

1 TOWN OF SUNAPEE

2 ZONING BOARD

3 MARCH 8, 2012

4
5 **PRESENT:** Alex Kish, Chairman; William Larrow, Charles Balyeat, Aaron Simpson, Alternate, Roger
6 Landry, Zoning Administrator

7 **ALSO PRESENT:** See attached Sign-in sheet

8 **NOT PRESENT:** Edward Fronthingham, Dick Katz,

9 Chairman Kish called the meeting to order at 7:00PM.

10 Chairman Kish continued reading the Zoning Board minutes from the February meeting until the April
11 meeting.

12 Roger Landry reported that there was no Planning Board meeting March 1st as there was a storm, they
13 will meet on March 16th.

14 Chairman Kish advised the applicants that with only three board members present, in order to have a
15 case approved all three members would have to vote for unanimously for approval. Chairman Kish said
16 that if the applicants wanted to continue their cases to the April meeting they could do so.

17 **CASE 12-04, PARCEL ID: 0137-0011-0000, SEEKING A VARIANCE OF ARTICLE III SECTION 3.10 TO**
18 **REDUCE ROAD FRONT SETBACK FROM 75' TO 48' TO ALLOW CONSTRUCTION OF A 26' X 30' TWO**
19 **STORY ADDITION – RICHARD BLY – 127 EDMONT RD**

20 Richard Bly decided to proceed with and presented his case. Mr. Bly stated that there was previously
21 another building that had to be removed due to a leak at the site where he would like to put the
22 addition. The area will be used for a garage with inside stairs to the upstairs apartment. Removal of the
23 building created a hardship due to snow and such. The upstairs addition will include room for a pellet
24 stove. Mr. Bly was asked why he didn't rebuild after tearing the previous structure down and Mr. Bly
25 said that it was a financial decision.

26 Chairman Kish asked if the garage underneath would be expanding the business that Mr. Bly has on his
27 property. Mr. Bly said it is not going to be used for his business as the stairs to the apartment would be
28 in the addition he would also be storing vehicles in the garage.

29 William Larrow said he had visited the property and had some questions regarding the property. Mr.
30 Larrow didn't know if the building was a multi-family residence, a business, or all of the above. Mr. Bly
31 said it is a two-family dwelling (there is also a machine shop business run out of the building). The
32 property is on town water and sewer. They are not looking to add a third apartment with the addition.
33 There is currently a slab that Mr. Bly installed last year that is where the proposed addition is located.

34 The roofline will match what is currently on the building. There was further discussion regarding the
35 current structure and the position of the building from the road.

36 Chairman Kish recognized the addition of Aaron Simpson to the meeting and Mr. Simpson sat in for
37 Edward Frothingham. Chairman Kish and Mr. Bly relayed the details of the case that had already been
38 presented to Mr. Simpson so that he could vote on the case.

39 Chairman Kish advised Mr. Bly that should he ever decide to expand his current machine shop into the
40 space he would have to go in for a Site Plan Review. There was some confusion regarding the drawing
41 that Mr. Bly had brought to Roger Landry as it included a building that Mr. Bly may decide to do in the
42 future.

43 Mr. Landry was asked if there was anything that had to be addressed with the State of New Hampshire
44 as Route 103B is a State Road. Mr. Landry confirmed that there is nothing that needs to go to the State.
45 Mr. Landry was asked about building codes and putting a garage below a house. Mr. Landry stated that
46 the Town of Sunapee has never adopted building codes and though the State might have codes relating
47 to the issue, the Town does not enforce building codes. Also, Mr. Landry said that for insurance and
48 such, the applicant should be made aware that if the addition could violate State building code.

49 Mr. Bly gave a more detailed history of the building and what is currently in the different areas of the
50 building. Chairman Kish restated the details to make sure everyone understood the case. The
51 apartment upstairs will be expanded and in order to access the expansion there will be a room
52 downstairs with a stairway and it will be used as a garage. Mr. Bly was asked if the outside stairway was
53 the only stairway and he stated that there was also a stairway through their house that could be used
54 for ingress and egress. Mr. Larrow wanted to make sure that the fire codes were being met and that
55 they were not agreeing to something that would be going against the fire codes. Mr. Balyeat asked if
56 another access route would be added to the building sometime in the future. Mr. Bly said that he will
57 be looking to do something in the future but the addition of the garage will add at least another set of
58 stairs and they have windows.

59 There was a discussion regarding the Zone the property is in and it is now in Village Residential. Mr.
60 Larrow recommended that any vote should say that approval will be made with a condition that the
61 addition meets the approval of the Fire Chief for the safety of Mr. Bly and his family.

