does not
300 show the layout of the 9 x 18 ft spaces.

301 Vice Chair Schneider asked if this application is approved it have to go to the Planning Board for Site Plan
302 Review. Mr. Landry said that it will and they will need to have a plan that showed the layout of the
303 parking spaces. Mr. Platt said that he does not know if they want to put the Planning Board in the
304 situation where the Variance has been granted and then there is not enough parking.

305 Mr. Landry said that the old tax cards showed that there was an office at the property in 2007 but that
306 there was not one on the oldest card from 1989; Zoning was adopted in 1987.

307 Mr. Platt said that he does not know if the definition of a dwelling unit allows for an office without a
308 kitchen to be qualified as a dwelling unit. Mr. Landry said that is what the Town has always followed
309 because Water and Sewer charges hook up fees for separate offices.

310 Mr. Fletcher said that the portion of the plan that has been darkened on the plan represents the parking
311 and if it was measured with a tape measure he believes that there would be ample space for the
312 parking. Mr. Simpson asked and Mr. Fletcher confirmed that it would be enough for 9 x 18 ft parking
313 spaces. Mr. Platt said that Mr. Fletcher is asking for a Variance and it is not their job to measure out the
314 spaces, it is his job to show them to scale. Mr. Fletcher said that what he was advised to do is what he
315 has tried to do. Mr. Landry said that they went over the parking together, it was drawn in red and there
316 was more than enough parking.

317 Mr. Fletcher said that the separate section that is presently an office does not have a kitchen and would
318 not have a kitchen added. Mr. Fletcher said that the only addition would be the upstairs unit. Vice Chair
319 Schneider asked and Mr. Fletcher confirmed that currently there is a business and a residence. Vice
320 Chair Schneider asked if this property is a conforming use. Mr. Landry said that it is not because as far
321 as the Town of Sunapee acknowledges two residences on the property now because Water and Sewer
322 charges for business hookups. Vice Chair Schneider said that a business is separate and they have
323 regulations for business uses and a business is different than a residence. Mr. Neuwirt said that a
324 dwelling unit is defined as one room or rooms connected together, constituting a separate, independent
325 housekeeping unit established for owner occupancy, rental or lease, and containing independent
326 cooking, sleeping, and sanitary facilities. Vice Chair Schneider said that right now the building has one
327 dwelling unit and one business, which may or may not be a home business. Vice Chair Schneider asked

328 if that is conforming or non-conforming. Mr. Platt asked about Chiarella's building on Central St and if it
329 is conforming or non-conforming. Mr. Landry said that it is non-conforming and the Board approved the
330 Variance to have a business there and he rents out the house; he was charged two hookup fees by
331 Water and Sewer.

332 Mr. Simpson said that he knows that Mr. Fletcher said that there will not be more water or sewer use
333 but he will have to get another hookup. Mr. Fletcher said that he understands that he will need another
334 hookup.

335 Mr. Landry said that directly across the street are the condominiums. Mr. Simpson said that he thinks
336 that the Board acknowledges that there is a lot of density in the area and it may be more appropriate
337 there than in other areas as it is a town center.

338 Mr. Platt said that he has a problem calling this three units and also would like to see more detail of the
339 parking as he does not think that it is to scale or shows the features of the lot.

340 Vice Chair Schneider said that he has a problem approving something that adds to the density of an area
341 that is already dense. They can go through the criteria but he has not heard any reason that it should be
342 approved other than Mr. Fletcher wants to do it as there is more rental income.

343 There was a brief discussion regarding the layout of the apartments.

344 Vice Chair Schneider asked about the tent sales and it was explained that those are held on the property
345 owned by Mr. Fletcher's son which was subdivided from this property. Mr. Fletcher said that his son
346 currently rents the office space from him.

347 Chairman Frothingham asked Mr. Fletcher to go over the five criteria for a Variance.

348 Mr. Fletcher said that he would like to add that what they are discussing for water and sewer usage will
349 not be an increase or decrease compared to how the business expanded and decreased over the years.
350 At the peak of their business they had a lot of employees so it would be comparable.

351 Mr. Simpson said that the application says that Mr. Fletcher wants to have two upstairs and downstairs
352 apartments. Mr. Fletcher said that he wants to have an apartment upstairs and an apartment
353 downstairs.

