

1 TOWN OF SUNAPEE

2 ZONING BOARD

3 September 21, 2021

4 Chairman Simpson called the meeting to order at 6:00 pm and read from the agenda "The public has
5 access to contemporaneously listen and participate in this meeting through electronic online video
6 conferencing at <https://zoom.us/> with Meeting ID 979 9537 1537 and Passcode 705609, or by telephone
7 by calling (929) 205 6099."

8 Roll call was taken.

9 **MEMBERS PRESENT IN THE MEETING ROOM:** Aaron Simpson, Chair; Jeffrey Claus, Vice-Chair; David
10 Munn, Jamie Silverstein, Jim Lyons

11 **ALSO PRESENT IN THE MEETING ROOM:** Melissa Pollari, Maria Seaver, Scott Seaver, Drew MacDermott,
12 Will Davis, Daniel Cave, MaryBeth Cave, Maureen Binzel, Peter White, Craig Howe

13 **PRESENT VIA ZOOM:** Gary Snyder (joined later)

14 **CONTINUATION**

15 **CASE ZBA: 21-27; PARCEL ID: 0113-0029-0000: SEEKING A VARIANCE FROM ARTICLE III, SECTION 3.40**
16 **(C) TO PERMIT A 16.9 FT SETBACK FROM THE WATER BODY WHERE 50 FT IS PERMITTED (THE EXISTING**
17 **DECK IS 16.8 FT FROM THE WATER BODY). RIDGEWOOD POINT, LLC; 18 RIDGEWOOD POINT RD,**
18 **RURAL RESIDENTIAL ZONE W/ SHORELINE OVERLAY.**

19 **REVISED (UNDERLINED)**

20 **CASE ZBA:21-28; PARCEL ID: 0113-0029-0000: SEEKING A VARIANCE FROM ARTICLE III SECTION 3.10**
21 **TO PERMIT A 5.3 FT SIDE SETBACK ON THE EAST SIDE WHERE 15 FT IS PERMITTED (THE EXISTING**
22 **STRUCTURE IS 7.4 FT FROM THE PROPERTY LINE) AND TO PERMIT A 5.3 FT SIDE SETBACK ON THE**
23 **WEST SIDE WHERE 15 FT IS PERMITTED (THE EXISTING STRUCTURE IS 5.3 FT FROM THE PROPERTY**
24 **LINE). RIDGEWOOD POINT, LLC; 18 RIDGEWOOD POINT RD, RURAL RESIDENTIAL ZONE W/ SHORELINE**
25 **OVERLAY.**

26 **CASE ZBA: 21-29; PARCEL ID 0113-0029-0000: SEEKING A VARIANCE FROM ARTICLE III SECTION 3.10**
27 **TO PERMIT A STRUCTURE HEIGHT OF 33 FT 5 INCHES IN THE REDUCED SIDE SETBACK WHERE 25 FT IS**
28 **PERMITTED (EXISTING STRUCTURE HEIGHT IS 33 FT 6 INCHES IN THE REDUCED SIDE SETBACK).**
29 **RIDGEWOOD POINT, LLC; 18 RIDGEWOOD POINT RD, RURAL RESIDENTIAL ZONE W/ SHORELINE**
30 **OVERLAY.**

31 Scott Seaver, Maria Seaver, Drew MacDermott, and Will Davis were all in attendance to present the
32 cases. Mr. Seaver stated that he has added a letter spelling out the hardship for these cases. Dated
33 August 26th; he has also added letters from abutters on each side in support of the project. They also
34 included photos of the property and the properties of the two abutting homes. The goal of the project
35 was to build a more livable home. The existing lot is a small, pie shaped lot that only has about 350 feet
36 of buildable space within the confines of the current Ordinance. They are trying to build a home that sits

37 primarily in the current existing footprint of the home and keep it lower than the existing ridge. Mr.
38 Seaver then passed the presentation on to Mr. Davis. Mr. Davis talked about the revisions that had been
39 made to the application and pointed the Board's attention to the additional information that they
40 provided. This included the changes to the ridge and setbacks within the variances they are requesting.
41 In addition, they also included architectural plans and floor plans that include the elevation views: the
42 height, the floor, the ridge, and the eaves can all be seen in these plans. Mr. Davis repeated that they
43 had received letters of support from the abutters after being provided the same application material
44 that was included at this meeting.

