

1 **TOWN OF SUNAPEE**

2 **ZONING BOARD**

3 **MARCH 4, 2021**

4 **MEMBERS PRESENT BY VIDEO:** Aaron Simpson, Chair; Jeffrey Claus, Vice Chair; Jim Lyons; Daniel
5 Schneider; Clayton Platt; Jeffrey Claus (joined late), Robert Henry, Alternate; Jamie Silverstein, Alternate

6 **PRESENT IN THE MEETING ROOM:** Michael Marquise; Clayton Platt

7 **ALSO PRESENT BY VIDEO:** Greg Grigsby, Pellettieri Associates; Michael Jewczyn; Carol Wallace; Bruce
8 Sanborn; Donna Gazelle; Marcus Gleysteen

9 Mr. Marquise introduced himself to the Board.

10 Mr. Lyons made a motion to have Daniel Schneider act as Chair for the meeting. Mr. Platt seconded the
11 motion. A roll call vote was taken: Mr. Lyons voted yes, Mr. Platt voted yes, and Mr. Schneider voted
12 yes. The motion passed unanimously.

13 Mr. Lyons made a motion to appoint Jamie Silverstein as a voting member for the meeting. Mr. Platt
14 seconded the motion. A roll call vote was taken: Mr. Lyons voted yes; Mr. Platt voted yes; and Mr.
15 Schneider voted yes. The motion passed unanimously.

16 Mr. Lyons made a motion to appoint Robert Henry as a voting member for the meeting. Mr. Platt
17 seconded the motion. A roll call vote was taken: Mr. Lyons voted yes; Mr. Platt voted yes; Mr. Schneider
18 voted yes; and Ms. Silverstein voted yes. The motion passed unanimously.

19 **CASE # ZBA21-07: PARCEL ID: 0140-0022-0000: SEEKING A VARIANCE FROM ARTICLE VI, SECTION 6.12**
20 **TO ALLOW REPLACEMENT OF A LEGAL, NON-CONFORMING STRUCTURE, PARTIALLY OUTSIDE THE**
21 **EXISTING FOOTPRINT; COMPASS POINT, LLC; 68 BURKEHAVEN LANE.**

22 Mr. Platt recused himself from the case.

23 Mr. Lyons explained that he knows Carol Wallace, an owner of Compass Point, LLC, and that he also has
24 a relative who works at the same firm as Mr. Pollack. He does believe that he can be impartial but
25 believes the public should know this information.

26 Greg Grigsby, Pellettieri Associations, and Carol Wallace and Michael Jewczyn, owners of Compass Point,
27 LLC, presented the merits of the case.

28 Mr. Schneider said that what is being requested is a Variance from Article VI, Section 6.12. His
29 understanding of the Ordinance is that a Variance cannot be granted from Article VI as it grants various
30 permissions in the Ordinance under various circumstances that the Board cannot change. The Board
31 can grant Variances for dimensions, which are covered in Article III and is what he believes is being
32 requested. The Board can also grant Variances for uses under Article IV. Therefore, he does not believe

33 that the Board can grant the Variance that is being requested and they cannot hear the details of the
34 case as it is not something the Board can grant.

35 Mr. Grigsby said that they looked at this with their legal counsel and decided that Article III requires a 50
36 ft setback from the reference line. They felt as though if there was not a structure there already, they
37 would be seeking that Variance but there is already an existing structure so they would be seeking relief
38 from Section 6.12 which states you can build within an existing footprint but if you do not then you must
39 seek Zoning relief. Mr. Schneider agreed but that it must be specified what Zoning relief is being
40 requested; if they want to build within 27 ft of the Shoreline and the Shoreline is covered in Section 3.40
41 (c) then that is what needs to be specified. Mr. Grigsby said that when Mr. Marquise explained this in an
42 email, they offered to change the request that but did not hear back so they assumed it was sufficient to
43 submit. Mr. Marquise said that the notification had already gone out after they emailed so it was
44 posted to the newspapers and abutters with the request as written.

