

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **AUGUST 14, 2014**

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 Aaron Simpson nominated George Neuwirt to sit in place of William Larrow. Daniel Schneider seconded
10 the nomination. The nomination passed unanimously.

11 **MINUTES**

12 Changes to the minutes from the July 10, 2014 Zoning Board Meeting: Change line 96 to read "...instead
13 of larger riprap which they corrected." Change line 112 to read "...flow over to the riprap swale."

14 Aaron Simpson made a motion to approve the minutes with the amendments as stated. Clayton Platt
15 seconded the motion. The motion passed unanimously.

16 **UPDATE**

17 Mr. Landry gave the Board an update on the recent Planning Board meeting and their approval of a
18 minor subdivision on Avery Rd owned by Braden and Natalie Miles.

19 Mr. Landry reminded the Board members about the Right to Know meeting being held on August 18th at
20 7:00 pm at the Town Office. Mr. Landry said that after the end of the Right to Know portion, the
21 attorneys will be staying to discuss with the Planning and Zoning Boards about Zoning Ordinances, new
22 laws, etc.

23 **CONTINUATION: CASE # 14-13: PARCEL ID: 0218-0061-0000: APPEAL OF ADMINISTRATIVE DECISION.**
24 **THE APPLICANT, DUSTIN ALDRICH, WISHES TO APPEAL THE ZONING ADMINISTRATOR'S DECISION OF**
25 **RETURNING AND NOT PROCESSING AN INCOMPLETE BUILDING PERMIT APPLICATION. 112A SARGENT**
26 **RD.**

27 Mr. Simpson recused himself from the case.

28 Mr. Landry explained that this case will not be heard at this meeting as the Town's attorney received an
29 email from Mr. Aldrich's attorney asking for the Board to consider postponing the hearing indefinitely.
30 The Town's attorney is recommending to the Board that they consider making a motion to postpone the
31 meeting for 30 days, or to the next meeting, at which point in time if Mr. Aldrich is not ready the Board

32 can make a decision on the appeal. Mr. Schneider asked if postponing the meeting would prevent the
33 Board from postponing it again at the next meeting. Mr. Landry said that there would have to be a
34 legitimate reason to postpone it again as he believes there are only so many times it can be postponed.

35 Clayton Platt made a motion to postpone Case #14-13: Parcel ID: 0218-0061-0000 until the next
36 scheduled Zoning Board meeting. Daniel Schneider seconded the motion. The motion passed
37 unanimously.

38 **CASE #14-14: PARCEL ID: 0128-0039-0000: SEEKING A SPECIAL EXCEPTION AS PER ARTICLE III, SECTION**
39 **3.50-B REDUCING ROAD FRONT SETBACK FROM 50' TO 37', ALLOWING CONSTRUCTION OF A**
40 **RESIDENTIAL ADDITION. 50 GARNET ST, JOHN & MELANIE HOFFMAN.**

41 Everett Pollard of NorthCape design and John Hoffman presented the case.

42 Mr. Pollard explained that they are looking to get relief from Section 3.50-b as the ZBA may allow a
43 lesser setback if all of the conditions are met.

44 Mr. Pollard said that the first condition is that the lot for which the lesser front setback is requested is a
45 pre-existing lot and non-conforming due to lot size. This is a pre-existing lot and at 0.22 acres it is non-
46 conforming as the District requires a one acre minimum.

47 Mr. Pollard continued that condition two is that the majority of lots on the same side of the road and
48 within 500' either side of the subject lot have structures of equal or greater type which do not meet
49 front setbacks. Mr. Pollard said that he went through the process of measuring the properties on either
50 side using a laser measure and determined that there are 13 lots, 7 of which have houses and/or
51 garages that do not meet the setback requirement of 50'. Mr. Simpson asked and Mr. Pollard confirmed
52 that he measured from the centerline. Mr. Pollard continued that a majority of the lots also are not in
53 conformance.

