

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **FEBRUARY 7, 2019**

4 **PRESENT:** Daniel Schneider, Chair; Aaron Simpson, Vice Chair; James Lyons, Jr.; William Larrow; Jeffrey
5 Claus, Alternate; Clayton Platt, Alternate; Nicole Gage, Zoning Administrator

6 **ABSENT:** George Neuwirt

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

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

9 Mr. Lyons made a motion to approve Mr. Claus to sit in as a voting member for the meeting. Vice Chair
10 Simpson seconded the motion. The motion passed unanimously.

11 **MINUTES**

12 Changes to the minutes from January 3, 2018: Change Line 10 to read "...approve Mr. Claus as a voting
13 member for the meeting." Change Line 24 to read "...accessed from the south side of the property."
14 Change Line 16 to read "Mr. Platt arrives. Chairman Schneider informed Mr. Platt that Mr. Claus was
15 elected as a voting member.". Change Line 31 to read "...there is no access in the middle..."

16 Mr. Lyons made a motion to approve the minutes as amended. Mr. Larrow seconded the motion. The
17 motion passed unanimously.

18 **REQUEST FOR A REHEARING: CASE #ZBA19-01: SUSAN KENT: PARCEL ID: 0104-0006-0000: 1008**
19 **MAIN ST, GM; VR W/SHORELINES OVERLAY; VARIANCE TO ALLOW A 29 FT SETBACK TO THE STREAM**
20 **FOR A 9 X 10 FT ROOF STRUCTURE, WHERE NORMALLY A 50 FT SETBACK IS REQUIRED, PER ARTICLE III,**
21 **SECTION 3.40 (C) OF THE SUNAPEE ZONING ORDINANCE.**

22 Chairman Schneider said that there is a letter from Ms. Kent's attorney requesting that if the rehearing
23 is granted that the meeting be held in April rather than March and if the rehearing is granted, the Board
24 will need to vote on extending the 30 day provision.

25 Vice Chair Simpson asked if it is appropriate to look at all the materials, such as the DES Permit, to
26 determine if the Board will grant the rehearing. Ms. Gage said that she gave the Board copies of the
27 original application and asked if Vice Chair Simpson believes that the Board should only look at the
28 documents Attorney Hanson submitted with the request for the rehearing. Vice Chair Simpson said that
29 Attorney Hanson cites Case Law regarding DES Permits in his letter. He took the opportunity to read the
30 Case Law that was cited and it is a three judge decision with no precedential decision in a court; it was
31 published for information purposes. This does not mean that the whole Supreme Court would not
32 agree, however, it was only three judges who made this decision; this is how cases are expedited off the
33 docket without having five judges hear the case. Therefore, the decision that Attorney Hanson cited is

34 not binding on the court system and is probably not binding to the Board. Vice Chair Simpson continued
35 that the basis for the citation is to say that because DES has issued a permit, there has been a finding.
36 Mr. Larrow asked if Attorney Hanson is saying that there has been a finding of law since DES agreed to
37 the Shoreland Permit. Vice Chair Simpson said that this is a Permit by Notification and DES did not make
38 any findings and Attorney Hanson is saying that DES didn't see any adverse impact on Muzzey Brook.
39 However, the cited case didn't really say that, nor is that decision binding. Mr. Lyons said that many of
40 the surrounding Towns have regulations that are stricter than the State's and that the Board should be
41 allowed to interpret the Ordinance independent of the State. Chairman Schneider agreed with this and
42 said that the State does not adjudicate Zoning.