45 Chairman Simpson requested more clarification on what they are looking at in each picture provided.
46 Mr. Davis and Mr. Seaver then went through each picture with the Board stating what they were
47 showing in each photo, such as the existing structures that abut their property. Chairman Simpson asked
48 if there was a photo of the applicant's house. Mr. Seaver stated that the first picture was his house, and
49 that it's taken from the lake. The house is set back behind some trees so it's not as visible as his
50 neighbors' homes from the lake. They plan to save the majority of the trees that cover the lot.

51 Chairman Simpson asked about the architectural plans. Mr. Seaver stated that the architect, Mr. Snyder,
52 was supposed to be joining them via Zoom, however, Mr. Snyder was having a hard time accessing it.
53 They stated that the plan had not changed since the last meeting. Mr. Seaver stated that the property
54 would actually look shorter due to how the roof is broken up.

55 Mr. Lyons stated that the project may be shorter, but the building is getting larger as it will no longer be
56 an A-frame home. He brought up a concern about the two hemlock trees that are east of the existing
57 deck that they would be building toward. Mr. Seaver stated that that side they are building on will only
58 be a deck and it is possible that they will be able to save those trees. Mr. Lyons states that the proposed
59 build puts them within feet of the 60-inch hemlock tree. Vice-Chairman Claus then stated that from the
60 proposal they have shown they are suggesting cutting that tree down, however they are within the
61 regulations to do so. Mr. Davis stated that by following the State guidelines they would be able to cut
62 trees down, however, they would be willing to not cut them down if that is what the Board proposed.
63 Mr. Davis went on to say that a lot of the coverage of the property was the denser vegetation right by
64 the water as opposed to these taller trees that are closer to the building.

65 Chairman Simpson asked about the hardship criteria that had been re-addressed. Mr. MacDermott
66 stated that they focused on the hardship being that it is a non-conforming shaped lot and that within
67 the setbacks there is only 350 square feet of buildable space. Chairman Simpson replied that they could
68 build within the envelope, and they wouldn't have to be at this meeting. Mr. MacDermott stated that
69 they were trying to comply with the Shoreland setback so that is why they proposed the building that
70 they have.

71 Chairman Simpson stated that he wanted more clarification on the hardship as the home is currently a
72 2000 square-foot home, and they are proposing a 3000 square-foot home. Mr. Seaver stated that there
73 are two reasons they are looking to do this: to have more square footage for company purposes and to
74 really modernize the home. The second floor currently has multiple levels, meaning that there are steps
75 going from one part of the house to another. They are restructuring the home by shortening the depth
76 of the garage and moving the utility space to the basement. Chairman Simpson asked if the garage was a
77 2-car garage. Mr. Seaver stated it is a large single bay garage. Mr. Seaver went on to say that he and his

wife have been in the home for 11 years and that they would prefer to rebuild a more modern home, than move and try to find something else. Mr. Davis added that the architects for this project worked hard to keep the design compact and only make the building a little wider. They tried to situate it on the lot to respect the lake and not get it any closer to the lake.

Ms. Silverstein asked, and Mr. MacDermott responded that they are reducing the net building area within the 50-foot buffer. Mr. McDermott stated that that is reducing the building and the decking. There was then discussion of the screened in deck and if that could be turned in to living area. Ms. Silverstein stated that they could make that a condition of the variance that it is not turned in to living space within the dwelling. Mr. Davis stated again that they are reducing the structure within the 50-foot buffer it's just being allocated a little differently. Vice-Chairman Claus stated that they would now be putting the 2-story home over the location where the current deck is.

