

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **DECEMBER 12, 2013**

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

6 **ABSENT:** Daniel Schneider, Aaron Simpson

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

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

9 Dick Katz made a motion to have William Larrow be a voting member for the meeting. Clayton Platt
10 seconded the motion. The motion passed unanimously.

11 Chairman Frothingham explained to the applicants present that they will only have four voting members
12 for the meeting as opposed to five and if they wanted to continue their cases until next month's
13 meeting they can choose to do that.

14 **PLANNING UPDATE**

15 Mr. Landry gave an update of the Planning Meetings that occurred on November 7th, November 21st,
16 and December 5th. Mr. Landry told the Board that the next Planning Board Meeting will be held on
17 January 16th, not the 2nd.

18 Mr. Landry explained to the Board that all of the Zoning Amendments are finished and were voted on in
19 a public hearing and they will be going to the Warrant for voting.

20 **MINUTES**

21 Changes to the minutes from the October 10, 2013 Zoning Board Meeting: Change line 35 to read "... at
22 this meeting but he has formally withdrawn..."

23 Dick Katz made a motion to approve the minutes as amended. William Larrow seconded the motion.
24 The motion passed unanimously.

25 **CASE # 13-36: PARCEL ID: 0120-0018-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10 TO**
26 **ALLOW ENCROACHMENT OF A PORCH CONSTRUCTED IN ERROR PARTIALLY WITHIN THE 15' SETBACK**
27 **REQUIREMENTS. ELIZABETH B JUNIUS, 21 SCOTTS COVE RD.**

28 Everett Pollard presented the case on behalf of the applicant. Mr. Pollard explained that they made an
29 error laying out the building on the site and they are encroaching on the side setback by 1.3 feet. Mr.
30 Pollard continued that this is something that they brought to Mr. Landry and they are before the Board
31 to try and correct the situation.

32 Mr. Larrow asked about the abutter and Mr. Pollard explained that the abutter's house is well behind
33 the setback. Mr. Larrow asked if the abutter knows about the encroachment and Mr. Pollard said that
34 he did and has talked with Mr. Landry about it.

35 Chairman Frothingham asked if there were any abutters present and there were none. Mr. Landry said
36 that he did not receive any letters from abutters but he talked to the one abutter on the phone.

37 Mr. Landry explained that there was a problem with the location of the property line and when the
38 applicants realized they were using the wrong location they brought it to his attention.

39 Mr. Pollard showed the Board a visual of how much the porch is violating the setback which is a 1.3 foot
40 triangular section. Mr. Landry explained that he does not have anything in writing from the abutter and
41 even on the phone he did not ask for screening if this is approved.

42 Mr. Larrow asked and Mr. Landry confirmed that the abutter is not adamantly asking for something to
43 be done about this violation or asking for screening.

44 Chairman Frothingham asked if anyone had any questions for Mr. Pollard and as there were none he
45 closed the hearing to public comment.

46 Dick Katz made a motion to approve Case 13-36, Parcel ID: 0120-0018-0000 seeking a variance of Article
47 III, Section 3.10 to allow encroachment of a porch constructed in error partially within the 15' setback
48 requirements, Elizabeth B Junius, 21 Scotts Cove. Clayton Platt seconded the motion. The motion
49 passed unanimously.

50 **CASE # 13-37: PARCEL ID: 0211-0011-0000: SEEKING A SPECIAL EXCEPTION AS PER ARTICLE IV,**
51 **SECTION 4.11 TO ALLOW RESOURCE EXTRACTION (STONE & GRAVEL) IN ORDER TO GRADE THE**
52 **PROPERTY FOR FUTURE USE. MICHAEL & ELIZABETH LEMIEUX, 1106 ROUTE 11.**

53 Michael Lemieux said that he agreed to go forward with only four voting members and presented the
54 merits of his case.

55 Mr. Lemieux explained that he has 5.25 acres that he would like to level as most of it is unusable.
56 Originally they were going to partner with Cooper Street Partners who owns the lot next door and use
57 the stone and gravel from this lot for road fill. Cooper Street did not complete their subdivision and Mr.
58 Lemieux has been left with a big pile of rocks.

59 Mr. Landry said that Mr. Lemieux does have approval from the State but did not realize that if he is
60 going to sell the rocks he needs Resource Extraction approval which is allowed in that District with a
61 Special Exception.

62 Mr. Lemieux said that he would like to level the lot to relatively the same elevation as the parking lot
63 that is there now.

64 Mr. Larrow asked what Mr. Lemieux was planning on doing when he first purchased the lot. Mr.
65 Lemieux said that he didn't have any plans originally; he purchased the land after receiving the call from
66 his real estate agent as he thought it was a good deal.