54 Mr. Pollard said that condition three is that the proposed structure for which the Special Exception is
55 being sought shall be no closer to the centerline of road right-of-way than any other structure of equal
56 or greater type used in the comparison in Paragraph (2). Mr. Pollard explained that the seven lots
57 referenced have setbacks reaching from 15' 3" to 35' 6" and they are asking for a reduced setback of 37"
58 which is greater than those 7.

59 Mr. Pollard continued that condition four is that the proposed structure shall be no closer than 10' to
60 the right-of-way line of the road and the proposed structure will be 24' from the right-of-way.

61 Mr. Pollard said that condition number five is that the portion of the proposed structure encroaching on
62 the front setback shall be no higher than 25' and he has attached some building diagrams that show that
63 it will be less than 25'. Mr. Schneider asked how high the building will be from its lowest point. Mr.
64 Pollard said at the setback it is 20' 10" on one side and on the other it is 20' 6". Also, behind the setback
65 line they are Zoning compliant. Mr. Landry explained that behind the setback line the building can be as
66 high as 40'.

67 Mr. Neuwirt asked and Mr. Pollard explained that they are proposing a two car garage with a staircase
68 going down to the living space underneath. Mr. Pollard said that the reason that the staircase is
69 enclosed for safety reasons because the change in elevation is 14' and the existing wooden steps get icy
70 and slippery. There was a discussion about the roof for the stairs. Mr. Landry asked about total of the
71 highest point on any portion of the roof with the lowest finished grade. Mr. Pollard said that it is
72 roughly 35'.

73 Mr. Simpson said that he has a question about condition number three that states that the proposed
74 structure for which the Special Exception is being sought shall be no closer to the centerline of road
75 right-of-way than any other structure of equal or greater type used in the comparison in Paragraph (2);
76 he is assuming that it means the size of the building. Mr. Landry explained that equal or greater type
77 means if all of the structures within the setback are garages or sheds and the applicant is seeking to
78 build a residential addition it is not of equal type. Mr. Simpson asked if Mr. Pollard had looked at the
79 properties along the street and their tax cards to determine what type of structure they are. Mr. Pollard
80 explained that it is obvious that some are garages and the rest of houses with living space; several are
81 garages with living space. Mr. Simpson said that he reads the Ordinance differently and asked if Mr.
82 Pollard could tell the Board about the similar sizes of the buildings. Mr. Pollard said that he cannot.
83 There was further discussion regarding the placement of the addition and the Ordinance.

84 Mr. Landry asked about the Shoreland Permit and Mr. Pollard confirmed that it has been approved. Mr.
85 Pollard gave a copy of the Shoreland Permit to the Board. Mr. Pollard said that they got a waiver for a
86 patio from Shoreland but they have decided not to do it and therefore removed it from the Plan being
87 presented to the Board.

88 Chairman Frothingham closed the hearing to public input.

89 Clayton Platt made a motion to approve Case #14-14: Parcel ID: 0128-0039-0000: Seeking a Special
90 Exception as per Article III, Section 3.50-B reducing road front setback from 50' to 37', allowing
91 construction of a residential addition, 50 Garnet St, John & Melanie Hoffman, subject to the conditions
92 that all construction comply with the Shoreland Protection Permit #2014-00638 approved on 5/8/2014.
93 Daniel Schneider seconded the motion. The motion passed unanimously.

94 **CASE # 14-15: PARCEL ID: 0104-0010-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10 TO**
95 **REDUCE THE 10,000 SQUARE FOOT PER UNIT DENSITY TO 6,000 SQUARE FOOT, PERMITTING A 6 UNIT**
96 **RESIDENTIAL UNIT ON A .83 ACRE PARCEL. 305 ENTERPRISES, LLC, PATRICK CLAPP, 11 PLEASANT ST.**

97 Patrick Clapp presented the case.

98 Mr. Clapp explained that he purchased 11 Pleasant St in April in a foreclosure sale. It was an old run-
99 down building and had seven apartments put into the building. Current Zoning allows for four units,
100 however, after evaluation of the building they believe that having six units would be the highest and
101 best use of the property.

102 Mr. Schneider asked and Mr. Landry confirmed that this building is in the Village Residential District. In
103 the Village Residential District there is a requirement of 10,000 square feet per dwelling unit.