43 Vice Chair Simpson said that Attorney Hanson said that the apartment is a "permitted use" and he is not
44 sure that the Town previously permitted the use as it is not an accessory dwelling unit. He knows that it
45 is on the tax cards, however, he does not know if it has ever come before the Town as a two family
46 dwelling unit. Chairman Schneider said that it is his understanding that it is a pre-existing non-
47 conforming use. Vice Chair Simpson said that he does not know if there has been any finding on that.
48 Mr. Platt suggested asking the Zoning Administrator. Ms. Gage said that she has researched and the use
49 has been existing for a long time. Vice Chair Simpson asked if the use existed before Zoning was
50 adopted in 1987 as that is a pre-existing non-conforming use. Mr. Claus said that Ms. Gage put in the
51 original packet that the structure was built in 1973 and the Water and Sewer Department have bills
52 going back 21 years to 1997 showing that the structure has been billed as a two-unit dwelling unit since
53 then. Vice Chair Simpson said that Attorney Hanson said that it is a permitted use and there have been
54 no findings to determine that it is a permitted use. Chairman Schneider said that even assuming that it
55 is a pre-existing non-conforming use then it a permitted use, however, under the current Zoning
56 Ordinance, it is not an allowable use. If something is not an allowable use then by definition it should
57 not be considered a reasonable use. Therefore, if something is a reasonable use then it means that the
58 Zoning Ordinance is unreasonable, which is not the Board's place to determine, it is the voter's place.
59 He does not think that the apartment can be considered a reasonable use if it is not permitted under the
60 current Zoning Ordinance. Ms. Gage said that it may be permitted now under the ADU guidelines.
61 Chairman Simpson said that they did not ask for an ADU and if they do ask for an ADU the Board will
62 consider it at that time. Mr. Platt asked if what is being said is because this is a pre-existing non-
63 conforming use, that the safety of the ingress and egress from the pre-existing non-conforming use is
64 not a reasonable argument. Chairman Simpson said that he is saying that it is not considered a
65 reasonable use because it is not permitted by the current Zoning. Mr. Platt said that the Board has
66 granted these Variances in the past, include after-the-fact Variances on Burkehaven Hill and Westwood
67 Rd, which was for a roof over an existing doorway. The same argument was made that when you live in
68 New England you have snow and raining falling on you when you leave your doorway. Vice Chair
69 Simpson said he voted against that case. The Board discussed that the Burkehaven Hill Rd case was for a
70 front porch for someone who pleaded ignorance to the law requiring permits.

71 Chairman Schneider said that Attorney Hanson calls it an "existing entry area situated entirely in the 50
72 ft setback from the area of water known as Muzzey Brook" and the entry was not existing prior to the
73 unpermitted construction. Mr. Platt said that he thinks that is debatable. Chairman Schneider said that

74 is not where the entry was before the construction. Mr. Larrow said that the entry was not there; there
75 was a window that was turned into a slider and then there was a tarp hanging over the deck and over
76 the door. Mr. Claus said that he feels as though the entry point is irrelevant. Vice Chair Simpson said
77 that the hardship is to protect from snow. Mr. Claus said that where the entry point is irrelevant if you
78 look at the case to determine if the property can be reasonably used in strict conformance of the
79 Ordinance as it stands right now and the answer is yes. There is a pathway to get to the entrance; a roof
80 structure over an entrance is not a necessity, though it is a nice thing to have. The Ordinance deals with
81 the 50 ft setback for structures, not pathways or the access point; the issue is the roof that has been
82 built into the setback. There was further discussion regarding this matter.

