

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **JULY 16, 2020**

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

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

7 **ALSO PRESENT BY VIDEO:** Debra LeClerc; Thomas LeClerc

8 Chairman Simpson called the meeting to order at 7:04 pm

9 Ms. Gage read the Governor's Emergency Order #12 that authorizes the Zoning Board to meet  
10 electronically: "Due to the State of Emergency declared by the Governor as a result of the COVID-19  
11 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order  
12 2020-04, this public body is authorized to meet electronically. Please note that there is no physical  
13 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 all of the access requirements for Zoom are posted on  
18 the Town's website for the meeting."

19 Chairman Simpson appointed Mr. Henry as a voting member on the case.

20 **CASE #ZBA20-03: PARCEL ID: 0148-0039-0000: SPECIAL EXCEPTION PER ARTICLE III, SECTION 3.50(I) TO**  
21 **PERMIT A PRE-EXISTING NON-CONFORMING STRUCTURE TO BE REPLACED WITH A HIGHER**  
22 **STRUCTURE. EXISTING STRUCTURE IS A 2-BEDROOM HOUSE WITH PEAK OF ROOF AT 1133.4**  
23 **(ELEVATION) OR 15.3' AT HIGHEST POINT. PROPOSED STRUCTURE WILL BE NO GREATER THAN 24' 5"**  
24 **OR 1142.6 (ELEVATION) AND WILL BE 2-BEDROOMS PER ARTICLE VII. 41 CHANDLER DR; RR**  
25 **W/SHORELINES OVERLAY; THOMAS W & DEBRA LECLERC**

26 Debra and Thomas LeClerc presented the merits of their case.

27 Mrs. LeClerc said that they want to rebuild their home at 41 Chandler Dr. There are eight different  
28 criteria that are required to be met for the Special Exception and the first has been repealed. The  
29 second criterion that they meet is that the existing structure is a house and is currently a seasonal  
30 cottage. The third criterion is that existing structure is less than 24 ft in height and it is 15.3 ft at the  
31 highest elevation. The fourth criterion is that the vertical expansion will not be more than 10 ft higher  
32 than the current structure and it will be 24 ft 5 inches. Mrs. LeClerc continued that she does not believe  
33 that criterion five applies as there will be no roof changes as they are rebuilding the whole house. The  
34 eighth criterion is that in the judgment of the ZBA there will be no impact on the abutters. They have

two abutters and only one has a house on the property and neither property will be impacted. Lastly, regarding the seventh criterion, they have all of the necessary State permits and are also in compliance with Article VII of the Ordinance as they have approval to construct a septic system; they are also going to just remain a 2-bedroom so they will not be increasing anything. They also have a Shoreland Impact Permit from DES and have applied for the demolition permit, driveway permit, land disturbance permit, and building permit.

Mr. Schneider asked and Mrs. LeClerc said that the Shoreland Permit was submitted as part of their application. Ms. Gage said that it is in the Board's packet.

Mr. Schneider asked and Mrs. LeClerc confirmed that the new house will be built on the same footprint as the existing house. Mr. Lyons asked and Mrs. LeClerc confirmed that the footprint will not change, they are just asking to extend the envelope 9 ft 2 inches up to accommodate the second floor.

Mr. Lyons said that he does not think that any of the neighbors across the lake from them will even notice the change. Mrs. LeClerc asked and Mr. Lyons confirmed that he was able to visit the site.

Ms. Gage said that the Shoreland Permit approval is to impact 4,500 sq ft of protected shoreland in order to replace an existing primary structure.

Chairman Simpson asked why the application refers to Article III Section 3.40 and Mrs. LeClerc explained that Article III, Section 3.40 says that they are supposed to be at least 50 ft between the waterbody and the structure and they do not meet this requirement so that is why they need the Special Exception.

Ms. Gage said that the second page of the application says that the request for the Special Exception is under Article III, Section 3.50(i). Mr. Schneider said that he thinks that Article III Section 3.40 is what makes it a non-conforming structure.

Chairman Simpson said that he is confused about the plans that were submitted. Mrs. LeClerc said that Clayton Platt did the survey and Shoreland Permit application. Chairman Simpson asked about the Map of Project Boundaries that is from the NH Natural Heritage Bureau and said that it does not look the same as the Tax Map submitted. Mrs. LeClerc said that the Tax Map is more zoomed in on the property. There was further discussion regarding this matter.