104 Mr. Clapp said that he would like to fix up the building and enhance the curb appeal.

105 Mr. Schneider asked how many units the building currently has and Mr. Landry said that there are
106 currently seven units. Legally, there should only be three units as there are only .83 acres. Mr. Clapp
107 said and Mr. Landry agreed that it has been approved as a four unit building. Mr. Landry said that this
108 property had other units added without the Town's knowledge and it is not the first time that this has
109 happened in Town. Mr. Schneider asked and Mr. Landry said that without any additional approvals this
110 building can be operated as a four unit apartment building.

111 Mr. Landry explained that Mr. Clapp is asking for it to be changed from seven units, which is the illegal
112 use, to six units. Mr. Schneider asked and Mr. Landry said that .83 acres is roughly 37,000 square feet.

113 Chairman Frothingham said that he does not understand the grandfathering for this building. Mr.
114 Landry said that it is being assessed as four units and it is grandfathered for four.

115 Mr. Platt asked how long the building has been vacant. Mr. Clapp said it has been vacant for a couple of
116 months. There were residents in the building when he purchased it and he gave notice to them because
117 the building is in such disrepair. There were two units empty when Mr. Clapp purchased the building.

118 Mr. Schneider asked if Mr. Landry knew that there were seven units in the building. Mr. Landry said that
119 he did not and explained that he cannot just go in and inspect buildings and any time the Assessor's
120 wanted to go in they were denied as well. The Town's hands are tied unless they get an Administrative
121 Warrant from the Sullivan County Superior Court to go in a building but if that ends up to be a failure the
122 Town could get sued. Mr. Platt asked if the Health Officer could be sent in and Mr. Landry said that the
123 Town could do that if there was a health complaint.

124 Chairman Frothingham asked Mr. Clapp to go through the facts supporting the request.

125 Mr. Clapp said that he would be taking it from a seven unit down to a six which is closer to conforming.
126 He will be enhancing the curb appeal of the building as well as bringing it up to code. The previous
127 owner owned it for 28 years and did nothing. Mr. Clapp continued that it runs better as a six and would
128 cost a lot more money to bring it back to a four with all the walls, electrical, plumbing, etc.

129 Mr. Schneider asked if Mr. Clapp was aware of the legal status when he purchased the building. Mr.
130 Clapp said that he was somewhat aware but it was a foreclosure sale. He knew it was approved for four
131 units but he knew it was being rented and used as a seven unit though he did not have all of the
132 information in front of him when he purchased it. Mr. Landry said that a new owner could have
133 purchased the building and just kept it as a seven unit and the Town would not have known but Mr.
134 Clapp did not do that.

135 Mr. Platt asked that Mr. Clapp continue with the facts supporting his request. Mr. Clapp said the plan is
136 to enhance the curb appeal of the property from what it is now. They plan on spending roughly

137 \$100,000 to fix the building which will enhance its own value and the value of the surrounding homes.
138 They will be bringing property more into compliance than it is now because they will be bringing it from
139 seven units to six. Mr. Clapp continued that the property was purchased as a seven unit which allowed
140 for all expenses to be covered. The current use is for seven units and it has been that way for many
141 years as the previous owner had the building for 28 years. It would cost more money to bring it to four
142 units than to six and after evaluating the property it would be most cost effective as a six unit and it
143 would allow the property to support itself. Mr. Clapp said that the property will be brought closer to
144 compliance if the Variance is approved. It would not injure the public or private rights of others as the
145 property is somewhat secluded, there is ample parking, and it is on Town Water and Town Sewer.

146 Mr. Schneider said that he disagrees with Mr. Clapp that it would be brought closer to compliance
147 because compliance is four units. Mr. Clapp said that for years it was a seven unit.

148 Mr. Clapp said that granting the Variance would do substantial justice as he will bring the property back
149 up to code. There are a lot of building code violations there that are unsafe and it has been neglected
150 for many years. Six units will allow the property to support itself and keep it in good shape and the curb
151 appeal will improve dramatically. Mr. Clapp continued that the property backs up onto Town land and
152 the building is located on a very quiet dead-end road; the parking and yard are both good sized.