67 Mr. Landry said that there will come a time when the Resource Extraction will end as the lot will be level
68 and asked what kind of time period Mr. Lemieux is talking about. Mr. Lemieux said that it depends on
69 how quickly he can sell the piles that he crushes as he does not have much room for storage. Mr.
70 Lemieux said that he is therefore looking at four to five years.

71 Mr. Lemieux explained that they have crushed twice this past year and does not think that they have
72 had any complaints. They own their own crushing equipment and therefore watch the weather and
73 crush when it is a little rainy to cut down on the dust.

74 Mr. Larrow asked what Mr. Lemieux is going to do with the lot after it is level. Mr. Lemieux said that he
75 would like to eventually have a little satellite area for his business there and store equipment on the
76 property. Mr. Landry explained that at that point Mr. Lemieux will have to go before this Board and/or
77 the Planning Board.

78 Mr. Platt said that he is concerned with the scale of the operation in this Zone. This may not be a
79 problem on Route 11 but if there were houses there it could be an issue. Mr. Landry said that if there
80 were abutters who were concerned he would have heard about it before the meeting.

81 Mr. Platt said that he is also concerned about the fact that there are five criteria to meet a Special
82 Exception and none are mentioned on the application. Chairman Frothingham said that the criteria for
83 the Special Exception are under the additional consideration on page 12 of the packet, there are also
84 more reasons on page 17.

85 Mr. Platt said that though there are no abutters here now, there may be abutters who have concerns in
86 the future. Mr. Landry said that they can time limit the Exception to whatever time frame the Board is
87 comfortable with and that it does not have to be five years. Mr. Larrow suggested that as Mr. Lemieux
88 needs to be re-permitted by the State each year that maybe the Board would want to review the State
89 Permit every year. Mr. Platt suggested that the Board have Mr. Lemieux return before them every two
90 years in case any people move into houses near the property.

91 Mr. Landry told Mr. Lemieux that he will need to go before the Planning Board for a Site Plan Review if
92 the Special Exception is approved so there will be limitations put onto the operation.

93 Chairman Frothingham made a motion to approve Case # 13-37: Parcel ID: 0211-0011-0000: seeking a
94 Special Exception as per Article IV, Section 4.11 to allow Resource Extraction (stone & gravel) in order to
95 grade the property for future use, Michael & Elizabeth Lemieux, 1106 Route 11, with a two year time
96 limit, a copy of the Intent to Excavate from the State to be submitted to the Town annually, and a Site
97 Plan Review to be done by the Planning Board. Dick Katz seconded the motion. The motion passed
98 unanimously.

99 **CASE # 13-38: PARCEL ID: 0129-0043-0012: SEEKING A VARIANCE OF ARTICLE V, SECTION 5.31 TO**
100 **ALLOW TEMPORARY SIGNAGE TO EXCEED 48 SQUARE FEET AT NEW LIBRARY SITE. TOWN OF**
101 **SUNAPEE, 11 SOO NIPI CIRCLE.**

102 Dick Katz recused himself from the case.

103 Peter Urbach presented the case and said that he was fine going ahead with only three voting members.

104 Mr. Urbach explained that this application is for the new library site on Sargent Rd. They are requesting
105 a Variance for a temporary sign to identify the site of the new Abbott Library. There is currently one
106 temporary sign on the back of the site but it will become obscured by construction materials as the job
107 progresses. Mr. Urbach said that they would like to put a second sign closer to Route 11 and that they
108 have a map with the application of where they would like the sign to be located.

109 Mr. Urbach said that the proposed new sign will be 4' x 9' and the combined square footage of the two
110 signs would exceed the 48 sq ft maximum and would be a total of 100 sq ft. It would provide ready
111 identification of the site for people driving East on Route 11. There are two existing posts that are
112 already there and they will be using those posts for this sign.

113 Mr. Larrow asked why it is imperative that the existing sign stay. Mr. Urbach said that it is not but it is
114 useful to have it there as people are used to it. The place where they are proposing to put the new sign
115 is only visible when you are driving in one direction on Route 11, it is not visible when you come into
116 Town. Mr. Platt asked if the other sign is visible when you come into Town and Mr. Urbach said that it is
117 visible in the winter but not in the summer.

118 Mr. Urbach explained that both signs will come down in July of next year which is when construction will
119 be finished.

120 Mr. Larrow asked if they could put in a sign that would not encroach on the State Right of Way but that
121 would be visible in both directions. Mr. Landry explained that the sign cannot get any closer to Route
122 11. Mr. Urbach said that the sign could not be positioned differently on the property as there are
123 wetlands there. The two posts that are there are in the wetlands, they cannot be moved nor can they
124 put in new posts, they have to use the posts that are there.

125 Clayton Platt made a motion to approve Case # 13-38: Parcel ID: 0129-0043-0012: construction of a
126 new, single sided sign not to exceed 4' x 9' and the proposed sign and the existing sign are to be
127 removed by August 1, 2014. William Larrow seconded the motion. The motion passed unanimously.

