

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **AUGUST 6, 2020**

4 Chairman Simpson called the meeting to order at 7:04 pm and read the Governor's Emergency Order  
5 #12 that authorizes the Zoning Board to meet electronically: "Due to the State of Emergency declared by  
6 the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency  
7 Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. The  
8 public has access to contemporaneously listen and participate during this meeting through video  
9 conferencing at the Zoom address shown and the Meeting ID and password shown or by telephone by  
10 calling the number shown."

11 A roll call of members present was taken.

12 **MEMBERS PRESENT BY VIDEO:** Aaron Simpson, Chair; Jeffrey Claus, Vice Chair; Daniel Schneider; Jim  
13 Lyons; Clayton Platt; Bob Henry, Alternate

14 **PRESENT IN THE MEETING ROOM:** Nicole Gage, Zoning Administrator

15 **ALSO PRESENT BY VIDEO:** Philip Hastings; Brad Weiss; Cathy Shea; Peter Blakeman; Gregory Weiss;  
16 Pamela Weiss; Harry Snow

17 Mr. Schneider made a motion to appoint Bob Henry as a voting member of the meeting. Mr. Lyons  
18 seconded the meeting. The motion was approved unanimously.

19 Ms. Gage said that she wanted to thank the Town Manager, Donna Nashawaty, for working to improve  
20 the technology in the Meeting Room to make meetings easier.

21 **CASE # ZBA20-04: PARCEL ID: 0125-0011-0000: A VARIANCE IS REQUESTED FROM ZONING**  
22 **ORDINANCE, ARTICLE III, SECTION 3.10 AND 3.20 TO PERMIT CONSTRUCTION OF A NEW SINGLE**  
23 **FAMILY RESIDENCE WITH THE FOLLOWING: 1) 8 FT 7 INCH WESTERLY SIDE YARD SETBACK; 2) 4 FT 6**  
24 **INCH SIDE YARD SETBACK; 3) A MAXIMUM LOT COVERAGE OF 56.7%; 4) A BUILDING HEIGHT OF 33 FT**  
25 **6 INCHES IN THE SIDE SETBACKS; AND 5) MAXIMUM SURFACE COVERAGE OF 42.9% IN THE SHORELINE**  
26 **OVERLAY DISTRICT; 38 JOBS CREEK RD; CATHLEEN A SHEA & BRADLEY M WEISS**

27 Attorney Philip Hastings said that he will present the merits of the case with Cathleen Shea and Bradley  
28 Weiss, the owners of the property, as well as Harry Snow and Peter Blakeman.

29 Ms. Gage said that she has received a number of abutter letters that she emailed to the Board and has  
30 available to screen share with them as well. She will be monitoring the chat and admitting people into  
31 the meeting as they request access to the meeting. She also explained that she can share her screen at  
32 any time that the Board requests. The applicants also sent in quite a few documents before the  
33 meeting, these documents are not on the website, however, the applicants are able to share them on  
34 their screens if needed.

35 Chairman Simpson said that he consulted with the Town's attorney regarding how the Board should do  
36 some things procedurally.

37 Mr. Lyons said that he wanted to address the issue of the supplemental documents that were sent  
38 before the meeting. These documents have substantial changes from the application, two of them  
39 involves setbacks found on a recent survey and one involves the removal of a driveway. He would like  
40 to request that the case be postponed until the entire Board has had a chance to review the new  
41 information. Chairman Simpson said that the Board has had materials brought to them at meetings in  
42 the past. Mr. Lyons said that this is true but this is a much more complicated case than most. Chairman  
43 Simpson said that Mr. Lyons is free to make a motion if he would like.

44 Mr. Lyons made a motion to postpone the case. Mr. Henry seconded the motion.

45 Chairman Simpson said that one of the changes in the new material looks to be a change pertaining to  
46 the second Variance request so it may need to be renoticed. Attorney Hastings confirmed this and  
47 asked to address the issue of the continuance. Chairman Simpson said that he would like to hear  
48 comments from the Board regarding the motion.

49 Mr. Claus said that he is looking at the new documents and he did see that it impacts the second  
50 Variance request as the side setback has been reduced. He did not see anything regarding the impacts  
51 pertaining to the lot coverage or the maximum surface coverage. Chairman Simpson said that is  
52 something that could be presented during the hearing. Mr. Claus said that he thinks that they are  
53 reducing the lot coverage. Chairman Simpson said that he thinks that the side setback is an increase and  
54 thinks that this would need to be renoticed.

55 Mr. Schneider asked and Ms. Gage said that she believes that the Planning Board is going to be meeting  
56 on the third Thursday of the month for the Master Plan but she will check. Chairman Simpson asked and  
57 Ms. Gage said that the Boards have to use the Meeting Room in order to record the meetings.

58 Mr. Schneider said that he has not had the chance to review the newly submitted materials; as it is new  
59 information that was not included with the Board's packet he agrees that the hearing should be  
60 postponed.

