TOWN OF SUNAPEE

ZONING BOARD

JUNE 12, 2014

PRESENT: Edward Frothingham, Chair, Daniel Schneider, Vice-chair, Aaron Simpson, Clayton Platt, Roger Landry, Zoning Administrator

ABSENT: William Larrow; George Neuwirt, Alternate

ALSO PRESENT: See Sign-in Sheet

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

MINUTES

Changes to the minutes from the April 10, 2014 Zoning Board Meeting: The minutes show Roger Landry as being present and he was absent for the meeting. Change line 24 to read "…they would proceed…"

Aaron Simpson made a motion to approve the minutes of April 10, 2014 as amended. Clayton Platt seconded the motion. The motion passed unanimously.

Changes to the minutes from the May 8, 2014 Zoning Board Meeting: Change line 180-181 to read "Atty. Durbin continued that he would caution the Board in applying the Administrative Gloss standard." Change line 161 to read "The motion passed unanimously and the other cases on the docket were heard." Change line 162 to read "After hearing the other cases, Clayton Platt made a motion…" Change line 163 to read "The motion passed unanimously and Aaron Simpson left the meeting." Change line 388-389 to read "Mr. Simpson said that it is not something that can be considered."

Daniel Schneider made a motion to approve the minutes as amended. Aaron Simpson seconded the motion. The motion passed unanimously.

The Board asked that the minutes reflect that they appreciate Melissa Pollari's efforts with the minutes.

Chairman Frothingham informed the applicants for the hearings that the Board only has four out of the five members present and is also missing the alternate member so they will need 3 out of 4 votes to be approved. The applicants may choose to continue the cases if they would like until the next meeting.

CONTINUATION: CASE # 14-06: PARCEL ID: 0147-0065-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10 TO REDUCE SIDE SETBACK FROM 15' TO 8' ALLOWING CONSTRUCTION OF A NEW 12' X 12' DECK. JOSEPH & CAROL MARALDO, 48 HAMEL RD.

Joseph Maraldo presented the merits of his case and gave packets of information to the Board. Chairman Frothingham asked and Mr. Maraldo said that he would like to proceed instead of continue the hearing.

Mr. Maraldo explained that he is looking to build a deck on the corner of the house. Every home in the area has basically the same size deck on their homes. Mr. Maraldo continued that there is currently a cement patio on the property that is roughly the same size as the proposed deck which they will be tearing up and turning into pervious surface. Mr. Schneider asked and Mr. Maraldo confirmed that the deck will be 12' x 12'.

Mr. Maraldo said that they will be installing a sizeable storm management system with drip edges and drywells.

Mr. Schneider asked and Mr. Maraldo confirmed that he has received a DES Permit #2014-00742. Mr. Maraldo read the DES approval to the Board.

Chairman Frothingham asked if anyone on the Board or anyone in the audience had any questions or comments for the applicant.

Mr. Platt asked and Mr. Maraldo confirmed that the construction has started at the house. Mr. Platt asked and Mr. Maraldo confirmed that the cement pad will be removed.

Mr. Simpson asked Mr. Maraldo to go over the criteria for a Variance.

Mr. Maraldo said that the cement pad is actually hurting the drainage of the property and water flows onto that and down into the lake which is eroding the property. By removing that and adding grass they will be stopping the erosion. Also, the wall is caving in along the lakefront. They are enhancing the drainage of the property and by building the deck they will be able to enjoy the lakefront of the house.

Mr. Simpson asked how high the deck will be and Mr. Maraldo said it will be four to five feet off the ground. There will be a sliding door from the house onto the deck.

Mr. Schneider said that if this is approved he would be in favor of putting a notification in the building permit that the deck may not be closed in without further approval. Mr. Maraldo agreed to this condition.

Mr. Simpson asked if other properties in the area have similar decks. Mr. Maraldo said that he passed out pictures that shows that on both sides of his property there are houses with similar decks.

Mr. Platt asked how far from the pond the deck will be and Mr. Maraldo said that it will be about six feet from the shore. The house was built in 1960 and is pretty close to the lake.

Mr. Maraldo said that they are planning to apply for a new septic system. Mr. Landry said that there is a law that says that septic systems on Lakes must be inspected every year by a certified septic inspector and a copy of the report put in their tax file but he does not know that anyone follows the law.

