

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **JUNE 13, 2013**

4 **PRESENT:** Edward Frothingham, Chair, Dick Katz, Daniel Schneider, Clayton Platt, Aaron Simpson,
5 William Larrow, Alternate, Roger Landry, Zoning Administrator

6 **ABSENT:**

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

8 Chairman Frothingham called the meeting to order at 6:00 pm.

9 Dick Katz made a motion to appoint William Larrow as a voting member for the meeting in place of
10 Aaron Simpson. Clayton Platt seconded the motion. The motion passed unanimously.

11 **MINUTES**

12 Changes to the minutes from the May 9, 2013 Zoning Board Meeting: On line 16 change the word
13 "Sirius" to "Series". On line 73 change the word "sauna tube" to "sonotubes". On line 109, change the
14 word "States" to "State". On line 164 change the word "Zoning" to "Planning"

15 Daniel Schneider made a motion to approve the minutes as amended. Dick Katz seconded the motion.
16 The motion passed unanimously with one abstention (Clayton Platt).

17 **PLANNING BOARD UPDATE**

18 Mr. Landry gave the Board a report of the Planning Board meeting from June 6, 2013. Mr. Landry
19 explained that the Board approved a Site Plan Review for Edward Bailey on Lower Main St to increase
20 the capacity of his daughter's daycare center from 18 children to 25 children. The Planning Board
21 approved a Site Plan Review for Edward Bailey on Route 11 to allow him to have three (3) dwelling units
22 in the Mixed Use District. This approval is subject to Zoning approval at this meeting, as well as
23 Department Head sign-offs. Mr. Landry continued that the Planning Board also approved a Lot Line
24 Annexation on Granite Ridge Rd, off of Prospect Hill Rd. The final hearing was a Conceptual Review for a
25 new location for Pizza Chef, they are looking at putting it on the empty lot behind Sugar River Bank. Mr.
26 Landry explained the concerns the Planning Board had with the Plan. Mr. Landry said that a Conceptual
27 Review for a day care center at Raymond Touchette's property on Wilderness Park Rd was withdrawn.

28 **MISCELLANEOUS**

29 Mr. Simpson arrived and Mr. Larrow stepped down as a voting member in order to allow Mr. Simpson to
30 vote.

31 Daniel Schneider made a motion to allow Aaron Simpson, as an elected member of the Board, to sit as a
32 voting member of the Board and that the Alternate not be a voting member of tonight's proceedings.

33 Dick Katz seconded the motion. The motion passed with four in favor and one abstention (William
34 Larrow).

35 Mr. Schneider noted that the Zoning Agendas are not on the website after December. Mr. Schneider
36 requested that they be posted. Mr. Schneider also requested that Zoning Board be notified of the
37 agendas the same time that they are posted in the paper. Mr. Schneider requested that the packets be
38 made available to the Board no later than a week prior to the meeting. Mr. Simpson noted that that the
39 minutes have not always been posted on the website before every meeting either.

40 **CASE # 13-10: PARCEL ID: 0148-0022-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.40-C TO**
41 **REDUCE LAKEFRONT SETBACK FROM 50 FEET TO 18.5 FEET ALLOWING CONSTRUCTION OF A NEW 10'**
42 **X 24' OPEN DECK. GREGORY & MARILYN SWICK, 14 HAMEL RD.**

43 **CASE # 13-11: PARCEL ID: 0148-0022-0000: SEEKING A VARIANCE OF ARTICLE III,, SECTION 3.10 TO**
44 **REDUCE SIDE SETBACK FROM 15' TO 5' ALLOWING CONSTRUCTION OF A NEW 10' X 24' OPEN DECK.**
45 **GREGORY & MARILYN SWICK, 14 HAMEL RD.**

46 **CASE # 13-12: PARCEL ID: 0148-0022-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10 TO**
47 **REDUCE SIDE SETBACK FROM 15' TO 11' ALLOWING CONSTRUCTION OF A NEW 10' X 24' OPEN DECK.**
48 **GREGORY & MARILYN SWICK, 14 HAMEL RD.**

49 Gregory & Marilyn Swick presented the case. Mr. Larrow asked about the Plan and the calculation of
50 the 21.5' line and asked what it represents, if it is the centerline or the concrete slab. Mrs. Swick
51 explained that there is a concrete slab that runs the width of the property and is 7 $\frac{3}{4}$ ' out and the
52 measurement was taken from the edge of this slab to the lake. Mr. Schneider asked and Mr. Landry
53 confirmed that the concrete slab is not considered part of the footprint of the house. Mr. Landry
54 explained that the proposal is for removing the sunroom and building a new 10' x 24' open deck. Mr.
55 Simpson asked if the sunroom covers the slab completely and Mrs. Swick said that it does not, just 7' x
56 13', which is therefore part of the existing footprint. Mr. Larrow explained that he is looking for the
57 calculation from the sunroom to the lakefront. Mrs. Swick explained that it is 21.5' as the sunroom sits
58 on one end of the slab and goes beyond the house almost to the property line on the East side.
59 Chairman Frothingham asked, and Mrs. Swick confirmed that the portion of the structure that was
60 falling down has been removed.

