

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **OCTOBER 3, 2019**

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

6 **ABSENT:** George Neuwirt; Clayton Platt

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

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

9 Vice Chair Simpson made a motion to appoint Jeff Claus and William Larrow as voting members. Mr.
10 Lyons seconded the motion. The motion passed unanimously.

11 **ALTERNATE MEMBER**

12 Chairman Schneider said that the Board has received an application from Bob Henry for an alternate
13 member position and asked Mr. Henry to explain his interest in being an alternate.

14 Mr. Henry said that he was on the Board for three or four years about ten years ago and he was asked if
15 he was interested in being an alternate. He cannot be a full member because he is gone approximately
16 four months per year.

17 Mr. Lyons said that he thinks that anyone with experience with the Zoning Ordinances should be
18 welcome to attend as an alternate or permanent member. Vice Chair Simpson said that he worked with
19 Mr. Henry on another Board before and thinks that he would be a good addition.

20 Vice Chair Simpson made a motion to accept Mr. Henry as an alternate member. Mr. Lyons seconded
21 the motion. Ms. Gage said that she wanted the Board to be aware the Mr. Henry is not available all
22 year. Vice Chair Simpson asked how many alternate members the Board can have. Ms. Gage said that
23 the Rules and Procedures say that the Board can have three alternates and RSA 673:5 says that the
24 Board can appoint five alternates for a term of up to three years. Vice Chair Simpson asked and Ms.
25 Gage said that the Rules and Procedures says that "the attendance records of regular and alternate
26 members at Board meetings will be maintained by the secretary". Ms. Gage said that she will keep the
27 attendance records of the Board members. The Rules and Procedures also say "when a regular member
28 is unable to attend a public hearing, the members should make arrangements for filling his / her vacancy
29 by an alternate member prior to the hearing. When a regular or alternate member is unable to maintain
30 a regular presence at Board members, that member should consider resigning from the Board. The
31 unexcused absence of a regular or alternate member from four regular meetings in a 12 month period is
32 deemed to be a neglect of duty and constitutes grounds for the Board to advise resignation of the
33 member form the Board or to request the Selectmen to remove the member pursuant to RSA 673:13".
34 Ms. Gage continued that she is working on revising the Rules and Procedures as they are twenty years

old. Vice Chair Simpson said that if the Board is recommending Mr. Henry as an alternate it is with the understanding that he is gone four months out of the year and he does not think that is neglect. Chairman Schneider said that the rule also uses the word "unexcused" which is different than "excused". The motion passed unanimously.

CONTINUED: CASE #19-14: PARCEL ID: 0115-0022-0000: SEEKING A SPECIAL EXCEPTION OF ARTICLE III, SECTION 3.50 (B) TO ALLOW FOR A PROPOSED GARAGE AND DRIVEWAY WITHIN THE FRONT SETBACK OF THE PROPERTY; 11 NORTH SHORE RD; WILLIAM & DIANE SINATRA

Chairman Schneider said that he was not at the meeting for this case and thinks that it is more appropriate for Vice Chair Simpson to act as Chair for this case.

Daniel Monette from Fuss & O'Neil was present on behalf of the applicants for a Variance. Vice Chair Simpson said that they will have to request to withdraw the request for a Special Exception. Mr. Monette said that he thought that was done at the last meeting, he did not realize that it was continued. They would like to withdraw the request for a Special Exception and move forward with a request for a Variance. Vice Chair Simpson asked and Mr. Monette said that he does have a letter from the owners giving him permission to speak on their behalf. William Sinatra also gave verbal permission for Mr. Monette to present the case.

Chairman Schneider made a motion to accept the withdrawal of the Special Exception. Mr. Lyons seconded the motion. The motion passed unanimously.

CASE #19-20: PARCEL ID: 0115-0022-0000: SEEKING A VARIANCE OF ARTICLE III, SECTION 3.10 TO ALLOW A 2-BAY GARAGE, AT GRADE, WITHIN THE FRONT BUILDING SETBACK, TO ALLOW FOR SINGLE-LEVEL LIVING; 11 NORTH SHORE RD; WILLIAM & DIANE SINATRA

Daniel Monette from Fuss & O'Neil presented the merits of the case.

Mr. Monette asked if the Board has read through the documents pertaining to the case or if they would like him to read through them. The Board said that they would like Mr. Monette to go over the facts supporting the Variance request.

Mr. Monette said that the property is a 0.64-acre lot with a single-family residential dwelling and the lot is non-conforming; the front building setback is 50 ft off North Shore Rd; and the property is located at 11 North Shore Rd, Tax Map 115, Lot 22. The side and rear setbacks are both 15 ft and the lot is adjacent to Perkins Pond and is subject to NH DES and local Shoreland District zoning requirements. The lot slopes towards Perkins Pond and contains a house, multiple driveways, lawn, and wooded areas. The proposal is to construct a two-car garage with an attached breezeway to the main house and a new gravel driveway to the garage. The owners of the property intend to live in the property year-round and have been living there full time since May; currently, they require single family living due to medical reasons.

69 Mr. Monette said that the applicant is seeking a Variance to the 50 ft front building setback, as noted in
70 the Zoning Ordinance Article III, Section 3.10 – Dimensional Controls; North Shore Road is a private road
71 but is maintained by the Town of Sunapee.

72 Mr. Monette said that they have received a NH DES Shoreland Permit obtained in August. A boundary
73 line survey was recently completed in order to confirm the property lines and determined where the
74 centerline of North Shore Road is in order to determine the setback. There will be no change of use as
75 the use will still be residential; the lot is serviced by municipal sewer and an on-site drinking water well.