45 Ari Pollack, an attorney for Compass Point, LLC, said that they did apply under Section 6.12 of the
46 Ordinance and he thinks that the language of the Ordinance itself discusses a Variance from Section 6.12
47 in the event a non-conforming structure is being replaced. He believes the existing structure qualifies as
48 non-conforming and they are not putting it in the same location or envelope. The second sentence of
49 Section 6.12 discusses that the reconstruction of any other non-conforming structure requires a
50 Variance or Special Exception. He believes that they are in the right place, however, the issue was raised
51 by the Planner and they did offer to amend the application to reference the other Section or both
52 Sections as the application materials would not change. It is his opinion that the description of the
53 project, the requested relief, and the arguments in favor of the relief would not change whether they
54 reference one Section or the other or both. If it is concerning to the Board that they referenced Section
55 6.12, he does not see the harm in referencing the other or both Sections in order to address the issues
56 of concern.

57 Mr. Schneider said that he does not believe that the Board has ever granted a Variance under Section
58 6.12 because it does not specify what is permissible and what is not permissible. He asked that the
59 applicants state if they are requesting a Variance under Section 3.40 (c) which says "the minimum
60 setback between structures or parking areas and water bodies shall be 50 ft" and to say that they are
61 requesting a Variance for a certain number of feet from the waterbody.

62 Mr. Pollack said that he is not in agreement that it is necessary, however, he understands Mr.
63 Schneider's position and does not want to slow anything down unnecessarily. If they focus on Section
64 3.40 (c) of the Ordinance, they are requesting to build a structure within 50 ft of the Shoreline. Mr.
65 Schneider asked and Mr. Pollack said that Mr. Grigsby will need to give the measurement from the
66 Shoreline to the closest point of the proposed structure. Mr. Grigsby said that he will need to determine
67 the exact measurement because when they completed the application, they were looking at Section
68 6.12. There was further discussion regarding this matter.

69 Mr. Schneider asked and Mr. Grigsby said that the measurement from the Shoreline to the roof
70 overhang is 12 ft. Mr. Schneider said that the application needs to be changed to say that it is a request

71 for a Variance from Section 3.40 (c) for an expansion of a current structure to be not less than 12 ft from
72 Lake Sunapee. Mr. Pollack said that this will be a replacement partially within an existing and partially
73 behind an existing footprint. Mr. Schneider asked what the closest part of the structure that is not a
74 replacement will be to the waterbody. Mr. Pollack said that the expansion will be behind the existing
75 footprint so it will probably be about 30 ft. Mr. Grigsby said that the new structure's eave will be 12 ft
76 from the Shoreline and the closest point on the existing structure is 6 ft. The intent is to make the area
77 more conforming by moving the structure further from the waterbody. Mr. Pollack asked what the
78 measurement is to the rear of the existing structure where they are proposing to start occupying an area
79 that is not presently occupied. Mr. Grigsby said that the rear of the existing structure to the water is 46
80 ft and the distance from the water to the rear of the proposed structure is 56 ft. Mr. Schneider asked
81 and Mr. Grigsby said that the new structure will be 12 ft from the waterbody and the existing is 6 ft. Mr.
82 Schneider asked and Mr. Pollack and Mr. Grigsby confirmed that the Variance request should be that it
83 is a request for a Variance from Section 3.40 (c) for an expansion of a current structure to be not less
84 than 12 ft from the waterbody where 50 ft is required.

85 Mr. Schneider asked how the other Board members feel about this issue and if they believe that this
86 hearing request should be re-noticed. Ms. Silverstein said that she would like to see the hearing
87 continue. Mr. Schneider said that he does not think that from the point of view of the abutters it would
88 make a difference so they should continue on the basis that the Variance is being requested from
89 Section 3.40 (c) of the Ordinance.