354 Mr. Simpson said that he thinks that Mr. Fletcher touched on all of the criteria written in the application.
355 Mr. Fletcher said that he tried to be as succinct and honest as he could in the application but he would
356 be more than willing to answer any questions or read the application to the Board.

357 Mr. Simpson said that he has a hard time calling this three units. He understands what the tax records
358 show but he will have a hard time voting for three units based upon the presumption that there are two.
359 Mr. Fletcher asked if Mr. Simpson would be happier if it were worded two apartments and one office.
360 Mr. Simpson said that it is not necessarily based on Mr. Fletcher's verbiage. They've had a slew of

361 people this year come before the Board and say that they have had more units than the Town has had in
362 their records. There was further discussion regarding this matter.

363 Mr. Fletcher said that one of the criteria questions is why he wants to do this and it is because it is the
364 best use for that type of property. Mr. Neuwirt said that the Townspeople have voted on rules that they
365 want the Zoning Board to enforce and they are asking permission for something that the Townspeople
366 have said requires proof to gain special permission. Question number three of the application is about
367 hardship and Mr. Fletcher's hardship explanation is that he wants extra income. Mr. Fletcher said that
368 as a business person that is one of the things that you try to do. Mr. Fletcher continued that what is
369 good for the neighborhood, Town, and State is if they are able to preserve the building and the antiquity
370 of the property. They are in a neighborhood that is similar in density and uses as what he is asking for.
371 They are bringing more people into Sunapee. He understands that there would be issues if he wanted
372 to change the outside of the property but he wants to make some minor changes and convert the
373 property into a situation where he can get income. Mr. Neuwirt said that his definition of hardship is
374 that there has to be a difficulty with the property for which the Board needs to bend the rules.

375 Mr. Simpson said that they do not have the full application and are missing page 3.

376 Mr. Simpson said that this is an area that has a lot of density. When the expansion of the Manor came
377 before the Board he did not participate in that hearing but it was already non-conforming and the Board
378 approved the application. Mr. Landry said that for the Manor the owner proved that there were the
379 number of units that he claimed and that the tax records were off. He got approved for two more units
380 but gave up a commercial space that was not on the tax records. In this case the tax records show an
381 office space and a dwelling unit. Mr. Landry continued that if the Board decides they want to approve
382 this they can make it conditional on it remaining two dwelling units and an office, which would be a
383 reduction of the square footage requirements of 10,000, which they are over already with the office as a
384 dwelling unit. The Master Plan has designated this area for work force housing which cuts the 10,000
385 square foot requirement to 5,000 square feet or less. The applicant could come back and ask for more
386 units based on the Master Plan. Mr. Fletcher said that what he is asking for is what he feels is the best
387 use of the property; they want to preserve this type of a dwelling.

388 Mr. Neuwirt said that he does not disagree with Mr. Fletcher's intentions. He is questioning whether or
389 not what Mr. Fletcher is requesting is in conflict with what the Zoning Ordinance allows as the Board is
390 supposed to be stewards of that. Mr. Landry said that this is one of the area that is selected in the
391 Master Plan for work force housing, which is a reduction in square footage requirement for each
392 dwelling units. Mr. Fletcher said that one of the reasons that it is possible is because the property is on
393 Town water and sewer. Mr. Landry said that the area does have a lot of multi family units.

394 Mr. Platt asked if based on current zoning if Mr. Fletcher wanted to convert the office into a dwelling
395 unit he could. Mr. Landry said that he would have to go to the Planning Board for Site Plan Review and
396 may need to go to Zoning, it depends on what the Planning Board wants. Mr. Fletcher said that he does
397 not think that that area would be big enough to convert into another dwelling unit. Vice Chair Schneider
398 said that he does not know how they can arbitrarily contradict the zoning regulations and call an office a

399 dwelling unit; it is clearly not a dwelling unit. Mr. Landry said that this has been done for years. There
400 was further discussion regarding this issue and if Mr. Fletcher is permitted for two units. There was
401 another discussion about the subdivision of the lot.

