

1 **TOWN OF SUNNAPEE**

2 **ZONING BOARD**

3 **JULY 19, 2022**

4 **Chairman Claus called the meeting to order at 6:35 PM.**

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

7 **MEMBERS PRESENT VIA ZOOM:**

8 **ALSO PRESENT IN THE MEETING ROOM:** Shannon Martinez, Town Manager, Cordell Johnston, Attorney.

9 **PRESENT VIA ZOOM:** Laura Spector-Morgan, Town Attorney.

10 **CONTINUED**

11 **CASE 22-09 PARCEL ID: 0128-0065-0000 SEEKING A SPECIAL EXCEPTION AS PROVIDED FOR IN ARTICLE**
12 **III, SECTION 3.50(B), AND SECTION 3.55 TO ALLOW APPROXIMATELY 500 SQ. FT. OF ADDITIONAL**
13 **“NEW” BUILDING ENCROACHMENT IN THE 50 FT. FRONT SETBACK. 101 LAKE AVENUE RESIDENTIAL**
14 **ZONE PHILIP & BROOK HARRELL**

15 Chairman Claus asked the applicants if there is anything more that they want to add since their last
16 meeting.

17 Philip Harrel said that he would like to add that they hired Gradient, PLLC to make sure they did
18 everything right interpreting the Ordinance during the process of designing the house and he is very
19 confident that they have interpreted it correctly and that they have a lot of evidence that that is the way
20 the Board have ruled similar cases in the past.

21 Chris Kessler of Gradient, PLLC said they went to the Zoning Administrator and offered a letter stating
22 that they want a review on their case based on Special Exception Criteria. The Zoning Administrator
23 signed off that he believes that their interpretation is correct and that they should be using the building
24 that is closest to the line and not the one that is furthest away. Then they went into archives and looked
25 at all the cases that the Board have carried since 2017 when the rules have been adjusted. In that
26 timeframe there have been four applications and three of them were approved and one rejected due to
27 the question of most of the lots having a non-conformity. In all three cases that were approved all the
28 buildings were closer to the center line then the furthest on back. He then submitted copies of the three
29 cases to the Board for review.

30 Chairman Claus pointed that after their last meeting he contacted a legal councilor, presented the case,
31 and asked her how to interpret it she came back with an interpretation, but they decided to refer to
32 previous decisions and the history of how it had been applied. Then he said that he had met the two
33 previous Zoning chairs, but they could not remember the cases in detail.

34 Mr. Lyons believes that they always take cases individually and that in the last thirty years this Board
35 have become more precise with interpreting the language of the Zoning Ordinance.

Chairman Claus notified the Board that they had received emails from Ms. Spector-Morgan where she recognizes it being viewed from two separate ways and since it is not clear in the Code, therefore they must look how it was applied in the past. He also mentioned the other item of question from the previous meeting about the hierarchy of house garage/shed and pointed that even if that is to be considered a house, they still meet the majority numbers. He then went to explain how he did the measurements in different scenarios and there were no objections from the members. The other thing he had investigated was the Special Exception and whether it is something they need to vote on or simply go through the Criteria and check the boxes. It was not that way, and it was very much like a Variance, so they go through it, and they vote, if it does not meet any of the Criteria then it does not meet the qualifications. He asked the applicants if there is anything else that they would like to present for the case.

Mr. Kessler added that they were cut short of presenting the last two Criteria on the last meeting and then continued presenting the Criteria from their application.

Mr. Lyons had a question about the parking spaces next to their house and asked if that is their property and if they could build on that property to which the answer was yes from the applicants.

Ms. Spector-Morgan reminded everybody that this is a Special Exception of a Variance, and she does not see the Special Exception Criteria that necessitate that there would not be any place on the property that the house can go.

Since there were no more questions and comments Chairman Claus went into deliberative session. He asked if anyone feels that any of the five Criteria were not satisfied.

Mr. Lyons reminded the members that they have not gone through Section 3.55 Criteria.

Chairman Claus reopened the public session and asked Mr. Kessler to read the Criteria for Section 3.55 for the record. He then went into deliberative session since there were no comments or questions. He asked if any member of the Board feels that any of the Criteria were not met.