90 Vice Chair Claus joined the meeting so there were five voting members for the hearing. Mr. Schneider
91 said that Vice Chair Claus can take over the meeting.

92 Mr. Schneider read the Governor's Emergency Order #12 that authorizes the Zoning Board to meet
93 electronically: Due to the State of Emergency declared by the Governor as a result of the COVID-19
94 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order
95 2020-04, this Board is authorized to meet electronically. The public has access to contemporaneously
96 listen and participate in this meeting through video conferencing at <https://zoom.us/> with Meeting ID
97 97995371537 and Passcode 705609, or by telephone by calling (929) 205-6099.

98 Mr. Schneider gave Vice Chair Claus a brief rundown regarding the discussion about the wording of the
99 application before he signed on.

100 Mr. Grigsby shared his screen with the Board in order to explain the Variance request.

101 Mike Jewczyn and Carol Wallace introduced themselves to the Board as owners of Compass Point, LLC.
102 Mr. Jewczyn said that they have been fulltime residents in Sunapee for almost four years. They are
103 involved in the community as he is part of the Planning Board and Ms. Wallace is part of LSPA. They
104 purchased this property as the buildings are in disrepair and want to make the lake look better. There
105 are several issues on the property. He has a Master's Degree in Environmental Science and the things
106 that they hope to improve on this property will help the overall condition of the property and the quality
107 of the Lake.

Mr. Grigsby said that the property is at the end of Burkehaven Lane and is approximately 14 acres on the water. There are several outbuildings on the parcel and a cottage that sits right next to the water which is the structure that they will be discussing at this hearing. Mr. Grigsby showed and explained pictures of the existing structure to the Board. The structure has a masonry foundation under a portion of it and is supported by concrete blocks and rocks in other portions. There is also a large concrete apron that they believe may have been used to put boats into the building at some point. Mr. Grigsby continued to explain the pictures of the existing structure.

Mr. Grigsby said that the proposed structure seeks to maintain many of the same attributes as the existing structure but in a different configuration. The existing cabin and porch encompass 890 sq ft and the roof overhang is close to the water. The concrete ramp is 980 sq ft and added to the cabin and porch it is a total of 1,870 sq ft of impervious area completely within the 50 ft waterfront buffer. They have also indicated the points in the cells that are impacted with this project for the DES Shoreline Permit Application.

Mr. Grigsby explained the proposed conditions plan to the Board and said that the proposed structure is farther away from the Shoreline than the existing structure and existing edge of the concrete apron. He also explained the different cells and the impacts the proposed structure will have on them to the Board. Mr. Grigsby also explained the plan that shows how they believe the proposed structure will fit onto the site. There is currently a 500-gallon septic tank that will be removed and a new septic system will be designed that will also have a real leach field.

Mr. Grigsby said that the property is enrolled in Current Use and they have talked with the Town's Assessor and have assured her that any disturbance for the new structure will remain in any currently disqualified areas.

Mr. Grigsby said that they have developed a plan that they feel highlights the changes that the project will have on the lake and he explained this plan to the Board. The proposed structure drops the impervious square footage from 1,870 sq ft to 1,418 sq ft. They feel that what is making this a more nearly conforming structure is that they are reducing the impervious area in the space and removing the 975 sq ft of impervious area that is to the east of the structure and is being replaced with impervious area. Also, the impervious area that they are adding is 546 sq ft which is completely behind the existing impervious area. They are trying to pull back the impervious area from the lake, have an overall reduction, and make the space more nearly conforming by pulling the structure farther from the water and decreasing the impervious area.

Mr. Grigsby said that the existing structure does not have any storm water management controls associated with it. The existing structure has a roofline that drains right into the lake; there is hardly any buffer with about 6 ft of area where the water comes off the roof before going into the lake. Their proposal seeks to rectify that using infiltration trenches and explained using the proposed conditions plan the dripline trench that will work as there will not be a finished basement. The water will come off the roof and infiltrate into the ground without having any water run over the surface or exposed soils. There is a small proposed pervious patio which falls right outside the proposed great room.