62 Chairman Kish asked Mr. Landry if all the abutter's notices were received back. Mr. Landry confirmed
63 they had and also recommended that a letter received from an abutter be read for the record.

64 Chairman Kish read the letter from Ralph Tagliatela opposing Case 12-04 (See Attached).

65 Chairman Kish asked if Mr. Bly wanted to comment on the letter from the abutter to his property.
66 Chairman Kish said that the abutter's primary concern appeared to be that Mr. Bly would be expanding
67 his shop. Mr. Bly said that he is not planning on expanding his shop to the addition. Also, Chairman Kish
68 said the abutter's issue with increased commercialization is negated as Mr. Bly is not expanding his
69 shop. Chairman Kish asked about the abutter's comments that the building and grounds are not

70 maintained and the building is in poor condition and that it has reduced the value of Mr. Tagliatela's
71 property. Mr. Landry said that the Town of Sunapee does not have a policy that says that a yard has to
72 be clean. Chairman Kish asked if the abutter has applied to the Assessor to have his property reassessed
73 and reevaluated. Mr. Landry said that though he could Mr. Landry doesn't believe Mr. Tagliatela has
74 asked for a reevaluation of his assessment. There was further discussion regarding the abutter, such as
75 the length of time he has owned the property and who currently lives in the house. Chairman Kish also
76 asked about the cord wood business that Mr. Tagliatela said was being run on the property. Mr. Landry
77 stated that the business has been addressed with Mr. Bly and has stopped. Mr. Bly said that he wanted
78 to do the addition so that his property would look better and agreed that it would enhance not only his
79 property value, but the value of the neighbor's property.

80 Chairman Kish said he wanted to ensure that all of the abutter's concerns were addressed: Mr. Bly is
81 able to conduct his machine business due to pre-existing conditions; Mr. Bly wants to expand his
82 building but not for business purposes; the neighbor implies that the house and grounds are not being
83 maintained and are an eyesore, Mr. Bly counters that by having the construction done it will improve
84 the aesthetic appeal and potentially increase its value and become more conforming to the aesthetics of
85 the neighborhood; the implication that the business is selling wood Mr. Bly has ceased to do so and will
86 not do so in the future; that part of the reason to expand is to provide safe ingress and egress, Chairman
87 Kish does not feel that this reason is an excuse, he believes it has merit; Chairman Kish disagrees that it
88 would increase the commercial use as the applicant has assured the Board that it will not; the applicant
89 is obligated to go before the Board to increase the commercial use.

90 Chairman Kish confirmed that there were no other abutters present and no other comments or letters
91 from abutters.

92 William Larrow made a motion to approve Case 12-04, Parcel ID 0137-0011-0000, seeking a variance of
93 Article III Section 3.10 to reduce road front setback from 75' to 48' allowing construction of a 26' x 30'
94 two story addition – Richard Bly – 127 Edgemont Road with two conditions. The first condition is that if
95 the lower level expands into the business area, it would require a Site Plan Review. The second
96 condition is that the egress be approved by the Fire Chief for the second story addition egress in and
97 out. Aaron Simpson seconded the motion. The motion passed unanimously.

98 Mr. Bly asked if he could add a second set of stairs to the approval. Mr. Landry advised that Chief
99 Ruggles has to be satisfied that the ingress and egress is safe and could sign off on the other set of stairs.
100 The stairs cannot be added to this approval.

101 **CASE 12-05, PARCEL ID: 0104-0020-0000, SEEKING AN ADMINISTRATIVE APPEAL OF ZONING**
102 **ADMINISTRATORS CEASE AND DESIST ORDER ON AN AUTO BODY REPAIR BUSINESS IN OPERATION IN**
103 **A RESIDENTIAL DISTRICT WITHOUT PLANNING & ZONING APPROVALS – DONNA DAVIS – 15 PROSPECT**
104 **HILL RD**

105 William Larrow recused himself from the case.

106 Chairman Kish read a letter from Judith Whitelaw, Town Counsel to Friedrich Moeckel, the Attorney for
107 Donna Davis. (See Attached)

108 Chairman Kish said that basically the letter was a request from the applicant has requested, at the
109 Zoning Board's suggestion, that the case be continued to the April 12th Zoning Board Meeting. Aaron
110 Simpson made a motion to grant a continuance on Case 12-05, Parcel ID: 0104-0020-0000, an
111 administrative appeal of Zoning Administrators cease and desist order on an Auto Body Repair business
112 in operation in a Residential District without Planning & Zoning Approvals – Donna Davis – 15 Prospect
113 Hill Rd. Charles Balyeat seconded the motion. The motion passed unanimously.