76 Mr. Monette said the Variance that they are seeking is for Article III, Section 3.10. The original
77 application was for a Special Exception and he is not sure all of the specifics of the discussion during that
78 hearing. At some point, George Grant was instructed to submit a Special Exception and came to the
79 Board and could not present enough evidence that there were other residences within the 500 ft with
80 the reduced front setback. It appears that way in an aerial, however, they have not been out to conduct
81 a field measurement, so they have applied for a Variance.

82 Mr. Monette read the facts supporting the Variance request directly from the submitted Variance
83 application (see file).

84 Chairman Schneider asked and Mr. Monette confirmed that the proposed garage is 28 ft x 28 ft.
85 Chairman Schneider asked if a standard two car garage is 24 ft x 24 ft. Mr. Monette said that it the size
86 if you do not want any extra room for anything; a 28 ft x 28 ft garage is not the smallest size but it is
87 standard. Vice Chair Simpson asked and Mr. Monette confirmed that the proposed garage will be one
88 story. Mr. Lyons asked and Mr. Monette said that the garage may have rafter storage but he does not
89 know if the garage will have a loft, he can find out. Vice Chair Simpson asked if this garage will have
90 upstairs storage. Mr. Monette said that he does not have an elevation view of the proposed garage.
91 Mr. Sinatra said that there will be a staircase with upstairs storage on one end of the building. Mr.
92 Monette said that he is not familiar with the plan for the building. Mr. Sinatra was asked and said that
93 they do not have elevation plans of the building. Ms. Gage said that she may have a copy of the plans.
94 Mr. Lyons said that he would like to know if there will be a second floor with head room.

95 Chairman Schneider asked and Mr. Monette confirmed that the garage doors will be facing the private
96 right of way. Mr. Monette continued that the applicants use the asphalt driveway, not the driveway off
97 North Shore Rd.

98 Mr. Monette continued to read the facts supporting the Variance request and also explained some of
99 the modified storm water control features that they have designed for the property. Vice Chair Simpson
100 asked and Mr. Monette said that the existing lot coverage is 16.3% impervious and the proposed is
101 23.3%. Mr. Monette continued that they will be maintaining 32.5% in a natural woodland buffer state
102 and the minimum requirement for the State and Town is 25%. Vice Chair Simpson asked and Mr.
103 Monette confirmed that the impervious area includes the gravel driveway.

104 Mr. Monette continued to read the facts supporting the Variance request regarding how the spirit of the
105 Variance is observed.

106 Ms. Gage said that she does not have drawings for the proposed garage. The description on the
107 application says that it will be a 28 ft x 28 ft garage with attic storage and an attached 10 ft covered
108 walkway. It also says that the maximum height of the proposed structure will be 20 ft. Mr. Lyons asked
109 and Ms. Gage said that the application says that the maximum height is measured from the lowest
110 elevation around the building to the highest level of the roof.

111 Vice Chair Simpson asked what is considered the front setback. Mr. Monette said that he would argue
112 that it is the private right of way, however, they have been directed that is North Shore Rd because the
113 property address is 11 North Shore Rd. Normally on a lake front lot, the front is the roadside and the
114 back is the lake side, therefore, they have measured the setback from the centerline of North Shore Rd.
115 Vice Chair Simpson asked who they were directed by and Mr. Monette said that he thought it was from
116 the Board at the last meeting. Vice Chair Simpson said that the Board was considering a Special
117 Exception versus a Variance. Ms. Gage said that there is a definition for "front setback". Vice Chair
118 Simpson said that he is not sure that he appreciates that they are giving up their access to North Shore
119 Rd. The front setback is measured from the centerline of the road versus a side setback that is from the
120 property line. Ms. Gage said that if a property is cornered by a right of way then the applicants have the
121 right to choose which side to use. Mr. Monette said that the applicants currently use the right of way
122 for access, as does the neighbor across from them.

123 Mr. Monette continued to read the facts supporting the Variance request as to how substantial justice is
124 done. Mr. Monette also gave the Board a copy of a letter from Mr. Sinatra's doctor that discusses his
125 physical limitations and explained Mr. Sinatra's health issues to the Board.

126 Mr. Monette continued to read the facts supporting the Variance request as to how the values of the
127 surrounding properties are not diminished by the proposal and how literal enforcement of the
128 provisions of the Ordinance would result in unnecessary hardship. There is a retaining wall that runs
129 along the property that prevents having a garage attached to the basement level of the house. The best
130 location for the garage is on the flat plateau which provides a connection to the upper level. Chairman
131 Schneider asked and Mr. Monette said that the dimension relief will be 32 ft from the centerline of the
132 road at one corner and 36 ft at the other corner. Mr. Lyons asked and Mr. Monette said that they
133 surveyed to determine the centerline of the road. Mr. Monette read how the proposed use is a
134 reasonable use.

135 Mr. Monette said that they have a letter from Stephen Curry, the neighbor directly across the right of
136 way, who is in favor of the proposal.

137 Chairman Schneider asked if there was anyone in the audience with any questions or comments
138 regarding the application and there were none. Chairman Schneider asked if there was anyone on the
139 Board with any additional questions or comments regarding the application and there were none so he
140 closed the meeting to public comments.

141 Chairman Schneider said that he thinks that a motion for approval should include that the structure
142 cannot be any closer than 32 ft from the centerline of the road and that the height is not greater than 20
143 ft.