153 Mr. Landry explained to Mr. Clapp that if the Board grants him a Variance the approval will be subject to
154 Site Plan Review by the Planning Board.

155 Chairman Frothingham asked if the building across the street from this building is part of the property.
156 Mr. Clapp said that it is not.

157 Mr. Neuwirt asked and Mr. Clapp said that he will not be living at the property.

158 Mr. Landry asked Mr. Clapp to explain to the Board what he has purchased in Town recently and what
159 he has done. Mr. Clapp said that he just purchased a property on Burkehaven Hill Rd that he has done
160 construction on and will be moving into in the next couple of week. They own a building on Main St in
161 Sunapee Harbor that was run down and they have put money into and fixed up. They also bought the
162 old Soonipi Magazine building and has put some work into that property as well.

163 The Board asked if there were any abutters present.

164 Andrew Santos said that he thought everything was going in the right direction.

165 Mr. Neuwirt asked Mr. Clapp if he has another plan if he does not get approval for the Variance. Mr.
166 Simpson said that he does not believe it is relevant to the discussion.

167 Mr. Platt asked if anyone knows how long there has been seven units in the building. Mr. Clapp said
168 that he knows that the previous owner had it for 28 years and nothing looks new. Mr. Platt asked if it is
169 possible that there were seven units since before there was zoning. Mr. Landry said that he does not
170 know and without talking to someone who may have lived next door for the past 20 years he is not sure
171 how they would know. Mr. Platt said that he understands that the Assessor makes the determination

172 that there are only four units but he is not sure that is necessarily legally binding if there has been seven
173 units there for close to 30 years. Mr. Simpson asked how many units Town Water and Sewer is billing
174 for and Mr. Landry said he does not know.

175 Mr. Platt said that there are four gas meters that are clearly visible and maybe that is why the Assessor's
176 determined that there were four units.

177 Mr. Platt asked and Mr. Clapp confirmed that there are currently five units in the main building and two
178 in the barn.

179 Mr. Clapp said that there was \$32,000 in back taxes and water liens that were owed that he paid when
180 he purchased the property.

181 Mr. Simpson said that Mr. Clapp talked about how he will enhance the curb appeal of the property but
182 the question asks how does it impact the surrounding properties. Mr. Clapp said that he feels it will
183 have less impact because it has been rented out for seven units for so many years and he will be
184 bringing it down to six. He will be bringing everything up to code and will bring in a higher quality
185 resident. By bringing from a seven unit to a six there will be less traffic going by people's houses.

186 Mr. Schneider said that he does not think that converting a property from an illegal use to a non-
187 compliant use is a justification for a Variance. He does not think that there is a hardship here.

188 Mr. Platt said that it would be nice to know how long the building has housed seven units. He
189 differentiates in his mind depending if on it has been 10 - 15 year or 20 - 30 years. Mr. Clapp said that
190 he spoke with the previous owner and he thinks that it has been that way since he had it. There is a big
191 apartment in the barn that the previous owner added units in and it sounded like it had been that way
192 for years.

193 There was another discussion regarding how the Town officials cannot just go into a building without
194 permission or an Administrative Appeal.

195 Mr. Simpson asked if the building had seven units for 28 years, if it pre-dates Zoning. Mr. Landry
196 explained that Zoning was adopted in 1987 and density requirements were adopted after 1990.

197 Mr. Simpson said that he would like more information because he tends to agree with Mr. Schneider
198 though it is better to have six units than seven.

199 Mr. Landry asked Mr. Clapp if he had checked with Water and Sewer regarding the number of hook-ups
200 he has at the building. Mr. Clapp said that he has not. Mr. Landry said that if Water and Sewer has the
201 building down for six or seven then it supports something. Mr. Landry asked how many bedrooms are in
202 the building. Mr. Clapp said that there are three (3) one (1) bedrooms, one (1) two (2) bedroom, and
203 two (2) three (3) bedroom units.

204 Mr. Platt asked and Mr. Landry agreed that if it is proved that there were six or seven units there prior
205 to the density requirements if Mr. Clapp would not need a Variance.