61 Mr. Simpson asked about the photos that were submitted and Mrs. Swick explained where they were
62 taken. Mrs. Swick confirmed that there are photos that were taken before and after the portion of the
63 structure was removed.

64 There was a discussion regarding the measurements on the Plan. Chairman Frothingham explained that
65 the existing sunroom is 7' x 13' and they could put a deck on the same footprint without the need for a
66 Variance. Should the Zoning Board agree to allow the much bigger deck, it will become part of the
67 footprint of the house which means that they could make the deck into living space in the future. There
68 was a brief discussion regarding how an approval for a deck can then have it become part of the
69 footprint which can then be turned into living space and if the Board can make conditions that decks

70 cannot be expanded into living space. Mrs. Swick asked if the slab was part of the footprint and Mr.
71 Landry replied that the Town has never considered a slab or patio or something that is ground level as
72 part of the footprint. Mr. Simpson asked if there was anything in the Ordinances that defines this and
73 Mr. Landry said he does not believe so. Mr. Landry read the definition of a "Structure" and there was a
74 discussion on whether it should be revamped next year.

75 Joe Maraldo of 8 Hamel Rd asked if it could be stipulated that the Variance is for a deck and could never
76 become an enclosed structure. Mr. Landry explained that the Zoning Board could make any conditions
77 they wanted to but it might not hold up in court. Mr. Maraldo said that there have recently been decks
78 that have been approved without this issue coming up. There was further discussion regarding this
79 matter.

80 Mrs. Swick explained that they currently have a permit to build a 150 sq ft deck and they wanted to tear
81 down the 90 sq ft glass porch and then incorporate it and make it a 240 sq ft deck. They think they are
82 more conforming because they are coming in a foot on each side from the current footprint. Mrs. Swick
83 explained how to get to the cement pad and said that the deck would be more helpful as they would
84 just be able to walk onto it from the house.

85 Mr. Swick said that they would not be opposed to any restrictions or conditions of approval for the deck.
86 Mrs. Swick confirmed that they do have the Shoreland Permit.

87 There was a discussion on how conditional approval could be monitored in the future and if it could go
88 on the property cards or just in the files. Mr. Schneider said that there is something in the Ordinances
89 regarding decks and walkways in the Shoreland.

90 There was a discussion regarding the existing deck and the sunroom and how much of it is part of the
91 footprint. Mr. Landry explained that the deck and sunroom cannot be considered together, they could
92 build the 150 sq ft deck and rebuild the sunroom but they cannot build the proposed deck without a
93 Variance. Mr. Simpson said that they can decide whether the existing sunroom can be considered part
94 of the existing footprint. There was a discussion regarding the overlap of the existing building and slab
95 and the proposed deck. Mr. Platt said that it appears that, without a Variance, the applicants could
96 build a 10' x 15' deck by the sunroom or if they wanted to tear down the porch and build a deck they
97 could do that as well. Mr. Simpson said that they are asking for 180.5 sq feet of new deck. Mr. Landry
98 explained that they are asking for a Variance to do this, and if it is denied they could get a building
99 permit to build a 150 sq foot deck. Chairman Frothingham said that they could also build the 150 sq
100 foot deck and then build a 7' x 13' deck where the sunroom was, it would just mean that there would be
101 a jog in the deck. Mr. Simpson said that he thinks that they would still need a Variance to do this
102 because they are still encroaching on the lake setback. Mr. Landry said that they would not need a
103 Variance. There was a discussion regarding the structures that are allowed within the 50' setback and
104 how the deck could then be converted to living space.

105 Mr. Platt asked the applicants if they would be comfortable continuing the hearing until next month.
106 Mr. Landry asked if they would be happy just going with the 10' x 15' deck. Chairman Frothingham
107 suggested that they build the new deck and then use the pre-existing footprint of the sunroom within

108 two years in order to either build a deck or another living space. Mr. Simpson said that he feels as
109 though a deck is appropriate for this type of property but suggested waiting the month until the Board
110 can speak with the Town attorney. Mr. Schneider read the definition of a structure again and said that
111 he thinks that a deck is a structure. He also said that he does not agree with Mr. Simpson as he does not
112 feel as though the deck is appropriate within the setback. Mr. Simpson said that 3.40-G says that it is an
113 approved use. There was further discussion regarding this issue.