Mr. Lyons commented that he thinks that one of the Criteria that have to do with being consistent with the intent of the Ordinance and Master Plan has not been met.

Chairman Claus asked him if it is 3.55 and Mr. Lyons answered that it is 4.15 and he read it.

Chairman Claus said that 4.15 is Special Criteria for uses and for this case only Criteria 3.50 and 3.55 applies and he also asked for advice from Ms. Spector-Morgan on this matter and she confirmed it.

The Board had some discussion about the Criteria, and they established that Criteria 3.55 speaks to the idea of being consistent with the intent of the Ordinance and Master Plan. Ms. Spector-Morgan reminded the Board to keep in mind that Special Exception is for permitted use for five of the Criteria.

Ms. Silverstein made a motion to approve case 22-09 Parcel ID: 0128-0065-0000 seeking a special exception as provided for in Article III, Section 3.50(b), and Section 3.55 to allow approximately 500 sq. ft. of additional "new" building encroachment in the 50 ft. front setback to be no higher than 25 ft. than the lowest point per the Ordinance. 101 Lake Avenue Residential Zone Philip & Brook Harrell.

Mr. Munn seconded the motion.

73 The motion passed with 3 votes for (Jamie Silverstein, Jeff Claus, David Munn), and 2 votes against
74 (James Lyons, Michael Jewczyn).

75 Chairman Claus recused himself and Ms. Silverstein called the next case.

76 **NEW CASES**

77 **CASE 22-11 PARCEL ID: 0112-0005-0000 REQUESTING A VARIANCE OF ARTICLE III, SECTION 3.10 TO**
78 **ALLOW CONSTRUCTION OF A NEW SINGLE-FAMILY HOME AND 2 CAR GARAGE WITHIN 30 FT. OF THE**
79 **LAKE SUNAPEE REFERENCE LINE AND PARTIALLY WITHIN THE 50 FT. SETBACK. 39 TILSON POINT ROAD;**
80 **RURAL RESIDENTIAL ZONE; JAMES & SUE CAMPBELL**

81 Doug Gamsby presented the case said that he has done the existing conditions and septic survey and he
82 is going to work on the septic design for this lot which is unique. The driveway is off a deeded right of
83 way, there is no development that can happen on that area. There is an existing house out there and is
84 very rustic, two little cabins and an existing guest house, a barn, and a shed. There is a large wetland in
85 this area and the boardwalk goes over a portion and another one over the other portion and that goes
86 over a wooden platform that is there. In the past that has had construction in the wetland area, and
87 they are going to have to deal with that. Mr. Lyons asked if that was a permitted construction, or it is
88 just on cement blocks to which Mr. Gamsby answered that is just on concrete blocks without a
89 foundation. The septic system is on a large mount between the shed and the barn and is probably 6 ft. in
90 the air and it was installed probably in the 60's. The existing shed goes over the property line, the side
91 setback is right to the middle of it, the walkway, the barn goes out and the wood platform. They are all
92 partially within the 25 ft. setback as well as off the property and the current house is 6.8 ft. from the
93 hydro reference of Lake Sunapee which is dramatic. There is one large wetland area but because it was
94 terminated by the barn, they have turned it into two wetlands. There is a small wetland there as well
95 which is somewhat manmade. Over to the other part there is another wetland that comes off the spring
96 and it resurfaces at the ground level. He clarified that the edge of the fields is about 10 ft. from that
97 wetland. He said that when the owners bought the property were very excited to having their property
98 on the lake and initially thought that they would keep the house on the same footprint 6.8 ft. from the
99 lake and develop the shed, reuse the existing barn and keep the existing wood platform and work it that
100 way so by rule because they are basically within the same footprint, they are not violating any of the
101 rule and would not have to apply for a special exception. Mr. Lyons asked what the State of New
102 Hampshire said about that to which Mr. Gamsby answered that they have not been going through that
103 yet, they went through the Zoning Board first before they apply for that permit.

104 Mr. Lyons said that they have had a case when the house was in the water and it was below the high-
105 water mark, so the State of New Hampshire decided that they take the house back 20-30 ft. and they as
106 a Board did not know anything about it. The case was presented, and it had turned out that they
107 thought that the whole footprint could not get used. If this footprint for this case cannot be used, or a
108 portion of it cannot be used, he would like to know about it sooner rather than later.