Mr. Maraldo said that the deck would not hurt the neighborhood as the pictures show. Every house around the lake has at one point put a deck on it and he does not know why this house did not. The deck will not affect the nature or health of the neighborhood as it enhances the environment of the property because they will be removing the cement pad and repairing the stone wall.

Mr. Landry asked about the Shoreland Permit #2012-0063 and Mr. Maraldo said that it was for 8 Hamel Rd. and they do not own that house any more.

Daniel Schneider made a motion to approve Case # 14-06: Parcel ID: 0147-0065-0000: Seeking a Variance of Article III, Section 3.10 to reduce side setback from 15' to 8' allowing construction of a new 12' x 12' deck, Joseph & Carol Maraldo, 48 Hamel Rd subject to the conditions of DES approval #2014-00742 and further subject to the condition that a notification be placed in the building permit file that such deck shall not be enclosed without further approval. Clayton Platt seconded the motion. The motion passed unanimously.

CASE #14-09: PARCEL ID: 0147-0065-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.40-C TO REDUCE LAKEFRONT SETBACK FROM 50' TO 3' ALLOWING CONSTRUCTION OF AN OPEN 12' X 12' DECK. JOSEPH AND CAROL MARALDO, 48 HAMEL RD.

Mr. Maraldo presented the merits of the case.

Mr. Platt asked if the deck will be 3' or 6' from the lake as Mr. Maraldo had said it would be 6' for the previous case. Mr. Maraldo said that he would have to look at the survey but the house is close to the lake.

Mr. Schneider said that if this is approved he would be in favor of putting another restriction that the deck be no closer to the lake than the house is. Mr. Maraldo said that the deck would be at least 6 inches recessed from the edge of the house.

Chairman Frothingham asked if there were any more questions for the applicant.

Nancy Marashio of 45 Hamel Rd asked and Mr. Maraldo confirmed that the deck will be on the front of the house facing the lake. Ms. Marashio said that the Ordinance says that a Variance is supposed to be in the spirit of the Ordinance and that non-conformity is not supposed to be increased. If the deck is approved she would like something to be done about vegetation under and along the deck. Ms. Marashio said that she took a picture around the corner today which she showed to the Board and looking at the front they should be able to see that the lake will be impacted if something doesn't happen as a buffer zone is supposed to have vegetation.

Mr. Schneider asked and Mr. Maraldo confirmed that when the cement is removed it will all be grass. Ms. Marashio asked what will be under the deck. Mr. Maraldo said that there will be nothing there as nothing can grow under the deck. Also, the area there seems to be very heavy sand. Mr. Schneider said that it would be better to have bushes or something added. Mr. Maraldo said that they are removing crab apple trees but he is not sure anything will grow there as it is the north side of the house and there is little sun. Mr. Landry asked what the Shoreland Permit says about revegetation. Mr. Maraldo said that it does not say anything about it and there are no restrictions. Mr. Platt asked and Mr. Maraldo confirmed that it is a Permit by Notification but he submitted all of the information as though he was submitting an actual application. Mr. Maraldo said that it is a sand lot right now and nothing really grows there but he would be willing to add trees or bushes if required.

There was a brief discussion about where the deck will be in relation to the house and how close it will be to the lake. Mr. Simpson asked and Mr. Maraldo confirmed that there is a walkway around the house to get to the basement.

Daniel Schneider made a motion to approve Case #14-09: Parcel ID: 0147-0065-0000: Seeking a Variance of Article III, Section 3.40-C to reduce lakefront setback from 50' to 3' allowing construction of an open 12' x 12' deck, Joseph and Carol Maraldo, 48 Hamel Rd subject to the following conditions: the approval is subject to DES Shoreland Permit #2014-00742; a notification is to be put in the building permit file that the deck will not be enclosed without further approval from the ZBA; the deck shall not extend beyond the lakeside front wall of the house; and, appropriate native vegetation will be planted on the shoreline to the extent feasible. Aaron Simpson seconded the motion. The motion passed unanimously.

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

Ward and Peg Bennett presented the merits of the case.