114 Mr. Swick requested that they take the information they have received tonight and come back next
115 month to continue the hearing.

116 Clayton Platt made a motion to continue Case #13-10, Case #13-11, and Case #13-12 all Parcel ID: 0148-
117 0022-0000 until the next scheduled Zoning Board meeting in July. Dick Katz seconded the motion. The
118 motion passed unanimously.

119 **CASE # 13-13: PARCEL ID: 0113-0023-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.40-C TO**
120 **REDUCE LAKEFRONT SETBACK FROM 50' TO 35' ALLOWING CONSTRUCTION OF A NEW 12' X 20' OPEN**
121 **DECK. DAVID HOWLAND, 56 RIDGEWOOD RD.**

122 Mr. Simpson disclosed that he knows Mr. Howland, however, he does not feel as though it will affect his
123 impartiality.

124 David Howland and David Lain presented the case. Mr. Howland explained that he is a fourth
125 generation owner of the cottage and he has already built the deck as it was replacing a patio. Mr.
126 Howland said that he thought he had the permits previously and found out that he did not. Mr.
127 Simpson asked and Mr. Howland explained that he replaced a 30" high pation with stone pavers and
128 concrete that was fixed to the building. Mr. Landry explained that this was considered a pad which is
129 not considered part of the footprint.

130 Mr. Howland said that the application which was approved said that there was a patio that was being
131 replaced with a deck. Mr. Howland said that the signed Land Disturbance Permit does say that there will
132 be a deck replacing the patio. Mr. Landry explained that the approved Building Permit had the deck
133 removed from the Decision Sheet. Mr. Schneider noted that per the minutes of the Zoning meeting
134 where Mr. Howland received approval to raise the roofline by 4' to install the foundation, Mr. Lain, a
135 representative of Mr. Howland did not say anything about a deck.

136 Mr. Platt asked if the deck is the same elevation and footprint as the original patio. Mr. Howland said
137 that it is the same size but not the same elevation as it is a little higher.

138 Mr. Landry said that when he discovered Mr. Howland had built a deck without a permit, he sent a
139 notice that a Variance was needed and then, if the Variance is approved he would need a new Building
140 Permit. Mr. Landry continued that Mr. Howland responded very promptly to the notice.

141 Chairman Frothingham asked the applicants to go over the five criteria for a Variance.

142 Mr. Lain said that they were under the impression that it was an existing footprint and that it was
143 approved as it was on the Plan. The deck cannot be seen by the neighbors as it is situated so it does not
144 interfere with them. There is one exit on the house and another for where the patio was and the deck
145 is. The deck would make the use of the property easier. Chairman Frothingham asked and Mr. Lain
146 agreed that, in terms of hardship, they do not have entry onto the patio it now goes onto the deck. Mr.
147 Landry said that they could build a stairway with a 4' x 8' landing. Mr. Landry noted that they could also
148 put a 150 sq foot deck as there is not a deck there currently. Mr. Landry said that the proposed deck is
149 approximately 240 sq feet and asked if they could live with 150 sq feet. There was a further discussion
150 regarding whether the previous patio was a structure. Mr. Lain noted that the house was raised 40" and
151 they could not raise the patio 40". The "as built" drawing was with the deck and Mr. Lain feels that, if
152 the Board approves only a portion of the Plan they should notify the applicant. Mr. Lain said that the
153 minutes did not say that the deck was not approved. Mr. Landry said that if he had gone forward with
154 the submitted Building Permit application he would have had to recommend that the Board of
155 Selectmen deny the Permit as he could not allow a deck to encroach on the Lake as it has to come
156 before the Zoning Board.

157 Mr. Howland said that he is facing a hardship as he cannot use the building as it is standing up in the air.
158 He has also spent thousands of dollars on partially constructing the deck, and if has to come down he
159 has to take windows out. Mr. Howland said that the State sees this as an improvement over the patio as
160 it is impervious. Mr. Howland said that he is not able to understand the nuances between the State and
161 the Town rules. Mr. Landry explained that the Town's approval is not consideration that the State has to
162 approve and vice versa. There was further discussion regarding this issue.

