

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **JULY 10, 2014**

4 **PRESENT:** Edward Frothingham, Chair, Daniel Schneider, Vice-chair, Aaron Simpson, Clayton Platt,
5 William Larrow; George Neuwirt, Alternate, Roger Landry, Zoning Administrator

6 **ABSENT:**

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

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

9 **MINUTES**

10 Changes to the minutes from the June 12, 2014 Zoning Board Meeting: Change line 124 to read "They
11 would like to build..." Change line 266 to read "...deck not be enclosed without further approval."

12 Aaron Simpson made a motion to approve the minutes as amended. William Larrow seconded the
13 motion. The motion passed unanimously.

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

17 There was no one present for the case.

18 Aaron Simpson made a motion to continue the case until later in the meeting and move to the next
19 case. Clayton Platt seconded the motion. The motion passed unanimously.

20 **CASE #14-12: PARCEL ID: 0113-0022-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10 TO**
21 **REDUCE ROAD FRONT SETBACK FROM 50' TO APPROXIMATELY 39' AS PER DRAWING TO**
22 **ACCOMMODATE CONSTRUCTION OF A GARAGE AND CONNECTOR TO HOUSE. WILLIAM & EMILY**
23 **HACK, 58 RIDGEWOOD RD.**

24 Charlie Hirshberg, of CLD Engineers, and William and Emily Hack presented the merits of the case.

25 Mr. Simpson said that he knows two or three of the applicant's neighbors but he does not feel as though
26 there is a conflict. Mr. Simpson asked and neither the Board nor the applicants had any objections to
27 Mr. Simpson not recusing himself from the case.

28 Mr. Hirshberg explained that the applicants are seeking a Variance to the roadside setback to 38.55' on
29 one side and 43.07' on the other side of the garage. The lot is .25 acres and predates the Zoning
30 Regulations and, like many of the lots on this road, the lot is narrow with 56' of frontage. The minimum
31 lot frontage in this Zone now is 100' and the minimum lot size is 1.5 acres. Mr. Hirshberg continued that

32 the lot sizes make it difficult to place a conventional house and meet the side setbacks which in this case
33 would be 15' because it is a pre-existing lot.

34 Mr. Hirshberg said that in 2003, a Special Exception was obtained to take down the existing house which
35 19' from the water and 10' from the side setback. They placed the new house behind the 50' lakefront
36 setback. Mr. Simpson asked and Mr. Hirshberg confirmed that the stonewall on the plan represents the
37 original house placement. Mr. Hirshberg continued that the house is more compliant than it was but
38 that moving back towards the road the lot gets narrower. Mr. Schneider asked why the Special
39 Exception was needed and Mr. Hirshberg explained that it was for the side setback.

40 Mr. Hirshberg said that the footprint of the existing house is not a big footprint. The lot has a
41 substantial grade and drops down and the driveway goes down and there is an area for parking. The
42 slope of the driveway makes it difficult to control the drainage. In 2003 there was a condition that a
43 drainage swale be put in on the right side of the lot which is shown on the plan.

44 Mr. Hirshberg said that they are proposing the entrance of the garage to be 38.55' from the centerline
45 of the road. If you look at the garages in the area they are all at grade with the road. If the garage was
46 placed at the 50' setback it would be 5' lower than the road. It is harder to control the drainage if it
47 goes right to the garage. There is existing parking at the road and they want to work with that grade for
48 the most part. Currently, the drainage is handled effectively with the flat parking area but once you
49 start to tilt it and bring it down lower there will be bigger issues to control the drainage. If they tried to
50 construct the garage at the 50' point they would need wing walls coming out to control the slope which
51 would go into the setback and would require a Variance.

52 Mr. Hirshberg said that the applicants want to live at the property year round and they have to think
53 about winter conditions. It is a north facing slope and a steep walk to go down to the house. They
54 therefore want an access to get into the house from the garage and wanted a relatively flat grade for a
55 safe access.

56 Chairman Frothingham asked if there were any letters or phone calls that Mr. Landry had received from
57 any abutters. Mr. Landry said that there was one letter from an abutter in support of the applicant's
58 proposal.

