

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **MAY 8, 2020**

4 **PRESENT:** Nicole Gage, Zoning Administrator

5 **PRESENT BY VIDEO:** Aaron Simpson, Chair; Jeffrey Claus; Vice Chair; Clayton Platt; Daniel Schneider;
6 James Lyons, Jr.; Bob Henry, Alternate

7 **ALSO PRESENT BY VIDEO:** May Henry

8 Chairman Schneider called the meeting to order at 7:04 pm and read the Governor's Emergency Order
9 #12 that authorizes the Zoning Board to meet electronically: As Chair of the Zoning Board of
10 Adjustment, I find that due to the State of Emergency declared by the Governor as a result of the
11 COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive
12 Order 2020-04, this public body is authorized to meet electronically. Please note that there is NO
13 physical location to observe and listen to this meeting, which was authorized pursuant to the Governors
14 Emergency Order, however, I am confirming, in accordance with the Emergency Order, that we are:
15 Providing public access by video, electronic means and telephone. We are utilizing the Zoom internet
16 and phone based. All members of the ZBA have the ability to communicate contemporaneously during
17 this meeting through this platform, and the public has access to contemporaneously listen and, if
18 necessary, participate in this meeting by clicking on the following website address:
19 <https://zoom.us/j/97234281385> or by calling 1 (929) 205-6099. The passcode is 766215. If anybody has
20 a problem, they can call our staff person standing by at area code (603) 763-2212 ext. 23 or e-mail
21 zoning@town.sunapee.nh.us. In the event the public is unable to access the meeting, the meeting will
22 be adjourned and rescheduled. Please note that all votes that are taken during this meeting shall be
23 done by roll call vote. Let us start the meeting by taking a roll call attendance. When each member
24 states their presence, please also state whether there is anyone in the room with you during this
25 meeting, which is required under the Right-to-Know law."

26 A roll call vote was taken Dan Schneider, present. Aaron Simpson, present. Jeffrey Claus, present.
27 Clayton Platt, present. Jim Lyons, present. Bob Henry, present and his wife May Henry.

28 Chairman Schneider said that he has been diagnosed with lymphoma and starts chemotherapy soon and
29 will hopefully be cancer free in six months. He does not know if he will be able to participate in
30 meetings so he does not think that he would be an appropriate Chairman, so he stepped down.

31 Mr. Schneider nominated Aaron Simpson as Chairman of the Board. Mr. Simpson said that he would be
32 happy if anyone would like to be the Chair but is willing to serve. A roll call vote was taken Mr.
33 Schneider voted yes, Mr. Claus voted yes, Mr. Platt votes yes, and Mr. Lyons voted yes. Mr. Simpson
34 abstained.

Chairman Simpson said that the Board needs to vote on a Vice Chair. Mr. Platt said that there are a few cases that are going to come before the Board this year that he will not be able to sit on, so he does not feel comfortable being the Vice Chair and nominated James Lyons. Mr. Lyons declined the Vice Chairman position. Mr. Simpson asked Mr. Claus and he said that he does not feel as though he has the experience or knowledge regarding Zoning, however, he accepts the position knowing that he has a lot to learn.

Mr. Schneider made a motion to appoint Jeff Claus as Vice Chair. Mr. Platt seconded the motion. A roll call vote was taken: Chairman Simpson voted yes, Mr. Platt voted yes, Mr. Schneider voted yes, and Mr. Lyons voted yes. Mr. Claus abstained.

CASE #ZBA20-02: PARCEL ID: 0115-0038-0000: SPECIAL EXCEPTION PER ARTICLE III, SECTION 3.50(G) TO PERMIT A FENCE OVER 5-FEET WITH A SETBACK 2 FEET FROM THE BOUNDARY; 57 NORTH SHORE RD, JENNIFER & AGNES SLAVIN

Jennifer Slavin presented the merits of the case.

Ms. Slavin said that she is asking permission for her business at her home to have a 6 ft high fence 2 ft from the property line to go around the playground area and as a privacy fence.

Chairman Simpson asked and Ms. Slavin confirmed that the fence will be closer than permitted as it will be 2 ft from the property line. Chairman Simpson asked and Ms. Slavin said that the current fence is closer than 2 ft from the property line and is 4 ft tall. Chairman Simpson and Ms. Slavin confirmed that she wants to make the fence 2 ft higher to prevent the children from climbing over it and for privacy. Chairman Simpson asked and Ms. Slavin said that the abutters are the Evans and they are also logged in for the meeting.

Mr. Platt asked, and Ms. Slavin confirmed that she has received Site Plan approval from the Planning Board, and they approved of the 6 ft high fence. Mr. Henry said that read the Planning Board minutes and the fence seems to be logical.

Mr. Clapp asked if the fence will be built on the slope and Ms. Slavin said that the fence installer said that the fence a be stepped down the slope and it will be even with the ground. There was further discussion regarding this matter and Ms. Slavin said that there will not be any gaps.

There was a discussion regarding the material of the fence, which will be vinyl.