109 Ms. Silverstein asked the applicant if they are planning to use the existing footprint to which the answer
110 was that there are two additional plans that the owners have considered but they have not gotten to
111 that point of the presentation yet. They would start the shed and build up the garage more and put an
112 accessory structure there. He presented the actual area of reasonable use for the property if they were
113 not to be applying for any variances or anything similar. The property had the 50 ft. setback, the edge of

114 wetland and out of the 2.5 acre parcel they had 0.17 acres or about 11% is usable without a need of a
115 variance or similar. He then presented their proposal to have the new structure constructed at minimum
116 30 ft. from the lake, 4- or 5-bedroom house and a three-car garage with a storage. They would be taking
117 down the existing barn, the wooden platform, the shed, and the boardwalks in between them which
118 would basically open that wetland area and bring it back to the natural conditions of the site. Mr.
119 Jewczyn had two questions. The first one was about the new elevation change when the house would
120 be in the existing 30 ft. away from the lake to which Mr. Gamsby answered that they have not exactly
121 determined that at this point, but it would be probably fairly or approximately the same height. The
122 second question was about the house being built over the existing septic area and asked where the new
123 septic area is. Mr. Gamsby answered that they are still working that out mostly it is going to be over the
124 area that he pointed and mentioned that the wetlands there are poorly drained and that they have 50
125 ft. setback from them. He said that it would be a clean solution pretreatment type of system and that it
126 would be mounted but not as high as the old one there. As far as meeting the current neighborhood
127 values they are proposing approximately 3580 sq. ft. GLA (Gross Living Area).

128 Ms. Silverstein asked about questions and Mr. Munn said that they are normally getting all the
129 approvals from the State and the way they see it now is that they do not have the State's information
130 and they cannot move on further. Mr. Gamsby answered that if the State would not allow it, they would
131 not certainly go with this scenario.

132 Mr. Lyons said that part of the decision making includes what precisely the State would allow to be built
133 in the shoreland protected zone in the 50 ft. buffer.

134 Ms. Silverstein said that she understands that they are asking to make the house less non-conforming by
135 moving it away from high water mark and whatever decision they make it is subject to the shoreland
136 permit approval. She also added that clearly if there are also other variances needed once they have the
137 final plan, they will come back but at this point they can only work with what is presented to them.

138 Mr. Lyons asked about the value of the property when the house is completed going to be and Mr.
139 Gamsby answered that the property was sold for \$2.5M last year and the State is charging roughly
140 \$2500 for the fees.

141 Ms. Silverstein asked if anyone from the audience has any question and Peter White asked if the existing
142 house is 1200 sq. ft. and the new house is about 4200 sq. ft. and does that includes the garage. Mr.
143 Gamsby answered that the new house would be 3580 sq. ft. and that includes the garage. Mr. White
144 also pointed that on the presentation the "reasonable development area" was highlighted but quite
145 frankly the whole area and the lot to left are developed. Mr. Gamsby answered no because of the 50 ft.
146 mark, the wetland nearby and the ledge which makes it a small area. Mr. White argued that this is a
147 conforming lot, and it is not a pre-existing non-conforming one and Ms. Silverstein said that that would
148 be a question that needs to be answered from the Town. He continued having a conversation with Jeff
149 Claus from the audience about the authority of the wetlands and the size of the house which appeared
150 to be tripled.

151 Joan Puchtler asked that as they approve something like this and say those are just a little wetland and
152 they are not very full, but the State says yes, they are wetlands and years go down and they build this
153 gorgeous house and filling in the wetlands, who goes out making sure that the wetlands are kept as the
154 way they are supposed to.

155 Ms. Silverstein answered that the Town has hired a Compliance Officer and if they are aware of
156 something, let the Town know.

157 Jeff Claus said that his understanding is that what Ms. Puchtler is describing is happening and what he
158 was told is that the State investigates these cases, and that the science says those hydric soils never go
159 away.