59 There was a brief discussion regarding the grade changes. Mr. Hirshberg explained that the plan that
60 the Board has that shows the grades and was done before the house was constructed so it may not
61 reflect the current grades.

62 Mr. Landry said that the proposal is safer than having cars back up onto the road the way that they do
63 currently. The new garage and addition will allow the cars to back out into the parking area and be able
64 to turn around rather than back up onto the road.

65 Chairman Frothingham read the letter in support of the proposal as long as drainage is properly
66 addressed to the Board (see attached).

67 Stuart Caswell, who lives across the street from the applicants, said that he does not have any problems
68 with the plan as long as it takes care of the drainage because the lot takes the drainage from the end of
69 the road as well.

70 Mr. Hirshberg said that right along the edge of the road there is a slight swale that directs the drainage
71 to the right side of this lot. They want to maintain the condition and ensure that the water does not go
72 towards another lot. Mr. Hirshberg said that they will be improving the existing swale on the lot to be
73 able to better handle the drainage. The water does eventually go down to the lake. Chairman
74 Frothingham asked if a rain garden would be appropriate on the site as there will be water coming off of
75 the road with salt. Mr. Hirshberg said that it is possible to do that, however, they would need to create
76 a large flat area to do it. What could be done for the area that is in front of the driveway, up towards
77 where the utility pole, is to put a mechanism in to retard some of the flow. There are high run-off
78 conditions with a lot of velocity and a lot of volume from a lot of area. There was further discussion
79 regarding the run-off.

80 Mr. Neuwirt asked how much more runoff there will be post-construction as opposed to pre-
81 construction. Mr. Hirshberg explained that there will not be a lot more runoff and showed the Board
82 the calculations he made. The lot coverage is currently 25.5% impervious and they are going to drop it
83 down to below 25% by going to pervious surfaces. The driveway is currently bluestone which is not
84 considered pervious. They are looking at a variety of approaches because the options are pervious
85 pavers or pervious pavement and they all have pros and cons. They have to consider the Town plow
86 going by the driveway. They are looking at reducing the amount of impervious but he does not know
87 how far below 25% they will get because they have to maintain the strip along the road and it may
88 remain an impervious section. There was a brief discussion regarding whether the Highway Department
89 salts the roads in the area. Mr. Hirshberg said that he would expect more of a sediment issue in the
90 area rather than an issue with salt.

91 Chairman Frothingham asked that if they are going to put a swale or drainage trench between the
92 driveway and the road could they put in a tank. Mr. Hirshberg said that they could put a basin with a
93 sump in it which would catch sediment. Mr. Hack said that they do not plan on changing the grade for
94 the perimeter of the lot at all. They installed the existing drainage swale in 2003 at the request of the
95 Zoning Board and it has worked well from his perspective. Mr. Hack continued that he did make the
96 mistake of using pea stone instead of larger riffraff which they corrected. They maintain the swale and
97 have only seen trouble in the summer when they have had huge storms.

98 Mr. Landry asked if the State required any changes in the runoff. Mr. Hirshberg said that they are over
99 20% impervious and need to address the drainage. If you are over 30% a storm water management plan
100 is needed. Mr. Hirshberg continued that to him the biggest thing is probably the sediment and if they
101 put anything too big in there they have more of a chance for a blowout. Mr. Hack said that if they put in
102 a tank it will just fill up and he will never be able to keep it clear. There was further discussion regarding
103 the swale and it filling up, including the maintenance that Mr. Hack does.

104 Mr. Simpson asked and Mr. Hack confirmed that there will be a room under the garage. Mr. Hirshberg
105 said that just to get the foundation in the ground they will have a full wall height and they determined
106 that they might as well use the space for storage. Mr. Neuwirt asked and Mr. Hirshberg confirmed that
107 the garage floor will be a suspended slab.

108 Mr. Simpson asked if a Shoreland Permit is needed and Mr. Hirshberg confirmed that they will need one.
109 They wanted to get the Variance before applying for the Shoreland Permit. Mr. Landry said that if the
110 Board approves the application it will have to be subject to obtaining a Shoreland Permit.