Mr. Bennett explained that this property is right on the Newbury / Sunapee town line on Route 103. There is a brown house and a white trailer. They would like to remove the trailer and build in like kind while adding a second story as it is currently a one story. Mr. Bennett continued that they would like the building to be a type of barn / bunkhouse and not another residence. The building is non-conforming and hasn't been lived in for about two years. They purchased the property two years ago in August and the brown house is currently being rented. Mr. Bennett said that there are two separate septic systems, one for the trailer that has failed and one for the house that is currently not doing very well. The would like to build one septic for both homes and need to get approval to rebuild the trailer in like kind and then get septic approval.

Mr. Simpson asked about the building that will be replacing the trailer. Mr. Bennett explained that it will be a barn style and would not be a residence, it would be more for overflow sleeping with half as a workshop. Mr. Landry asked and Mrs. Bennett confirmed that there will not be a kitchen.

Mr. Landry said that the mobile home has been vacant for several years and has lost its grandfathering rights as far as having two dwelling units on a non-conforming piece of property. The property is in the Rural Residential zone which requires an acre and a half of land per dwelling unit. Mr. Landry continued that this property has .71 acres and the house that is there now is grandfathered. They have one septic system that is failing and they are having a new septic system designed. They can replace the mobile home structure in like kind but they can't have a second dwelling unit. They can have a building with bedrooms, as long as the total number of bedrooms in both units does not go beyond the number of bedrooms on the septic system. Mr. Landry asked and Mr. Bennett confirmed that the new septic will be for four bedrooms. Mrs. Bennett said that there are two bedrooms in the cottage and there will be two in this structure. Mr. Landry said that they can have a bunkroom but there cannot be a kitchen and

if this case is approved one of the conditions should be that it cannot be a housekeeping unit or have a kitchen.

Mrs. Bennett said that the bottom floor will be a workshop and the second floor will have two bedrooms and two baths for overflow sleeping. Mr. Schneider asked if this structure will be the main living space for the property and Mrs. Bennett said that it is not, it will just be sleeping space.

Mr. Platt asked and Mr. Bennett explained that they need Town approval for the new structure before the State approves the septic plan. Mr. Platt said that he is looking at the site loading calculations and if he is reading it correctly, the area they need is 39,000 square feet and the area that they have is 30,000 square feet. Mr. Bennett explained that they will not be using a standard septic system it will be a clean system. There was further discussion regarding the septic system.

Mr. Schneider asked and Mr. Bennett clarified the numbering of the houses as 769 is the trailer and 771 is the brown house.

Mr. Schneider asked if they are adding decks and Mr. and Mrs. Bennett explained that there is a deck in the front and one in the back and they would like to enclose the one near the road to make a mudroom. Mr. Landry said that an open deck is part of the footprint and they can go vertical with a building permit. If they are changing the roofline and are within the setback then they would have to come in for a Special Exception. Mr. Simpson said that the drawings submitted are different and asked which footprint will be used. Mrs. Bennett said that it will be the new plan as the septic person did not know anything about a new building when he designed the septic system. Mr. Simpson said that the footprint of the existing structure is not the same as what the applicants are submitting. Mr. Bennett said that the plan submitted is just an artists' rendering of what they would like the structure to look like.

Mr. Bennett said that the goal is to have approval to build on the existing footprint as they are currently getting the septic pumped out approximately once a week which is expensive. Mr. Platt said that he does not understand why the applicants cannot replace the septic without a Special Exception. Mr. and Mrs. Bennett said that they wondered the same thing. Mr. Landry said that the subsurface division of DES was notified that they cannot have a second housekeeping unit there and it was a red flag placed on the approval. Mr. Landry asked if DES believes that the Special Exception to raise the roofline is going to guarantee a separate housekeeping or residential unit there. Mrs. Bennett said that they are not looking to have a kitchen there. Mr. Bennett said that what he understands from the letter he received from Mr. Landry is that because the septic was going to be connected to both places, to get approval they needed to show what they were going to do with the property before the septic is approved.

Mr. Platt said that he has concerns about the roofline and the footprint but he thinks that if the applicants want to replace the septic system they should be able to do so with the understanding that they do not have the right to have a second residential unit there. Mr. Schneider said that it is not clear to him that the applicants are not changing the horizontal footprint.