160 Ms. Silverstein closed the public portion of the hearing and went into deliberative session.

161 Mr. Lyons debated that he does not know what he is voting for and until he has all the information from
162 the state about the setback, he is going to have to vote no.

163 Mr. Munn was concerned that the State may alter the plan but to that they can reapply by what the
164 State is requiring.

165 Ms. Silverstein mentioned the hardships that are unique to this property and Mr. Lyons said that there
166 are not any. They have an area that is about 7000 sq. ft. and where is the hardship there.

167 Mr. Jewczyn was more inclined to see what the State says about the setback, and he knows it is not to
168 the applicant's advantage for the continuance but if there is no way of knowing what the State is going
169 to come back with and if they are going to give them the approval.

170 Ms. Silverstein reopened the session to the public for the applicant to answer and Mr. Gamsby
171 answered that if they make a conditional approval based on the shoreland approval and if the State
172 would not approve it, they will have to come back and reapply.

173 Mr. Jewczyn said that since they are in an open session, somebody from the audience has a question.

174 George Neuwirt thinks that the applicant must answer the Criteria of the Variance. Ms. Silverstein said
175 that it is in their application, and they will go through them now.

176 Ms. Silverstein went through the Criteria together with Mr. Gamsby per their application.

177 Jeff Claus addressed the concern on the State and DES and the permit. He said that he has seen
178 countless cases where the applicants do not have the permit and have not gone to the State to apply yet
179 and with that, he added that when this application goes to the State, the Town will get copies of that
180 application. The plan that they submit to the State needs to be the same plan that they will see, so if the
181 State denies them then the plan must be changed.

182 Ms. Silverstein went back into deliberative session.

183 Mr. Jewczyn said that although he likes many things about this plan, he does not feel that they have met
184 all the Criteria, specifically the Criteria whether the use will be as presented would be contrary to the
185 spirit of the ordinance, trying to protect the lake within 50 ft. setback.

186 Ms. Silverstein thinks that the new proposal is to make that new house less non-conforming and thinks
187 that they are addressing concern for wetlands. She is comfortable moving forward with a vote if the
188 applicant is agreed if they make it a subject to a shoreland permit. Their obligation is to look at the local
189 Sunapee ordinance. If the State and DES may say no and make them move 50 ft., then the applicant will
190 be back here. She mentioned that it is not often that the applicant asks to move their house back away

191 from the water. The proposal has also recognized the deficiencies in the septic system which is a
192 problem for the community. She reopened the session to the public and let Mr. Claus ask a question.

193 Mr. Claus asked the members to look at the Zoning Board handbook under 2-15 where it says under the
194 hardship that it does not require an investigation at how severely the zoning restriction interferes with
195 the ownerships of the land. It merely requires a determination that only special conditions of the
196 property of proposed use is reasonable. He said that one Board member is stating that is enough land
197 there to do something and they are trying to show that the unique characteristic is that these wetlands
198 on the property have confined on 1.8-acre site down to 0.17-acre usable lot and when they look back
199 through the handbook as a sort of guidance line where it says that investigation does not have to prove
200 how restricted it is.

201 Mr. Lyons said that there is nothing unique about this property and is like every other piece of property
202 out there with 7000 sq. ft. of buildable territory and he does not see the hardship.

203 Mr. Gamsby said that a certified wetland scientist located this.

204 Mr. Claus said that the point that needs to be taken is the access to the site coincides with this restricted
205 area and that driveway is not easily negotiable going backwards. The conversation was to get enough
206 turnaround there for family members and cars and then about the delivery vehicles. When they do that
207 with the parking requirement and turning around to the point of Mr. Lyons if that was allocated just for
208 building the structure it is enough space to build but when you put the other things that go along then
209 the space gets eaten up easily.

210 Mr. White showed on the drawings that there can be another way to move the buildings around to
211 meet the 50 ft. setback.

212 Ms. Silverstein pointed that is not their role to redesign the house for the applicant and they can only
213 look at what they are presenting. She also brought it up to the applicant's attention that there are only
214 four members present and that they would need three votes for to get their variance approved. The
215 applicant agreed to continue the case.