111 Mr. Hirshberg said that the garage will have a peaked roof and will have gutters. They are taking the
112 flow over to the riffraff swale. There is no definition down the left side of the property and if water goes
113 down there it would be hard to control. The water will be piped through the frost wall to the connector.
114 There is currently a French drain, also called an interceptor drain, that will continue to be maintained
115 and it catches the water coming down the left side and brings it to the swale. Mr. Neuwirt asked and
116 Mr. Hirshberg confirmed that he believes that the current drainage system will continue to be able to
117 handle the runoff. They are just beefing up the swale a little bit. Mr. Landry explained that when the
118 State looks at the application they will look at the drainage and if it needs any changes they will make
119 note of it.

120 Mr. Schneider said that he would rather wait until the applicants obtain the Shoreland Permit before
121 voting and Mr. Simpson agreed. Mr. Hirshberg said that he can show them the drainage plan which will
122 be what they give for the Shoreland Permit.

123 Mr. Platt asked about the impervious foundation that will have all of the water rushing around it and
124 how it will be handled. Mr. Hirshberg explained that in front of the garage they will be putting in a
125 foundation drain but what they do is set it up a little high so there is a stone reservoir in the ground that
126 has storage capacity and infiltration capacity. The stone reservoir can fill up and if it does then there is
127 the interceptor drain.

128 Mr. Schneider asked about the propane tank and Mr. Hirshberg said that the tank has to move. By code,
129 the propane tank has to be 10' away from the building. The well is not going to move, there is going to
130 be an access on that side of the building. It is a drilled well and they did not want to move it. Chairman
131 Frothingham asked if the well is plastic or galvanized because if it is galvanized they can't do what they
132 want to do. Mr. Hack said that they will need to check with the well company.

133 Mr. Simpson said that there is a circle in the middle of the garage and asked what it is. There was a brief
134 discussion about it and if it could be an old septic tank and it was determined that it may be a tree that
135 was improperly labeled. Mr. Hack said that the area was disturbed during construction of the house and
136 he does not recall anything being hit. Mr. Hack said that he believes that the propane tank and a tree
137 were mislabeled. Mr. Hack said that the propane tank will be moved to the left side of the house
138 looking down the driveway.

139 Mr. Hirshberg said that the walkway will probably be a series of broad steps with stone and flat pavers
140 on the surface. It will meet the criteria of a pervious walkway.

141 Mr. Hirshberg said there are two properties within 500' on one side of the road that have garages close
142 to the road. Also, if you go 650' from this property there are 10 properties that do not meet the road
143 setback, 10 that do not meet the lake setback, and 12 properties that do not meet the side setback.

144 Mr. Schneider asked if there is a label showing how far away the proposal is from the Right-of-Way. Mr.
145 Hirshberg said that it is just over 22'. Mr. Hirshberg explained to Mr. Schneider the setback lines on the
146 Plan.

147 Mr. Schneider asked if the Highway Department has approved the plan. Mr. Landry said that the
148 Highway Department does not have a say in the proposal. There was a brief discussion regarding this
149 matter.

150 There was a discussion regarding whether Ridgewood Rd is a Town road or just maintained by the Town.

151 Mr. Hirshberg said that one of the advantages of having the garage there is that in the winter the cars
152 will not be parked along the road, they will be in the garage.

153 There was a discussion regarding the heights of the structures, the height of the garage cannot be higher
154 than 25' until it reaches the 50' setback.

155 Mr. Hirshberg asked if he could summarize the case. The lot is very narrow and if they could have gone
156 down the side he would have but there is not enough room to do that. The configuration allows them
157 to deal with the drainage and not alter where the current drainage goes nor push drainage onto the
158 other side of the lot. They are clearly in an area where there are issues with setbacks.

159 Mr. Schneider said that because there are issues with drainage on the lot he would like to see the
160 Shoreland Permit before approving the application. Mr. Hirshberg said that they will need to get a
161 Shoreland Permit before getting a building permit.

162 Mr. Larrow asked about accessing the storage room under the garage. Mr. Hack explained that there
163 will be a door to the side of the stairs to access the storage room. There was further discussion
164 regarding this matter.

