

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **FEBRUARY 14, 2013**

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

6 **ABSENT:** Clayton Platt

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

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

9 Chairman Frothingham asked for a motion to appoint Mr. Larrow as a voting member for the meeting
10 due to the absence of Mr. Platt.

11 Aaron Simpson made a motion to appoint William Larrow as a voting member for the meeting. Dick
12 Katz seconded the motion. The motion passed unanimously.

13 **MINUTES**

14 Changes to the minutes from January 10, 2013: Change Line 37 to read "...how the parking spaces are
15 laid out on the submitted drawing as numbers five..."

16 Aaron Simpson made a motion to approve the minutes as amended. Dick Katz seconded the motion.
17 The motion passed unanimously.

18 **ZONING ADMINISTRATOR**

19 Mr. Landry gave a report of the last Planning Board meeting. The Planning Board discussed and
20 approved the Site Plan Review for boat storage, marine service and sales, and a retail store at the
21 property across the street from the Community Store. Mr. Landry gave a brief review of what the
22 Planning Board debated regarding the Site Plan including the oil and waste water removal and the boat
23 storage.

24 Mr. Landry explained that the Planning Board also discussed the Montambeault property as by law they
25 have to approve and recommend to the Selectboard the transfer of Town property. Mr. Landry also
26 gave a brief explanation regarding this case.

27 **CASE # 13-02: PARCEL ID: 0121-0030-0000: SEEKING APPROVAL OF A SPECIAL EXCEPTION OF ARTICLE**
28 **III, SECTION 3.50-I TO REPLACE A PREEXISTING, NON-CONFORMING STRUCTURE WITH A SMALLER**
29 **STRUCTURE WITHIN THE PREEXISTING FOOTPRINT. JAMIE STEVENS SILVERSTEIN, 83 FERNWOOD**
30 **POINT RD.**

31 Charlie Hirshberg of CLD Engineers presented the case. Mr. Hirshberg explained that there is an existing
32 three bedroom house on the property that will be demolished. The current structure sits 37' from the
33 edge of the water to the main part and about 24' to the porch. They are proposing the new house to be
34 behind the 50' setback and compliant in terms of the Town's and the State's criteria.

35 Mr. Hirshberg showed the proposed Plan to the Board including the pervious patio on the lakeside of
36 the house. Mr. Hirshberg explained that the reason he is asking for a Special Exception is that there will
37 be a barbeque area on the patio that the owners would like to cover with a roof.

38 Mr. Simpson asked about the acreage of the lot. Mr. Hirshberg said that they did a certified boundary
39 survey on the lot because the covered barbeque area sits within the sideline setback and the property is
40 just about three quarters of an acre.

41 Mr. Hirshberg explained that the proposed covered barbeque area is within the footprint of the existing
42 house so they are not any closer to the sideline than what was there previously. Mr. Schneider asked
43 and Mr. Hirshberg confirmed that if the covered barbeque was not on the Plan then the project would
44 be within the setbacks. Mr. Landry gave a brief explanation of Article III, Section 3.50-I and the reason
45 that Mr. Hirshberg is asking for a Special Exception is the covered patio area will now be a smaller
46 structure replacing the original encroachment of the original house.

47 Mr. Simpson asked and Mr. Hirshberg confirmed that there will not be any walls around the barbeque.
48 Mr. Katz explained that there is a drawing of the covered patio area in the Plans provided.

49 Mr. Schneider asked for the reasons that the Special Exception should be granted for the barbeque area.
50 Mr. Hirshberg said that the owners would like to have a roof over the area and be able to barbeque in
51 inclement weather. Also, though it is part of the deck, what is under it is still pervious so what comes off
52 the roof of this structure will get absorbed in the pervious patio area. Mr. Hirshberg explained that
53 there is less impact than the existing house.

54 Mr. Larrow asked if the barbeque area is where the original house is or the deck. Mr. Hirshberg
55 explained that the barbeque area will be in an area that was part of both the house and the deck.

56 Mr. Schneider asked and Mr. Hirshberg confirmed that the owners are taking down an existing non-
57 conforming house and they are building a conforming house. The owners are asking for a Special
58 Exception because they want to build a covered barbeque area within the setback but it is within the
59 original footprint. Mr. Schneider asked how the fact that the barbeque area is within the original
60 footprint of the house is relevant if they are tearing the house down. Mr. Landry explained that under
61 Article III, Section 3.50-I, a replacement building can be built within the original structure by Special
62 Exception. Mr. Landry continued that the new house will be within the setbacks but the covered
63 barbeque structure will be non-conforming. Mr. Hirschberg explained that the owners want the
64 barbeque pit on the lakeside but do not want it obstructing the view of the lake from the house. Mr.
65 Hirshberg explained that the owners were going to build basically on the same footprint and they
66 convinced them to move the house back yet they wanted the outdoor area. As it is off to the side, the
67 barbeque is venting away from the house and is not near the window areas.