216 **Mr. Lyons made a motion for to continue case 22-11 Parcel ID: 0112-0005-0000 requesting a variance**
217 **of Article III, Section 3.10 to allow construction of a new single-family home and 2 car garage within**
218 **30 ft. of the Lake Sunapee reference line and partially within the 50 ft. setback. 39 Tilson Point Road;**
219 **rural residential zone; James & Sue Campbell**

220 **Mr. Munn seconded the motion.**

221 **The motion was voted in favor unanimously.**

222 Chairman Claus announced that the next case was withdrawn.

223 **CASE 22-12 (Withdrawn) PARCEL ID: 0121-0020-0000 SEEKING APPROVAL OF A SPECIAL EXCEPTION TO**
224 **DEMO & REPLACE A SINGLE-FAMILY HOME AND GARAGE WITH A NEW SINGLE-FAMILY HOME AND**
225 **ATTACHED GARAGE. THE PRESENT STRUCTURE IS PRE-EXISTING AND NONCONFORMING. THE NEW**
226 **STRUCTURE WILL BE PARTIALLY NON-CONFORMING AND A SPECIAL EXCEPTION IS REQUIRED AS PER**
227 **ARTICLE III, SECTION 3.50(I) 3 & 4 (HEIGHT CHANGE) 45 WEST SHORE ROAD RURAL RESIDENTIAL ZONE**
228 **SARAH HARRIS/PIERRE LESSARD**

229 Chairman Claus moved to the next case.

230 **CASE 22-13 PARCEL ID: 0126-0021-0000 SEEKING APPROVAL OF A SPECIAL EXCEPTION FROM ARTICLE**
231 **III, SECTION 3.50(A) TO DEMO & REPLACE A LEGAL NON-CONFORMING 4 SLIP BOATHOUSE 30'-4" X**
232 **48'04" LONG WITH A NEW 3 SLIP BOATHOUSE. THE NEW BOATHOUSE WILL BE LOCATED 4' 7" MORE**
233 **INLAND AND 111/4" SOUTHWARD FOR REASON OUTLINED ON APPLICATION. 111 GARNET HILL ROAD**
234 **RURAL RESIDENTIAL ZONE LEANNE K. PORTER REVOCABLE TRUST**

235 Greg Grigsby, Principal Gradient, LLC, and Chris Kessler of Gradient, PLLC said that they have met with
236 Roger Landry regarding this project and review it together with Michael Marquise and Mr. Landry had
237 indicated that they would need a variance for this project as well. They have submitted a letter prior to
238 this meeting asking for a referral on this until they can pull together an appropriate variance and then
239 have both heard at once on the September meeting.

240 **Ms. Silverstein clarified that what are they looking is a continuance for the September 1 meeting and**
241 **made a motion to continue Case 22-13 Parcel ID: 0126-0021-0000 seeking approval of a special**
242 **exception from Article III, Section 3.50(a) to demo & replace a legal non-conforming 4 slip boathouse**
243 **30'-4" x 48'04" long with a new 3 slip boathouse. The new boathouse will be located 4' 7" more inland**
244 **and 111/4" southward for reason outlined on application. 111 Garnet Hill Road rural residential zone**
245 **Leanne K. Porter Revocable Trust**

246 **Mr. Lyons seconded the motion.**

247 **The motion was voted in favor unanimously.**

248 Chairman Claus moved to the next case.

249 **CASE 22-14 PARCEL ID: 0133-104-0000 APPEAL FROM AN ADMINISTRATIVE DECISION RELATING TO**
250 **THE INTERPRETATION AND ENFORCEMENT OF THE ZONING ORDINANCE, SECTION 3.40, PROVIDES A**
251 **TRAVEL TRAILER MAY BE USED FOR TEMPORARY SLEEPING QUARTERS FOR NOT MORE THAN 90 DAYS**
252 **PER 12-MONTH PERIOD UNLESS A CERTIFICATE OF COMPLIANCE IS ISSUED. SEWAGE DISPOSAL MUST**
253 **BE IN COMPLIANCE WITH NEW HAMPSHIRE WATER SUPPLY AND POLLUTION CONTROL REGULATIONS**
254 **OR APPROVED BY THE SUNAPEE WATER AND SEWER DEPARTMENT IF ON MUNICIPAL SEWER**
255 **DECISION OF THE ZONING ADMINISTRATOR DATED JUNE 13, 2022, TO BE REVIEWED. 25 MAPLE**
256 **STREET PETER & LISA HOEKSTRA**