83 Mr. Claus said that he thinks that the argument is regarding the hardship as that is the decision the
84 Board made. Mr. Larrow said that there is not a hardship. Mr. Claus said that the property under the
85 strict compliance of the Ordinance is fully usable without the roof. Vice Chair Simpson said that in some
86 level he thinks that the roof is reasonable. Mr. Claus said that the roof structure is not an unreasonable
87 request, however, there is no hardship for it. Mr. Larrow said that he does not think that anyone is
88 saying that the roof is unreasonable. Vice Chair Simpson said that Chairman Schneider said that by the
89 Zoning Regulations the use is not reasonable. Chairman Schneider said that he was not talking about
90 the roof but about the use of the property. It is not permitted but under the current Zoning Ordinance it
91 is not reasonable and if the Board does think it is reasonable then the Zoning Ordinance is unreasonable.
92 Vice Chair Simpson said that he thinks that the Board should base their decision on whether the
93 proposal is reasonable. If Chairman Schneider's corollary is followed to the nth degree then every
94 application is unreasonable because it would violate the Ordinance, which is why they need a Variance
95 request. Chairman Schneider said that he is talking about the use. Mr. Platt said that the State
96 mandated accessory dwelling units so to say that a second dwelling unit is unreasonable does not make
97 any sense to him. Chairman Schneider said that Ms. Kent could request a Special Exception for the
98 accessory dwelling unit. Mr. Platt asked why she would request an accessory dwelling unit when the
99 apartment already exists. Chairman Schneider said that it is then a grandfathered second unit. Mr.
100 Larrow said he thought that the Board was dealing with the hardship and relationship to the roofs
101 location to the brook and that there is a permit for the roof. He does not think it needs to be taken
102 further than this. Vice Chair Simpson said that he does not think that the analysis of the case should
103 have been started before the Board considered if it was a permitted use. Mr. Larrow said that they are
104 taking it beyond the scope of what was discussed at the last meeting. Vice Chair Simpson said that he
105 gave the benefit of the doubt that it was a permitted use as he knows it has been there for a long time.
106 Mr. Platt asked if the Town of Sunapee says it is a permitted use why the Board would not say it is a
107 permitted use; if Ms. Gage says that it is a permitted use then it is. Vice Chair Simpson said that Ms.
108 Gage did not say it was a permitted use, she said that the records indicate that there have been two
109 connections there for 21 years; that is not the same as saying that it meets what the Ordinance says and
110 that it is a permitted use. Mr. Platt asked if it is the burden of the applicant to go to the Town Office and
111 be told that it is a pre-existing use to then go to neighbors to get documentation that it is a pre-existing
112 use. Vice Chair Simpson said that the Board has required people to do this, for example, for the
113 apartments on Prospect Hill Rd. Mr. Platt said that they were talking about increasing the use in the
114 building. Vice Chair Simpson said that they were doing upgrades and when they checked it only listed

115 five apartments, not six, and the Board made them establish that there were six apartments. Mr. Claus
116 said that there is a ten year window that the Town does not know about as the Ordinance was adopted
117 in 1987 and the records go back to 1997; it would have been in the applicant's favor if Ms. Gage could
118 have found records going back to 1986, however, this seems like a whole other case. Vice Chair
119 Simpson agreed and said that he gave them the benefit of the doubt. Chairman Schneider said that it
120 would be up to the Zoning Administrator to determine that the use was not permitted and it would then
121 be up to the applicants to come before the Board to appeal that decision. She has not made that
122 decision and it is not up to the Board to make that decision. Ms. Gage confirmed that she did not go in
123 that direction, however, she can do some research with the Town Manager and see if based on the
124 history, how long the Town has been taxing this as a two dwelling unit, and if it was in error to see if this
125 is something she should pursue. Chairman Schneider asked and the Board did not see the point of Ms.
126 Gage doing this.

127 Mr. Claus said that the Board had two reasons for denying the application. At this point, all they are
128 doing is looking back and seeing if their decision still holds true after reading the attorney's argument.
129 The Board cannot come up with any other conclusion, they just need to determine if their decision can
130 be defended based on the attorney's argument. Vice Chair Simpson said that he thinks that the Board
131 needs to look at how they may have misapprehended the law or facts. There was a case that was
132 brought before the Board for an entrance for an elderly person and there was a provision of the law that
133 which the Board did not know about until the motion for a rehearing was made; that was a mistake of
134 the law and was a legitimate reason for a rehearing. Ms. Gage said that RSA 677:2 speaks to how a
135 motion for a rehearing has to lay out every possible grounds for the rehearing.

136 Mr. Platt said that he thinks that the bulk of the conversation at the original hearing had to do with the
137 fact that it was an after-the-fact permit and that the roof was already there and the applicant had acted
138 badly and it was not in the public interest to grant a Variance if she acted badly. He thinks that is a
139 misinterpretation of the law and there is nothing in the Ordinance that says that if you violated the
140 Ordinance you cannot get a Variance. Mr. Larrow said that he left the meeting thinking that the
141 applicant made a mistake and came in after-the-fact for the roof. He then looked at Attorney Hanson's
142 discussion in terms of the Variance and the hardship that was being created. He felt as though it was
143 two parts and it was not to penalize the applicant because she did not get a permit. He did not think
144 that Attorney Hanson proved the hardship and that is how he voted. Mr. Claus said that there was a
145 discussion that the Board was disappointed in the way that it was done as it was not ideal. However, he
146 does not think that it showed up in the Board's decision and he hopes that it did not influence their
147 decision. He thinks that the Board's decision was based on the fact that there was no hardship. Mr.
148 Larrow said that he does not think that anyone on the Board was out to get the applicant. Mr. Claus
149 said that there were members of the Board who voiced their dislike to it being an after-the-fact
150 application; especially as there were multiple after-the-fact permits needed. Mr. Larrow said that he
151 feels as though the Board gave the applicants all the opportunity in the world to prove something. He
152 did not take it as a personal attack, he took it on the hardship situation.