206 Chairman Frothingham suggested continuing the hearing for a month to allow time for Mr. Clapp to try
207 and find out how long there has been seven units so they can make a good decision. Mr. Neuwirt asked
208 for clarification that the Board is looking to confirm how long the building has been a six or seven unit
209 and if it pre-dates Zoning. Mr. Landry said that it is up to Mr. Clapp to continue the hearing. There was
210 further discussion regarding this matter and who Mr. Clapp could talk to.

211 Mr. Schneider said that he feels as though it is not enough to know that it has had seven units but that it
212 was used legally as seven units since before 1990. Mr. Clapp asked how much weight a letter from the
213 previous owner would hold. Mr. Platt said it would probably hold less weight than one of the neighbors.
214 There was further discussion regarding this issue.

215 Aaron Simpson made a motion to continue Case #14-15, Parcel ID: 0104-0010-0000 until next month.
216 Clayton Platt seconded the motion. The motion passed unanimously.

217 **CASE # 14-16: PARCEL ID: 0108-0010-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.40 TO**
218 **ALLOW CONSTRUCTION OF TWO (2) RETAINING WALLS OVER 42" IN HEIGHT, WITHIN 50' OF**
219 **LAKEFRONT. JEAN MOLLOY, 69 WESTWOOD RD.**

220 Charlie Hirshberg of CLD Engineers and Jean Molloy presented the case.

221 Mr. Hirshberg explained that the walls are to repair a deteriorating situation before it gets worse. They
222 have been monitoring the property for 2 ½ years and it is a difficult situation because it is not an easy
223 slope to contain. It requires structural walls to contain the slope and the existing walls are non-
224 compliant in their height. Mr. Hirshberg continued that he has met with DES at the site and has put
225 together a set of plans that they have reviewed.

226 Mr. Hirshberg said that the house sits close to the slope with the middle of the house, which is original,
227 sitting closer to the water. The old part of the house has a less sound foundation than the areas on the
228 sides that were constructed 30 years ago. To do a repair/replacement of the wall, the middle section
229 comes close to the house. Mr. Hirshberg continued that the middle section has a foundation wall that
230 goes down about 5 ½ feet and they don't want to dig and undermine that foundation.

231 Mr. Schneider asked Mr. Hirshberg to explain the nature of the problem. Mr. Hirshberg said that the
232 existing retaining walls along the lake side are falling apart. They are made of timbers, rocks and
233 boulders and the bank is essentially collapsing. There is about 13' of vertical from the lake to the lower
234 part of the house.

235 Mr. Hirshberg said that they are proposing a Ready-Rock type of wall. He has submitted the plans to
236 DES as this project requires a Wetland Permit and a State Shoreland Permit. The result was that the
237 reviewers came to the site and met with him and said they have not seen a situation quite like this. Mr.
238 Hirshberg continued that he has met with a site contractor about 15 times to look at the logistics about
239 how to build the walls and they will have to remove the trees to do the project. The DES Wetlands
240 reviewer commented that they are taking the whole lakeside apart and asked for a less impacting
241 approach. Mr. Hirshberg said that he then looked at doing a two-step wall as a single wall. The

242 Wetlands reviewer told Mr. Hirshberg that he wanted the Ready-Rock wall built on top of the boulder
243 and Mr. Hirshberg had to explain to him why that was not possible. The Shoreland reviewer seemed to
244 have a better understanding. Mr. Hirshberg continued that he looked at all of the scenarios and they
245 are starting at the lake's edge to build a base wall to start the second wall which encases the existing
246 boulder wall in its place. They have to build the two walls, one supporting the other.

247 Mr. Hirshberg continued that he has been to the Head of the Land Resource Bureau and the
248 Administrator of the Wetland Bureau asked them to look at the site. They agreed with Mr. Hirshberg
249 that DES cannot tell them how to engineer a wall but they want a good landscape plan. Mr. Hirshberg
250 continued that he has developed a landscape plan which is replanting the whole area.