Chairman Simpson asked and Ms. Slavin said that at her former location she had a white, 8 ft tall vinyl fence and they only had to replace one panel in the 10 years they were at that location. Chairman Simpson asked Ms. Slavin how the fence will be maintained and if there is enough space on the other side to do so. Ms. Slavin explained that the panels can be removed and then replaced if needed. Chairman Simpson asked and Ms. Slavin said that she should not need to go onto the abutter's property to fix the fence with the 2 ft buffer and it can also be maintained from the inside. There was further discussion regarding this matter.

70 Robert Evans, 61 North Shore Rd, said that he and his wife, Anne VanTine, own the property that this
71 fence will abut. They have written a letter, that is part of the Board's packet, that is in favor of the
72 Special Exception for the fence.

73 Chairman Simpson asked Mr. Evans and Ms. VanTine if they have any concerns regarding the
74 maintenance of the fence. Mr. Evans said that he thinks that with the 2 ft buffer the Slavins should not
75 have a problem maintaining the fence and staying on their property. Chairman Simpson asked and Mr.
76 Evans said that there is a slope, but it is not that steep. Chairman Simpson asked and Mr. Evans said
77 that he understands that the fence will be 2 ft from his property, and he feels like this is reasonable to
78 allow the Slavins to have their daycare and it will grant them both privacy.

79 Chairman Simpson asked and there were no questions or comments from any of the Board members for
80 the applicant or the abutters. Chairman Simpson closed the hearing to public comments.

81 Mr. Schneider made a motion to approve ZBA20-02, Parcel ID: 0115-0038-0000, Special Exception per
82 Article III, Section 3.50(g) to permit a fence over five feet with a setback two feet from the boundary; 57
83 North Shore Rd; Jennifer and Agnes Slavin with the condition that the fence is the same or substantially
84 the same as shown in the application. Mr. Lyons seconded the motion.

85 Mr. Lyons asked if Mr. Schneider would be willing to add to the motion that the approval is subject to
86 appropriate maintenance. Mr. Schneider said that he does not know how that would be monitored.
87 Chairman Simpson said that as the fence is close to the property line, he believes that the neighbors
88 could report to the Town if it was not being maintained.

89 Mr. Lyons made a motion to amend the motion to include that the fence will be subject to appropriate
90 maintenance. Vice Chair Claus seconded the motion to amend.

91 Mr. Platt said that he thinks that the amendment is vague as someone can build a 4 ft fence close to the
92 property line, but this is a 6 ft fence within the setback. Mr. Lyons said that he thinks that it is easier to
93 maintain a 4 ft fence as well as the other side of the fence within 2 ft of a property line and he does not
94 want the burden of the maintenance to fall to the abutters. Chairman Simpson opened the meeting to
95 public comments per Mr. Evan's request. Mr. Evans said that the fence will be in an area where the
96 lawn is not mowed, and the area is all natural so it will be extremely low maintenance. Ms. Slavin said
97 that this section of the land only requires being raked; there are no shrubs or grass. There should be no
98 maintenance required on that side of the fence. She can replace the panels from her side of the fence.

99 Chairman Simpson closed the hearing to public comments.

100 There was further discussion regarding the maintenance of the fence and the land on the Evan's side of
101 the fence.

102 A roll call vote was made regarding the motion to amend the motion. Mr. Lyons voted yes, Mr.
103 Schneider voted yes, Vice Chair Claus voted yes, and Chairman Simpson voted yes. Mr. Platt voted no.

104 Chairman Simpson opened the meeting to public comments at Ms. Slavin's request. Ms. Slavin said that
105 she will need to maintain the fence to make sure that it is safe for her preschoolers.

106 A roll call vote was made regarding motion to approve the amended Special Exception. Mr. Schneider
107 voted yes, Mr. Platt voted yes, Vice Chair Claus voted yes, Mr. Lyons voted yes, and Chairman Simpson
108 voted yes.

109 **MINUTES**

110 Changes to the minutes from February 20, 2020: Lines 47 – 48: Remove the sentence that starts with
111 "Mr. Claus said that he does not know...." Change Line 152 – 153 to read: "Mr. Claus said that the
112 Planning Board met in the kitchen to call the attorney. Ms. Gage said that was an option for the Zoning
113 Board." Change Line 156 to read: "...someone could also appeal one specific condition."

114 Mr. Schneider made a motion to approve the minutes as amended. Mr. Platt seconded the motion. The
115 motion passed unanimously.

116 **NEW BUSINESS**

117 Ms. Gage said that there is an application that has been submitted that will need to be put on the next
118 agenda. She has also spoken to someone else who will be submitting an application. Currently, the
119 State of Emergency is set through May 15th and meetings will need to be scheduled after May 15th and
120 the restriction on having 10 or more people together goes through the end of May. She will be speaking
121 to the Chair regarding scheduling for the next meeting as she would like to wait until after May 15th to
122 see if there are changes to the Emergency Order. There was further discussion regarding the Governor's
123 Orders as well as about having a regular meeting at the Town Office while social distancing as the
124 applications must be heard within 45 days of receipt or continuing with the Zoom meetings with
125 complex cases as well as about the issues that may arise with the pandemic and possible precautions if a
126 six foot distance cannot be maintained with meetings held at the Town Office.

127 Chairman Simpson adjourned the meeting at 7:58 pm.

128 Respectfully submitted,

129 Melissa Pollari

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