402 Mr. Simpson asked if Mr. Fletcher ever lived in the building and he said no. Mr. Simpson asked when
403 the put the office into the building and Mr. Fletcher said that it was done right after they bought the
404 property in 1997. Mr. Dana Fletcher said that when they purchased the property there was also an
405 antique store in the building, which is now on his property. Mr. Simpson said that an antique store can
406 be a home business. Mr. Fletcher said that the previous owner lived in the house. He bought the
407 property because he was looking to have a business in Sunapee. When they were small they just used
408 the office space and rented the house part but when they were bigger they used the entire house as
409 office space.

410 Chairman Frothingham said that when Mr. Fletcher came before the Board to subdivide the land his
411 intent was to sell the business. Mr. Fletcher said that his intent at the time was to have his son control
412 the tent sale portion of the business because he had sold the Blundstone distribution portion of the
413 business.

414 Mr. Landry asked Mr. Fletcher if they sold the house if they would still occupy the office that is in the
415 house. Mr. Fletcher said that he does not know. Mr. Landry asked if Mr. Fletcher would be willing to
416 sacrifice the space as an office so the Board can vote on having two dwelling units there and no office.
417 There was further discussion regarding this and if someone could later ask to have a home business.

418 Mr. Simpson read the definition of home business and said that Mr. Fletcher's use of an office there may
419 be illegal. Mr. Fletcher said that when he purchased the property he came to the Town and explained
420 exactly what he wanted to do. Mr. Simpson said that the regulation says it was adopted in 2000 and Mr.
421 Fletcher purchased the property in 1997 or 1998 so it may not have been the regulation at the time.
422 Mr. Fletcher said that he never had a home business there. Mr. Simpson said that there may not have
423 been a definition of a home business when Mr. Fletcher purchased the property and he would like to
424 see if there was or if it was adopted in 2000. If the use was there before that he does not have a
425 problem. Mr. Simpson asked and Mr. Fletcher said that he did not come before a Board for permission,
426 he went to the Town and talked to Mr. Marquise. They were interested in purchasing a building that
427 was big enough for what he wanted to do and he went to the Town and explained that. They used the
428 building as an office and also as a rental and office. The purchase of the building was contingent upon
429 him being able to do this.

430 Mr. Landry said that the Board has brought up some good questions and he suggests continuing the
431 hearing until October 8th. He can go into the archives and look up the old Zoning minutes and the old
432 regulations from when Mr. Fletcher purchased the property. He will also discuss this with Mr. Marquise
433 to see if he remembers talking to Mr. Fletcher. He will also see if there is a file with a Site Plan Review.
434 Mr. Simpson explained that the reason that Mr. Landry is suggesting this is because if the application is
435 denied at this meeting they can't come back with the same proposal. Mr. Fletcher said that this is fair.
436 Mr. Landry said that continuing the hearing will also give Mr. Fletcher the opportunity to put together a

437 better plan identifying the parking to scale. Mr. Fletcher said that he is going into the VA and having a
438 total hip replacement in one week. He will not be able to be in attendance for the October meeting.
439 Mr. Simpson said that Mr. Fletcher could give his son or anyone else permission to present for him.

440 Mr. Neuwirt said that the Board should clarify what they want. Mr. Fletcher asked and Mr. Landry
441 confirmed that he will be the one that Mr. Fletcher gives his information to. Mr. Simpson said that he is
442 concerned with when Mr. Fletcher purchased the property what the Zoning regulations were. Mr.
443 Landry said that he will get a copy of the deed and look at the year that Mr. Fletcher purchased the
444 property and the year before to determine the regulations. Mr. Neuwirt asked and Mr. Simpson said
445 that his issue is that it may have been a home business before and when Mr. Fletcher took over it was
446 not a home business and, therefore, he could not continue operating a home business there. Mr.
447 Landry asked and Mr. Fletcher said that he does not believe that there was a Site Plan Review.