Mr. Bennett asked if they can get approval to not increasing the footprint as the approval makes a difference on their septic system. Mr. Bennett asked if the decks could be made into screen porches.

Mr. Platt and Mr. Simpson said that the Board changed the Ordinances to define what a deck is and isn't and the definition of structure was changed.

Mr. Platt said that he feels as though the applicants need to come back with a plan that clearly shows the existing footprint. Mr. Bennett said that he has a plan he did himself that has the exact measurements of the structure with the decks and the three season porch. The trailer is 70' x 14', with a three season porch and two decks. Mr. Landry said that Mr. Bennett's drawing does not shown the overhanging roof on the front which is on the submitted drawing. Mr. Bennett said that is just a drawing of what they would like to do. Mr. Bennett showed the Board his drawing.

Mr. Schneider said the requirement under 3.50-I (2) is that the existing structure is a house (living area only), garage, or commercial building and asked if this structure is currently one of those. Mr. Landry said that it was a house at one time though it isn't any longer. Mr. Schneider asked if it qualifies for the Exception and Mr. Landry says that he cannot answer that question as he is not the Zoning Board, however, it does not meet that criteria today because it has been abandoned.

Chairman Frothingham asked if there is a foundation there now and Mr. Bennett said that he does not know what is there but there will be a slab for the new building. Mr. Schneider said that if the earth is going to be disturbed and a slab will be put in then they will require DES approval.

Chairman Frothingham said that he would like to see dimensions to the property lines and such to ensure that the new structure will be going right where the trailer is located. Mr. Bennett said that this information is on the septic plan. Mr. Platt said that the septic plan isn't right because it doesn't show the shed or the covered roof. Mr. Platt continued that the survey plan is different than the footprint plan and he doesn't know how to judge how far the structure is from the lake, where the shed is, etc. Mr. Bennett said that the septic plan is all to scale and professionally done.

Chairman Frothingham asked and Mr. Bennett confirmed that he has a full size drawing of the plan.

Mr. Platt said that he would also like the applicant to indicate how high the existing structure is and how high the roofline is proposed to be.

Mr. Simpson asked why the applicants can't get the septic system built without approval as it is a four bedroom system which will take care of a two bedroom house. Mr. Bennett said that he has a letter from Mr. Landry that he cannot do the septic. Mr. Landry said that his letter explained that the mobile home could not be replaced with a second residence. Mr. Landry continued that Mr. Bennett had said that if the Board does not approve this application then they will change the system to a two bedroom as it will be less expensive. Mr. Bennett said that he thought they could not proceed to put a septic system in until they got this taken care of. Mr. Landry said that the Town does not approve septic systems, the State does. Mr. Landry continued that he had said that the Town would not approve it as a second residence which is why the State did not approve the application but all the State needed to know from the Bennett's is that it was not going to be a separate residence. There was further discussion regarding this issue as well as the definition of a dwelling unit.

Mr. Platt asked and Mr. Landry confirmed that if the trailer is replaced in kind without going up another story they could do that without coming to the Board. Mr. Platt suggested having the septic designer adding a note that the second building cannot be a dwelling unit to the plan.

Mr. Landry said that the Board would like to have more information on the proposed changes to the structure as there was a change to the Zoning Ordinances regarding height changes this past year and the Board would like to ensure that the changes comply. As far as the overhanging roof in the front, it does not constitute a footprint and if the applicants want that they have to come before the Board for a Variance. The Board determined that they would like to see a plan with elevations of the new building and the old building. Mr. Schneider said that he would like the decks to remain as decks and not become enclosed.

Mr. Bennett asked about the shed and the covered walkway as it is quasi-connected. Mr. Platt explained that this would require a Variance and would not be part of this Special Exception as this is only for raising the roofline.

Mr. Schneider said that the applicants need to determine the scope of the work that will need to be done. If they are going to disturb the earth they are going to need to go to DES for approval.

Mr. Landry said that in accordance with a Special Exception, the enlarged or replaced structure shall be no higher than 10' than the pre-existing structure. Mr. Simpson said that he would like to review the definition for a non-conforming structure as he does not feel as though non-conforming structures can be changed vertically or horizontally. Mr. Platt said that he feels that putting a roof over a deck is an increase in non-conformity.