68 Mr. Schneider said that he would like to see the property be completely conforming. Mr. Simpson asked
69 if the owners had considered moving the house back further and Mr. Hirshberg explained that only the
70 left side of the house is up to the 50' line and the rest is further back. There is also a well behind the
71 house which could be impacted by moving the house back. Mr. Hirshberg informed the Board that they
72 have a State Shoreland Permit for the project.

73 Mr. Hirshberg informed the Board that the impervious coverage is down to 10.8% within the 250' of the
74 lake. Mr. Landry confirmed that in the Rural Residential Zone the total lot coverage in the Shoreline
75 overlay is 25% for impervious materials for a total of 40% of pervious and impervious coverage. There
76 was further discussion regarding this matter. Mr. Simpson said that it does not look as though it is 10%
77 coverage it looks more like 25%.

78 Mr. Larrow said that he feels that the screening on the property, which are some large pine trees, seems
79 to hide the barbeque area. Mr. Landry said the concern the abutters had was that they do not want the
80 trees on the property lines to be removed. Mr. Hirshberg said that the majority of the trees are actually
81 on the other property.

82 Chairman Frothingham read the criteria for a Special Exception. Regarding the first condition, Mr.
83 Schneider said that he does not understand why having the barbeque on the property line is important.
84 Mr. Simpson said that he has concerns that eventually it will become an enclosed building as he feels it
85 will impact the neighbors more if it is enclosed. There was a discussion regarding the possibility of
86 making it a condition that the structure could not be enclosed. Mr. Landry reminded the Board that
87 there is currently a house where the barbeque is proposed which is much more infringing than what is
88 proposed. The Board does not feel condition number two is applicable to the case. The third condition
89 does not affect the case as there is sewage disposal already on the site. There were no comments on the
90 fourth or fifth conditions.

91 Mr. Simpson said that he believes that one of the properties in the neighborhood has a boat launch next
92 to the boathouse and asked if it is this property. Mr. Hirshberg said that this property has a beach area
93 with a retaining wall and does not have a boat launch.

94 Dick Katz made a motion that Case # 13-02: Parcel ID: 0121-0030-0000: Seeking approval of a Special
95 Exception of Article III, Section 3.50-I to replace a preexisting, non-conforming structure with a smaller
96 structure within the preexisting footprint; Jamie Stevens Silverstein, 83 Fernwood Point Rd be approved
97 subject to the conditions of the Shoreline Permit #2013-00119. Aaron Simpson seconded the motion.
98 Chairman Frothingham asked for discussion on the motion. Mr. Schneider asked if the proposed
99 structure was a storage shed would it make it any more or less acceptable. Mr. Simpson and Mr. Katz
100 both agreed that it would be less acceptable. Mr. Schneider has concerns as he feels that they are
101 making the house more conforming and then using a technicality that the house was previously there to
102 build a separate new encroaching structure. Mr. Katz said that to the same degree, they could put a
103 new house in the same footprint as the old structure but they chose not to so he feels this is a
104 compromise. There was a brief discussion regarding this matter. Aaron Simpson made a motion to

105 amend the motion so the covered barbeque structure shall not be enclosed in any fashion, temporary,
106 permanent or screened. Mr. Schneider seconded the motion. Both motions passed unanimously.

107 **ZONING REGULATIONS**

108 Mr. Simpson gave copies of the work he has done on the Zoning Regulations. Mr. Simpson cautioned
109 that the changes are not complete and he is checking them against the State Statutes to make sure he
110 has not put in any language that is conflicting. The Board agreed to read through the changes and to
111 make comments at the next meeting.

112 **ZONING CHECKLIST**

113 Mr. Landry gave the Board copies of the proposed Zoning Checklist to help ensure that the Board
114 receives all the required materials for cases. There was a brief discussion regarding the Checklist.

115 **MISCELLANEOUS**

116 There was a discussion regarding Equitable Waivers.

117 Daniel Schneider made a motion to adjourn the meeting at 7:57 pm. Dick Katz seconded the motion.
118 The motion passed unanimously.

119 Respectfully submitted,

120 Melissa Pollari

121

122 _____

123 Edward Frothingham

_____ Aaron Simpson

124 _____

125 Dick Katz

_____ Clayton Platt

126 _____

127 Daniel Schneider

_____ William Larrow