448 Mr. Platt said that his issue is not whether it was or is an approved use, they are talking about increasing
449 the use and the lot seems small to him. The requirement is 10,000 square feet per dwelling unit, which
450 is less than in the other Zones, and this is what the voters have approved. Mr. Neuwirt said that Mr.
451 Fletcher could also argue for work force housing which reduces the square footage requirement. Mr.
452 Platt said that he does not think that this applies. Mr. Landry said that there are also the apartments
453 across the street where there is 3,000 square feet per dwelling unit. Mr. Platt said that these were
454 approve between 1987 and 1989. Vice Chair Schneider said that he agrees with Mr. Platt but is willing
455 to hear new facts if Mr. Fletcher wishes to continue the hearing. Mr. Neuwirt said that it would also
456 allow Mr. Fletcher the opportunity to do a scaled drawing showing the parking. Mr. Landry said that he
457 will research the Zoning regulations, will talk to Mr. Marquise, and will also research the archives in the
458 Site Plan file.

459 Mr. Fletcher requested the case being continued and asked if his son, Dana Fletcher, could present. Mr.
460 Landry said that Mr. Fletcher needs to write a letter giving his son permission.

461 Mr. Simpson made a motion to accept the request for continuance. Vice Chair Schneider seconded the
462 motion. The motion passed unanimously.

463 Mr. Simpson asked if the portion of Cooper St by Mr. Fletcher's property is still used as access to any
464 properties. Mr. Fletcher said that he thinks that the next door neighbor uses it as a parking lot for his
465 own vehicles. He also has more parking that is on his land behind his house. Mr. Simpson said that if
466 the road has been thrown up Mr. Fletcher may own half of it and have more land. Mr. Fletcher said that
467 the entire time he has owned the property he has not seen any traffic on it because it is a dead end and
468 goes nowhere. Mr. Simpson said that it may not be classified as a Town road any more. Mr. Landry said
469 that is something else he can check. Mr. Simpson said that it would give more square footage to the lot
470 and give him more parking. Mr. Landry said that if it was thrown up because the Town no longer uses it
471 and the Selectmen voted that it is no longer a Town road, Mr. Fletcher would own half of it.

472 Mr. Dana Fletcher asked and Mr. Landry confirmed that they have to do a better drawing and everything
473 has to be to scale.

474 **CASE #15-26: PARCEL ID: 0237-0001-0000: SEEKING A SPECIAL EXCEPTION TO ESTABLISH AND**
475 **OPERATE A BOAT STORAGE AND BOAT / AUTO ENGINE REPAIR BUSINESS AS PER ARTICLE IV, SECTION**
476 **4.10. 489 ROUTE 103, 43 PARTNERS, LLC, CINCINNATI, OH.**

477 Rich Berio, a partner of 43 Partners, LLC, presented the case.

478 Mr. Berio explained that the property is the old Touchette property and they purchased it with the
479 intention of boat storage and repair services. Though it says auto engine repair, that is the way that it is
480 worded in the Zoning regulations but they won't be doing that. Mr. Landry explained that boat storage
481 is permitted by right in this Zone and that auto, boat, and engine repair is permitted by Special
482 Exception.

483 Mr. Berio said that he thinks the proposal falls within the spirit of the ordinance. The mixed use of the
484 property defaulted because the property sat unused for more than two years.

485 Mr. Platt asked and Mr. Berio said that he believes that the selected site is an appropriate location for
486 the proposed use. Mr. Platt asked and Mr. Berio said that he believes that there is adequate and safe
487 highway access provided to the proposed site and that there is adequate off-street parking provided for
488 the proposed use. Mr. Platt asked if there is adequate sewage disposal for the site. Mr. Berio said that
489 it is a private septic system, not Town. Mr. Platt asked and Mr. Berio confirmed that there is drainage
490 for what may be done in the garage.

491 Mr. Simpson asked if this will need to go to Site Plan Review and Mr. Landry confirmed that they do.

492 Mr. Simpson asked if the off street parking is adequate with boat storage. Mr. Berio said that it will be
493 and the boats will not be on the paved surface, some will also be inside. Vice Chair Schneider asked
494 where they will be putting the boats. Mr. Berio said that they will be to the right of the middle building
495 along the wood line. Vice Chair Schneider asked if they will be doing any tree cutting. Mr. Berio said
496 that they will not be doing any more cutting than the tree limbing they have done already.

497 Mr. Simpson asked what there is for septic and Mr. Berio explained that it is a private tank / leach field
498 system. Mr. Simpson asked how big the septic system is and Mr. Berio said that he does not know. Mr.
499 Simpson said that he knows that there was a pre-existing business using it. Mr. Berio said the only thing
500 it will serve will be the office. Mr. Platt said that he does not see it being a high septic usage for this
501 type of business. Mr. Simpson said that there is a history of septic system problems in that area.