Mr. Snyder joined the meeting via Zoom at this time. Mr. Snyder introduced himself as the architect working on this property. He went over the main points and factors that led them to the proposed design. The first point being that they wanted to respect the existing conditions, so they kept the same footprint on the ground as the existing house. There are some differences in the decks, but they did not encroach any closer to the lake. They tried to replicate the current footprint for the proposed home as the footprint of the existing home. The second point was that they didn't want to be overwhelming between what was old and what would be new, so they maintained a maximum height that was 6 inches less than the existing, so they didn't get any taller. The third point was the impact they would have on the lakefront, the view from the cove and the lake of the proposed house. They didn't want to have a huge two-story home on a tiny lot and didn't want to overwhelm the view or the environment, but they needed a workable second floor, that would be more modern and up to date. They have lower eave lines due to a smaller width of the second story. The lower eave lines will bring the eyes down and minimize the effect of scale and minimize the two-story box like style like the neighboring homes. Those were the main criteria for this plan. They wanted to keep the more cabin style of the home than the two-story subdivision looks, so that it still looked like it belonged on a lake and not on just some residential street some place. That was more of an aesthetic point, but Mr. Snyder reiterated that those were the criteria they tried to stick too. He stated he would be happy to answer any questions the Board may have for him.

Mr. Lyons pointed out that they did not stay within the same footprint as one of the variances that they are asking for more space on the eastern side setback by about two feet. That also happens to be the property line where they have the closest neighbor. The architect stated that he was unaware of that difference as the structure that he designed overlays the current structure exactly. Mr. Seaver stated that there is a proposed porch in that area, not living space, that created that difference. The neighbor that he would be getting closer to is aware of this and was ok with the plan.

Vice-Chairman Claus states that he appreciated that the house is not moving closer to the lake, however, there would be more of a presence or impact of the structure towards the lake, a part of that being the bump out of the screened porch. They are changing out what was a simple deck and now adding architectural mass in that area. There was more discussion on the impact and the usage of the deck and if it is a primary living space or not. Chairman Simpson gave an analogy that the envelope is

118 like a balloon, they are blowing it up by adding more second story to the house, and having a covered
119 porch also adds to it as well. As a Board, they look at the whole envelope not just the ground footprint.

120 Vice-Chairman Claus and Mr. MacDermott discussed the maximum height of the structure as a whole
121 versus the height of the structure within the 15-foot setback. Vice-Chairman Claus stated that it may
122 seem misleading as the maximum structure height is being reduced by an inch however the height
123 within the side setback is significantly increased as the existing structure at the line of the setback is
124 much shorter than the maximum height of the existing structure. Mr. Davis stated that they were
125 advised during the last meeting that the Ordinance is based off of the maximum height of the whole
126 structure that is why they worded it the way they did.

127 Ms. Silverstein then asked about the other homes in the horseshoe area. She stated that she was aware
128 that one home was rebuilt after a fire but wanted more information on some of the other homes. Mr.
129 Seaver states that there are multiple ranches, a few large two-story homes, then there are other homes
130 that don't have as oddly shaped lots as his. He then stated that there are a mix of homes within the
131 horseshoe. Ms. Silverstein then asks how this proposed structure would fit in with the other structures
132 in the area. Mr. Seaver stated that it matches both of his abutters and the house across the road which
133 is a larger two-story, and there is another two-story home next to that. There are only two ranches in
134 the area that do not match that style home currently.

135 Mr. Davis stated to Ms. Silverstein that that was why they provided the picture of Mr. Seaver's home
136 next to his two neighbors homes, as both of them have large lake front massing. Mr. Seaver then stated
137 that there is no way to build a second story to the home without a variance on this lot.

138 Chairman Simpson asked if there were any other questions from the audience or the board. There were
139 no further questions at that time.

140 **Chairman Simpson closed the hearing to the public.**

141 Vice-Chairman Claus started the discussion by stating that he feels the proposal is more non-conforming
142 than the current structure. There was further discussion between Ms. Silverstein and Vice-Chairman
143 Claus about the mass of building within the setbacks. There was some feedback coming through the
144 speaker at this time. Chairman Simpson asked Mr. Snyder to mute his microphone.