146 Mr. Grigsby showed the Board the plan of the proposed elevations of the structure and explained that
147 they removed trees on the plan to show the structure but they will remain on the site.

148 Marcus Gleysteen and Chandon Georgian, of Marcus Gleysteen Architects, explained the proposed
149 structure to the Board. The proposed structure will be a more updated structure of what exists; they
150 want to reflect the vernacular of traditional lakeside structures with a gabled roof, a lot of stone, and a
151 timber frame. The total height for the proposed structure is 16 ft 6 inches; the living square footage is
152 935 sq ft. There are no sleeping spaces in the structure, it is more for daytime hanging out by the lake.
153 They are creating a simple structure to replace what is there and in poor repair and to do something
154 that is pretty modest and well camouflaged from the lake as there will be existing vegetation that will
155 remain in front of it.

156 Peter Blakeman, of Blakeman Engineering, said that the existing structure does not have a storm water
157 management system and the septic system is a 500-gallon tank that leaches into the soil without a
158 treatment area. The proposed septic system will include a tank 50 ft or more away from the lake and
159 will then pump up behind the new house to a leach field. They have not defined the space for the new
160 leach field but he has done several test pits and the soil is very suitable for the onsite system.

161 Mr. Blakeman said that for the storm water they have designed infiltration trenches that will encircle
162 the structure and they are sized to handle at least the water quality volume that is the first inch of
163 rainfall that is generally 90% or more of the rainfalls that occur in the State. The infiltration trenches will
164 hold the volume from the rainstorm and then allow it to infiltrate into the soil. The first inch is usually
165 the most important part of the rainfall to capture which is why the State puts a lot of focus on that. Mr.
166 Blakeman continued that reducing the impervious area itself will have a lot of positive impact on the
167 stormwater. During construction they will have erosion control measures out which is the line on the
168 proposed conditions plan with the heavy dots. There will be a silt fence or silt sock or a combination of
169 the two to protect the lake during construction.

170 Mr. Grigsby said that the concrete apron and existing impervious areas will be replaced with either a
171 natural pine needle duff layer, which is what exists currently on the property bolstered by low growing
172 vegetation or the disturbed areas will be revegetated and allowed to revert to a duff condition. He said
173 that this is outlined in the executive summary submitted with the application.

174 Mr. Schneider asked and Mr. Grigsby confirmed that the concrete ramp cannot currently be seen as it is
175 under pine needles. Mr. Schneider asked and Mr. Grigsby said that they believe the original purpose of
176 the ramp was to get boats into the north side of the structure because it is not level, it is sloped with
177 approximately 3 ft to 4 ft of grade change from one end to the other.

178 Mr. Schneider said that there are two corners of the structure that come close to the shoreline; he
179 knows that one is 12 ft but asked how far the other corner is from the shoreline. Mr. Grigsby said that
180 the distance from the corner of the roof overhang to the reference line of the shoreline is 11 ft, the
181 proposed distance to the structure is 12 ft or 13 ft. Mr. Schneider said that they need an actual number
182 because if it is less than 12 ft they will need to change it. It was explained that the north corner of the
183 building is about 15 ft from the shoreline and the overhang is about 12 ft and the corner to the south is

184 about 21 ft to the structure. The existing structure is 6 ft 6 inches from the shoreline. Mr. Schneider
185 asked and Mr. Gleysteen said that the height of the structure is 16 ft 6 inches from the finished floor.
186 Mr. Schneider asked and Mr. Gleysteen said they have not determined the average ground level yet so
187 they do not know the total height from the ground level. Mr. Schneider asked and Mr. Gleysteen said
188 that the height will be less than 20 ft; the first floor is within 4 ft of the average natural grade.