128 **CASE # 13-39: PARCEL ID: 0211-0018-0000: SEEKING A VARIANCE OF ARTICLE IV, SECTION 4.10 TO**
129 **ALLOW A DANCE AND FITNESS FACILITY, RETAIL SALE SPACE AND MULTI OFFICE SPACE IN RURAL**
130 **RESIDENTIAL ZONE. KULOW REVOCABLE TRUST, 962 ROUTE 11.**

131 Kelli Bogan presented the case on behalf of the Kulow Revocable Trust.

132 Mr. Landry explained to the Board the location of the property. There was a pre-existing, non-
133 conforming business there already but what the applicant would like to do is not allowed in the Zone.

134 Mr. Landry said that the septic system has failed and the designer has been in to see him and that he has
135 approved the design. The capacity will be increased and they will be pumping under the parking lot and
136 up onto the hillside.

137 Mr. Landry continued that there is plenty of space for parking and that the applicant will be using the
138 building itself for office space.

139 Ms. Bogan explained that the office space will remain office space and the warehouse where the current
140 business bottles bug spray is where she would like the dance studio. She will not make changes to the
141 outside of the building and will only be making changes to the interior. Ms. Bogan continued that there
142 is plenty of parking in place.

143 Mr. Landry said that he has spoken with Charlie Hirshberg who said that he would be representing Ms.
144 Bogan for the Planning Board hearing for a Site Plan Review if she gets approved. Mr. Landry explained
145 what the Planning Board would look for including the number of parking spaces, how much turn around
146 space, etc.

147 Mr. Landry explained that this type of business is not permitted in the Rural Residential District so Ms.
148 Bogan is looking for a Variance for the Use.

149 Chairman Frothingham asked if Ms. Bogan has been to the State regarding traffic flow. Ms. Bogan said
150 that she has not been to the State but that she is willing to do that. Classes are typically 20-25 people
151 and they last about an hour so the flow would be when classes begin and end. Ms. Bogan continued
152 that she is looking to do classes in the morning from 9 – 12, have a break, and then pick up again from 4
153 – 9. Chairman Frothingham asked about the number of classes each day as the times indicate 8 to 9
154 classes and Ms. Bogan said that she will not have that many every day. Mr. Landry explained to Ms.
155 Bogan that she will need new State approval for the driveway cut and that it may be a condition if the
156 Board decides to approve the application. There was further discussion regarding the driveway.

157 Mr. Larrow asked if the State would require anything regarding the use of the building as it will be
158 changed. Mr. Landry said that he does not know but that they may require a sprinkler system to be
159 installed. Mr. Larrow said that he feels as though whatever the State requires the Board should require.

160 Mr. Landry noted that there is currently only one stairway to the second floor. Ms. Bogan said that the
161 building's interior needs a complete overhaul. Mr. Platt said that these things are more related to the
162 State and the Planning Board's decisions.

163 Mr. Larrow asked if there will be a drawing done for someone to review and Mr. Landry said that Charlie
164 Hirshberg will be doing the drawings for the Site Plan Review.

165 Don Chabot, a representative of the Kulow's, gave the Board some photos of the office spaces. Mr.
166 Landry said that he thinks that there were up to 20 people working in the offices at one point.

167 Mr. Platt asked and Ms. Bogan confirmed that she is looking to purchase the property which is why she
168 is applying for a Variance before she moves forward.

169 Chairman Frothingham asked if Ms. Bogan will have an office in the building and she explained that she
170 will use a portion of the building. She is not going to look to lease the remainder right away but that she
171 will want to lease it in the future. Mr. Landry said that the office space is a pre-existing, non-conforming
172 use and is therefore allowed unless she doesn't use the space as office space for two years. Mr. Larrow
173 asked about the parking and Mr. Landry said it will be looked at by the State and the Planning Board.
174 Mr. Platt noted that the parking is based on the square footage of the office.

175 There was further discussion regarding the traffic flow.

176 Dick Katz made a motion to approve Case # 13-39: Parcel ID: 0211-0018-0000: seeking a Variance of
177 Article IV, Section 4.10 to allow a dance and fitness facility, retail sale space and multi office space in
178 rural residential zone, Kulow Revocable Trust, 962 Route 11, with the new septic system to be approved
179 before obtaining an occupancy permit, all necessary permits from the State of New Hampshire with
180 copies to come to the Town, and with Site Plan approval. William Larrow seconded the motion. The
181 motion passed unanimously.

182 Chairman Frothingham adjourned the meeting at 7:51 pm.

183 Respectfully submitted,

184 Melissa Pollari

185

186 _____

187 Edward Frothingham

_____ Aaron Simpson

188 _____

189 Dick Katz

_____ Clayton Platt

190 _____

191 Daniel Schneider

_____ William Larrow, alternate member