145 It was agreed that there was a potential for an additional 80 square feet of house within the setback
146 from the screened-in porch. Ms. Silverstein stated that she didn't feel that that was a large mass. Vice-
147 Chairman Claus stated that he didn't describe it as a large mass, however, it does make the structure
148 non-conforming. Mr. Lyons agreed and added that it would also be much more noticeable from the lake.
149 It was noted that the house is barely visible currently but adding this full second floor would be more
150 noticeable. Mr. Lyons did not feel that that is in the public's best interest. People come to Sunapee to
151 see shorefront, rocks, and trees. He felt that the proposal was a bad idea.

152 Chairman Simpson replied that he appreciated Mr. Lyons concerns about the aesthetic, however, its
153 more about the impact of the lake. If more people keep building larger structures close to the lake it will
154 impact the lake. Chairman Simpson stated that he saw this as a bigger impact.

Ms. Silverstein said that she does see the hardship of the height, where its placed is a different discussion. Nonetheless, she feels that they are restructuring it to make the home more usable. Vice-Chairman Claus responded stating he is torn on it, but he can't help but recognize the size of the home. It is in the back of his head that there are other cases they have either passed or denied due to the house being of "reasonable size". He sees the applicant's point of the two large homes on both sides of the lot, but he is struggling with the hardship. He wrote down that they want more bedrooms and bathrooms. They have bedrooms and bathrooms, but they want more, and he struggles to see if that is or isn't a hardship. Vice-Chairman Claus stated that he is looking for guidance from the rest of the Board.

Mr. Lyon stated that there are also two ranch style houses right around the corner from the applicant's home. It was agreed that the styles of homes in the area are mixed. Ms. Silverstein states that the shape and the narrowness of the lot is unique to the property, and it's very narrow. Chairman Simpson disagreed in the fact that it is not unique to the area as there are other lots that are shaped the same. Ms. Silverstein responded that it is different though in the fact that both of the homes to both sides of the applicant have large two-story homes.

Chairman Simpson then pulled up the tax maps and showed that the applicant is proposing a house larger than both of the abutting houses. Ms. Silverstein stated that she thought that the applicant's property was the most "pie shaped of the area". There was then a discussion of the tax maps vs. the surveyed map and that there are some discrepancies between the two but that the square-footage should be correct. It was then brought up by Vice-Chairman Claus that hardship also has to do with what it is they want to build such as a garage because a garage has to be near the street. Ms. Silverstein pointed out that in the proposed that due to the applicant's garage they can't move the home any closer to the road and if they did it would still make the home more non-conforming. Mr. Lyons stated that he is surprised that the original footprint is not being used. Ms. Silverstein stated that they would have needed variances either way because they are rebuilding.

Chairman Simpson stated that he thinks that the current house is a functioning house. It may not be the best house, but it is functioning. He also stated that they do not have a picture of the house within the application presented, however there are pictures on GIS of the home. Vice-Chairman Claus then pulled up the pictures of the house on GIS. He does not see any hardship on any of the variances. He stated that it may not be the house they want but it is the house they bought.

Chairman Simpson re-opened the hearing to the public.

Mr. Davis stated that he assumes that they will be voting on each of the variances independently so if one or more of the variances get passed, but not all of them, then they can modify the design. Mr. Simpson agreed that they would be voting on them independently. If he modifies the design to go outside of the variances permitted, they will have to come back for an amendment to the variances granted.

Mr. Seaver clarified that there would not be any additional bedrooms created in the new design. He went on to state that the main purpose is to create a second floor, whether it is a renovation or a new build, and to do so he needs the variances to build up. Their goal was to move the bedroom to the lake side on the second story. Mrs. Seaver then stated that it's not that they want a larger home. The home they have now may be usable but it's not user friendly. Sunapee to them is lovely and they see this as a

195 family home, and they enjoy having family come and visit, but they are originally from Massachusetts,
196 and their parents are older. Currently, when they come to visit, they are having to stay in the game
197 room because they can't go up and down stairs. They don't want to get rid of the trees, they aren't
198 trying to get closer to the lake, and right around the corner there are much larger homes potentially on
199 larger lots.