189 Mr. Schneider asked and Mr. Grigsby said that the total acreage of the lot is 14.16 acres. Mr. Schneider
190 said that implies that there is plenty of room to build. Mr. Grigsby said that there would be plenty of
191 room if the lot was not in Current Use. Mr. Schneider said that Current Use is a tax consideration, it is
192 not a Zoning consideration. Mr. Grigsby said that they were also trying to be considerate of minimizing
193 the impact of disturbed areas.

194 Mr. Henry asked how much space is on each side of the building. Mr. Grigsby said that the area that
195 they have to work within essentially follows the heavy dotted line which follows the Current Use area;
196 everything on each side of those lines is in Current Use. The only area out of Current Use is the area
197 where the structure is located and then the access to it.

198 Mr. Henry asked if the elevation will be the same and Mr. Grigsby said that the elevation will be dropped
199 approximately 2 ft from what is currently there as they can use different construction methods now.

200 Mr. Grigsby asked his associate for the dimensions of the space available to build. Mr. Grigsby said that
201 each cell is approximately 25 ft by 50 ft. Mr. Grigsby's associated said that it is approximately 75 ft by 50
202 ft.

203 Ms. Silverstein asked about the rest of the parcel and if there are any other environmental concerns
204 outside this area. Mr. Grigsby said that there is nothing relative to this application. The proposed plan
205 will meet all the State requirements for Shoreland, Wetlands, and Alteration of Terrain so there will be a
206 high level of scrutiny on the stormwater aspect of the project. Mr. Blakeman is a civil engineer who is
207 well versed in situations dealing with leach fields, storm water, etc. All those considerations will be
208 given to the rest of this project, much like they are doing here, by pulling the septic back, creating more
209 greenspace, and reducing the impervious area.

210 Mr. Schneider said that the penalty for removing property from Current Use is only 10% of the value of
211 the property being removed.

212 Mr. Grigsby read the facts supporting the Variance from the application.

213 Mr. Grigsby said that granting the Variance would not be contrary to the public interested because: the
214 proposal does not alter the residential character of the neighborhood. There would be no change in use
215 and no impacts to the health, safety, and welfare of the public because it is on private property.

216 Mr. Grigsby said that if the Variance were granted, the Spirit of the Ordinance would be observed
217 because: Article VI provides a pathway for the review of such improvements. Now that they are talking
218 about a setback issue rather than rebuilding within a footprint issue, the proposed improvements are in

219 keeping with the intent of the Ordinance, because the proposal minimizes tree cutting, moves the
220 structure farther away from the lake, and reduces impervious surfaces in this location.

221 Mr. Grigsby said that granting the Variance would do substantial justice because: the proposal seeks to
222 relocate a non-conforming structure farther away from the lake than what exists today, while reducing
223 the amount of impervious are immediate to the lake. In addition, runoff from the new structure will be
224 addressed using engineered drip line infiltration trenches, thereby treating runoff, and better protecting
225 the water of Lake Sunapee.

226 Mr. Grigsby said that if the Variance were granted, the values of the surrounding properties would not
227 be diminished because: they will be replacing a dilapidated structure that does not meet current
228 building codes and replacing it with a new code compliant structure, with the aforementioned
229 stormwater controls, which will maintain, and most likely increase property values.

230 Mr. Grigsby said that no fair and substantial relationship exists between the general public purposes of
231 the Ordinance provision and the specific application of that provision to the property because: unlike
232 most waterfront properties, this property is large enough to be enrolled in the State's Current Use
233 program and as such the parcel is mostly conserved. Additionally, a Variance would allow the structure
234 to be relocated farther from the lake. The proposed use is a reasonable one because: the structure is
235 not extended closer to the lake, and the property will be made more nearly conforming in accordance
236 with NH RSA 483-B:11.