153 Mr. Claus said that he approached this by reading each of Attorney Hanson's arguments and then
154 looked to see if the Board mis-stepped or misinterpreted anything. He did not see anything that

155 changed his decision regarding the lack of hardship; the property can continued to be used without the
156 roof. Mr. Platt said that is not necessarily the current reason for hardship. It is not just that you have
157 reasonable use of your property and this is just something extra; it is asking if the proposed use is
158 reasonable, therefore, is a roof over your door reasonable and does it have an impact on the brook. He
159 feels as though the last several years the Board has become very focused on protecting the Zoning
160 Ordinance rather than looking at the situations. He does not see how a small roof will have an impact
161 on Muzzey Brook or Lake Sunapee, especially as there are hundreds of tons of salt and sand dumped on
162 the roads. The house is already there and the lot is already non-conforming so it isn't as though Ms.
163 Kent can put the roof anywhere else. The purpose of Zoning is to help people with non-conforming lots
164 when they do not have enough land to build something. Mr. Larrow asked if Mr. Platt feels as though
165 the applicant is being penalized as opposed to enforcing the Ordinance and the if there was a possibility,
166 the Board would fine her. Mr. Platt and Ms. Gage said that the applicant did pay after-the-fact fines.
167 Mr. Larrow said that the Board is not penalizing the applicant, the applicant has already been penalized.

168 Mr. Claus asked if the Board is allowed to interpret the impacts of building in the 50 ft setback or do
169 they just need to adhere to the 50 ft setback. Mr. Platt said that he thinks it is the Board's job to look at
170 the impact because there is already a house 29 ft from the brook.

171 Mr. Platt said that he did not recuse himself from this case because he did the survey for the applicant
172 for her shed. He did not know that she was going to do the roof structure and he was not part of it.
173 Chairman Schneider said that recusal is voluntary on the Board member. Vice Chair Simpson said that it
174 is a decision for each Board member to make and the survey was for the shed.

175 Mr. Claus said that Attorney Hanson says that the NH Supreme Court says that "to be contrary to the
176 public interest and inconsistent with the spirit of the Ordinance, the Variance must unduly and in a
177 marked degree conflict with the Ordinance such that it violates the Ordinance's basic Zoning objective
178 and asked if this proposal violates the Ordinance's basic Zoning objective". Vice Chair Simpson said that
179 it depends on what is cited for the objective of the Ordinance as there are a couple of revisions that can
180 be looked at. Chairman Schneider said that he is the one who brought it up as he asked if after-the-fact
181 Variances are granted on the same basis as pre-construction Variances what incentive anyone has to
182 request a pre-construction Variance. Vice Chair Simpson said that he did look at that after the last
183 hearing and he did not find anything about it. There has not been a decision made that says the Board
184 cannot, or can, consider the fact that it is after-the-fact. Vice Chair Simpson continued that if he were to
185 consider it at all, he would look at if it was innocent or not. Chairman Schneider said that, in his opinion,
186 this was not as they did not ask for an Equitable Waiver, however, one of the primary criteria for an
187 Equitable Waiver is the intent and if it was an honest mistake. Vice Chair Simpson asked and Chairman
188 Schneider said that he does not believe the Board wants to go further into this matter.