257 Lisa Hoekstra, Peter Hoekstra, and Barry Schuster presented the case.

258 Lisa Hoekstra presented herself as a registered nurse that works for the State of New Hampshire
259 ensuring health and safety of people with disabilities. Peter Hoekstra works for a company which also
260 involves mitigation for health and safety. What they are appealing is that they agreed the travel trailer
261 can be used as a temporarily sleeping courts for 90 days in 12-month period, as part of the ordinances.
262 The trailer meets all the setbacks despite a letter saying that it did not. It always has met all the setbacks
263 and it was never close to the property line. Also, about the need to be hooked up to the sewer which
264 based on their ordinances is not the case. The ordinances say that they have two options, and the first
265 option is sewage disposal to follow New Hampshire Water Supply and Pollution Control regulations or
266 approved by Sunapee Water Department. The only thing that had left is whether they can use the space

267 as short-term rental. Because the ordinances do not have short-term rental definitions but have
268 certainly allow other types of rentals, that is really what the sticking point has come down to.

269 Chairman Claus said that the Board members are aware that these things were taken care of. He also
270 added that right now this is a travel trailer for temporarily sleeping and they must determine if their
271 ordinance is allowing that use.

272 Mr. Schuster said that the trailer will be used for only fewer than 90 days and that is permitted in the
273 ordinance. The only question is can it be rented. The Zoning Ordinance does not mention rental except
274 for low-income housing, so there are offices and houses that can be rented. So, renting the trailer for up
275 to 89 days is just like renting an office or apartment or anything else in the town. There is nothing in the
276 ordinance that even permits apartments to be rented.

277 Chairman Claus made a statement before opening to public comments that this is not a discussion about
278 short-term rentals and not a discussion on whether it is right or wrong, this is a decision to determine if
279 the ordinance allows this use.

280 Ms. Silverstein added that they are here because the Zoning Administrator said no on the applicant's
281 appeal.

282 A community member said that many people have trailers in their yard and why is this any different. She
283 added that the ordinance does not say it because they rent garages and all kinds of things in town, and
284 they are not mentioned in the ordinance.

285 Chairman Claus said that it is different because the Zoning Administrator determined it is not allowable
286 use to rent a camper.

287 Joan Puchtler said that without getting hooked up to the water and sewer she is making it into business
288 and renting it out and making money with different people every weekend. If they go down that road
289 and allow one, they are going to have 20-30 all around the town.

290 An abutter had a couple of points. First was about the ordinance saying that you can have people
291 staying for up to 90 days, but there is no discussion about the intent to rent. In addition to that, it adds
292 up to the parked vehicles which can be up to ten. So, his property is absolutely impacted by the action.

293 George Neuwirt said that is obvious that this is a divisive issue, and he would like from the Board a
294 clarification on exactly what should be the perimeter of them getting feedback. He also said that if they
295 look at the zoning ordinance, it is designed to manage their density. It has restrictions based on where
296 you live and so the travel trailer that they rent could be considered a dwelling unit because it meets the
297 Criteria and calculated the sq. ft. of usage for density. He also mentioned that he is a professional
298 camper himself and had lived in a camper for 5 years and that today's usage of the camper is much
299 different than 10 years ago. He gave an example of someone buying an expensive camper and while
300 making payments on it, they try to rent it and make some money on it.

301 Chairman Claus clarified that it basically comes down to whether the use of this trailer for rental
302 purposes is allowed in this zoning district. To the point of dwelling unit, he replied that they are not
303 trying to classify this as such, because per the ordinance it is a travel trailer used for temporary sleeping
304 quarters and it has its own Criteria that fall under it.

305 James, a neighbor said that his property is behind their house and the wetlands that were previously
306 mentioned are in that proximity. The trailer is parked on the corner close to the wetland if not abutting
307 it. His concern was a bout the wetlands and setback and about the environment and what is happening
308 with the sewage.