144 Mr. Larrow said that if the objective is to be as far away from the centerline as possible and still be
145 reasonable, they would have to reduce the size of the garage and asked if that is a reasonable request or
146 something in the Board's power to request. Chairman Schneider said that he does not know why the
147 garage is 28 ft x 28 ft but it might allow for storage. Mr. Monette said that it also allows room for the
148 staircase. Mr. Lyons said that if the garage was reduced to 24 ft it would drop the front further from the
149 setback. There was further discussion regarding this matter. Ms. Gage said that the request is 28 ft x 28
150 ft and there may be other factors that the contractor is not present to discuss and to redesign the size
151 might have other implications.

152 Mr. Lyons asked if there are other structures this close to the centerline. Chairman Schneider reopened
153 the meeting to public comments. Mr. Lyons said that it looks to him like a number of structures in along
154 North Shore Rd are well back from the road. Mr. Larrow said that there was a percentage of structures
155 within the setback. Mr. Claus said that it did not meet the majority needed for a Special Exception. Mr.
156 Monette gave the Board a plan that shows every structure within 500 ft and said he used an aerial map
157 to measure and five out of the seven houses were within 50 ft but he has not done a field measure to
158 confirm. He believes that Mr. Grant went out to measure but was not sure where the centerline of the
159 road was located.

160 Mr. Claus said that 24 ft gives two feet on each side of a car and two feet between the cars. Mr. Larrow
161 said that the garage could be made smaller if it makes sense for the applicants. Mr. Claus said that 24 ft
162 is comfortable to open doors and move around. Mr. Monette asked how wide it will need to be for a
163 wheelchair. Mr. Claus said that a wheelchair would need 8 ft on one side for a wheelchair accessible
164 van. Mr. Lyons asked how many cars would be in the garage if one of the owners was in a wheelchair.
165 Mr. Monette said that may happen in the future but they do not know and hopefully it will not happen;
166 they just want to make sure that there is enough space. Also, if both cars open their doors at the same
167 time and it is only 2 ft between them then it is tight. Vice Chair Simpson said that he does not know if
168 that is a hardship. Mr. Monette said that the hardship is that they need a garage.

169 Mr. Claus asked and Mr. Monette confirmed that the ridge of the garage will be parallel to North Shore
170 Rd and the ridge of the house goes perpendicular. Chairman Schneider said that there seems like a lot
171 of space between the road and the house, he was surprised that a Variance was needed. Mr. Monette
172 said that the 50 ft setback line goes through the middle of the proposed garage.

173 Chairman Schneider asked and there were no additional questions for Mr. Monette so he closed the
174 meeting to public comments.

175 Vice Chair Simpson said that he thinks that the medical necessity issue has been established. The
176 Statute gives the Board the ability to only grant the Variance approval for while Mr. Sinatra resides at
177 the property, however, in this case it is not practical.

178 Chairman Schneider said that he thinks that the garage is a bit bigger than it probably needs to be but he
179 does not know what is gained if the Board requires the garage to be smaller, it will just be a bit more
180 conforming. Vice Chair Simpson said that looking at the design and pictures it appears as though there
181 will be stairs into the house. Chairman Schneider opened the meeting to public comments. Mr. Sinatra

182 said that there are currently stairs coming off the back of the house because they put a door on the back
183 of the building in the hopes of building a garage. Vice Chair Simpson said that there is a hill that goes up
184 to North Shore Rd. Mr. Sinatra said that there is but the lot levels out at the top where the garage will
185 go so the stairs will be replaced with a ramp. Mr. Claus asked and Mr. Sinatra confirmed the picture of
186 the stairs that they are discussing. Mr. Monette said that they are building up the grade where the
187 garage will go in that area so that they will not need the five stairs. Vice Chair Simpson said that the
188 plan shows stairs. Mr. Monette said the plan shows the existing conditions and that the stairs are
189 grayed out; Mr. Monette also explained the elevations to the Board.

190 Mr. Claus asked if there were any other designs considered to turn the garage so the ridge met the ridge
191 of the house and the breezeway was not required. Mr. Sinatra said that was considered but they did not
192 know what to do to with the roofline. Mr. Claus said that the only thing wrong with changing the ridge
193 is the snow but a gable end would help. Mr. Monette said that they did look at building near the
194 walkout basement but that would eliminate the single story living as they would have to walk up a flight
195 of stairs. They also want to maintain a breezeway between the house and the garage for fire protection
196 and they do not want to undermine the foundation of the existing house while doing the work for the
197 garage.

198 Chairman Schneider closed the meeting to public comments.

199 Vice Chair Simpson said that the last time the Board heard a case where medical conditions were an
200 issue they found they can be a slippery slope, though the Board would normally require a 24 ft x 24 ft
201 garage as being a reasonable use. Chairman Schneider said that there is no requirement for that. Vice
202 Chair Simpson said that he understands but it is only a matter of time before more people will need
203 these kinds of accommodations and then the exception for the hardship goes; it is not that he does not
204 believe that it is necessary in this case, but it bothers him.

205 Chairman Schneider said that there are many houses along Perkins Pond that are non-conforming and at
206 one time there was a discussion about having a different zoning district around the pond. He does not
207 think that the proposal will be detrimental to the neighborhood and there have been no objections from
208 abutters. The Board has seen fit in other cases to grant Variances for the front setback and for the
209 Special Exception the Highway Director said that there was not a problem with the proposal.