189 Vice Chair Simpson said that the purposes of Zoning Ordinances is to protect the health, welfare, and
190 safety of the community and decisions have been made about setbacks being appropriate in certain
191 areas and what those setbacks are. Vice Chair Simpson asked if that is the public interest or the spirit of
192 the Ordinance. Mr. Lyons said that one of the words used is "atmosphere" as "the purpose of the
193 Ordinance is to preserve vitality, atmosphere and varied economic forces of the Town". When he went

194 through the minutes it looked like the Board turned it down for two reasons. The first is that it did not
195 constitute a hardship and the other was that it was contrary to the public interest. One of the things he
196 considered was that they had argued that the Main St side of the house was the public view of the
197 house but it is not. Driving down Route 11 there is a picturesque cemetery and then this house is right
198 next to it and he'd argue that it may not quite be the atmosphere that you would expect in a little
199 hamlet like Georges Mills. Chairman Schneider said that it is not the Board's job to determine
200 aesthetics. Mr. Lyons said that the argument was that this does not affect public interest but he is not
201 sure that driving down Route 11 someone who might be looking at Georges Mills for the first time might
202 not see the quiet hamlet they might expect. Mr. Platt asked if this would be because of the 90 sq ft roof
203 on the house. Mr. Lyons said that the line has to be drawn somewhere.

204 Mr. Lyons said that he was also concerned about the runoff from the roof and Attorney Hanson
205 dismissed that concern by saying that DES has already drawn judgement on it. He does not think that is
206 quite the right answer. The right answer should have been to acknowledge that they are within the
207 brook setback and to say that they will take precautions to mitigate the speed that the water hits the
208 ground and runs into the brook, which is not far from the Georges Mills part of the Lake. Mr. Platt said
209 that to the State, a Permit of Notification means that the project is so minor that you don't need a
210 drainage analysis or engineer. Mr. Lyons said that the Zoning Ordinance requires a 50 ft setback and the
211 roof comes into that 50 ft setback.

212 Mr. Larrow said that if the Board grants the rehearing based on what Attorney Hanson has said, the
213 Board has misinterpreted what hardship really is and the Board is in the position to revise their decision.
214 All attorneys will tell you how to think; that is their job. Vice Chair Simpson said that it is not how to
215 think, it is how to present.

216 Vice Chair Simpson said that the submitted Variance application says "granting the Variance would not
217 be contrary to the public interest because it is private property". He did not hear Attorney Hanson say
218 that, however, he thinks that it speaks to Ms. Kent's understanding. Mr. Lyons said that the Board
219 cannot penalize someone because of that. There a discussion regarding the fact that not a lot of people
220 understand Zoning and the regulations.

221 Mr. Larrow said that he does not think that there is any public interest as there may only be a few
222 people who use the entryway. Mr. Platt said that the application does not ask if it benefits the public
223 interest, it asks if it is contrary to the public interest. Nothing that you put on your property would
224 benefit public interest as it is not built for the public. Mr. Larrow said that it applies because the public
225 visit properties. Mr. Claus said that the public part of this would be the purpose of the 50 ft setback and
226 that the Town, who is the public, voted it in. If there were certain members of the public at the meeting
227 who were concerned with environmental issues, this would be a very big deal. There are other people
228 who would look at the 90 sq ft impervious surface and not care at all. Mr. Platt said that a driveway can
229 be built in the 50 ft setback as can an impervious patio. If it mattered so much to not have any
230 impervious surface built in the 50 ft setback, nothing would be allowed. Mr. Claus said that to him the
231 public interest has to do with the environmental protection that the setback is in place for; the visual
232 impact is not an issue.

233 Vice Chair Simpson said that he thinks that the Board decided this on hardship and Mr. Claus agreed.
234 Vice Chair Simpson said that one thing that Attorney Hanson says is that the roof is no closer to the
235 brook than the house. Mr. Larrow said that he does not think that is a true statement and Vice Chair
236 Simpson agreed. Mr. Platt said that he thinks it looks like a true statement. Chairman Schneider said
237 that even if it is a true statement it increases the envelope of the house. Mr. Platt asked if the purpose
238 of Zoning is to not allow people to increase the envelope of their house. It seems as though the Board
239 has decided that the purpose of Zoning is to not allow people to increase the footprint of their non-
240 conforming houses and he does not think that is the purpose of Zoning. Chairman Schneider said that
241 they changed the Ordinance so that it depends on where the envelope is increased. For example, Ms.
242 Kent built a deck and did not need a Variance because it was not within the setback. Mr. Claus and Mr.
243 Larrow said that they have determined that the deck is one foot closer to the brook.

