

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **JULY 12, 2012**

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

6 **ALSO PRESENT:** See Attached Sign-In Sheet

7 Chairman Frothingham called the meeting to order at 7:00PM

8 **ZONING ADMINISTRATOR**

9 Roger Landry informed the Board that the Planning Board has not met since the last meeting as they  
10 changed their schedule this month. The Planning Board will be meeting on July 19<sup>th</sup>.

11 Mr. Landry spoke to the Board regarding the second meeting that the Board will hold this month on July  
12 24<sup>th</sup>. Mr. Schneider asked and Mr. Landry explained the reason for the meeting is to address the five  
13 letters he has received regarding the Davis/Larrow case. The letters may or may not serve as a request  
14 for a rehearing depending on the individual who wrote the letter and their statutory position. Also the  
15 meeting will address a motion for a rehearing from the Larrow's attorney. Mr. Landry informed the  
16 Board that it will be a public meeting, not a public hearing, which means there will be no input from the  
17 public, just discussion regarding the letters and the motion for a rehearing by Attorney Mockel. Mr.  
18 Schneider stated that he will not be able to make the meeting. Mr. Katz said that he was not sure if he  
19 would be able to be at the meeting but will check. Chairman Frothingham and Mr. Platt both will let Mr.  
20 Landry know if they are available.

21 Mr. Frothingham asked Mr. Landry regarding the badges. Mr. Landry stated that they were supposed to  
22 be ready for this meeting but he hasn't gotten confirmation from the Chief.

23 Changes to the minutes from the June 14, 2012 meeting:

24 Dick Katz made a motion to hold approval of the minutes until the end of the meeting. Bill Larrow  
25 seconded the motion. The motion passed unanimously.

26 Mr. Landry suggested that the Board hear from Mr. Hirshberg regarding all the cases on tonight's  
27 agenda at once rather than four times and to then go through the individual Variances. This will give the  
28 Board a better understanding of the project.

29 **CASE 12-16: PARCEL ID #: 0134-0013-0000, VARIANCE OF ARTICLE III, SECTION 3.20. INCREASE**  
30 **IMPERVIOUS LOT COVERAGE FROM 30% TO 35.3%. A REDUCTION FROM EXISTING 50.1% TO**  
31 **ACCOMMODATE A REPLACEMENT RESIDENTIAL STRUCTURE. 233 LAKE AVE., MICHELLE DAVIS**

32 **CASE 12-17: PARCEL ID#: 0134-0013-0000, VARIANCE OF ARTICLE III, SECTION 3.10. REDUCE ROAD**  
33 **FRONT SETBACK FROM 50 FT TO 18.5FT TO ACCOMMODATE CONSTRUCTION OF A NEW GARAGE. 233**  
34 **LAKE AVE, MICHELLE DAVIS.**

35 **CASE 12-18: PARCEL ID#: 0134-0013-0000, VARIANCE OF ARTICLE III, SECTION 3.10. REDUCE SIDE**  
36 **SETBACK FROM 10 FT. TO 3.42 FT. TO ACCOMMODATE CONSTRUCTION OF NEW STAIRCASE. 233 LAKE**  
37 **AVE., MICHELLE DAVIS.**

38 **CASE 12-19: PARCEL ID#: 0134-0013-0000, VARIANCE OF ARTICLE III, SECTION 3.40. REDUCE**  
39 **WATERFRONT SETBACK FROM 50FT TO 26.45 FT AND 32.74 FT TO ACCOMMODATE CONSTRUCTION**  
40 **OF A NEW DECK AND RESIDENTIAL STRUCTURE. 233 LAKE AVE., MICHELLE DAVIS.**

41 Charlie Hirshberg from CLD Engineers presented the case. Mr. Hirshberg presented the plans of the  
42 existing and proposed buildings to the Board. There is one dimension that is different than the ones he  
43 gave to Mr. Landry previously. Chairman Frothingham pointed out that the street number is wrong on  
44 the plan. The property is 233 Lake Ave., not 223 Lake Ave.