251 Mr. Hirshberg showed the Board the plans and explained the equipment that will be used. Chairman
252 Frothingham asked about the earth that will be disturbed and the pressure that will be coming out from
253 the house. Mr. Hirshberg explained that they will be disturbing some land but will build a base near the
254 water and then build a platform to build the second wall on and build it on the lake side of the existing
255 wall that it there. They don't want to undermine the existing wall or the foundation of the house.

256 Mr. Schneider asked what would happen if nothing was done to the site. Mr. Hirshberg said that
257 between last year and this year he saw a change in the wall as it is falling apart and the bank is eroding.
258 Mr. Schneider said that the bank is nicely vegetated. Mr. Hirshberg said that they need to remove the
259 vegetation because of the equipment they will need to use to place the Ready-Rocks. There was further
260 discussion regarding the equipment they will need to use and the reasons. There was a discussion about
261 casting a wall and the reason to use Ready-Rock.

262 Mr. Schneider asked where everything was left with the State. Mr. Hirshberg explained that DES told
263 him to submit an application with the plans along with a landscape plan. He has gone to the
264 Conservation Commission to discuss it with them as he is about to submit the application. He has to
265 submit both a Wetlands and a Shoreland application. He would like to be able to get the Variance so if
266 he gets the permits in a timely manner he can start the project. Mr. Landry asked what Conservation
267 said about the project. Mr. Hirshberg said that Conservation basically said that they would agree with
268 whatever the State agrees to. Their biggest issue was restoring the site which is where the landscape
269 plan comes in.

270 Mr. Hirshberg explained that they cannot plant big trees on the site because there is not a lot of soil.
271 They will replant the buffer with evergreens and then plant some smaller trees, shrubbery, and things
272 that will spread out and mask the wall. There is a fairly substantial plant list including saplings along the
273 water. There was further discussion regarding the plants and using geo-grids.

274 Mr. Neuwirt asked about the pressure on the Ready-Rock wall and Mr. Hirshberg explained that he has
275 calculated the pressure and then it will go to Ready-Rock and they also have an engineer who will
276 calculate it.

277 Mr. Schneider asked what the Variance application is for. Mr. Hirshberg explained that it is to build
278 walls within the 50' shoreland setback that are over 42" high. The Variances are for Article III, Section
279 3.40 – c and j.

280 Mr. Hirshberg explained that this requires a restoration plan, which is through Shoreland. The reason
281 two permits are needed is because one, the Wetlands Permit, is for working on the jurisdictional bank of
282 a water body and the other, the Shoreland Permit, is for work within 250' of the water's edge.

283 Mr. Schneider commented that he likes to see the Shoreland Permit before approving an application.
284 Mr. Simpson said that he typically does too but in this situation he can see that they will be carefully
285 reviewing this project. Mr. Hirshberg asked if the Board can make the approval conditional on the
286 Permits. Shoreland is a 30 day process and Wetlands is 75 days, though he is hoping for 50. Mr.
287 Schneider said that he would like to see what DES says. Mr. Platt said that he disagrees with Mr.
288 Schneider because he thinks that this is an unusual case.

289 Mr. Simpson asked if the applicant would go over the criteria for the Variance.

290 Mr. Hirshberg said that the proposed use will not diminish surrounding property values because if the
291 wall continues to deteriorate it will go into the Lake; ultimately, if it continues it will hurt the values of
292 the neighboring properties. Mr. Simpson asked how close they are to other properties and Mr.
293 Hirshberg explained that they will be working on the property line.

294 Mr. Neuwirt asked if there were any safety provisions such as handrails on the tops of the walls with 9'
295 to the ground. Mr. Hirshberg said that it is an area that is not intended for people to be out there. They
296 could put a split rail fence that would visually be an edge but they want to take plantings to fill up the
297 area. There was further discussion regarding this issue.

298 Mr. Hirshberg said that granting the Variance would not be contrary to public interest because they will
299 be protecting the lake. If you degrade the area and the water it effects everybody.

300 Mr. Hirshberg said that denial of the permit would result in unnecessary hardship because the Zoning
301 restriction as applied to the property interferes with the reasonable use of the property considering the
302 unique setting of the property and its environment because if they cannot get approval it will restrict
303 use of the house. They are trying to deal with a situation that is existing and correct it.