502 Mr. Landry asked and Mr. Berio confirmed that he has spoken to the State of NH DOT and someone will
503 be visiting the site on the 11th to check the ingress and egress to the property.

504 Vice Chair Schneider asked about hazardous waste. Mr. Berio said that they had a preliminary
505 environmental assessment done when they bought the property and they determined that there was
506 not need to go any further. Mr. Simpson said that the Board is asking about what their business will
507 create such as waste oil. Mr. Berio said that the most that he will ever have will be a 55 gallon drum
508 that will be removed once a month. Mr. Simpson asked if he will have a license from the State for
509 collecting the waste oil. Mr. Berio said that if it is required he will get one. Mr. Landry said that he

510 thinks that it depends on the number of gallons that will be collected and he does not know what it is.
511 Mr. Platt said that the Board can make an approval conditional on getting all the necessary State
512 permits.

513 Mr. Neuwirt asked as the ordinance says that there needs to be adequate off street parking for the
514 proposed use if it should be part of the site plan or is something that they just assume is adequate. Mr.
515 Landry said that in this case Mr. Berio needs to bring a scaled drawing to the Planning Board for Site Plan
516 Review.

517 Vice Chair Schneider asked why someone from Cincinnati is interested in having a boat yard here. Mr.
518 Berio said that the person from Cincinnati is just a partner in the property who owns property on the
519 Lake. His family has been around the Lake for years and he happens to live in Cincinnati.

520 Mr. Simpson said he wants to make sure that the proposal is consistent with the Ordinance and read the
521 description of Mixed Use. It is to provide opportunities for commercial, light industrial, and tourism
522 related business. The two Mixed Use I areas are generally located in the Wendell Village area and the
523 area surrounding the intersections of Route 103, Brook Road, and Cross Road. Mr. Simpson said that
524 this proposal is commercial.

525 Chairman Frothingham asked if there was anyone in the audience with any questions or comments.

526 Michael Bressette of 47 Harding Hill Rd said that he borders the property on the eastern side. His
527 bedroom window faces the property and he was just wondering about the business hours. Mr. Simpson
528 said that Mr. Bressette will want to attend the Planning Board meeting for the Site Plan Review as they
529 determine the hours of operation, signage, etc.

530 Mr. Simpson asked about the septic systems in the area. Mr. Bressette said that there are a lot of
531 wetlands and most of the property line that the two properties share is a wetland. When they
532 purchased their property five years ago they had to redo the entire septic because they added a two car
533 garage with an extra bedroom and the septic system was too small. They had to put one of the new
534 special septic systems in.

535 Mr. Berio said that he thinks that the property defaulted to residential but he does not see how the
536 property would be used as residential and that it lends itself well to the proposed use. Mr. Landry said
537 that the property has been out of business for many years but it is in the Mixed Use I Zoning District.

538 Mr. Simpson made a motion to approve Case #15-26: Parcel ID: 0237-0001-0000: seeking a Special
539 Exception to establish and operate a boat storage and boat / auto engine repair business as per Article
540 IV, Section 4.10, 489 Route 103, 43 Partners, LLC, Cincinnati, OH, conditioned on obtaining all permits
541 from the State pertaining to the collection of things like oil and antifreeze and anything else that may be
542 collected and subject to Site Plan Review. Mr. Platt seconded the motion. The motion passed
543 unanimously.

544 **MINUTES**

545 Changes to the minutes from the August 10, 2015 Zoning Board Meeting:

546 Mr. Simpson made a motion to postpone the minutes of August 10, 2015 to the next meeting. Mr. Platt
547 seconded the motion. The motion passed unanimously.

548 Mr. Simpson made a motion to adjourn at 9:16 pm. Mr. Neuwirt seconded the motion. The motion
549 passed unanimously.

550 Respectfully submitted,

551 Melissa Pollari

552

553 _____

554 Edward Frothingham

_____ Aaron Simpson

555 _____

556 Clayton Platt

_____ Daniel Schneider

557 _____

558 William Larrow

_____ George Neuwirt, Alternate