45 Mr. Hirshberg said that the lot is 0.18 acres or 7600 square feet. Mr. Hirshberg went over the existing  
46 layout of the house, which takes up a lot of the space; the concrete which is on the waterfront; and the  
47 garage which is on the street. There is also a parking area that is on the street and a little bit of green  
48 space. Mr. Hirshberg continued that the existing garage sits 15.7' from the center line of the road and 4'  
49 from the edge of the road. The 50' setback from the road extends into the existing house as does the  
50 50' setback from the water and in-between the two setbacks the house could be 10'. The current lot  
51 coverage is 50.1% and Zoning state there can only be 30% impervious lot coverage in the shoreline and  
52 50% total coverage in the shoreline.

53 Mr. Hirshberg said that the owners had the option of rebuilding the house on the same footprint which  
54 would leave the site the way that it is. The proposal is to move the house back away from the water to  
55 create green space between the water and the house and do a patio that is pervious. The current house  
56 has no storm water management and the proposal is to start at the parking area and make it pervious  
57 including the apron in front of the garage and the stone retaining wall would remain. The current  
58 foundation will be removed and the house will move closer to the retaining wall. They plan on filling in a  
59 section between the house and the wall so the slope won't be as long. The back of the house will  
60 essentially be a retaining wall. Between the existing house and the water there is currently just a  
61 concrete slab which they will remove. A lot of the roof run-off will be collected by gutters and run into  
62 the stone and pervious patio so it can percolate into the ground. Chairman Frothingham asked what the  
63 plan will be for the patio to make it be able to accept all the water. Mr. Hirshberg answered that there  
64 will be a stone reservoir made of stone pavers set in a pea stone that is on top of a coarser stone which  
65 is below the original ground level. The stone will create a holding area and allow it to permeate into the  
66 ground. Chairman Frothingham asked if there will be filtering in the downspouts off the roof. Mr.  
67 Hirshberg answered that they are talking about using a gutter topper and they could do a screen or filter  
68 but the problem is the maintenance has to be kept up. Mr. Hirshberg continued that there is run-off  
69 that comes off the stone retaining wall which will be surface swaled to a rain garden which Mr.

70 Hirshberg indicated on the plan. Mr. Hirshberg explained that a rain garden allows for filtration into the  
71 ground, using stones underneath it is like a drywell. Mr. Hirshberg said that there will also be a drywell  
72 closer to the wood deck where the permitted drains, which will not include the gutter drains, will go into  
73 so they don't go directly into the Lake. Mr. Hirshberg showed on the plan the location of the drywell.

74 Mr. Hirshberg said that the existing garage is 2.43' off the lot line. The proposed garage will be moved  
75 more into the lot but they have added a set of exterior steps on that side. Mr. Hirshberg showed the  
76 steps on the plan and explained that they are 3.42' from the line. The garage will also be moved further  
77 from the edge of the road and there will be a connector from the garage to the house. Mr. Landry asked  
78 about the set of stairs that currently goes down the left hand side of the garage. Mr. Hirshberg  
79 explained that the garage jogs over into that area and there will be an interior set of stairs in the house.

80 Mr. Hirshberg stated that down by the water they have created more separation using a combination of  
81 landscaped areas and the pervious patio. Mr. Hirshberg said that for the moment the boathouse will  
82 stay as it is though it will be rehabbed and the cribbing needs to be replaced; no dimensions will change.  
83 One of the architects clarified that the boathouse will have to be torn down to get to the cribbing and  
84 they will rebuild it exactly as it is which is addressed in a Wetlands Permit.

85 Mr. Schneider asked if there is a DES (Department of Environmental Services) Permit for the project.  
86 Mr. Hirsbberg replied that they have a Shoreland Permit at DES and they were supposed to have  
87 reviewed it today. Mr. Landry clarified that anything done tonight would be subject to a DES Permit.  
88 Mr. Landry stated that when they decide to knock the boathouse down they will need a DES Permit as  
89 well as another building permit for that project. Mr. Hirshberg said that it is his understanding that  
90 Watermark is filing the boathouse paperwork. There was further discussion regarding the DES  
91 Shoreland Permit, what it addresses and that they have not received the results of the review as of this  
92 meeting.