163 Mr. Schneider asked about the dimensions of the house and Mr. Landry said that the house is 49' long
164 and 31' wide. Mr. Schneider noted that the house has a jog and the Plan shows the deck to be in the jog
165 space which is roughly 12' to 15' long. Mr. Landry noted that the Assessing Card shows the new deck as
166 20' long in that space. It was asked and Mr. Simpson said that the jog is 8' deep on one side and 3' deep
167 on the other. The 12' x 4' portion is part of the deck that will then have stairs off of it. Mr. Simpson said
168 that Mr. Howland did ask for a deck and he feels that the Board created a hardship when they allowed
169 the building to be raised. Mr. Landry said that Mr. Howland constructed an even bigger deck than the
170 12' x 18' deck that he originally asked for on the Building Permit application.

171 Mr. Platt said that Mr. Howland went through the approval process with the Board with Plans that
172 showed a deck and the Building Permit had a deck; no one said that it was not supposed to be a deck
173 but a patio. Mr. Howland that he could remove the walkway that he put across the house which was
174 intended to be a walkway to the stairs that are behind the 50' setback. The walkway is under the eaves
175 of the house. Mr. Howland said that he is also willing to put a restriction into his deed in order to ensure
176 that the deck does not get turned into living space. Chairman Frothingham asked if Mr. Howland would
177 be willing to cut the deck back closer to the house and Mr. Howland said he may be able to do this.

178 Stuart Caswell, owner of 57 Ridgewood Rd and an abutter, was present and said that he is in support of
179 the construction of the deck. Chairman Frothingham read a letter from William and Emily Hack of 58
180 Ridgewood Rd to the Board in support of Mr. Howland's application (see attached).

181 Mr. Schneider said that he does not understand how the applicant can come before the Board regarding
182 the foundation, not mention the deck at all, and have a 12' x 18' deck put on the application for the
183 Certificate of Zoning Compliance, and then have him built a bigger deck. Mr. Landry said that this is why
184 he did not have it on the Decision Sheet. Mr. Schneider said that he feels that this should not have
185 happened. Mr. Lain said that the deck was on all of the original drawings.

186 Mr. Schneider said that if the Zoning Board approves this deck then any other person around the lake
187 can come in after the fact and say that they didn't know they needed permission. Mr. Lain said that
188 they did not try and hide the deck as it was on all the drawings. Mr. Landry thinks that when the Board
189 looked at the drawings, they assumed the deck was there and that when the house rose 4' in elevation,
190 the deck was going to rise 4' as well. Mr. Landry said that he did not approve the deck on his building
191 permit decision sheet because he knew that there was not a deck there because the Assessor's had
192 never identified or charged Mr. Howland for a deck. Mr. Schneider asked how the deck got on the
193 application Certificate of Zoning Compliance (Building Permit). Mr. Landry explained that it was on Mr.
194 Howland's application but not his Decision Sheet as he can only recommend to the Selectmen what was
195 approved as they receive a copy of the Zoning Board's Decision Sheet. The Building Permit was
196 approved with the Board's decision that Mr. Howland could raise the roofline and put in a full cellar but
197 it did not say anything about raising a deck or building a deck. Mr. Larrow said that the original
198 application to the Zoning Board did not include a deck.

199 Mr. Simpson asked about the fact that Mr. Howland is going from an impervious surface to a pervious
200 surface. Mr. Platt said that decks are generally considered impervious as well.

201 Mr. Platt said that he feels as though they are burying themselves as to the footprint of the building and
202 what might happen in the future and that he thinks that there is nothing wrong with replacing a stone
203 patio with a wooden deck. He thinks that the future can be managed without holding every lakefront
204 owner in the Town hostage to this interpretation of the Zoning Ordinances. He is in support of the
205 application and does not see it as an unreasonable request as it is only 90 sq feet more than what is
206 allowed. Mr. Landry said that it is currently framed for 308 sq feet which is twice as much as normally
207 allowed. Mr. Platt said that they are replacing a patio that was there with another impervious surface.
208 Mr. Simpson said that the 30" high slab would have needed to be permitted with today's Zoning
209 Regulations. Mr. Landry clarified that they would have had to go to the Planning Board for the change in
210 elevation within 30' of the Lake. Mr. Landry explained that had Mr. Howland come in and received
211 permission to build the 12' x 18' deck, he would have received a work stoppage notification as well
212 because the deck he is building is bigger than what he would have been approved for.

213 Mr. Platt said that, had Mr. Howland come in before building the deck, he would have supported it then
214 and does not see a reason to not support it now. Mr. Katz and Mr. Schneider both said that they
215 disagree with Mr. Platt. Mr. Larrow said that, though he cannot vote, he does not agree with Mr. Platt
216 either.

217 Clayton Platt made a motion to approve the application submitted for Case # 13-13: Parcel ID: 0113-
218 0023-0000, seeking a Variance of Article III, Section 3.40-c to reduce lakefront setback from 50' to 35'

219 allowing construction of a new 12' x 20' open deck, conditional on the Decision Notice being recorded at
220 the Registry of Deeds indicating that the approval is for an open deck and not a closed structure. Mr.
221 Simpson seconded the motion.

