

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **FEBRUARY 20, 2020**

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

6 **ABSENT:** Aaron Simpson, Vice Chair; George Neuwirt; Bob Henry, Alternate

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 appoint Jeffrey Claus and William Larrow as voting members for the
10 meeting. Mr. Platt seconded the motion. The motion passed unanimously.

11 **CASE #ZBA20-01: PARCEL ID: 0148-0037-0000: SPECIAL EXCEPTION PER ARTICLE III, SECTION 3.50(I).**
12 **EXISTING STRUCTURE IS A TWO BEDROOM HOUSE, 13 FT 5 INCHES AT THE HIGHEST POINT.**
13 **PROPOSED STRUCTURE WILL BE NO GREATER THAN 23 FT 5 INCHES, WITHIN THE HEIGHT**
14 **REQUIREMENTS OF THE ZONING ORDINANCE, AND WILL BE TWO BEDROOMS PER ARTICLE VII;**
15 **LOCATION: 16 SUNNYSIDE DR; ZONE: RR W/SHORELINE & AQUIFER OVERLAY; OWNER: BRADFORD &**
16 **SARAH LASSEY; APPLICANT: DOUG GAMSBY, GREENLINE PROPERTY SERVICES LLC**

17 Doug Gamsby presented the case on behalf of the applicants. Chairman Schneider asked and Ms. Gage
18 confirmed that there is a letter on file that permits Mr. Gamsby to speak for the applicants.

19 Mr. Gamsby explained that the applicants purchased the house just over a year ago and had a new
20 septic system designed in August. There was a windy weekend in late October where a tree fell on the
21 house. The house was not built on a solid foundation, it only has concrete blocks, and the tree caused
22 the house to shift. They are asking to build a two-story house with two bedrooms in the same footprint
23 by Special Exception. The proposed house will not be any higher than 23 ft 5 inches, which is within the
24 height requirements of the Zoning Ordinance and will have two bedrooms per Article VII as there is a
25 two-bedroom septic system. There is a DES Shoreland Permit that was approved on February 5th and
26 one of the conditions is to add some 4-inch trees to get all the required points. Chairman Schneider
27 asked and Mr. Gamsby confirmed that these trees were not there before.

28 Mr. Larrow asked and Mr. Gamsby said that one of the sheds shown on the plan is separate. Mr. Larrow
29 asked and Mr. Gamsby said that shed will remain on the property. The shed that is attached to one the
30 end of the current house will become part of the new house.

31 Mr. Gamsby said that as part of the DES permit, they have a Stormwater Management Plan that has a
32 system that will bring water to a dry well on the far side and then on the lake side there will be a gutter
33 that percolates water into the ground. Mr. Lyons asked and Mr. Gamsby explained that the purpose of

34 the plan is to keep the water runoff from accumulating all over the property as they do not want water
35 to go into the lake.

36 Chairman Schneider asked and Ms. Gage confirmed that she has a copy of the DES permit and gave it to
37 the Board for their review.

38 Mr. Larrow asked and Mr. Gamsby explained that the shed that will become part of the house is
39 connected to the old house and is part of that footprint. Mr. Larrow said that, to him, it is increasing the
40 size of the home. Mr. Gamsby said that it is not increasing the footprint. Mr. Larrow said that it is not
41 part of the home, it is storage. Mr. Gamsby said that he does not know if it was storage or what the
42 purpose of it was. Mr. Claus said that, looking at the photos, the shed was build directly onto the house
43 and he does not think he could tell that it was not part of it as it is sided the same. Mr. Larrow said that
44 it may be semantics, however, it is not part of the home. If there was access to the shed from the home
45 he would say it was part of the home, however, if it was accessed from outside he considers it a
46 separate building. Mr. Gamsby said that he was considering it to be all one structural footprint and that
47 they are not going outside the footprint. Mr. Claus said that he does not know if there is anything in the
48 Zoning Regulations regarding expanding horizontally. Ms. Gage said that if they were doing a simple
49 reconstruction without the Special Exception, Article 6.12 allows for replacement in the same or smaller
50 envelope by a new structure having the same purpose and use. Mr. Larrow said then that section would
51 be required to be a shed. Mr. Claus said that what Mr. Larrow is saying is that they are making that
52 section living space and it was storage space, which is not the same. Mr. Gamsby said that Section 3.50
53 says that "the existing structure is a house (living space only), garage, or commercial building" and feels
54 like you could put a shed in as synonymous with "garage". He does not know if there was an interior
55 door that went into that area, which would have made it part of the living space. Mr. Platt asked if
56 someone wanted to put a door out to their shed if it would require Zoning relief. Ms. Gage said that a
57 CZC is only required for interior renovations over \$25,000; Zoning relief would not be required to install
58 an interior door to a shed. Mr. Platt said that if Zoning relief would not be required, it is semantics.