93 Mr. Hirshberg said that there are four Variance items that relate to the project. For the setback from  
94 the road, they are moving back from the road yet even though they are less non-conforming, it is still  
95 non-conforming. For the setback from the water, they are moving further away from the water but are  
96 still non-conforming. They are still in the side setback though they are not infringing any more than  
97 what is there now. They got the lot coverage down to 35.3% from the 50.1% though they could not get  
98 down to the 30%.

99 Mr. Landry asked if they had dealt with the 40' height average and asked if there were new elevations  
100 pertaining to this. The architect confirmed that he does have new elevations. Mr. Landry informed the  
101 Board that the original plan was slightly above the 40' max on the finished average grade of the property  
102 which he brought to the applicant's attention and they were going to do some work to be able to meet  
103 that requirement. The architect explained that what they did was, looking from the Lake, they have  
104 moved the deck down and it has lowered the height average. There was a short discussion regarding  
105 the calculation of the height average and the differences between Special Exception height  
106 requirements and Variance height requirements.

107 Mr. Platt asked if there was a boundary survey done of the property. Mr. Hirshberg stated that the  
108 survey is based on existing monumentation that is there. Mr. Platt said that the ZBA checklist states that  
109 “for all properties where a Special Exception or Variance is required, and where the “footprint” of the  
110 existing structure will be destroyed or covered prior to construction or in the building process, or for  
111 new home construction on a non-conforming lot, further documentation from a licensed surveyor is  
112 required as follows.” Mr. Landry clarified that it has always been up to the Zoning Board to accept the  
113 application as presented or to tell them that a survey is required.

114 Mr. Larrow asked about the height of the current building. The architect answered that the peak is a  
115 little higher than the road. Mr. Schneider asked how much higher the new building will be and the  
116 architect answered that the garage peak is 19’ off the road. It was asked if this project is expanding the  
117 square footage of the house substantially and the architect answered that it is not a substantial change  
118 as the other footprint of the building, though only two stories, was bigger so it is only a little bit more  
119 square footage. Mr. Hirshberg stated that the volume is expanding up. Chairman Frothingham said that  
120 because the lot is so tight, he does feel that a survey would ensure that what the plan shows is accurate.  
121 Mr. Hirshberg stated that they went off the caps that were there.

122 Mr. Landry stated that all the neighbors have been notified and he only heard from one neighbor who  
123 asked about the height of the building and the number of floors. Mr. Landry said that he explained the  
124 height limitation to the neighbor. Mr. Landry continued that if the neighbor lived on that side the set of  
125 stairs would have concerned him but as the set of stairs currently on his side will move he has no  
126 problem.

127 Mr. Larrow asked where the height of the peak is currently and it was clarified that if you stand in the  
128 parking lot you are looking over the top of the house, it is only about two feet over the road. Mr. Larrow  
129 asked how much the peak will go up looking at it from the parking lot. The architect said that the peak  
130 of the house will probably be 17’ over the road and the peak of the garage is 19’ and it currently is about  
131 17’. There was a brief discussion about what is across the street from the house and further discussion  
132 about the height of the house and some other houses that compare to this property.

133 Chairman Frothingham appointed Bill Larrow to vote as an alternate to give them a five person Board.

134 Mr. Platt asked what happens if he has a question regarding the completeness of the application. Mr.  
135 Landry clarified that the Zoning Board does not look at the completeness the way the Planning Board  
136 does but if the Board is uncomfortable with the application they can make a motion to ask for a survey.  
137 Chairman Frothingham asked if the Board could approve the plan with the condition of a survey and Mr.  
138 Landry said it was up to the Board. Each Variance has to be addressed individually and if the survey  
139 shows that the dimensions are different it would kill one Variance which would affect the whole project.  
140 Mr. Schneider stated that he would like to see the DES Permit first. Mr. Hirshberg said that looking from  
141 the road, on the right hand side there are caps as there was a survey that was done previously and on  
142 the left hand side they are not changing things. Chairman Frothingham said that the wood deck that is  
143 on the waterfront is right on the property line. Mr. Hirshberg stated that the deck is existing. Chairman  
144 Frothingham said that a survey would prevent issues for the owner, neighbors and the Town. Mr.