200 **Chairman Simpson closed the hearing to the public.**

201 **Mr. Lyons made a motion to approve Case ZBA: 21-27; Parcel ID: 0113-0029-0000: seeking a variance**
202 **from Article III, Section 3.40 (C) to permit a 16.9-foot setback from the water body where 50 ft is**
203 **permitted (the existing deck is 16.8 feet from the water body); Ridgewood Point, LLC; 18 Ridgewood**
204 **Point Rd, Rural Residential Zone with Shoreline Overlay, subject to DES permitting once the current**
205 **plans are submitted. Seconded by Vice-chairman Claus. Vice-Chairman Claus voted no due to the fact**
206 **that he feels it makes it a more non-conforming structure. In agreement, Mr. Munn and Ms.**
207 **Silverstein voted no. Mr. Lyons voted no, he feels that it is not in the public interest or in the spirit of**
208 **the Ordinance, he does not see the hardship, he also has concerns of fire, the 15-foot setbacks are**
209 **there for public safety, and Chairman Simpson voted no. The case was denied unanimously.**

210 Mrs. Pollari stated they could vote on the one case (21-28) twice as there are two variances being asked
211 within the one case. This has been done in the past.

212 **Ms. Silverstein made a motion to approve Case ZBA:21-28 part 1; Parcel ID: 0113-0029-0000: seeking a**
213 **variance from Article III, Section 3.10 to permit a 5.3-foot side setback on the east side where 15 feet**
214 **is permitted (the existing structure is 7.4 feet from the property line); Ridgewood Point, LLC; 18**
215 **Ridgewood Point Road, Rural Residential Zone with Shoreline Overlay. Seconded by Mr. Munn. Mr.**
216 **Lyons voted no as he feels it is not in the publics best interest, he is concerned with a culmination of**
217 **applications like this impacting the lake, and he doesn't see the hardship. Ms. Silverstein voted yes,**
218 **she feels that the small deck does not make that much impact, and the abutter on that side is ok with**
219 **it; Mr. Munn voted yes for the same reasons; Vice Chairman Claus voted no due to lack of hardship;**
220 **Chairman Simpson voted no, in agreement with what Vice-chairman Claus and Mr. Lyons had stated.**
221 **The case was denied with 2 votes in favor, 3 votes opposed.**

222 **Ms. Silverstein made a motion to approve case ZBA:21-28 part 2; parcel ID: 0113-0029-0000: seeking a**
223 **variance from article III section 3.10 to permit a 5.3 ft side setback on the west side where 15 feet is**
224 **permitted (the existing structure is 5.3 feet from the property line). Ridgewood Point, LLC; 18**
225 **Ridgewood Point Road Rural Residential Zone with Shoreline Overlay. Vice-chairman Claus seconded**
226 **the motion. Mr. Munn voted yes, Ms. Silverstein voted yes because the line is not changing from**
227 **where it is right now, Vice Chairman Claus voted yes due to the grandfathering of that side; Mr. Lyons**
228 **voted no, he feels that this would not be grandfathered as it's a new construction being proposed,**
229 **and he does not see the hardship; Chairman Simpson also voted no in agreement with Mr. Lyons. The**
230 **case was approved with 3 votes in favor, 2 votes opposed.**

231 **Mr. Munn made a motion to approve Case ZBA: 21-29; Parcel ID 0113-0029-0000: seeking a variance**
232 **from Article III, Section 3.10 to permit a structure height of 33 feet 5 inches in the reduced side**
233 **setback where 25 feet is permitted (existing structure height is 33 feet 6 inches in the reduced side**
234 **setback). Ridgewood Point, LLC; 18 Ridgewood Point Road Rural Residential Zone with Shoreline**

Overlay. Vice-Chairman Claus seconded the motion. Vice-chairman Claus voted yes as he sees the hardship that to do any rebuilding they will need to build up; Mr. Munn voted yes; Ms. Silverstein voted yes; Chairman Simpson voted no, as he feels that the height within the setback is not 33 feet 6 inches, it's something less; Mr. Lyons voted no, agreeing with Chairman Simpson, he does not see the hardship and is not sure what is being built at this point. The case was approved with 3 votes in favor, 2 votes opposed.