There was a discussion regarding the applicants getting septic approval and adding the note that the second structure will not be an independent dwelling unit.

There was also a discussion regarding getting a Variance for the overhanging roof.

Daniel Schneider made a motion to continue this case until such time that the applicant has provided the information requested by the Board. Aaron Simpson seconded the motion. The motion passed unanimously.

CONTINUATION: CASE # 14-08: PARCEL ID: 0225-0040-0000: SEEKING A SPECIAL EXCEPTION AS PER ARTICLE III, SECTION 3.50-B TO REDUCE ROAD FRONT SETBACK FROM 40' TO 35' ALLOWING CONSTRUCTION OF A NEW 8' WIDE DECK. ROBERT & TAMMY GONYO, 22 DEPOT RD.

Robert & Tammy Gonyo withdrew their application for a Special Exception as their case does not meet the requirements and needs a Variance.

Aaron Simpson made a motion to allow the applicants to withdraw their case. Daniel Schneider seconded the motion. The motion passed unanimously.

CASE #14-11: PARCEL ID: 0225-0040-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10 TO REDUCE ROAD FRONT SETBACK FROM 40' TO 35' ALLOWING CONSTRUCTION OF A DECK AND COVERED PORCH AS PER DRAWING. ROBERT & TAMMY GONYO, 22 DEPOT RD.

Robert & Tammy Gonyo and Burt Spaulding presented the merits of the case.

Mr. Spaulding explained that the application states that they are requesting to reduce the setback from 40' to 33' 8", however, per the drawing it is 35' as the Right of Way and the building are not parallel. Also, the further the handicap access ramp went the more it encroached on the 40'. They have therefore determined not to do the handicap access ramp.

Mr. Spaulding said that the Zoning Ordinance does not take into consideration the net use of a lot. The back of the house is close to the top of a large trench. Mr. Spaulding gave the Board pictures of the trench.

Mr. Spaulding said that all of the bedrooms are on the back side of the house which makes it more apropos to put the farmer's porch on the front. Mr. Spaulding says that he feels as though the proposal meets the standards of a Variance. The proposed porch will not be in the Right of Way, it will be 9' from it. Mr. Spaulding said that they have called the Highway Director who told them it is a 3 rod road, which is 49.5' wide. Mr. Spaulding and Mrs. Gonyo measured the lot to find the acreage and all of the measurements on the tax map are correct except for the one line which shows 200' and they measured 203' between the pins. Mr. Spaulding continued that they did not find the front pins, though they found the rear pins and used those to measure forward to find the Right-of-Way really is in relation to the lot. They do not encroach on the Right-of-Way at all.

Mr. Schneider said that if this application is approved he would like to add the condition that the porch and deck not be approved without further approval.

Mr. Spaulding passed around an artist drawing that he did of what the porch and deck will look like. Mr. Platt asked and Mr. Spaulding confirmed that there will not be a roof on the deck.

Mr. Schneider said that there is an Ordinance that would allow them to add a handicap ramp as long as it is temporary.

Mr. Platt said that he does not have a problem with the proposal as they have already established that other houses in the neighborhood are close to the road. Mr. Simpson said that the trench in the backyard is a hardship as it limits what can be done in the back. Mrs. Gonyo asked if she could screen in the porch and the Board determined that they would allow that.

Aaron Simpson made a motion to approve Case #14-11: Parcel ID: 0225-0040-0000: Seeking a Variance of Article III, Section 3.10 to reduce road front setback from 40' to 35' allowing construction of a deck and covered porch as per drawing, Robert & Tammy Gonyo, 22 Depot Rd on the condition that the porch not be enclosed without coming back to the ZBA to obtain a new Variance or Special Exception with the exception that the applicants can screen in the porch if they so choose. Clayton Platt seconded the motion. The motion passed unanimously.

Aaron Simpson made a motion to adjourn at 8:42 pm. Daniel Schneider seconded the motion. The motion passed unanimously.

Respectfully submitted,

Melissa Pollari

_____	_____
Edward Frothingham	Aaron Simpson
_____	_____
Clayton Platt	Daniel Schneider
_____	_____
William Larrow	George Neuwirt, Alternate