244 Vice Chair Simpson said that Attorney Hanson has made a suggestion that the Board treated this more
245 harshly because it is after-the-fact. Looking at the criteria and looking at if the Board applied them
246 fairly, an issue is that Ms. Kent's reasoning and Attorney Hanson's reasoning are not even the same
247 arguments. He thinks that on some level the roof is a reasonable thing to add to a house, however, it is
248 not a hardship.

249 Mr. Claus asked if this case was to go to court, does the Board feel as though they legally have good
250 footing and nothing has been mis-interpreted with the Ordinance. Vice Chair Simpson said that he does
251 not think that it should be part of the Board's consideration whether it is worth fighting this in court.
252 Mr. Claus said it answers itself if the Board feels as though they are doing this to the letter of the
253 Ordinance. Mr. Larrow said that what they think is how they voted and the Board has the chance to
254 reverse that or not. Mr. Lyons said that he is concerned about how the comments made about the
255 after-the-fact application might appear if it becomes subject to litigation. Vice Chair Simpson said that
256 they may get a decision from the courts that will be instructional for future cases.

257 Vice Chair Simpson said that one thing that Attorney Hanson does discuss is the first part of the hardship
258 criteria which says that "owing to the special conditions of the property that distinguish it from other
259 properties in the area"; Attorney Hanson's argument is that it is no closer to the brook; if the roof is no
260 closer, looking at the criteria, he might rule differently on the first criterion.

261 Vice Chair Simpson made a motion to approve the request for a rehearing as submitted for Case
262 #ZBA19-01, Variance 01/03/2019, Susan Kent, 0104-0006-0000, 1008 Main St, Georges Mills, Village
263 Residential with Shorelines Overlay; Variance to allow a 29 ft setback to the stream for a 9 x 10 ft roof
264 structure where normally a 50 ft setback is required, per Article III, Section 3.40 (c) of the Sunapee
265 Zoning Ordinance. Mr. Larrow seconded the motion. The motion failed unanimously. The denial was
266 due to hardship not being demonstrated.

267 **MISCELLANEOUS – VARIANCE APPLICATION**

268 Ms. Gage explained the draft Variance Application to the Board. She has included language that the
269 Town's attorney has recommended, which is the updated hardship criteria. Chairman Schneider said
270 that he did some research on this and what he found is that the law changed in 2009 regarding the

271 language for hardship after a court case called “Simplex Technologies vs. the Town of Newington”. The
272 language from the Town’s attorney does not make sense as it is in two parts. Vice Chair Simpson said
273 that this is done by a fact by fact basis as some cases will not meet the first part but will meet the
274 second part. He does not know if there have been other cases since 2009 that have tweaked the criteria
275 even more. There was further discussion regarding this matter.

276 Vice Chair Simpson asked and Ms. Gage confirmed that the submitted document is the whole draft
277 Variance. The language for criteria three is the language from RSA 674:33, which are the five criteria for
278 the Variance. Chairman Schneider asked if they are going to have one page per criteria as it seems like it
279 is too much. Ms. Gage said that the Town of Bradford does a summary; Mr. Neuwirt had given it to her
280 and suggested using it. Mr. Platt suggested adding something on the application that just says “for more
281 information go to blank” as he worries about liability. Vice Chair Simpson said that they would be giving
282 more wiggle room to be sued. He asked if the Town of Bradford’s application looks different. Ms. Gage
283 said that the information was cut and pasted from their application that was updated in August.
284 Chairman Schneider said that he thinks that it is good to give applicants information regarding what the
285 Zoning Board is looking for in plain language. The Town’s attorney suggested a disclaimer at the top,
286 which he agrees with except for the section after the semicolon that reads “persons needing legal advice
287 or interpretation of the law must consult an attorney”. He does not think that the Town should tell
288 people that they have to see an attorney. Vice Chair Simpson agreed with Chairman Schneider. Mr.
289 Larrow said that they can put that it is advisable. Chairman Schneider said that he does not think that
290 one page per criteria is necessary. There was further discussion regarding this matter as the Board
291 discussed how to layout the Variance application as well as if the Town of Bradford’s summary should be
292 part of the application.