CONTINUATION

CASE ZBA: 21-31; PARCEL ID 0118-0051-0000: SEEKING A VARIANCE FROM ARTICLE III, SECTION 3.40 (C) TO PERMIT A 27 FT 8-INCH SETBACK FROM THE WATERBODY (PERKINS POND) WHERE 50 FT IS REQUIRED (THE EXISTING SETBACK IS 16 FT 8-INCHES TO THE DECK AND 26 FT 8-INCHES TO THE EXISTING HOUSE). DANIEL D. CAVE; 90 BURMA RD, RURAL RESIDENTIAL ZONE W/ SHORELINE OVERLAY.

CASE ZBA: 21-32; PARCEL ID 0118-0051-0000: SEEKING A VARIANCE FROM ARTICLE III, SECTION 3.10 TO PERMIT A 17 FOOT SETBACK FROM THE CENTERLINE OF THE ROAD WHERE 50 FEET IS REQUIRED. DANIEL D. CAVE; 90 BURMA RD, RURAL RESIDENTIAL ZONE W/ SHORELINE OVERLAY.

CASE ZBA: 21-33; PARCEL ID 0118-0051-0000: SEEKING A SPECIAL EXCEPTION PER ARTICLE III, SECTION 3.50(K) TO PERMIT AN ADDITION TO A PRE-EXISTING STRUCTURE LOCATED ENTIRELY WITHIN THE 50 FOOT WATERBODY (PERKINS POND). DANIEL D. CAVE; 90 BURMA RD, RURAL RESIDENTIAL ZONE W/ SHORELINE OVERLAY

CASE ZBA: 21-34; PARCEL ID 0118-0051-0000: SEEKING A SPECIAL EXCEPTION PER ARTICLE IV, SECTION 4.90 TO PERMIT AN ACCESSORY DWELLING UNIT (ADU) IN A NEW GARAGE. DANIEL D. CAVE; 90 BURMA RD, RURAL RESIDENTIAL ZONE W/ SHORELINE OVERLAY

Mr. Cave came to the front and introduced himself as the owner of 90 Burma Rd. He introduced his wife, Mrs. Cave. He said it was their 36th anniversary and he hadn't imagined years prior that being at this meeting would be how they would spend it. He then introduced Mr. Howe as their builder, Mr. White as their architect, and their neighbor of 38 years, Mrs. Binzel. The property has been in their family for 51 years, there was a handshake deal between Mr. Cave's father and the original owner Mr. Clark, and the two families became very close. The camp was a very unorthodox camp with many structural deficiencies. For four years they remodeled the cabin; everything was bought second hand. His dad had a dream for the lot to have a lodge with beams and cathedral ceilings but that wasn't something he could afford. Mr. Cave grew up in Sunapee, and now there are four generations of his family using the cabin. The intent, long term, for this project is that Mr. and Mrs. Cave would like to live in the home permanently. They currently have a house in Connecticut. But they are looking to have this as their retirement home which would not be possible in the current 600 square foot "shack".

Mr. Cave cares greatly for the lake and wants to protect and respect it. They respect the neighbors and have taken their thoughts on this proposal into consideration as well. They have many letters from the abutters: Mrs. Binzel, the Kiernan's, and the Lovely's. Mr. Cave also stated that he wants to play by the rules and cooperate with the rules and laws of the town and its Ordinance. Mr. Cave then turned the Boards attention to his proposal, starting with the new wetlands area that has come up and been

274 surveyed on the property that takes up about 22% of the buildable square footage within the lot. Mr.
275 Cave goes on to say that they may be building within the non-conforming areas, however, they are
276 pulling it all back, away from the pond.

277 Mr. Cave then explained the image and footprint that Mr. White had designed for them. He showed that
278 if it were not for the wetlands within the buildable area then they would put the garage there, however,
279 they cannot build on the wetlands, so they had to stagger the buildings, putting the garage in the 50-foot
280 road setback. It puts the proposed garage at 19 feet 6 inches at the closest point to the centerline of the
281 road. He stated that it is not uncommon in this area for the garages to be within this road setback. He
282 stated that the proposed location of the garage is mostly grass and current driveway so it will have low
283 impact on the property.