237 Mr. Grigsby said that if the criteria in subparagraph (a) are not established, an unnecessary hardship will
238 be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from
239 other properties in the area, the property cannot be reasonably used in strict conformance with the
240 Ordinance, and a Variance is therefore necessary to enable a reasonable use of it: strict interpretation
241 could require new development in enrolled areas of the property and disqualification from Current Use.
242 This is one thing that makes this property unique from many on the lake as it is actually enrolled in
243 Current Use and the amount of area not enrolled in Current Use if fairly tight.

244 Mr. Schneider asked why this building could not be built in compliance with the 50 ft requirement from
245 the Shoreline. It looks as though they could build outside the 50 ft buffer and still remain within the
246 Current Use limits and even if the Current Use area was encroached on, it would not be a major financial
247 consideration. Mr. Grigsby said that, by right, one is allowed to rebuild an existing structure in kind
248 within that location and footprint. The objective of this project is to improve the situation and to
249 include storm water management by moving the structure back. Some of the structure is within the
250 footprint of the existing building but they looked at this as an opportunity to improve things along the
251 lake. Because the right to rebuild another structure in that footprint exists, they thought that pulling it
252 farther away would be better. Regarding pulling it back behind the 50 ft setback it would require
253 disturbing unaltered areas and the clients wished to minimize the impacts to the most sensitive areas of
254 the property which are the waterfront buffer and the woodland buffer.

255 Mr. Schneider said that he looks at this structure as two different rectangles on the same level. Mr.
256 Schneider asked why the rectangle that has the dining room and is almost entirely in the 50 ft buffer and

257 asked if it could not be built on the far side of the other rectangle so it was farther from the lake. Mr.
258 Grigsby said that he thinks that the intent was to take advantage of views going down the lake while also
259 using an existing impervious area. Mr. Schneider said that he thinks that there is a difference between a
260 structure and a ramp that is mainly covered by duff. Mr. Grigsby said that, regardless of how it has been
261 maintained as the property has been vacant for some time so no one was leaf blowing, the ramp is still
262 considered impervious at both the Town and the State levels and that structure is sloped so everything
263 that lands on the ramp runs into the lake.

264 Vice Chair Claus said that there is a portion of the structure within 20 ft of the lake and asked how Mr.
265 Grigsby proposes the State will approve the application. Mr. Grigsby said that RSA 483-B:11 allows for
266 more nearly conforming structures and the fact that they are moving the structure farther away from
267 the lake makes it conform with this RSA. Vice Chair Claus asked and Mr. Grigsby said that they will be
268 building outside the existing footprint and an existing structure can be expanded as long as it is farther
269 away from the lake and has no encroachment closer to the lake. Mr. Blakeman said that the term "more
270 nearly conforming" is from the State's Shoreland requirements and they consider improving storm
271 water and the septic system as part of the overall improvement.

272 Mr. Schneider asked and Mr. Grigsby said that they have not yet applied for a Shoreland permit for this
273 project as they are waiting to do an application for the entirety of the parcel; their goal is to file just one
274 permit. They would like to get the Town's approval for this part of the project before they apply to the
275 State as it would affect the State permit.

276 Vice Chair Claus asked if there were any questions from the Board or members or the public and as
277 there were none, he closed the hearing to public comments.

278 Mr. Henry said that he looks at whether or not a house can be moved farther back from the lake,
279 however, he does not think that is his job here; his job is not to design a structure but to determine
280 whether or not to allow a Variance from what is presented. He is not concerned with where they could
281 have put it, he is concerned with what they are asking for. Based on what they are asking for and the
282 area that they are in, especially as a lot of the houses along Lake Ave are within 12 ft with cement docks,
283 he does not see this proposal as adverse to the lake and surrounding areas. Since it is set back farther
284 from the lake, they are reducing the impervious area, and are putting in a real septic system, he is
285 satisfied.

286 Ms. Silverstein said that she thinks the presentation was well done and she appreciates the
287 improvements that they want to do to the site for the benefit of the lake. She does not necessarily see
288 the hardship but there is a general willingness to make the site more conforming by lowering the
289 amount of impervious square footage by 25%. She is inclined to agree with the recommendation.