210 Vice Chair Simpson asked and Ms. Gage confirmed that there is an approved Shoreland permit that is
211 part of the Town's record.

212 Mr. Larrow made a motion to approve Case #19-20: Parcel ID: 0115-0022-0000: seeking a Variance of
213 Article III, Section 3.10 to allow a two-bay garage, at grade, within the front building setback, to allow for
214 single-level living; 11 North Shore Rd; William and Diane Sinatra; with the conditions that the garage is
215 not closer than 32 ft to the centerline of the road; the height of the garage is not to exceed 20 ft; subject
216 to the DES Shoreland Permit #2019-02388; and per the plans dated July 25, 2019 by Fuss & O'Neil. Vice
217 Chair Simpson seconded the motion. Vice Chair Simpson asked if the plan includes the removal of the
218 gravel driveway and the establishment of a buffer. Mr. Lyons asked and Vice Chair Simpson said that
219 the rain garden is noted on the plan. Mr. Lyons asked if the Board should require maintenance of the

220 rain garden. Chairman Schneider asked how the Board would enforce it. Mr. Lyons said that is an issue
221 for the future. Vice Chair Simpson said that there is a definition of "rain gardens" in the Ordinance and
222 read the definition to the Board. He knows that on some storm water proposals the Board has required
223 maintenance. Mr. Lyons made a motion amend the motion to include the maintenance of the runoff
224 features as shown on the plan. Vice Chair Simpson seconded the motion. The amendment passed
225 unanimously. The amended motion passed unanimously.

226 **CASE #19-17: PARCEL ID: 0133-0101-0000: SEEKING A SPECIAL EXCEPTION OF ARTICLE IV, SECTION**
227 **4.90 TO ALLOW FOR AN ACCESSORY DWELLING UNIT; 14 MAPLE COURT; JOSEPH & JILL BUTLER**

228 Joseph Butler presented the merits of the case.

229 Mr. Butler said that he and his wife are seeking a Special Exception of Article IV, Section 4.90 to allow an
230 accessory dwelling unit (ADU) in their new addition to their existing house. The application and
231 information given to the Board shows that they meet all the criteria necessary for an ADU. They
232 received a letter from Ms. Gage with questions that have been answered. The architect that they have
233 hired has broken out the proposed floor square footage of the new addition and the existing house as
234 well as permeable and impermeable lot coverage. There is also a plan showing where the new addition
235 will be built onto the existing house. Mr. Butler continued that he believes that the Board has been
236 given all of the information needed to make a decision.

237 Chairman Schneider said that the total addition, not counting decks, is 1,924 sq ft and asked how it was
238 determined that only 1,000 sq ft will be part of the ADU. Mr. Butler said that on the first-floor plan it
239 shows the ADU unit. The Board asked and Mr. Butler explained the plan further.

240 Mr. Claus asked and Mr. Butler confirmed that the doors that go up the stairs will be locked. Mr. Larrow
241 asked if the ADU shares the kitchen and eating area with the main residence. Mr. Butler said that the
242 ADU is all new construction.

243 Chairman Schneider asked and Mr. Butler confirmed which parts of the new addition will be the ADU.
244 Mr. Claus asked and Mr. Butler said that the upper deck will not be accessible from the ADU as the
245 doors will be locked. Mr. Claus asked and Mr. Butler said that they can use the outside patio but it
246 should not be included in the square footage. Chairman Schneider asked and Mr. Claus said that the
247 hallway and the patio should not be included in the square footage for the ADU.

248 Chairman Schneider asked and Mr. Butler said that there is a doorway between the main dwelling unit
249 and the ADU and Mr. Claus showed Chairman Schneider the doorway. Chairman Schneider asked about
250 the stairs. Mr. Butler said that the stairs go to a closet and hot water tank area and then out to the
251 deck. Mr. Larrow asked and Mr. Butler said that the top deck is not included. Chairman Schneider said
252 that if the exercise room, sauna, etc. is not part of the ADU then he questions why the stairs are
253 necessary, otherwise, wherever the stairs go becomes part of the ADU. Mr. Larrow asked and Mr.
254 Butler confirmed that he wants the ability to go up to the deck, exercise room, etc. from the downstairs.
255 Chairman Schneider said that makes the ADU bigger than 1,000 sq ft. Mr. Butler said that the ADU is
256 just the first floor; there are doors that breaks the apartment up from the existing house and the new

257 addition. Mr. Larrow said that the upstairs rooms can be accessed from the ADU but the Ordinance only
258 requires access to the living quarters. If these rooms are accessible by the ADU, the Board has to
259 determine if they are part of the ADU. Chairman Schneider said that he questions if this is consistent
260 with the spirit of the Ordinance and if this is purely an ADU. Mr. Butler said that you can have access to
261 the main house in more than one location. Ms. Gage said that one of the points made in the booklet
262 from the State is that the legislature required attached doors is so if a homeowner wants to convert that
263 part of the structure back into the main dwelling unit they can do so. Chairman Schneider said that he
264 thinks that the stairs makes it a townhouse unit and more than 1,000 sq ft. Mr. Butler said that the ADU
265 must be accessible from the main house. Mr. Larrow said that it is accessible already.

266 Mr. Butler asked if, hypothetically, he has his in-laws move into the basement unit, why they are not
267 allowed to have access to the upstairs pool, deck, or exercise room. Mr. Lyons said that they could go
268 through the main house. Mr. Butler said that they could go either way, however, their living area is on
269 the ground floor in the two-bedroom, two bathroom, 1,000 sq ft unit; they would just have access to the
270 rest of the house.