There was a discussion about how to get to the property.

Chairman Simpson asked and Mrs. LeClerc said that they are not bringing any fill onto the property, they are building on piers.

Chairman Simpson asked and Mrs. LeClerc said that she does not know why there is a walkway on the property towards the dock. Mr. Lyons said that the walkway does not go all the way to the dock. There was further discussion regarding the walkway and the shoreland.

Mr. Claus asked about the location of the well as two of the submitted plans show the well in different locations. He sees changes like this happen a lot as the septic needs to be as far away from the lake as possible and consequently the well ends up closer to the lake to be away from the septic. Mr. and Mrs.

LeClerc explained where they thought the well was going to be located. There was further discussion regarding this matter and which plans are approved and what may need to be changed and about the trees that may need to be removed because of the well.

Mr. Henry said that this was a very well-prepared application and seems to hit all the bases so he does not have any questions.

Mr. Schneider made a motion to approve the Special Exception per Article III, Section 3.50(i) to permit a pre-existing non-conforming structure to be replaced with a higher structure; the proposed will be no greater than 24 ft 5 inches; Parcel ID: 0148-0039-0000; subject to the information stated in the approved Shoreland Permit on file and submitted with the application. Mr. Lyons asked if Mr. Schneider wants to include anything about the tree that was discussed. Mrs. LeClerc asked if the Shoreland Permit has anything to do with the issue related to the well and septic system. Mr. Claus said that he does not think that it needs to be a condition, the applicants just need to be aware of the situation. Chairman Simpson asked if there are other permits needed. Ms. Gage said that the Town permits are on hold pending Zoning Board approval. Chairman Simpson asked and Mrs. LeClerc said that a tree cutting approval was obtained last year. Mr. Henry seconded the motion. A roll call vote was taken: Mr. Schneider voted yes, Mr. Henry voted yes, Mr. Claus voted yes, Mr. Lyons voted yes, and Chairman Simpson voted yes. The motion passed unanimously.

#### **MISCELLANEOUS**

Mr. Lyons asked the Board to consider if they can insist that future applications look like the LeClerc's application. The Board approved the application in less than a half an hour and part of that reason was that there was nothing added at the meeting; they did not come to the meeting with new plans or additional requests. He would like the Board to consider the application to be final at the time it is filed with the Zoning Administrator and, in the future, applicants be told that if they show up with extra documents that their application is incomplete and will be considered at a future date. Mr. Schneider asked Ms. Gage how she feels about this proposal. Ms. Gage said that the Zoning Board has the right to continue a hearing if they need time to consider materials that are presented to them at a hearing. She is trying to coach applicants, especially with the digital meetings. She did let the LeClerc's know that it would be very challenging to try and hand out new information at a digital meeting and they understood how it could delay the meeting. She will continue to try and coach people, even when the Zoning Board starts meeting in person again. She thinks that applicants do have the right to bring new materials to meetings if they need to but the Zoning Board can then continue the hearing if they need time to review it.

Chairman Simpson said that his issue for a lot of the applications is that the applications do not submit surveys, which is something that should be required for anything on the waterfront. Chairman Simpson asked Mr. Schneider that he believes that this is part of the Board's Rules of Procedures. Ms. Gage said that the newly adopted Rules of Procedures say that a recent survey is strongly recommended for applications that concern setbacks and may be required by the Zoning Administrator and / or the Board. The new Variance application does say that a survey is required if the property is in the

108 Shoreland. Chairman Simpson asked if the Special Exception application can have the survey  
109 requirement added to it. Mr. Claus said that he has recent experience with this with the Planning Board  
110 and an applicant, who has had experience in other towns, was frustrated because he felt that the other  
111 towns' checklists and requirement are more thorough than Sunapee's. He thinks that the reviews go  
112 smoother when the applicants have plans prepared by professionals, which he understands is a cost.  
113 There was further discussion about requiring or recommending surveys for applications, especially  
114 within the Shoreland and if a building is within setbacks.

115 There was a discussion about updating the Special Exception application.

116 **MINUTES**

117 Changes to the minutes from May 8, 2020:

118 The minutes were continued to the next meeting.

119 Mr. Henry made a motion to adjourn. Mr. Schneider seconded the motion. Chairman Simpson  
120 adjourned the meeting at 7:47 pm.

121 Respectfully submitted,

122 Melissa Pollari