59 Chairman Schneider asked and Mr. Gamsby confirmed that even though the house will be larger,
60 another septic approval is not required because it will remain a two-bedroom house.

61 Mr. Larrow asked and Ms. Gage said that she has not received any comments from the abutters
62 regarding the house increasing in height. Mr. Claus said that it does not appear as though there is a
63 house that this proposed height increase would block. Mr. Gamsby explained that some of the houses
64 in the area are seasonal and some are occupied year-round.

65 Chairman Schneider said that Section 3.50(i) says that the ZBA may allow a pre-existing non-conforming
66 structure to undergo vertical expansion or be replaced with a higher structure provided that: the
67 existing structure is a house (living space only), garage or commercial building. Chairman Schneider
68 asked and the Board said they did not have any objections regarding the proposal meeting this
69 requirement.

Chairman Schneider said that the existing structure is less than 24 ft in height and the application is for the vertical expansion to not be more than 10 ft higher than the pre-existing structure. He believes that any roof changes are within the height requirements set forth in the Ordinance.

Chairman Schneider said that the next requirement is that “in the judgment of the ZBA, no abutter will be adversely affected by the enlargement (loss of view will not be considered an adverse impact)” and the Board has not had any questions or comments from any abutters. Mr. Platt said that it does not appear as though there will be any adverse impact.

Chairman Schneider said that the next requirement is that all state and local permits are acquired to ensure compliance with Article VII of the Ordinance, which is regarding the septic system. Chairman Schneider asked and Mr. Gamsby said that he is a licensed septic system designer and inspector. Chairman Schneider said that Article VII says that “no structure shall be converted in any manner resulting in increased septic flow or water utilization without certification from a NH licensed septic designer that the existing system will handle the additional septic flow”. Chairman Schneider asked and Mr. Gamsby said that the septic system meets this requirement. There was a discussion regarding the septic system.

Chairman Schneider said that the last requirement is that “such enlargement or replacement, in the judgment of the ZBA, is consistent with the intent of the Ordinance”. Mr. Platt said that it seems to be.

Mr. Platt asked and Mr. Gamsby said that the total height of the house will be 23 ft 5 inches according to the plan. Mr. Claus asked and Mr. Gamsby confirmed that the vertical expansion will not exceed 10 ft. There was further discussion regarding this matter.

Chairman Schneider closed the meeting to public comments.

Chairman Schneider said that he has the DES Permit number, which should be included as part of the motion for approval. He thinks that the proposal meets the requirements.

Mr. Lyons said that this is a non-conforming lot and the applicants have taken care to stay within the footprint of the existing structure, which is not something that the Board often sees. He thinks that this proposal represents integrity and maintains the Spirit of the Ordinance and it is reasonable so he has no problems supporting it.

Mr. Claus said that, regarding Mr. Larrow’s concerns, he does look at this as one structure. He worked on a house on the lake and there was storage on the lower level but it could only be accessed through the outside because of ledge. There is verbiage that the structure is a house, living space only, garage, or commercial building, but he feels as though it is one structure. It would be different if there were two or three feet between the structures, however, they are attached.

Mr. Larrow said that looking at the project in total he did not have any issues with it. He went to the site and looked at it, however, it is the verbiage that made him bring it up.