271 Chairman Schneider said that he thinks that the intent of having the ADUs is to have separate dwelling
272 units. Mr. Butler said that the intent is to have separate dwelling units within the existing house.
273 Chairman Schneider said that a small ADU is permitted by Special Exception but he thinks that Mr.
274 Butler's unit is larger than permitted by the Ordinance.

275 Vice Chair Simpson asked and Mr. Butler said that his lot is 0.69 acres. Vice Chair Simpson asked and
276 Mr. Butler confirmed that the lot is conforming. Vice Chair Simpson said that he believes that Mr. Butler
277 can have one dwelling unit for every 10,000 sq ft in the Village Residential District. Ms. Gage said that
278 the property card shows that the property is in the Residential Zone and in the Residential Zone you can
279 only have one residential unit per acre. Mr. Butler said that the lot was in the Village Residential District
280 when they bought it. Ms. Gage and Mr. Claus confirmed from the tax map that the property is in the
281 Residential District. Mr. Lyons asked and Vice Chair Simpson confirmed that the property is non-
282 conforming because it is under one acre. There was further conversation regarding the Zone.

283 Mr. Claus said that he thinks that a lot of time an ADU is on the top floor of a garage or something like
284 that; they have their own access but also access to the main house. However, if he wanted to build a
285 two-story structure with the main floor the residence and the upstairs an ADU, there will still be a
286 connection to the house. Chairman Schneider said that this is the opposite. Mr. Claus said that
287 regardless, Mr. Butler is adding additional square footage to his house. Chairman Schneider asked if it is
288 to Mr. Butler's house or to the ADU. Mr. Claus said that there are doors to both. Mr. Larrow said that
289 another story could be added and everything could be connected by doors and the ADU would have
290 access to it, whether they enter through the main unit or not. There was further discussion regarding
291 this matter.

292 Chairman Schneider asked and Mr. Butler confirmed that there is exterior access from the front porch
293 where the front patio is located. There are also sliding doors to the other patio in the back.

294 Mr. Claus said that this is new to him so he is trying to figure out the intent. The Ordinance says that the
295 ADU cannot be larger than 1,000 sq ft, must be within or attached with heated space to the residence,
296 and must have a connecting door between the units; however, it does not limit the number of
297 connection doors. He thinks that a lot of time someone will turn a space into another unit and that unit
298 has access to the main living space but this proposal is inverted. Mr. Claus asked if anyone on the Board
299 has any insight as to why the unit cannot be larger than 1,000 sq ft.

300 Mr. Butler asked and the Board confirmed that they have had applications for ADUs. Mr. Butler asked
301 and Chairman Schneider confirmed that not all the applications have been for units on top of a garage.
302 Mr. Butler asked why he and his wife could not live in the ADU in the future and have one floor living.

303 Mr. Larrow said that Mr. Butler could build an addition and then in 10 or 20 years could apply for an
304 ADU. Mr. Butler said that he wants to classify the unit as an ADU now, not in 10 years. Mr. Larrow said
305 that does not make sense. Mr. Butler said that they want to put the kitchen in now and have the unit
306 ready. Mr. Larrow said that he is not saying that the construction cannot be done now.

307 Vice Chair Simpson asked and Mr. Butler said that there is plenty of driveway space for parking and the
308 existing house has three garage spaces on the ground floor. Vice Chair Simpson asked and Mr. Butler
309 confirmed that the property is on Town Water and Town Sewer.

310 Chairman Schneider said that the ADU does not have a living room area. Mr. Butler said that people
311 could put televisions in the bedrooms or in the kitchen area. Chairman Schneider asked and Mr. Butler
312 confirmed that they could also go upstairs to the sitting room. Chairman Schneider said that would
313 make the sitting room become part of the ADU. Mr. Butler said that they are not saying that. Chairman
314 Schneider said that he thinks that is what they are doing and he would be OK with the ADU without the
315 inside stairs. Mr. Butler said that the stairs are to get to the outside deck from the first floor if they live
316 there. Chairman Schneider said that if they decide to live in the ADU themselves then they do not need
317 access to the sitting room. There was further discussion regarding the square footage of the proposed
318 ADU.

319 Chairman Schneider asked and there was no one in the audience with any questions or comments
320 regarding the case.

321 Vice Chair Simpson asked about the dimensions of the proposal. Mr. Butler said that the scale is 3/16"
322 equals to 1 ft; the calculations of the square footage was done by the architect. Chairman Schneider
323 said that there is nothing showing how the calculations were determined as the plan does not have
324 dimensions. Mr. Claus said that there is no graphic scale shown on the plan. Mr. Butler said that he
325 would be happy to submit drawings with dimensions if necessary. Mr. Lyons suggested continuing the
326 hearing so Mr. Butler can submit the dimensions.

327 Vice Chair Simpson asked and Ms. Gage confirmed that the construction would be allowed except for
328 the request to include the kitchen. Chairman Schneider said that you can build another kitchen in your
329 house, it just cannot be part of another dwelling unit. Ms. Gage said that someone building a kitchen is
330 the tip off that they are building another dwelling unit. Vice Chair Simpson asked and Ms. Gage

331 explained that the kitchen is important to Mr. Butler so he need approval from the Board. Mr. Butler
332 said that it is important during construction because the addition is being built on a slab so it would be
333 nice to get the plumbing in.