293 Vice Chair Simpson said that you can consider the aesthetics of the area per a Supreme Court decision.

294 Ms. Gage asked and the Board confirmed that they would like her to work on the application and
295 distribute it via email to them for their review.

296 Mr. Claus said that the Town’s Zoning Ordinance says that “a variance can be granted by the Zoning
297 Board of Adjustment only if it finds that each and every one of the following conditions are met”.
298 Chairman Schneider said that has to be changed because it is inaccurate. Vice Chair Simpson said that
299 he does not think that it is inaccurate as there are two ways to satisfy the hardship criteria. Mr. Platt
300 said that he is concerned that it is overly confusing. Vice Chair Simpson said that he thinks that the
301 legislature wrote a poor statute and asked if the Town’s attorney said that this is acceptable. Ms. Gage
302 said that they said that it was good with the disclaimer on the top, however, that attorney is no longer
303 with the law firm. The Board said that they think that the summary should be made to conform with the
304 Town’s criteria. Vice Chair Simpson said that the analysis should also be broken out a little further.

305 **MISCELLANEOUS – BOARD MEETING AGENDAS AND PACKETS**

306 Ms. Gage said that the Planning Board is going digital with their applications and packets. The
307 preference with the office is that the Zoning Board does as well. The applications will be updated to
308 include asking for a plan to be submitted in pdf format as well as in a hard copy. The entire packet

309 would be scanned into one pdf file which would then be uploaded to the Town's website and emailed to
310 the Board. Vice Chair Simpson required a tablet from the Town. Ms. Gage said that the Town Manager
311 was looking to see if it is possible to make tablets available in the meeting room. Mr. Claus said that he
312 would like that because he likes things to be electronic but most of them will end up printing the
313 packets. Vice Chair Simpson said that he sometimes marks up the application with questions. Chairman
314 Schneider said that he hates reading long things on the computer. Vice Chair Simpson said that if they
315 print it out at home they will have black and white drawings instead of colored drawings. Ms. Gage said
316 that they could make the applications available to the public on the website like the Planning Board will
317 be doing but then the Board members could receive a hard copy. There was a discussion regarding
318 Adobe and marking up pdf documents.

319 Ms. Gage said that she would like to suggest that applicants submit eight copies of the applications as
320 there are often colored drawings and photographs submitted. Chairman Schneider suggested that the
321 applicant either supply eight copies or to charge the applicant for the copies. Mr. Platt said that an
322 applicant already has to pay \$150.00 for the application fee. Mr. Claus said that his experience with
323 other communities is that you always submit the number of copies needed per Board member. Mr.
324 Platt said that Newbury is the only town in the area that requires that and to him it is ridiculous. Ms.
325 Gage asked if the applicants should submit eight copies of the colored pages.

326 Vice Chair Simpson asked if the applications will be in pdf format if they can put it on a screen. Ms. Gage
327 said that she thinks that the objective will be to be able to have the applications viewable during the
328 meetings. The first step is to get the applications on the website and then to get the members tablets.
329 Ms. Gage said that she would like to ask the Town Manager and Administrative Assistant about requiring
330 eight copies to ensure that it is not a burden. The Board would like the digital packets sent to them as
331 well as the hard copies of the packets printed for them.

332 **MISCELLANEOUS**

333 Chairman Schneider said that he will not be at the next meeting.

334 Ms. Gage said that the spring Planning and Zoning Conference will be held on Saturday, June 1st.

335 Mr. Larrow made a motion to adjourn the meeting at 8:28 pm. Vice Chair Simpson seconded the
336 motion. The motion passed unanimously.

337 Respectfully submitted,

338 Melissa Pollari

339

340

341

342

343 Zoning Board of Adjustment

344 _____

345 Daniel Schneider, Chair

Aaron Simpson, Vice Chair

346 _____

347 James Lyons, Jr.

William Larrow

348 _____

349 George Neuwirt

Clayton Platt, Alternate

350 _____

351 Jeffery Claus, Alternate