309 Chairman Claus said that that is another issue that the Town needs to look at and, on this meeting, they
310 are trying to focus on the use and rental of the travel trailer for temporary sleeping.

311 Mr. Schuster said that there is no issue having a travel trailer for 90 days sleeping and the only thing
312 here is the rental. This is an issue that the entire state of New Hampshire is trying to discuss and pass
313 something so they can get back to the town. There is a beautiful lake and places that people like to visit
314 here and it is an issue that the Board will have to face because he suspects that there is more than one
315 house that has an Airbnb and is renting out rooms that are not for family members and there is nothing
316 that prevents that and it is not covered in the ordinance the same way that offices and everything else
317 isn't. You can rent the whole house and there is nothing in the ordinance that says you cannot rent
318 houses, but it is allowed because we expect that. So, the only issue that is here is rental and if they
319 comply with what is in the ordinance in terms of setback, sewage disposal there is really nothing that
320 governs this.

321 Ms. Silverstein asked Mr. Schuster about Section 4.2 that says it that any use not specifically permitted is
322 prohibited, so that speaks to the fact that the while the ordinance does not give expressed permission
323 for the camper to be used as a rental for temporary or short-term housing, the ordinance does
324 specifically state that any use not permitted is prohibited.

325 Mr. Schuster asked that where does it say that you can rent an apartment or a house. Ms. Silverstein
326 said that renting an apartment is not short-term rental.

327 Chairman Claus added that the ordinance does not say for rent or lease, it does not even indicate that.

328 Mr. Schuster said that the word rent is not even in the ordinance except in the affordable housing
329 section, to which Chairman Claus said that there is for renting a dwelling unit.

330 Ms. Silverstein pointed that another issue here is renting a travel trailer on someone else's property
331 which is already occupied by a resident. This is a second residence that the travel trailer is being rented.

332 Mr. Schuster asked what the difference is having a family member living in your travel trailer for 89 days
333 and someone collecting money for that. There is no physical difference, and the only difference is a
334 check being exchanged and that is not a zoning issue, it is a financial issue.

335 Stan? via ZOOM asked about the fact that the ordinance calls to sleeping and it is not necessarily
336 addressing things like cooking, showering and all these other things to which Chairman Claus added that
337 he googled himself and it does not explicitly define the difference between living and sleeping quarters.

338 Mr. Schuster said that on the section about travel trailers is talked about water and sewage disposal.

339 Cordell Johnston, attorney for this case said that he is not offering an opinion or saying which way they
340 could go but there is one thing that he thinks is up to be discussed more fully and that is whether there
341 is a difference between only a house and renting a house or owning an office and renting an office and

342 consider the differences between long-term rental and short-term rental and see how that plays into
343 rental of a travel trailer.

344 Mr. Schuster made couple of responses on that, one is that there are growing trends that offices have
345 common working spaces that are rented on a short-term basis and coworking spaces and the ordinance
346 does not talk about that at all.

347 Donna Holdman via ZOOM said that for them it was a surprise that a trailer is rented right across their
348 parking, and they had no idea and there was not a communication between them as abutters. She also
349 added that how is the 90-day limit being tracked.

350 Mr. Munn requested that the Board go outside shortly with Mr. Johnston, the attorney and ask him
351 some questions if it is appropriate at this time.

352 Chairman Claus went into recess and the Board left the meeting with Mr. Johnston.

353 The Board went back in session at 9:15 and before going into deliberative session, Chairman Claus asked
354 for more questions and comments from the public.

355 A community member said that this is a commercial business, and she takes money and makes a profit
356 from it. It also has a big repercussion for the rest of the community on Perkins Pond 30% of the homes
357 are short-term rentals and them realizing that can get additional profit with putting a trailer for rent.

358 Mr. Jewczyn noted that they are drifting from the topic.

359 Joan Puchtler asked do the applicant for a rental have to apply for commercial loan to which the answer
360 was no.

361 Ann Bordeianu via ZOOM talked about the intent of the travel trailer in the ordinance and was it
362 advertised as a business or as a travel trailer for rent.

363 A community member had a concern about the one regulation about either following the septic
364 regulations or approval by the Sunapee Water and Sewer Department.