222 Chairman Frothingham asked if there was any discussion on the motion. Mr. Simpson said that Mr. Platt
223 was reading from the agenda and asked where on the application it gives the dimensions of the deck.
224 Mr. Howland said that the dimensions reflect the walkway that was intended to go to the stairway that
225 is behind the 50' setback and that 18" of it is under the eaves of the house. Mr. Landry said that the
226 eaves are not part of the footprint of the house. Mr. Simpson said that it is difficult to tell by the
227 drawing what the measurements are. Mr. Howland said that if the deck can be cut back 2' he is willing
228 to do that as well. Mr. Caswell said that the deck is 13' from the side of the house with a 2' to 3'
229 overhang and they could probably take 2' off. Mr. Caswell continued that he thought that the Board
230 said that they would allow a deck that does not come out more than 12'. Mr. Simpson clarified that
231 decks that are 150 sq feet do not have to come before the Board.

232 Mr. Simpson asked if there is a jog in the deck. Mr. Caswell said that the deck is square but there is an
233 access ramp that comes from the door coming out of the master bedroom. Mr. Howland explained that
234 a corner of the deck corresponds with the steps of the original patio and they have not cut off the
235 corner as of yet. Mr. Howland continued that it is a little more complicated now because the Assessor
236 measured what they had built to get through the winter which was squared off but the drawing clearly
237 shows that the corner will come off. Mr. Caswell said that there is no decking on the frame yet, it is just
238 a skeleton.

239 Mr. Howland asked what he could do if the application is denied. The Board and Mr. Landry explained
240 to Mr. Howland his options. There was a discussion regarding the definition regarding the construction
241 of stairs from the building. Mr. Caswell noted that, since there are two doors on the back of the house,
242 Mr. Howland could build a 150 sq ft deck off of one and a 32 sq ft deck off the other. Mr. Landry
243 clarified that the 32 sq ft would not be a deck but a landing. Mr. Caswell said that if they take 2' off the
244 deck then that is 40 sq ft off the deck which is closer to 250 sq ft and the numbers are closer together to
245 being a wash as to how it goes together.

246 Mr. Platt said that he believes when this Zoning Ordinance was adopted, it is hard to believe that the
247 people voting on it considered the difference between a patio and a deck and that they did not consider
248 the minutia of future structures being built on an open deck, especially when other parts of the Zoning
249 Ordinance indicate that an open deck is not something that is closed in. Mr. Platt continued that he
250 does believe that it is a reasonable request. Chairman Frothingham said that he does not disagree with
251 Mr. Platt yet they still have Ordinances that they have to live by and they can't grant an exception for
252 one person and then not do it for someone else.

253 Mr. Simpson said there is a hardship with the building if there is no access. Chairman Frothingham said
254 that Mr. Landry has said that Mr. Howland can have a 4' x 8' landing and a set of stairs and another
255 small deck with a set of stairs. This takes away the hardship. Mr. Platt said that many of the houses on
256 Ridgewood and Fernwood Point are closer than 50' to the lake and many have large decks that are

257 bigger than 150 sq ft. Mr. Landry clarified that many of those houses and decks were there prior to
258 1987. Mr. Platt said that this deck is not something that is strange to the neighborhood and is not
259 unreasonable. Mr. Platt said that the Board is not considering each application individually and is really
260 getting bogged down with the legal minutia. Mr. Simpson said that he believes that the patio was a
261 structure.

262 Mr. Platt amended his motion that approve the application submitted for Case # 13-13: Parcel ID: 0113-
263 0023-0000, seeking a Variance of Article III, Section 3.40-c to reduce lakefront setback from 50' to 35'
264 allowing construction of a new 13' x 20' open deck and a 4' open walkway, conditional on the Decision
265 Notice being recorded at the Registry of Deeds indicating that the approval is for an open deck and not a
266 closed structure. Mr. Simpson seconded the motion. The motion failed with two in favor (Aaron
267 Simpson and Clayton Platt) and three opposed (Edward Frothingham, Dick Katz, and Daniel Schneider).
268 The reason for the denial was that the applicant could not prove hardship.

269 There was a discussion regarding the decision. The Board explained to Mr. Howland that there was no
270 discussion regarding the deck at the meeting where the foundation was approved. Mr. Landry said that
271 they can come back in for a Building Permit for a 150 sq ft deck. Mr. Caswell said that they have to dig
272 up footings and disturb earth within the Shoreland if they do that. Mr. Landry said that they are
273 welcome to come back before the Board with an application for a smaller deck. Mr. Schneider said that
274 another thing he would like to know if the applicants return is whether the deck is covered by the
275 Shoreland approval. Mr. Caswell said that he believes that the deck was covered.