114 **OTHER BUSINESS**

115 Chairman Kish presented William Larrow's submission an application to the Zoning Board his desire to
116 act as an Alternate. Aaron Simpson made a motion to approve the request of William Larrow to become
117 an Alternate to the Zoning Board. Charles Balyeat seconded the motion. The motion passed
118 unanimously. There was further discussion on whether Mr. Larrow should, for legal purposes, resign
119 from the Board before being accepted as an Alternate as his term is still active until after the Town
120 Meeting. Aaron Simpson made a motion to reconsider the vote on Mr. Larrow becoming an Alternate.
121 Charles Balyeat seconded the motion. The motion passed unanimously.

122 William Larrow submitted his resignation to Chairman Kish effective immediately, March 8, 2012 at
123 7:55pm. Chairman Kish read the letter for the record (See Attached). Aaron Simpson moved to accept
124 the resignation of William Larrow as a member of the Zoning Board. Charles Balyeat seconded the
125 motion. The motion passed unanimously.

126 Aaron Simpson made a motion to reconsider William Larrow's application to the Zoning Board to
127 become an Alternate member and approve the application. Charles Balyeat seconded the motion. The
128 motion passed unanimously.

129 Aaron Simpson made a motion to adjourn the meeting. Charles Balyeat seconded the motion. The
130 motion passed unanimously.

131 The meeting was adjourned at 7:55 PM.

132 Respectfully submitted,

133 Melissa Pollari

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140 Alex Kish, Chairman

Charles Balyeat

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142 _____

143 William Larrow

Dick Katz

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145 _____

146 Edward Frothingham

Aaron Simpson, Alternate

Mr. Roger J. Landry
Zoning Administrator
Town of Sunapee
23 Edgemont Rd.
Sunapee NH 03782

Re: Application of Bly, 127 Edgemont Road, Sunapee, NH

Dear Mr. Landry:

I write to oppose the application of Richard Bly who, under his wife's name, Raylene Bly, conducts the business of a machine shop which is publicly described as custom metal fabrication, sheet metal, machining, assembly laser cutting, punching and bending as part of the residence commonly designated as 127 Edgemont Road.¹ My understanding is that this business use in a residential area is "grandfathered" as it would otherwise probably be an inappropriate use in the defined residential area. Mr. Bly's application is to extend the shop portion, the 1st storey of a 2-storey building, under the claim that the extension is to enclose a stairway to the living quarters on the 2nd storey.

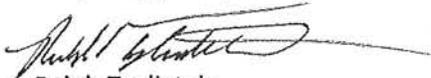
The existence and the manner of operation of this industrial business – along with the failure to maintain the house and the grounds – has created a continuing "eyesore" and expansion – which will enlarge the shop-area – will only exacerbate existing conditions and further "commercialize" this residential area bring increased traffic and operational noise and air pollution. Mr. Bly, I am informed, attempted without authorization to conduct a business of selling wood on the property which was subsequently barred which supports the inference that the present application's real basis is to increase commercial use of the building.

The Sunapee Zoning ordinance uniformly requires a 75' front setback (See Article III, §3.10 Table of Dimensions). The reason advanced for this variance is to enclose a stairway for the safety of the children resident in the 2nd storey. Reference to child safety, children who are of school age and who must regularly and have regularly climbed stairs, seems to be an excuse for expanding the shop premises than safety. The stairs in question have been in existence for a number of years prior to this application without any issue of "safety" being brought forth.

While I would note that any application for a variance is insufficiently made out, granting this variance will allow the increased commercial use of the Bly property, extend the mismatched building sprawled close to the road, and create a greater eyesore for neighbors, townspeople and visitors to our community. The poor building and grounds maintenance has reduced the value of my property and surrounding properties and depresses sales values and adversely affects the marketability of the truly residential homes in the area.

For these reasons I would request that the application for a variance be denied.

Very truly yours,


Ralph Tagliatela

¹ The business is listed and described at www.manta.com and is noted as being established and incorporated in 1996.

Hi Fritz –

I am writing to follow-up our telephone call regarding the issues raised below, and to confirm that your clients would like to postpone the hearing on their administrative appeal to the April 12, 2012, ZBA meeting. The ZBA will announce at the March 8, 2012 meeting that the applicant has requested a continuance to April 12, 2012, and that further notice will not be required. Also, for Roger's benefit, I understand that you are in the process of compiling a submittal for the ZBA's consideration at the April 12th hearing.

Please don't hesitate to call if you have any questions. Thanks.

Jae

Jae Whitelaw
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