290 Mr. Schneider said that he agrees with Ms. Silverstein. However, as to the hardship, they are tearing
291 down and building a new structure that is almost entirely within the 50 ft buffer and they could certainly
292 build a conforming structure if they wanted. They are building a larger non-conforming structure and
293 although he appreciates that they are decreasing the impervious surface within the shorefront, the
294 ramp is an eyesore does not serve a purpose and should be removed anyway. He feels that this does

not present a hardship as removing land from Current Use costs a little money but that is something that can be done and is not enough to produce a hardship. He also does not think that this is consistent with the Spirit of the Ordinance.

Mr. Lyons said that he thinks that this was well presented and well thought out and he likes the idea that there are no bedrooms. The property is close to the shore and while he does not think the present owners would consider it, he thinks as a Board they have to consider what this might have been as there is the capability to fill the existing footprint 6 ft from Lake Sunapee with a three-story building. The owners will be building a modest structure with the appropriate safeguards. If the Board approves the application, he thinks that they should make a condition that all the safeguards be appropriately maintained but he thinks that this is a very reasonable proposal as there are no bedrooms and there will be a real septic system installed. He thinks the concrete ramp is a problem and thinks that this is a reasonable plan.

Mr. Claus said that he agrees more with Mr. Schneider as he does not see a hardship as he thinks that the structure could be built farther back from the lake and even outside the 50 ft buffer. The Board has been pretty strong on construction within the 50 ft buffer and they have allowed construction within the existing footprint and behind but they have tried to deter any lateral expansion. He is surprised that the Board would be more willing this time to allow this. He also does not believe that it is within the Spirit of the Ordinance as the Board has been pretty adamant about the 50 ft setback and to expand within that goes against the Spirit. He is also trying to figure out how they can get State permitting to build within 20 ft of the shoreline but that can be a condition.

Mr. Claus asked and Mr. Lyons said that it is his understanding that there is an existing dwelling unit on an existing footprint that is habitable. Mr. Schneider said that the property is zoned Residential so they can have a house on it. Mr. Lyons said that his point is that they would not necessarily need to come before the Board if they wanted to build a bigger structure. Mr. Claus asked if there is any concern about the multiple dwelling units on the property and there were none.

Mr. Henry said that it is his understanding that if there is an existing structure within the 50 ft setback and if someone wants to build an addition on the back it is acceptable and has been approved by the Board in the past. This proposal is moving back and sideways a little bit but his feeling is that the intent was to move the structure farther from the lake and not make it any higher. The Board can try to design the property the way that they want but he is looking at what is being presented and he thinks it fits the criteria.

Vic Chair Claus asked and Ms. Silverstein said that she did make some notes about conditions for an approval.

Ms. Silverstein said that for Case ZBA21-07, the application will be recharacterized to be for a Variance for Section 3.40(c) and the motion will be to approve a replacement structure not less than 12 ft from the shoreline with a reduction of the impervious square footage from 1,870 to not more than 1,455 and the condition that they will bolster the natural vegetation where the concrete is removed. Mr. Schneider said that there should also be a condition that a DES Shoreland Permit is applied for and the

333 terms therefore applied with. Mr. Lyons said that there should be a condition that the maintenance
334 of the runoff control being properly done. Mr. Schneider seconded the motion. A roll call vote was
335 taken: Mr. Henry voted yes; Ms. Silverstein voted yes; Mr. Lyons voted yes; Mr. Schneider voted no
336 because he does not believe it meets the hardship criteria or is consistent with the Spirit of the
337 Ordinance; and Vice Chair Claus voted no for those same reasons. The motion passed with three in
338 favor and two opposed.

339 **MINUTES**

340 Changes to the minutes from January 7, 2021: The minutes were continued to the next meeting.

341 Vice Chair Claus adjourned the meeting at 7:56 pm.

342 Respectfully submitted,

343 Melissa Pollari