276 **CASE # 13-14: PARCEL ID: 0107-0002-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10 TO**
277 **REDUCE THE ONE (1) ACRE REQUIREMENT / DWELLING UNIT AND ALLOW FOUR (4) DWELLING UNITS**
278 **ON A THREE (3) ACRE LOT. LEONARD A. POLLARI, 64 A B ROUTE 11.**

279 Aaron Simpson recused himself from the case.

280 Daniel Schneider made a motion to appoint William Larrow to be a voting member as Mr. Simpson is
281 recusing himself. Dick Katz seconded the motion. The motion passed unanimously.

282 Leonard A. Pollari presented the case. Mr. Pollari explained that he is applying for a Variance to put a
283 dwelling unit on less than one acre.

284 Mr. Pollari gave his facts supporting his request. The proposed use would not diminish surrounding
285 property values because the development of duplex residential homes would tend to raise the values of
286 surrounding properties due to the quality of the homes. The goal of this project is to provide more
287 affordable housing. Mr. Pollari continued that granting this Variance would not be contrary to the
288 public interest because this project is and would provide jobs to the local trades' people. Denial of this
289 Variance would result in hardship because it would prohibit the density needed for affordable housing
290 because of the local high property values, it is hard to create affordable housing without adding density.
291 Mr. Pollari said that no fair or substantial relationship exists between the general purpose of this
292 Ordinance and the specific restriction on this property because the Ordinance did not take into
293 consideration the characteristics of this particular property. This property being close to major

294 highways and the ability to connect to Town Sewer is perfect for a more dense setting. The Variance
295 would not injure the private or public rights of others because it is off a highly visible traveled road with
296 State Permitted highway access. The buildings would be placed close to protected land and away from
297 neighboring houses. Mr. Pollari continued that granting the Variance would do substantial justice
298 because it would help provide more affordable housing for the area. The Use is not contrary to the
299 spirit of the Ordinance because the Site Plan shows that there is plenty of road frontage and sight
300 distance for traffic, therefore it would be a more effective use of this land by maintaining an expansion
301 along the Route 11 highway.

302 Mr. Pollari said that he has applied for and received an updated driveway permit from the State to allow
303 four units on this property. Mr. Pollari said that he also has a letter from an abutting neighbor in
304 support of the property.

305 Mr. Schneider asked if Mr. Pollari was going to officially designate the property as affordable housing.
306 Mr. Pollari explained that what he is trying to do is build houses that first home time buyers and such
307 can afford. Mr. Pollari said that he is not trying to become an official affordable housing unit.

308 Mr. Landry explained that Mr. Pollari's property is located in the Residential Zone which allows one
309 dwelling unit per acre and he has a little over three acres which allows three dwelling units. Mr. Landry
310 continued that because of this, the access to Town Sewer, the road frontage, and the rental units across
311 the street, Mr. Pollari feels that it is justifiable to put four dwelling units on the property. Mr. Schneider
312 asked why they should do a Variance rather than re-zone the property. Mr. Landry said that Mr. Pollari
313 could petition the Town next year to have it re-zoned.

314 Mr. Larrow asked for clarification that Mr. Pollari has two units on the property currently and if he was
315 asking to put in another unit. Mr. Landry explained that Mr. Pollari could put in another dwelling unit
316 without coming to the Board but that he could not put in another duplex.

317 Mr. Platt asked how big the lot is and Mr. Pollari said that it is three acres. Mr. Platt asked if Mr. Pollari
318 owns property behind this lot and Mr. Pollari confirmed that he lives behind it.

319 Mr. Pollari explained that the problem he has as a builder is that building in the Town of Sunapee, if you
320 start with a \$75,000 to \$100,000 lot, which is the average cost in Sunapee, after building you are up to
321 \$300,000+ and the first home buyer cannot afford it. Mr. Pollari said that these units are 1600 sq ft,
322 three to four bedroom units, which will be in the low \$200,000 range if he can increase the density.

323 Chairman Frothingham asked and Mr. Pollari confirmed that the units will be townhouses /
324 condominiums.

325 Mr. Simpson asked about the power line Easement that is on the property and asked if Mr. Pollari had
326 received permission about putting a driveway across the Easement. Mr. Pollari confirmed that he did
327 receive permission in the form of an Easement to do the driveway and the Town Sewer line.