334 Mr. Claus said that it seems to him that the Board is struggling with the access to the additional square
335 footage, however, if an ADU has an access point to the main house, it should not matter how many
336 access points that there are. He is struggling why there is a problem if there is access to the main house
337 as well as access to the additional square footage. Mr. Lyons asked why they would need an ADU if they
338 are allowing access to the whole house. Mr. Claus said that is why he is questioning the limit of the
339 1,000 sq ft. Ms. Gage said that the legislature allowed municipalities to limit the size of an ADU, if the
340 limit is not smaller than 750 sq ft. There was further discussion regarding this issue.

341 Chairman Schneider said that the applicant has not shown that he meets the square footage criteria
342 because there are no dimensions on the plan so the applicant has not demonstrated that there will be
343 less than 1,000 sq ft. He also views the sitting room above the unit with the stairs to it as part of the
344 ADU as the first floor does not have living space other than the bedrooms as long as there is direct
345 access to it. Chairman Schneider asked Mr. Butler why the house needs another sitting room and if
346 there is a place to sit in the house now. Mr. Butler said that his wife wanted an exercise room and pool
347 and in order to get to those spaces, the architect made a sitting room from an existing three season
348 porch. Chairman Schneider asked why there needs to be direct access to the sitting room from the ADU
349 as there is already access from the house. Mr. Butler said that there is no restriction on access. Mr.
350 Larrow asked and Mr. Butler showed the door to the stairway to the Board.

351 Ms. Gage said that she did work on an ADU case for another Town where the the Board was asked to
352 waive the requirement for the interior door. However, an ADU is required by Statute to have the
353 interior door so that in the future the ADU can be reintegrated into the dwelling, therefore, the door
354 should be functional.

355 Mr. Claus asked Mr. Butler about the drawing that he included showing a propane tank. Mr. Butler
356 explained that is the current location of the propane tank and it will need to be relocated.

357 Chairman Schneider asked and there were no further questions or comments from the Board for the
358 applicant so he closed the meeting to public comments.

359 Mr. Larrow said that he would prefer to have the dimensions of the proposal shown. However, he
360 thinks that Mr. Butler can construct the addition, without the kitchen, without a Special Exception. Vice
361 Chair Simpson said that the Board cannot decide that, however, he agreed that he would like to have
362 dimensional information on the drawings. Chairman Schneider agreed that he would like to see the
363 dimensions and the calculations as to how the 1,000 sq ft was determined.

364 Vice Chair Simpson asked and Mr. Butler confirmed that the eating area opens onto the front patio.
365 Vice Chair Simpson asked and Mr. Butler said that the square footage of the patio is not calculated in the
366 dimensions because it is outside and there is a porch to get in that is not included in the measurements.
367 Vice Chair Simpson asked and Mr. Butler said that he does not know the size of the porch because he

does not have a scale with him. Mr. Butler said that he was only asked to provide floor plans, he will be happy to provide dimensional drawings. Vice Chair Simpson said that if the porch is a deck it is part of what they are building. Ms. Gage said that a deck is not living space, an enclosed porch would be living space but not a deck. Vice Chair Simpson asked where living space comes into this. Ms. Gage said that she would consider the square footage of the living space the dwelling unit. Vice Chair Simpson said that it does not use the term "living space" it uses the term "dwelling unit". Ms. Gage asked and Vice Chair Simpson said that if a deck is over 32 sq ft he might consider that to be part of a dwelling unit. Ms. Gage said that some municipalities did choose to adopt regulations that specified how much exterior decking and interior space was allowed for an ADU, however, Sunapee's Ordinance does not.

Vice Chair Simpson asked and Mr. Butler confirmed that he is willing to provide the Board a scaled drawing. Chairman Schneider suggested continuing the case to the next meeting in order to receive the plans showing the dimensions.

Vice Chair Simpson made a motion to continue the case until the next meeting in order for the Board to receive a more detailed drawing on the area of the proposed addition and accessory dwelling unit. Mr. Lyons seconded the motion. Vice Chair Simpson asked that Mr. Butler include the outside porch dimensions, even if it is less than 32 sq ft. Mr. Claus asked and Chairman Schneider said that the Board wants to see the dimensions and a calculation of the dimensions and a drawing outlining the perimeters of the ADU. The motion was approved unanimously.

CASE #19-18: PARCEL ID: 0232-0024-0000: SEEKING A SPECIAL EXCEPTION OF ARTICLE III, SECTION 3.50(G) TO INSTALL A WOODEN PRIVACY FENCE UP TO 8 FT IN HEIGHT TO PROVIDE THE NEIGHBORS MORE SCREENING FROM THE PROPOSED EXPANSION OF STORAGE BUILDINGS; 46 ROUTE 103; MCDONOUGH FAMILY PROPERTIES

Mike McDonough presented the merits of the case.

Mr. McDonough said that he and his brothers own and operate Sunapee Self Storage and they have been before the Planning Board and received a conditional approval for an expansion of three buildings at the existing storage facility. They abut a property that is located at the corner of Depot Rd and met with the owners of the abutting property. They are a commercial property next to a residence so they want to do some landscaping and create a buffer. Mr. McDonough continued that he understands that Sunapee has a 5 ft height restriction on fences and the neighbors have requested that the fence be higher so they would like the fence to be up to 8 ft. Their intent is to be good neighbors and create a buffer with a fence and landscaping. They will be moving forward with the permitting, though the fence will default to 5 ft if the Zoning Board does not agree to a higher fence.