284 Mr. Cave discussed the variance being requested in Case 21-31. They are proposing a reconfiguration of
285 the current structure pulling it out of many of the setbacks it is currently in. The proposal will reduce 123
286 square feet of structure within the setbacks. That includes the removal of 2 non-conforming sheds that
287 are within the side setback as well. Mr. Lyons asked how tall the structure will be once moved. Mr.
288 White responded that it is the same square-footage single story structure, but they would have to raise
289 it by 10 feet to attach it to the main house they are proposing. Mr. Cave stated he can take questions, or
290 he can go over the special exceptions that they are requesting next.

291 Chairman Simpson stated that they should focus on the variances first then can discuss the special
292 exceptions. He asked about the buildable area that they are not using. Mr. Cave responded that there
293 were many factors that played in to why they were not building a larger structure. They were thinking of
294 the neighbors, the usability for them of a larger structure, and cost point as the price of construction has
295 continued to rise.

296 Ms. Silverstein then asked about square footage. Mr. White responded that the footprint of the main
297 home is 2800 square feet, the garage is about 700 square feet, including the ADU, and then there is 600
298 feet on the second floor of the main home. Vice-Chairman Claus then asked about a basement. Mr.
299 White stated there would be an unfinished basement. Chairman Simpson asked if it would be livable
300 space and Mr. White responded that it could be. Chairman Simpson thought that that should be
301 included in the square footage as well then. Mr. White stated that it would be unfinished, and they do
302 not have any kind of floorplan for that at this time. Mr. White then went on to say that, taking the
303 wetlands in to consideration, there is about 4700 square feet of buildable land, and they didn't want to
304 fill every inch of the buildable area as stated by Mr. Cave.

305 Chairman Simpson responded that they are building a warehouse (in reference to the garage) in the
306 non-buildable area. Mr. White stated that they couldn't build the garage in the buildable area as the
307 spot they would have built it is where the wetlands are. Chairman Simpson replied that he understands
308 and can see the hardship of the wetlands, however the other structure they are asking for will not be
309 considered a grandfathered building and he is unsure as to why that couldn't be built/moved into the
310 buildable area. He acknowledged that what they are doing is making it more conforming, but they could
311 have put that structure within the buildable area.

312 Ms. Silverstein asked for clarification of the buildable area, outside of the wetlands. Mr. White said it is
313 4700 square feet. Chairman Simpson asked and Mr. White replied that the acreage is 0.45 acres. Mr.

Cave stated that Chairman Simpson was correct, they could have left the existing structure where it is currently. They were trying to be respectful of the setbacks, the pond, and their neighbors by moving it away from those things. Mrs. Cave stated that they had looked at other lots, but they have an attachment to the property. Mr. Cave's father had been very upset when he heard they were looking at other lots. His father was upset because he knew that if they bought property somewhere else, they would probably have to give up the current lot, and the current lot has his family's blood there from all the hard work they had done on that cabin.

Mr. Lyons stated that because of the applicant he feels confident that the wetland will never be touched, he is happy to see an applicant that is trying to do something good. He also had concerns that they could build something else in the current footprint that could be much worse than what is being proposed. Ms. Silverstein disagreed stating the training that the Board had received earlier discussed grandfathered structures, and it's not in the Ordinance. Ms. Silverstein asked if they had a Shoreland Permit. It was explained that they have submitted the request and are waiting for the actual permit. Mr. White stated that they are waiting for it to come back from the State. Ms. Silverstein stated that she was sympathetic but believes they could take that other section in the back and put it in the buildable area.

Mr. Cave responded that he is struggling with that. The ordinance talks about what is best for the public interest and to remove square footage from the side setback and get something farther back from the high watermark is most definitely in the public interest. He does not want to put a massive structure down the center of this property. Ms. Silverstein stated that they have to also look at hardship and even though the wetlands are a hardship, it does not prohibit them from building within the allowable area with all of the criteria met. Mr. Lyons stated that if they were to hypothetically splice the main planned structure, they would not need a variance and the current structure would stay in its location, but he struggled with this concept because in that case the pond "looses". They are offering to move that and take it farther away from, which would be very beneficial for the pond. Chairman Simpson brought up the point that the existing structure/dwelling is completely within the 50-foot setback.