165 Clayton Platt made a motion to approve Case #14-12: Parcel ID: 0113-0022-0000: seeking a Variance of
166 Article III, Section 3.10 to reduce road front setback from 50' to approximately 38' as per drawing to
167 accommodate construction of a garage and connector to house, William & Emily Hack, 58 Ridgewood Rd
168 subject to the following conditions: the applicants must acquire a DES Shoreland Water Quality
169 Protection approval and all construction must comply with said DES Permit. William Larrow seconded
170 the motion.

171 Daniel Schneider made a motion to amend the motion to say that they are approving the Variance to
172 reduce road front setback from 50' to 38.55'. Aaron Simpson seconded the motion. There was a
173 discussion regarding the amendment. The amendment passed four in favor and one opposed.

174 Aaron Simpson made a motion to amend the motion to include that the approval be subject to the
175 condition that the applicants maintain the drainage requirements as established under Footnote 5 on
176 August 14, 2003, Case #03-3 and shown on the submitted plan. Clayton Platt seconded the motion.
177 There was a discussion on the amendment. The motion passed unanimously.

178 Daniel Schneider made a motion to amend the motion to include the condition that the driveway
179 between the road and the garage and the new walkway shall be pervious surface as shown on the plan.
180 There was a discussion on the amendment. Mr. Schneider withdrew the motion.

181 Aaron Simpson made a motion to amend the motion that when this job is complete there is 25%
182 impervious coverage or less. Clayton Platt seconded the motion. There was a discussion regarding the
183 grandfathering clause and whether it is a taking. The meeting was reopened to the public and Mr.
184 Hirshberg confirmed that they will stay with 25% or less. The motion passed unanimously.

185 Aaron Simpson made a motion to approve the motion as amended three times. William Larrow
186 seconded the motion. The motion passed with four in favor and one opposed.

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

190 Chairman Frothingham reopened the hearing as Mr. Simpson had some questions about the discussion
191 at the last meeting.

192 Mr. Simpson said that Mr. Landry told the Board that the structure is non-conforming and has been
193 abandoned. He is not sure how a building is abandoned if it is still there. Mr. Simpson questioned how
194 the Regulations define when a building has been abandoned. The grandfathering language talks about
195 Uses. Mr. Larrow said that he read the whole discussion and came to the conclusion that a person can
196 build on an existing footprint if it has been abandoned but it cannot be a dwelling unit. Mr. Simpson
197 said that the only reason that this was a conclusion is because Mr. Landry said it. Chairman Frothingham
198 said that because the structure was not lived in for two years they lost the right to do that. Mr. Simpson
199 said that in that Zone a lot is permitted to have two dwelling units and it is a pre-existing lot. Mr.
200 Simpson said that it is a structure, it is not a Use, you lose a Use, you do not lose a structure. Mr. Landry
201 said that it cannot be a residential dwelling because the Use has been expired for more than two years.
202 Mr. Simpson said that it is a permitted Use which is a matter of right. Mr. Landry said that when
203 something stops being used you have two years to bring it back or it stops being a Use. Mr. Landry said
204 that this is not permitted as a matter of right because the lot is too small and will not hold two dwelling
205 units. Mr. Landry said that the septic system has been redesigned for four bedrooms and submitted to
206 the State. The replacement building cannot exceed two bedrooms and there are no kitchen facilities. It
207 will be replaced in the same footprint. Mr. Landry read his letter to the State to the Board (see
208 attached). There was further discussion about Use and permitted right.

209 There was a discussion regarding how long to continue the case. Mr. Landry asked the Board to allow
210 him to contact the applicant and see what he is planning on doing.

211 Clayton Platt made a motion to adjourn at 8:09 pm. Aaron Simpson seconded the motion. The motion
212 passed unanimously.

213 Respectfully submitted,

214 Melissa Pollari

215

216 _____

217 Edward Frothingham

Aaron Simpson

218 _____

219 Clayton Platt

Daniel Schneider

220 _____

221 William Larrow

George Neuwirt, Alternate