Vice Chair Simpson asked and Ms. Gage said that the height restriction for fences is in Section 3.50(g). Ms. Gage said that she believes that the Planning Board felt as though the 5 ft fence was acceptable without any Special Exception. At the last Planning Board meeting she recommended an amendment to the Ordinance to allow for fences up to 5 ft high, however, the Planning Board did not want to make that change. Section 3.50(g) says that "the setback for fences five feet high and over may be reduced to a minimum of two (2) feet from property lines if, in the judgment of the ZBA, such will not adversely

406 affect neighboring properties”, therefore, whether the fence is 5 ft or 8 ft it will require a Special
407 Exception. Ms. Gage asked and Mr. McDonough said that they requested an 8 ft fence but the Planning
408 Board said that they could not grant that, which is why he is requesting the Special Exception. Chairman
409 Schneider asked and Mr. McDonough said that he believes that the fence will be 2 ft from the property
410 line. Ms. Gage said that she met with the McDonough’s engineer, Peter Blakeman, on site and he
411 indicated the fence will be off the property line and said that he thought that the existing fence was 5 ft
412 but it is actually 6 ft.

413 Mr. Claus asked if the evergreen trees along the fence will remain or be removed. Mr. McDonough said
414 that some are coming down but they are also planting trees. Mr. Claus asked and Mr. McDonough
415 explained which trees he believes are being removed.

416 Mr. Larrow asked and Mr. McDonough said that the fence will be a wooden stockade fence. Mr.
417 McDonough asked and Jared Raymond, the abutter, said that they would prefer a wooden fence over a
418 vinyl fence.

419 Chairman Schneider asked if anyone in the audience had any questions or comments regarding the case.

420 Mr. Raymond said that they have discussed the fence with the McDonoughs and they would like to have
421 the buffer between the two properties. Chairman Schneider asked and Mr. Raymond confirmed that
422 they would like the fence to be 8 ft. Mr. Raymond continued that most of the buildings will be set down
423 lower but there will be one building that will be tall and having the 8 ft fence will cover most of their
424 view of the units. Mr. Lyons asked and Mr. Raymond explained the location of his property.

425 Mr. McDonough explained that the house that is currently on the property will be demolished and the
426 new buildings will be built there.

427 Vice Chair Simpson asked and Mr. McDonough confirmed that the front of the fence will face the
428 abutter’s property. Mr. McDonough said that the fence is for the neighbor’s benefit and they feel as
429 though it is the right thing to do.

430 Mr. Claus said that looking at the criteria for the Special Exception for the fence, he believes that all the
431 criteria is met except he questions if the height of the fence will adversely affect other neighboring
432 properties. Mr. Claus also questioned the requirement that an agreement must be filed with the
433 Registry of Deeds. Ms. Gage said that the requirements that Mr. Claus is asking about are for a fence
434 that goes on the property line. Mr. McDonough said that he does not think that the fence would
435 adversely affect any neighbors as the Raymond’s property is triangular with roads on two sides.

436 Chairman Schneider asked and there were no additional questions from the Board for the applicant so
437 he closed the meeting to public comments.

438 Mr. Lyons made a motion that the Special Exception to install a wooden privacy fence 8 ft in height to
439 provide more screening for the proposed expansion of the storage building be accepted. Vice Chair
440 Simpson seconded the motion. Vice Chair Simpson said that he sees that a fence 5 ft and over can
441 receive a Special Exception to be 2 ft from the property line, however, he does not see that a fence can

be more than 5 ft. Ms. Gage said that a fence 5 ft and over has to meet setbacks without a Special Exception. Vice Chair Simpson asked and Ms. Gage agreed that if a fence is not within a setback then there is not a restriction on the height of a fence. The motion passed unanimously.

CASE #19-19: PARCEL ID: 0129-0078-0000: SEEKING A SPECIAL EXCEPTION OF ARTICLE IV, SECTION 4.90 TO ALLOW FOR AN ACCESSORY DWELLING UNIT; 7 MAIN ST; LEENA MARK

Leena Mark presented the merits of the case.

Ms. Mark explained that she purchased the property in August and her son and she have met several times with Ms. Gage to discuss the apartment and a home business. She is aware that a home business requires a Site Plan and expects to apply for that soon, however, in the meantime, she is requesting a Special Exception for an Accessory Dwelling Unit (ADU).

Ms. Mark said that the property is currently a single-family residence and was built in 1874 on approximately 0.32 acres and is Zoned as Village Commercial with frontage on Main St. The property is on public water and sewer and is within 250 ft of the Sugar River.

Mr. Larrow asked Ms. Mark to explain the proposed floor plan to the Board.

Vice Chair Simpson said that this property is located in the Village Commercial District and two-family dwellings are permitted by right, though there must be 10,000 sq ft per dwelling unit. Chairman Schneider said that 0.32 acres is roughly 13,000 sq ft.

Ms. Mark said the ADU will be on the second floor and the entrance will be from the old front door. Going up the stairs, there will be a bedroom that she will keep for herself, there is also a closet at one end of the building and a small room at the end of a hallway past the stairs.

Chairman Schneider asked and Ms. Mark explained where in the house the ADU will be located. Vice Chair Simpson asked and Ms. Mark confirmed that she is not building anything new, she is designating space in the current structure as an ADU. Ms. Mark said that there are already pipes in that area though she does not know what they were used for. Vice Chair Simpson asked if what makes this another unit is the kitchen and Ms. Gage said that Ms. Mark specifically requested an apartment. Ms. Mark said that there is already water and she is going to get a stove and refrigerator and make a kitchen.