145 Hirshberg stated that there is a certified survey on the right side by the abutter and they are not  
146 disputing the location. Mr. Platt said that State survey law says that survey lines are done by a licensed  
147 land surveyor and if it was a bigger lot their might not be so much of an issue. Mr. Hirshberg said that  
148 the project is inside everything that exists now and they are not expanding beyond anything that exists  
149 now. Chairman Frothingham said that while he understands, if there is an issue it is better to know  
150 before, not after the process.

151 Mr. Landry said that Mr. Schneider has a point that they don't know what the final outcome of the DES  
152 Permit will be and if they ask for the plan to be altered then it could affect the Variances. There was  
153 further discussion regarding the DES approval and if the case should be continued until after the receipt  
154 of the DES approval.

155 Clayton Platt made a motion to continue the hearing until August 9, 2012 at 7:00 for the receipt of the  
156 DES Shoreland approval and verification of boundaries by a licensed land surveyor. Dick Katz seconded  
157 the motion. The motion passed unanimously.

158 There was a brief discussion regarding what the Board will be looking for as Mr. Hirshberg is unsure if he  
159 will be able to attend the meeting and the architect will be continuing the presentation.

160 Mr. Landry explained that in reference to surveys, making every person who comes in for a Variance get  
161 a survey can be unfair to someone who has a large property and is meeting all of the setbacks. There  
162 was further discussion regarding surveys, the conditions of height limits and the Zoning Regulations.

163 Changes to the minutes from the June 14, 2012 meeting: Change line 32 to read "...the minute you put  
164 a room with a closet it is considered a bedroom..." Change line 49 to read "...that the definition of a  
165 bedroom..." Change line 101 to read "...Mr. Simpson stated that it looked like there was a new well  
166 head." On line 113, change the words "an addition" to "a condition." Change line 145 to read  
167 "...confirmed that the application was approved." Change line 161 to read "...replied yes." On line 210  
168 change the word "properties" to "trucks and equipment." Change line 305 to read "...said it is not up to  
169 him..." Change line 313 to read "...employees are going to come and leave..." Change line 381 to read  
170 "...would like the Board to not lose..." Change line 496 to read "...that it already is a footprint..."

171 Dick Katz made a motion to approve the minutes as amended. Clayton Platt seconded the motion. The  
172 motion passed unanimously.

173 Mr. Landry asked the Board members to let him know if they could make it to the meeting on July 24<sup>th</sup>  
174 as soon as possible. Mr. Platt asked if the meeting would mostly be the lawyers speaking. Mr. Landry  
175 clarified that there will be no public input and while Attorney Moeckel will be in attendance, he cannot  
176 say anything. The Board members will receive paperwork that night and then discuss the issues  
177 amongst themselves. Mr. Landry further explained that the meeting is due to the fact that there have  
178 been people who have submitted letters that they want to appeal the Board's decision on the  
179 Davis/Larrow case which means they are asking for a rehearing. Attorney Moeckel has also submitted a  
180 motion for a rehearing which has to be reviewed that night. The five letters might have to be reviewed  
181 depending on the writers' connection with the case. The statutory requirement as to who can and can't

182 submit a request for a rehearing is clear and Attorney Whitelaw will advise the Board about those  
183 requirements the night of the meeting. Mr. Platt asked who makes the final decision as to whether the  
184 Board has to look at all the letters. Mr. Landry stated that they have to follow the law and Attorney  
185 Whitelaw will inform them of the law. Mr. Schneider asked and Mr. Landry confirmed that if the Board  
186 decides to grant a rehearing it will be scheduled for a different night. Mr. Landry explained that in order  
187 to grant a rehearing, they must submit new evidence which was not heard at any of the previous  
188 meetings.

189 Clayton Platt made a motion to adjourn the meeting at 8:00 PM. Dick Katz seconded the motion. The  
190 motion passed unanimously.

191 Respectfully submitted,

192 Melissa Pollari

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195 \_\_\_\_\_  
Edward Frothingham

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Aaron Simpson

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Dick Katz

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Clayton Platt

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199 \_\_\_\_\_  
Daniel Schneider

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Bill Larrow