328 Mr. Schneider asked what the circumstances of this particular property are that warrants a Variance.
329 Mr. Pollari said that the property is directly off of Route 11, the ability to connect to Town Sewer, and
330 the proximity to I-89.

331 Chairman Frothingham asked about the property line between this property and the Town of New
332 London. Mr. Landry explained that the lot next to this lot is a little bit in Sunapee but not much and that
333 piece is largely in conservation.

334 Mr. Platt said that he noticed that Georges Mills cottages are right across the street which is high
335 density.

336 Mr. Platt asked if the proposed duplex will be the last one built and Mr. Pollari confirmed that he will
337 not request to build another after this one.

338 There was a discussion regarding rezoning and the need for new commercial and residential lots.

339 Mr. Schneider said that he does not believe this property should be re-zoned and he would view this
340 application as re-zoning. Mr. Katz said that he believes that this is an excellent use of the property.

341 Mr. Pollari said that he is allowed three units and if he is denied he will be putting a single dwelling unit
342 in the same footprint as the proposed duplex.

343 Mr. Larrow asked if there was any way to annex any other land onto this lot from the piece Mr. Pollari
344 owns in the back. Mr. Pollari said that he has an acre and a half lot and it is not possible to make this lot
345 four acres. Mr. Larrow said that, though this proposal makes sense, hardships have to be a part of the
346 property itself. Mr. Pollari said that he does have enough road frontage per unit, he is only asking for
347 density.

348 Mr. Platt asked if this application is approved if Mr. Pollari will have to go to the Planning Board for Site
349 Plan Review and it was confirmed that will have to do this.

350 Chairman Frothingham said that he agrees that he feels as though this is a good use of the property.

351 Dick Katz made a motion to approve Case # 13-14: Parcel ID: 0107-0002-0000: Seeking a Variance of
352 Article III, Section 3.10 to reduce the one (1) acre requirement / dwelling unit and allow four (4) dwelling
353 units on a three (3) acre lot, Leonard A. Pollari, 1376 A B Route 11. William Larrow seconded the
354 motion. The motion was approved with four in favor and one opposed (Daniel Schneider).

355 **CASE # 13-15: PARCEL ID: 0225-0062-0000: SEEKING A SPECIAL EXCEPTION AS PER ARTICLE IV,**
356 **SECTION 4.10 TO ALLOW CONSTRUCTION OF ANOTHER DWELLING UNIT, MAKING A TOTAL OF THREE**
357 **(3). EDWARD BAILEY & NORMAN SMITH, 53 ROUTE 11.**

358 Edward Bailey presented the case and explained that he is looking to be able to have three residences
359 on one lot. Mr. Bailey said that there was an existing house on the lot and he put up a duplex in the
360 back and he is looking for permission to have the third unit.

361 Mr. Landry explained that Mr. Bailey has gone before the Planning Board for Site Plan Review to be able
362 to have three or more dwelling units on a property. The Planning Board approved his Site Plan subject
363 to Department Head signatures and getting a Special Exception approved by the Zoning Board. Mr.
364 Landry continued that Mr. Bailey's property is in Mixed Use District and page 14 of the Zoning Ordinance
365 says that multi-family dwelling units of three to five units are permitted by Special Exception. The lot
366 has enough acreage as 10,000 sq ft of land per dwelling unit is required and he has 1.85 acres.

367 Mr. Schneider asked and Mr. Bailey confirmed that in the building over the workshop, he is looking to be
368 able to have two units. Mr. Bailey confirmed that the house and finished part of the duplex are both
369 rented.

370 Mr. Simpson asked why Norman Smith's name is also on the application. Mr. Bailey explained that they
371 own the property together. Mr. Simpson noted that Norman Smith's name is not on the application.
372 Mr. Platt said that Mr. Smith has to sign the application as well. There was further discussion regarding
373 this issue.

374 Mr. Platt asked Mr. Bailey the five criteria for a Special Exception. In regards to whether the selected
375 site is an appropriate location for the proposed use, Mr. Bailey explained that on one side of his
376 property is a flooring business and the State shed is in the back. Mr. Landry said that up the road is the
377 fuel oil company and the hot tub company. In regards that there is adequate and safe highway access
378 provided to the proposed site and that there is adequate parking on site, Mr. Bailey confirmed that
379 there is a pre-existing driveway and there is parking. In regards to sewage disposal, Mr. Bailey said that
380 he has Town Sewer at the property. In regards to whether the proposal will not be detrimental or
381 hazardous to the neighborhood, Mr. Bailey confirmed that it will not be. In regards to whether the
382 proposal is consistent with the spirit of the Ordinance and the intent of the Master Plan, Mr. Bailey
383 confirmed that it is.

