

1 **TOWN OF SUNNAPEE**

2 **ZONING BOARD**

3 **MAY 5, 2022**

4 **Chairman Claus called the meeting to order at 6:20 PM.**

5 **MEMBERS PRESENT IN THE MEETING ROOM:** Chairman Jeff Claus, Michael Jewczyn, David Munn, Jamie
6 Silverstein, James Lyons.

7 **MEMBERS PRESENT VIA ZOOM:**

8 **ALSO PRESENT IN THE MEETING ROOM:** Laura Spector-Morgan, Town Attorney, Shannon Martinez,
9 Town Manager.

10 **PRESENT VIA ZOOM:**

11 **CONTINUATION**

12 **CASE ZBA: 22-04; Parcel ID: 0118-0051-0000: SEEKING A SPECIAL EXCEPTION FROM ARTICLE III,**
13 **SECTION 3.50 (K) FOR CONSTRUCTION OF ADDITION TO A PRE-EXISTING NONCONFORMING HOUSE**
14 **WITHIN THE 50-FOOT WATERBODY SETBACK. DANIEL CAVE; 90 BURMA ROAD; RURAL RESIDENTIAL**
15 **ZONE.**

16 **CASE ZBA: 22-05; Parcel ID: 0118-0051-0000: SEEKING A SPECIAL EXCEPTION FROM ARTICLE III,**
17 **SECTION 3.50 (i) TO REPLACE A PRE-EXISTING NONCONFORMING STRUCTURE WITH A VERTICALLY**
18 **HIGHER STRUCTURE IN THE SAME FOOTPRINT. DANIEL CAVE; 90 BURMA ROAD; RURAL RESIDENTIAL**
19 **ZONE.**

20 The Board agreed to hear the Exceptions one at the time.

21 Daniel Cave and Brett Allard, his Legal Counselor presented the case as per the Introduction on their
22 Application ZBA 22-05 and went through all the Criteria, total of eight, which are also listed on their
23 Application ZBA 22-05.

24 Mr. Jewczyn said that he has a problem with the way that the height and elevation were drawn, because
25 in the drawing the baseline and the measurements that were taken with the base to the house is lower
26 towards the shoreline, so in fact the starting elevation is 2 feet lower than the measurements that were
27 given based on what is seen in the drawings. He also pointed that in his opinion the height that they are
28 proposing is high enough to deprive the neighbors of light and air, which is a prime consideration of the
29 Zoning Board in denying an Exception or a Variance.

30 Chairman Claus explained that for the Exception they are only concerned about the height of maximum
31 nineteen feet six inches and that the Board looks if all 8 Criteria are fulfilled so they can approve the
32 Special Exception.

33 Mr. Cave said that that all the Abutters wrote nine letters of support.

34 Spector-Morgan suggested that the case to which Mr. Jewczyn is referring to is about the Variances and
35 not the Special Exceptions, and in this case the height does comply with the Ordinance.

Mr. Lyons asked how tall the existing structure is and how tall it would be if approved, to which the answer from the Legal Counselor was that the existing structure is nineteen feet six inches tall and if approved it would be at the highest point twenty-nine feet six inches tall.

Chairman Claus closed the public session.

Ms. Silverstein makes a motion to approve Case ZBA: 22-05; Parcel ID 0118-0051-0000: seeking a Special Exception from Article III, Section 3.50 (i) to replace a pre-existing nonconforming structure with a vertically higher structure in the same footprint on behalf of Daniel Cave; 90 Burma Road; Rural Residential Zone. If the special exception is granted, they will comply with all State and Local permits, noting that the roof height requirement in the review site setback is limited to no higher than twenty-five feet.

Mr. Munn seconded the motion.

The motion was voted in favor with four votes for. Mr. Jewczyn abstained.

CASE ZBA: 22-06; Parcel ID: 0118-0051-0000: SEEKING A VARIANCE FROM ARTICLE III SECTION 3.40 (C) TO PERMIT CONSTRUCTION OF AN APPROXIMATELY 65.28 SQUARE FOOT STRUCTURE APPROXIMATELY 45 FEET FROM THE REFERENCE LINE OF PERKINS POND CONNECTING AN EXISTING COTTAGE TO A PROPOSED NEW DWELLING WHERE A 50-FOOT WATERBODY SETBACK IS REQUIRED. DANIEL CAVE; 90 BURMA ROAD; RURAL RESIDENTIAL ZONE.

Daniel Cave and Brett Allard, his Legal Counselor presented the case as per the Introduction on their Application ZBA 22-06 and went through the Application and all its points

Mr. Jewczyn said that he has a problem that no one is talking about the fact that they are building right on top of the wetland, and it does harm to the land and to the lake, but nobody is addressing that.

Chairman Claus and Spector-Morgan explained that the Ordinance allows it and that right now they are dictated by what the Ordinance says and that right now there is no setback, they are not building in the wetland, they can build right up to the wetland and the law allows it.

Mr. Lyons said that if they start to allow building along the Perkins Pond that affects the people that go there for recreation, and that is very much against the public interest. They do not know how many wetlands exist on Perkins Pond, because the owner only provided the information about his own property. The other thing is that the problem is not in the hardship of the property, but of the plan. He said that he does not believe it meets the hardship criteria and he does not believe that it is in a public interest and certainly is not in the intent of the Ordinance.

Brett Allard explained that they are only asking for a 65.28 square foot structure connecting an existing cottage and at that point he thinks that they have satisfied the criteria and that he hears Mr. Lyons concerns but that the remedy is an amendment to the Zoning Ordinance and not denying the application.

Chairman Claus closed the public session.

Chairman Claus summarized that he finds it difficult to see the hardship with the extension and if the Board approved one case for the property, it is hard to not acknowledge it or approve it for the same property.

74 Spector-Morgan said that it can be hardship that applies to one variance and not apply to the other
75 variance and the Board in this case is focused on the connection which is all the way across the property.
76 Ms. Silverstein agreed with Inspector Morgan.

77 Mr. Lyons would like to see some sort of long-term protection that the wetland would remain
78 undisturbed, on the motion that would be made.

79 Chairman Claus said that that is already a requirement.

80 Chairman Claus adjourn the meeting for consultation with the Board and Town Attorney.

81 **Ms. Silverstein makes a motion to approve Case ZBA: 22-06; Parcel ID 0118-0051-0000: seeking a**
82 **Variance from Article III Section 3.40 (c) to permit construction of an approximately 65.28 square foot**
83 **structure approximately forty-five feet from the reference line of Perkins Pond connecting an existing**
84 **cottage to a proposed new dwelling where a 50-foot waterbody setback is required. On behalf of**
85 **Daniel Cave; 90 Burma Road; rural residential zone.**

86 **Mr. Munn seconded the motion.**

87 **The motion was voted in favor with three votes for. Mr. Lyons and Mr. Jewczyn abstained.**

88 **Maple Street Neighborhood Petition.**

89 The Board and the Town Attorney have concluded that the content of the petition made as an appeal
90 about the Planning Board to reconsider the decision to not require a site plan review about 22 Maple
91 Street is not under the authority of the Zoning Board, and it would probably have to go to court. The
92 Town Attorney said that she would look into their case and get more information about their course of
93 action.

94 **Update Board Members Contact Information was done and will get distributed.**

95 **Change Meeting Start time from 6:00 to 6:30 was passed unanimously.**

96 **Chairman Claus made a motion to adjourn the meeting at 7:50 PM. Ms. Silverstein seconded the**
97 **motion. The motion was passed unanimously.**

98 Respectfully submitted

99 Rajmonda Selimi