61 Attorney Hastings apologized for the lateness of the submission and explained that the applicants had a  
62 new survey completed by Clayton Platt that Peter Blakeman received not too long ago and they wanted  
63 to be able to give the Board accurate information regarding the boundary. Nothing has changed; the  
64 proposed building is the same and the boundaries are where they were, the new plan is just a little more  
65 accurate. He understands that may constitute somewhat of a material change for the Board and if they  
66 need more time to consider it and renote the case it is acceptable to them. Regarding the lot  
67 coverage, they looked at the plans since the application was submitted and determined that the  
68 proposed circular turnaround is not appropriate for this site so they removed that, which slightly  
69 reduced the lot coverage calculation. If the Board chooses to recess the hearing he does not believe  
70 that the applicants will object; however, he wonders if it makes sense for them to present the plans and

at the conclusion of the presentation the Board can then determine if they would still like to recess to the next meeting.

Mr. Henry said that he thinks that changing the driveway changes the possibility of placement and he does not know if the applicants want to reconsider that. The new changes make the boundary lines worse than they were before, however, there is space to resituate the house which may change the plan. Chairman Simpson said that he does not think that the Board should be discussing the application, though the owners could make note of this concern.

Mr. Lyons said that Mr. Henry's point is why the Board needs time to review the new information. He apologizes for the inconvenience but he would like to review the new documents.

A roll call vote was taken: Vice Chair Claus voted no, Mr. Henry voted yes, Mr. Schneider voted yes, Mr. Lyons voted yes, Chairman Simpson voted yes. The motion passed.

Chairman Simpson asked when the Board can next meet to hear the case. Ms. Gage asked if Chairman Simpson thinks that the case needs to be renoticed. Chairman Simpson said that he thinks that the second Variance request needs to be renoticed and asked Attorney Hastings if he agrees. Attorney Hastings said that he does not necessarily disagree; while the notice may be acceptable as it is, for extra caution renoticing abutters may be the best course. Ms. Gage gave potential dates for the Board to meet.

There was a discussion about the Board getting a copy of the new survey and the change to the setback.

There was further discussion regarding when the Board can hold the meetings. Ms. Gage said that she will make sure that the entire packet will be updated for the Board and some of the Board members requested paper copies. The Board decided that they will try to meet on Tuesday, August 25th at 6:00 pm.

## **MISCELLANEOUS**

Mr. Lyons asked if the Board could meet with the Town's attorney regarding the previous case before the next meeting. Chairman Simpson said that the Board can choose to do that if they would like, though he is not certain that it is necessary. Mr. Henry said that he is worried about setting a precedence in that area as there are many other houses that are old and the owners may want to reconstruct. Chairman Simpson said that he is happy to schedule something with the Town's attorney, however, the Board cannot discuss the application. Mr. Schneider asked and Mr. Lyons said that he would like to discuss with the Town's attorney the ways that the Board could get into trouble. Chairman Simpson said that he does not want to talk about what the Board will be discussing with the Town's attorney. Mr. Lyons said that he thinks that the Board needs to talk to the Town's attorney to get advice regarding this particular case while being mindful that the Board has already made some decisions in this subdivision that have generated litigation.

Vice Chair Claus made a motion to have a meeting with the Town's attorney. Mr. Henry seconded the motion.

107 Vice Chair Claus asked if the Board will be able to talk about the merits of the case with the Town's  
108 attorney. Chairman Simpson said that the Board will have to follow what the Town's attorney tells them  
109 but he is not sure they can discuss the merits. Vice Chair Claus said that he struggles with the five  
110 Variance criteria so his questions would pertain to how to approach those, not necessarily the case.  
111 Chairman Simpson asked if the Board would like to go into non-public session so that they can discuss  
112 what the Town's attorney told him. Ms. Gage said that the Board can hold a non-meeting to discuss the  
113 rules and procedures with the Town's attorney. If the Board wants to go into non-public session, she  
114 can call the Town's attorney now. There was further discussion regarding this issue as to how the Board  
115 could hold the non-public session.

116 Mr. Schneider asked if it is appropriate for Mr. Platt to be part of the phone call with the Town's  
117 attorney. Chairman Simpson asked and Mr. Platt said that he will sign off the meeting and not call in  
118 with the Town's attorney.

119 Mr. Lyons made a motion to go into non-public session at 7:49 pm under NH RSA 91-A III (I) -  
120 consideration of legal advice provided by legal counsel, either in writing or orally, to one or more  
121 members of the public body, even where legal counsel is not present. Mr. Henry seconded the motion.  
122 A roll call vote was taken: Vice Chair Claus voted yes, Mr. Lyons voted yes, Mr. Henry voted yes, Mr.  
123 Schneider abstained, and Chairman Simpson voted yes; the motion passed.

#### 124 **MINUTES**

##### 125 Changes to the minutes from May 7, 2020:

126 The minutes were continued to the next meeting.

##### 127 Changes to the minutes from July 16, 2020:

128 The minutes were continued to the next meeting.

129

130 Respectfully submitted,

131 Melissa Pollari