384 Aaron Simpson made a motion to approve the application for a Special Exception in Case # 13-15: Parcel
385 ID: 0225-0062-0000, as per Article IV, Section 4.10 to allow construction of another dwelling unit,
386 making a total of three (3), as long as Norman Smith adds his signature to the application for Edward
387 Bailey and Norman Smith, 53 Route 11. Clayton Platt seconded the motion. The motion passed
388 unanimously.

389 **CASE # 13-16: PARCEL ID: 0118-0052-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10 TO**
390 **REDUCE SIDE SETBACK FROM 15' TO 11' 7" ALLOWING CONSTRUCTION OF AN ADDITION. MAUREEN**
391 **BINZELL, 88 BURMA RD.**

392 Maureen Binzell presented the case. Ms. Binzell was asked if she is within the 50' setback of Perkins
393 Pond and Ms. Binzell explained that the front door, which is on the road side, is 50' from the water.
394 There was further discussion regarding this and the survey of the property.

395 Mr. Simpson asked and Ms. Binzell confirmed that the deck within the 50' setback is an existing deck
396 that was added 5 years ago. Ms. Binzell pointed out on the Plan where the proposed addition will be.

397 There was further discussion regarding to the location and the 12' x 18' that Ms. Binzell is looking to
398 enclose and then the portion that she is looking to add.

399 Mr. Landry explained that the proposed addition is more than 50' away from the Pond on both sides,
400 one side is 56' and the other is about 67'. Ms. Binzell is looking for a Variance on both side setbacks
401 because the setback on a pre-existing non-conforming lot in the Rural Residential District is 15'. As it is
402 two different numbers, she has to receive two different Variances. Mr. Simpson asked and Chairman
403 Frothingham clarified that the existing setback is at 13' 7".

404 Mr. Landry said that an abutter, Jim Cave, called and said that he has no objection to the proposed Plan.

405 Mr. Simpson noted that the shed is closer to the property line than both structures.

406 Mr. Platt said that he has visited the property and the house is small compared to the neighboring
407 properties. Also, other people in the area have done similar work to their houses and this seems to be
408 keeping in the same spirit of the area. Ms. Binzell said that the current footprint is only approximately
409 810 sq ft and she is looking for another approximately 435 sq ft.

410 Mr. Simpson asked if the structure is seasonal. Ms. Binzell explained that the house is on piers, has a full
411 furnace, a water filtration system, an artesian well, and a clean solution Septic System that she recently
412 put in.

413 Daniel Schneider made a motion to approve Case # 13-16, Parcel ID: 0118-0052-0000, seeking a
414 Variance of Article III, Section 3.10 to reduce side setback from 15' to 11' 7" allowing construction of an
415 addition, under the condition that no part of the addition shall be closer than 50' from the shorefront of
416 Perkins Pond. Dick Katz seconded the motion. Mr. Simpson asked and Mr. Schneider clarified that his
417 condition is to make clear for the record that the addition is in the back and not the front of the house
418 because he can't refer to the drawings. There was further discussion regarding this issue. Mr. Landry
419 said that Ms. Binzell still needs a Shoreland Protection Permit as she is within 250' of the Pond and that
420 should be part of the motion.

421 Mr. Schneider amended his motion that the approval is also subject to obtaining a DES Shoreland
422 Permit. Dick Katz seconded the amendment. The motion passed unanimously.

423 **CASE # 13-17: PARCEL ID: 0118-0052-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10 TO**
424 **REDUCE SIDE SETBACK FROM 15' TO 11' 3" ALLOWING CONSTRUCTION OF AN ADDITION. MAUREEN**
425 **BINZELL, 88 BURMA RD.**

426 Daniel Schneider made a motion to approve Case # 13-17: Parcel ID: 0118-0052-0000: seeking a
427 Variance of Article III, Section 3.10 to reduce side setback from 15' to 10' 4" allowing construction of an
428 addition subject to the conditions that no parts of such addition be less than 50' from the shore of
429 Perkins Pond and that a Department of Environmental Services Shoreland Protection Permit be
430 obtained. Dick Katz seconded the motion. The motion passed unanimously.

431

432 **DISCUSSION**

433 There was a brief discussion regarding the Zoning Ordinances and the potential changes that need to be
434 assessed.

435 Dick Katz made a motion to adjourn the meeting at 8:50 pm. Daniel Schneider seconded the motion.
436 The motion was approved unanimously.

437 Respectfully submitted,

438 Melissa Pollari

439

440

441 Edward Frothingham

Aaron Simpson

442

443 Dick Katz

Clayton Platt

444

445 Daniel Schneider

William Larrow, alternate member