Vice Chair Simpson asked how the unit will access the outside. Ms. Mark explained that the entrance will be from the front door. She understands that there needs to be another exit and found a metal ladder in one of the rooms and will do something similar. Vice Chair Simpson asked and Ms. Mark said that she will not be using the same entrance as the ADU and explained how she will enter her house. Mr. Claus asked and Ms. Mark confirmed that the staircase that the ADU will use will be isolated from the rest of the house but she will be able to unlock the doors from her side of the house. Vice Chair Simpson asked and Ms. Mark said that there will be doors between the two units and that there is not a door at the entrance to the apartment now but she will have one installed for privacy.

476 Chairman Schneider asked and Ms. Mark explained that the ADU will not take up the whole upstairs of
477 the structure as she will keep the bedroom and two closets. Chairman Schneider asked if this unit uses
478 the stairway what area will Ms. Mark use. Ms. Mark explained that the entry leads to a door to the
479 kitchen that will lock. Chairman Schneider said one of the requirements is a door to the house and Ms.
480 Mark explained where the doors will be located. There was further discussion regarding this matter.

481 Vice Chair Simpson asked and Ms. Mark confirmed that the living space of the ADU will be 553.25 sq ft.
482 Ms. Mark said that the property card says that the house is 2,042 sq ft. Ms. Mark gave the Board some
483 pictures of the house for their review. There was further discussion regarding the location of the ADU
484 and that if Ms. Mark wanted to make the bedroom she is keeping part of the ADU she will still be under
485 the dimensional requirements.

486 Chairman Schneider asked about parking for the ADU and the house. Ms. Mark gave the Board a
487 drawing showing the parking for the property. Vice Chair Simpson said that it looks as though there are
488 four outside spaces and potentially two interior spaces. Ms. Gage said that the Ordinance requires two
489 dwelling units to have four parking spaces. Ms. Mark read from the Ordinance regarding the parking
490 requirements. Ms. Gage said that one of the ADU requirements is proper off-street parking per Section
491 3.40(e), which is the Ordinance that Ms. Mark read from.

492 Linda Whipple, a realtor in Sunapee, said that she sold Ms. Mark the property. It is a great place for an
493 apartment and looks as though it should work well the way that Ms. Mark has it planned.

494 Leila Emery said that she is attending on behalf of the Sunapee Historical Society as they about the
495 property and they were just wondering what Ms. Mark was planning.

496 Mr. Claus asked if in terms of the parking requirement if the ADU is supposed to be regarded as its own
497 separate unit. Ms. Gage said that is how she guided Ms. Mark and she believes that each unit would
498 want two parking spaces.

499 Vice Chair Simpson asked and Ms. Mark said that she is not converting a different type of room into a
500 bedroom, the bedrooms are already there. Ms. Mark said that the only thing being converted is the
501 area with the water turnoffs is being turned into a kitchen / living room.

502 Vice Chair Simpson asked and Ms. Gage said that she and Ms. Mark met with the Water and Sewer
503 Department and they said that it does not need to be separately metered but Ms. Mark will be required
504 to pay a new unit fee. Mr. Claus asked and Ms. Gage explained that the new unit fee is like an impact
505 fee as the new unit will have future impact to the system. Ms. Gage said that Ms. Mark will also receive
506 two bills for the two different units even though they will not be separately metered. Vice Chair
507 Simpson said that is not something that the Board needs to worry about.

508 Chairman Schneider read through the general requirements for the ADU. Chairman Schneider asked
509 and Ms. Mark confirmed that she will be occupying the main unit. Chairman Schneider said that even if
510 Ms. Mark expands to include the second bedroom the ADU will not be over 1,000 sq ft. There will not
511 be any expansion of the structure so the setbacks will not change nor will the lot coverage. The unit will

512 not have more than two bedrooms and the sewer hookup and parking requirements are also met.
513 There was a discussion regarding the parking area.

514 Vice Chair Simpson made a motion to approve Case #19-19: Parcel ID: 0129-0078-0000: seeking a
515 Special Exception of Article IV, Section 4.90 to allow for an accessory dwelling unit; 7 Main St; Leena
516 Mark. Mr. Lyons seconded the motion. The motion passed unanimously.

517 **MINUTES**

518 Changes to the minutes from September 5, 2019: Change Jim Lyons from "Present" to "Absent".
519 Change Line 104 to read "...there are other lots there that are conforming." Change Line 138 to read
520 "...he can go and do the measurements..." Change Line 155 to read "...wide and it is not." Change Line
521 376 to read "...are 18 inches or less. Mr. Claus said that if it says under the 18 inches then..."

522 Vice Chair Simpson made a motion to approve the minutes as amended. Mr. Lyons seconded the
523 motion. The motion passed unanimously.

524 **MISCELLANEOUS**

525 There was a discussion regarding ordering new law books and changes to the laws. There was a
526 discussion about recording who votes in favor of or opposed to an application. There was a discussion
527 about the new memo that Ms. Gage is doing for the applications and there was a discussion regarding
528 site visits.

529 Mr. Lyons made a motion to adjourn the meeting at 9:42 pm. Vice Chair Simpson seconded the motion.
530 The motion passed unanimously.

531 Respectfully submitted,

532 Melissa Pollari

533 Zoning Board of Adjustment

534 _____

535 Daniel Schneider, Chair Aaron Simpson, Vice Chair

536 _____

537 James Lyons, Jr. Clayton Platt

538 _____

539 George Neuwirt William Larrow, Alternate

540 _____

541 Jeffery Claus, Alternate