Mr. Platt made a motion to approve the Special Exception per Article III, Section 3.50(i), Parcel ID: 0148-0037-0000, to raise an existing structure that is 13 ft 5 inches to not more than 23 ft 5 inches; all construction is to take place in accordance with Shoreland Permit 2020-00129, dated February 5, 2020. Mr. Claus seconded the motion. Mr. Larrow asked if Mr. Platt wants the motion to include that it is per the submitted plan and Mr. Platt said that he would be concerned if there were any changes that need to be made that did not change the height. Mr. Larrow said that the Board has done this in the past and that it ties in to the building and impervious surface. Mr. Platt said that information is on the Shoreland Permit plan and that they may want to change something in the building during construction. Mr. Larrow said that the Board has done it in the past. Mr. Lyons said that he would think that the Board would want to do this. Mr. Platt said that one of them can make an amendment to the motion. Mr. Larrow made a motion to amend the motion to include that the approval is subject to construction following drawings dated January 16, 2020. Chairman Schneider said that he thought the date was January 9, 2020. Mr. Gamsby asked and Mr. Platt said that they are discussing the architectural plans. Mr. Larrow said that he thought that all the plans had the same date. Mr. Platt said that he thinks that if the Board approves the proposal based on the Shoreland Permit it will be conditional upon following the plan that was submitted for that permit. Mr. Claus said that the approval can just encompass all the plans submitted with the application. Mr. Larrow made a motion to amend the motion to include the condition that construction is to proceed according to all plans submitted as of this meeting. Mr. Platt said that he does not recall any approvals with this type of condition. Mr. Claus seconded the motion. The amendment passed with four in favor one opposed (Mr. Platt). The amended motion passed unanimously.

MINUTES

Changes to the minutes from January 9, 2020: Change Line 65 to read "Vice Chair Simpson said..." Change Line 129 to read "...said that they currently..." Change Line 153 to read "...foster children since she and..." Change Line 158 to read "...getting their artesian well water..." Change Lines 321-322 to read "...disposal at the proposed site as there is Town..." Change Line 335 to read "...then the number of..." Change 344 to read "...that the Slavins perform a service..." Change Line 362 to read "Chairman Schneider said something not discernable." Change Line 371 to read "...he did not poll the..."

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

RULES OF PROCEDURE

Chairman Schneider said that the Rules of Procedure are over 20 years old and, in some cases, contrary to State law. They have a draft of new Rules of Procedures that have been reviewed by and blessed by the Town's attorney.

Chairman Schneider asked and Mr. Claus said that everything made sense to him. Mr. Platt said that he likes the survey language and that it remains somewhat flexible while still encouraging people to get surveys.

141 Mr. Lyons made a motion to adopt the Rules of Procedure as drafted. Mr. Platt seconded the motion.
142 The motion passed unanimously.

143 **MISCELLANEOUS**

144 Ms. Gage gave the Board copies of the new handbooks from the Regional Planning Commission as well
145 as the handbooks from the State.

146 Ms. Gage said that the Annual Spring Planning and Zoning Conference will be held on May 30th and will
147 be at the Grappone Conference Center in Concord.

148 Ms. Gage said that there were concerns regarding the Slavin's condition regarding only allowing one-
149 way travel on the road. The applicant has questioned her options and Ms. Gage spoke to the Town's
150 attorney regarding this issue. The Town's attorney has said that any time the Board needs to discuss
151 things with her they can recess the hearing and call her. Mr. Lyons asked and Ms. Gage confirmed that
152 the Board could recess to go upstairs to make the phone call. Mr. Claus said that the Zoning Board met
153 in the kitchen to call the attorney and Ms. Gage agreed that is an option. Ms. Gage continued that the
154 attorney feels that if there is a condition that is placed on a decision that someone wants to come back
155 to the Board to reconsider then the Board would only look at that condition, not open up the whole
156 case; someone could also appeal once specific condition. Mr. Lyons asked and Ms. Gage said that she
157 did not ask for an explanation regarding the logic behind the attorney's recommendation. Mr. Lyons
158 said that there was a lot of discussion about this case and he thinks that one of the concessions made to
159 the abutters was that the traffic was controlled. Ms. Gage said that the attorney was explaining that a
160 request for an appeal or for a new application can be on one specific part of the decision and that it
161 does not open the entire case up for reconsideration. Chairman Schneider said that he thought that
162 there was a 30-day period during which a decision could be appealed. Ms. Gage said that the attorney
163 said that someone could appeal that particular condition in the 30-day period. Chairman Schneider
164 asked and Ms. Gage said that the applicant themselves can ask the Board to reconsider a condition
165 through a Special Exception years after an approval. There was further discussion regarding this matter.

166 Mr. Larrow made a motion to adjourn the meeting at 7:41 pm. Mr. Lyons seconded the motion. The
167 motion passed unanimously.

168 Respectfully submitted,

169 Melissa Pollari