Vice-Chairman Clause and Ms. Silverstein both stated that the applicant is suggesting becoming more conforming, but they could be completely conforming. They are struggling to see the hardship to build within the setback at all. Ms. Silverstein stated that when looking at the Ordinance, the challenge that the Board is faced with is to hold the same standards for each applicant to the best of their ability. Mr. Cave responded that there is a letter of intent in the regulations. The letter of intent is what Mr. Lyons point was on. Yes, the regulations state "find the hardship" but the intent behind the regulations is being more protective of the pond, be respectful of your neighbors, etcetera. The question he has is if the letter of the Ordinance carries or does the intent of the ordinance carry. Mr. Cave hoped that the intent would be the focus and driving factor of this Board. The proposed plan is to better the situation for him, his property value, his neighbor's property values, and for the relationships he cares about in the community.

Mr. Munn brought up the point that that specific spot of land where the current structure is has a lot of sentimental value for the applicant. Completely tearing that down and building more in the conforming lot takes away a lot of the purpose of the build to begin with. Mr. Cave agreed and stated how much that location of the current structure meant to him. The family had put up a plaque for him and his father and he needed his father to see that plaque in that place that they had built together, where the

355 dream for this project had begun. Mrs. Cave stated that they had discussed leaving the home exactly
356 where it is, however, they would still need to connect it to the home they are building which gets into
357 the special exceptions they are asking for, but they would have to make it even longer. Mr. Cave stated
358 that they had talked about keeping them separate but if they are making this their primary home that
359 just wouldn't make sense for the family.

360 The Caves then talked about the change in people in the area, new generations of families taking over
361 the homes, and how there is now the town sewer available to the area. They are excited for this next
362 phase in life and creating new memories. Mrs. Binzel stated that she really wants them to move into the
363 home that they will fall in love with. She loves the Cave family and really wants them there.

364 There was then a discussion about if they left the structure where it was, they would not need to meet
365 the hardship criteria, whereas with them moving the structure out of the grandfathered envelope they
366 now need to prove the hardship for putting it were they are requesting because it is considered new
367 construction. Mr. White and Mr. Cave were frustrated by this as the goal of the plan is to become more
368 conforming. Mr. Claus replied that this new way of looking at grandfathered structures is to pressure the
369 applicants to create a fully conforming structure when possible. Chairman Simpson pointed out that
370 there is no variance or special exception that was applied for to include the raising of the building the 10
371 feet. The applicant and his team looked into it and acknowledged that they did not put in an application
372 for the height variance specifically. Chairman Simpson and Vice-chairman Claus also pointed out that the
373 variances are for a new construction, but the special exceptions are for a pre-existing structure, so there
374 are inconsistencies with what they are asking for.

375 It was suggested by Ms. Silverstein to continue these cases for the 7th of October meeting with revisions
376 and potentially additional variance requests. Mr. Cave asked what paperwork would need to be
377 submitted to do so and if they would have the time to do that. Mrs. Pollari stated she would need all
378 paperwork in by the 27th of September to post to the newspaper and send letters to the abutters for the
379 28th.

380 The Board then discussed that the special exception in Case 21-33 stating that that special exception is
381 not applicable to this case any longer, however, they would need a height variance as the structure
382 proposed is above the maximum 25-foot requirement within the 50-foot lake setback. It was agreed
383 that they need three variances for the movement. They need one to move it, one to raise it, and one to
384 connect it.

385 **Ms. Silverstein made a motion to continue cases 21-31, 21-32, 21-33, and 21-34 to the October 7th**
386 **meeting. Mr. Munn seconded the motion. Motion passed unanimously.**

387 **MINUTES**

388 There were no minutes to go over, there will be two sets of minutes at the next meeting.

389 **Chairman Simpson made a motion to adjourn the meeting at 9:30 PM. Mr. Munn seconded the**
390 **motion. The motion was passed unanimously.**

391 Respectfully submitted,