304 Mr. Hirshberg said that no fair and substantial relationship exists between the general purposes of the
305 zoning ordinance and the specific restriction on the property because it is a unique situation and it has
306 to be done in the 50' setback with really no other alternative. The lower wall is 9' – 9 ½' with the
307 exposure closure to 8'. The upper wall has about 4' exposure.

308 Mr. Schneider asked about the runoff. Mr. Hirshberg explained that the caps will be planters with the
309 idea that the water that falls will go into the stone and into the lake. There are some perimeter drains
310 that will come out onto the lake side as well.

311 Mr. Hirshberg said that the Variance would not injure the public or private rights of others because they
312 are trying to correct a situation so that it does not have an impact on others or on the lake. Mr.
313 Hirshberg continued that granting the Variance would do substantial justice because it would allow
314 them to do the corrective work. The use is not contrary to the spirit of the ordinance because they can't
315 correct the situation without doing it and they do not want to just let it go. Part of the Ordinance is
316 meant to protect the lake.

317 Mr. Schneider asked what the chances are that Wetlands or Shoreland will make changes to the Plan
318 that has been presented. Mr. Hirshberg said that they have seen the plans and wanted a decent
319 landscape plan. They are trying to meet the Shoreland point requirement when they replant, for every
320 50' of shoreland you need 50 points of planting. Mr. Schneider asked if DES and/or Wetlands make
321 changes, what happens then and who decides if it is enough of a change to come back before the Board.
322 Mr. Platt suggested that they make the approval conditional on obtaining the permits. There was
323 further discussion regarding the matter.

324 Clayton Platt made a motion to approve the Variance request for Case # 14-16: Parcel ID: 0108-0010-
325 0000: Seeking a Variance of Article III, Section 3.40 (c) and (j) to allow construction of two (2) retaining
326 walls over 42" in height and not meeting the depth requirements or the ordinance, within 50' of
327 lakefront, Jean Molloy, 69 Westwood Rd; said approval is conditional on getting all Wetland and
328 Shoreland Permits as required by State law and all construction is to proceed according to said permits.
329 Aaron Simpson seconded the motion. The motion passed with four approved and one denied.

330 **CONTINUED: CASE # 14-10: PARCEL ID: 0149-0029-0000: SEEKING A SPECIAL EXCEPTION AS PER**
331 **ARTICLE III, SECTION 3.50-I. TO RAISE ROOFLINE TO ACCOMMODATE CONSTRUCTION OF A 2ND ON A**
332 **NON-CONFORMING, PRE-EXISTING STRUCTURE. WARD BENNETT, ROUTE 103**

333 Mr. Landry said that he has not heard from the applicant and is not sure how the Board would like to
334 proceed. Mr. Simpson said that the continuance was indefinite. Mr. Landry said that the law says that
335 the continuance cannot just go on and on. Mr. Simpson asked and Mr. Landry explained that he has left
336 three messages for the applicant and has not heard back. Mr. Neuwirt asked and the Board briefly
337 explained the application.

338 Mr. Landry said that the State has approved the septic system as a four bedroom system with a two
339 bedroom house and a two bedroom bunkhouse.

340 The Board discussed what would happen if they deny the application because it is administratively
341 incomplete.

342 Aaron Simpson made a motion to approve that Case # 14-10: Parcel ID: 0149-0029-0000: Seeking a
343 Special Exception as per Article III, Section 3.50-I, to raise roofline to accommodate construction of a
344 2nd on a non-conforming, pre-existing structure, owned by Ward Bennett, Route 103. Clayton Platt
345 seconded the motion. The motion was denied unanimously because the application is administratively
346 incomplete.

347 Clayton Platt made a motion to adjourn at 8:52 pm. Daniel Schneider seconded the motion. The motion
348 passed unanimously.

349 Respectfully submitted,

350 Melissa Pollari

351

352 _____

353 Edward Frothingham

Aaron Simpson

354 _____

355 Clayton Platt

Daniel Schneider

356 _____

357 William Larrow

George Neuwirt, Alternate