365 Chairman Claus said that that has been resend from the town that they did meet that requirement.

366 A community member said that the Board is assessing this as an individual case and that she is a
367 neighbor and non-direct abutter on Maple Street and for disclosure she is a relative, but she will say that
368 the things that you are concerned with when you rent anything are the noise, the parking and sanitation
369 and none of those are issues for this particular travel trailer.

370 Chairman Claus went into deliberative session and stated that after seeing that the town resend some of
371 the initial violations and it did come down to the temporarily sleeping quarters. Looking at the fact that
372 it does not say that renting is allowed but the term rental was not explicitly mentioned in other things
373 that are rented in the community. If they apply that in this situation, how do they not apply it other
374 instances. The next thing he would rely on is the intent and he had sent an email to certain members of
375 the town and he have not got a response so for now the intent is left to what the members of the Board
376 and the community voice on what they think the intent is and that he is really torn on this one and is
377 looking for other guidance from the Board members.

378 Mr. Munn pointed out that they are all struggling to box this in because of the ordinance and the letter
379 of the law.

380 Ms. Silverstein stated that for her is clear that the ordinance does not allow for the camper to be a
381 short-term rental. Without that ordinance in place, they need to go to section 4.2 where specifically says
382 to be denied. Until the ordinance is changed to clarify the permissibility or the denial, they must refer to
383 the town ordinance which at this point does not allow the short-term rental of a camper.

384 Chairman Claus said that he is trying to go back where the applicant stated that they have these other
385 uses and whether the town must go enforce apartments that are not explicitly stated as being rentable.

386 Ms. Silverstein stated that she can only look at the case that is in front of her and they are being asked
387 to either uphold or agree to support the appeal to the administrative decision.

388 Mr. Schuster request from Chairman Claus to reopen the session to the public so he can respond to one
389 specific comment.

390 Chairman Claus reopened the session to the public.

391 Mr. Schuster stated that he suspects that there are short-term rentals all over the lake and if they do not
392 allow this then they would have to apply this rule to all the short-term rentals.

393 Mr. Jewczyn reacted that those cases are not before them.

394 Town Manager Martinez said that they have issued letters to other property owners who are using their
395 property as a non-owner occupied STR (short-term rentals) under the notion that if it is not specifically
396 permitted it is prohibited and that has been issued by town's legal councilor.

397 Mr. Lyons said that they will all agree that there are elements of the Zoning Ordinance that allude to
398 situations along these lines, but he does not see any way around something is not specifically permitted
399 it is prohibited and this is something that the voters in the town of Sunapee are going to have to decide.

400 Mr. Schuster reacted that if that is the case every short-term rental in the town must be prohibited.

401 Mr. Lyons said that they heard Ms. Martinez, they are going after it.

402 Chairman Claus went back into deliberative session.

403 **Mr. Lyons made a motion to uphold the administrative decision of the Zoning Administrator on the**
404 **request for appeal for Case 22-14 Parcel ID: 0133-104-0000 appeal from an administrative decision**
405 **relating to the interpretation and enforcement of the Zoning Ordinance, Section 3.40, provides a**
406 **travel trailer may be used for temporary sleeping quarters for not more than 90 days per 12-month**
407 **period unless a certificate of compliance is issued. Sewage disposal must follow New Hampshire water**
408 **supply and pollution control regulations or approved by the Sunapee Water and Sewer Department if**
409 **on municipal sewer decision of the Zoning Administrator dated June 13, 2022, to be reviewed. 25**
410 **Maple Street Peter & Lisa Hoekstra. This is specifically to the rental of a travel trailer pointing to**
411 **Section 4.2 that prohibits usage for any use not specifically permitted is prohibited**

412 **Mr. Munn seconded the motion.**

413 **The motion passed with 4 votes for and 1 vote against (Jeff Claus).**

414 MISCELLANEOUS: Review Minutes from Previous Meeting(s).

415 There were no Minutes reviewed.

416 OTHER BUSINESS:

417 **Ms. Silverstein made a motion to adjourn the meeting at 9:55PM. Mr. Munn seconded the motion.**

418 **The motion was passed unanimously.**

419 Respectfully submitted

420 Rajmonda Selimi