Zoning Board **October 4, 2011**
Memorial Building **7:00 pm**

Present: Bill Sullivan (chairman), Bryan O'Day, Susan Chiarella, Gene Hayes, Cynthia Hayes (alt)
John Chiarella (selectmen rep.)
Absent: Steven Berkley (alt) Kathy Richardson

Also present: George McCusker, Steve Handley, Jane Handley, Susan Hankin-Burke, Charlie Hirshberg, James Nasiatka, Margarita Posso-Nasiatka, Michael Chiarella, Leigh Callaway and Justin Hastings

Bill called the meeting to order at 7:00pm

Minutes of June 5, 2011

Bill Sullivan moved to accept minutes as written, Cynthia Hayes seconded, Board approved.

Susan Chiarella read the following prepared statement I, Susan Chiarella, a member of the Springfield, NH Zoning Board disclose that Chiarella Law Office has represented the Handley's in their purchase of the property at 298 Twin Lake Villa Road. The Handley's contacted my husband, Attorney Michael Chiarella, to represent them in the matter before the board and he declined and referred them to Attorney Hankin-Birke.

I have no financial or other personal interest in the outcome of this hearing and feel I can act as an impartial board member.

Does anyone on the Board or the applicant herself or through her attorney have a problem with me sitting on the Board for this hearing?

Email received by Chiarella Law Office: This is to confirm that the Handley's are in agreement that Susan should share with the board that your office previously represented the Handley's in their purchase of the property on which they now seek a variance to construct a garage.

Bryan O'Day also stated that while he has employed Susan Hankin-Burke, he felt this would not influence his decision on the case.

Cynthia Hayes moved to allow both members to sit on for the hearing. Board found no reason to further question either member.

Handley Variance

A Variance is requested from Article VII, Section 7.1 of the Zoning Ordinance to permit: construction of a garage 68 feet from the normal high water mark of Kidder Brook

Susan Hankin-Burke presented the case to the Board. Please see attached.

Susan Chiarella asked what the drop in feet was from the back of the purposed Garage to the water. Bryan having visited the site that day felt it was between 30-35'.

Susan Hankin-Burke felt that was no other location to construct the garage and have it attached to the house. She then went over the five criteria that Board must look at for the variance. Please see attached.

Cynthia Hayes asked if the map they were given was a tax map copy or an actual survey, Susan Hankin-Burke stated it was in fact a survey.

Discussion as to the type of drainage that the owners were going to use for the garage roof runoff. Gutters will be installed along the eaves of the front and the back of the roof leading to downspouts. These downspouts would then go into a drywell type of unit at the corners of the structure. These would have gravel in them for the water to seep into the ground.

Board requested diagrams of the drainage plan, looked as though it was included in application but none was found.

Board agreed that a site visit was needed.

Susan Hankin-Burke asked is a decision would be made at the site visit, Bill Sullivan could not promise anything because the public might not be at the site visit.

When asked if the garage would have any plumbing the owners replied that there would be no heat or plumbing. Also asked if there was any plan to pave the driveway, they don't plan to.

Bill Sullivan asked if there was any public comment in favor. No comments

Bill Sullivan asked if there was any public comment against. No comments

Selectmen wanted Board to consider the type of stone to be used in the catch basin and what type of material used to catch pollutants, the possible future use as an Inn, and future paving of the driveway.

Bill Sullivan warned the applicants that the hearing might take quite awhile.

Continuation of hearing at the site visit scheduled for the 18th at 5pm.

Charlie Hirshberg presented case to the board.

A Variance is requested from Article IV, Section 4.12 of the Zoning Ordiance to permit: the construction of a new house with attached garage, septic system, and well within the 100' buffer.

A Special Exception gravel driveway within the 100' wetland buffer requires a special exception as defined in Article III, Section 4.16b.

Hypothetical house and garage of typical size has been set on plan so that runoff is within setback areas. The design of runoff catch areas dependant on design. The original subdivision (dated 11/30/00) indicated location of building area. Septic design 3/09 valid for 4 years, design is for a 3 bedroom home/ 450 gal. more typical is 300-350 per day usage. Original subdivision will be found and presented at next meeting.

Owner James Nasiatka reported that when the lot was bought there was a guarantee that it was buildable.

Board asked if there were any other locations to put house, garage and/or septic. Charlie felt that the location shown was best if not the only.

Board asked about the house and garage acting as a dam for water movement. Changing the surface of the land would not affect ground water movement.

Cynthia Hayes asked about selling the property to abutters.

Board decided that they needed to look at the property, would like to have house/garage, septic, driveway, 100' setback and 35' setback flagged.

Hearing has been continued to next meeting on November 1, 2011. Visit scheduled for Friday October 21, 2011 at 5 pm.

Culvert draining onto property moves water from pond on the other side of road.

Registry of deeds filing form. Form has not been decided upon.

Public comments: John Chiarella voiced that Brandt Denniston has expressed interest in being an alternate on the Board. Town states that the Board may have 3 alt. at this time there are 2. When asked about how an alternate is picked to sit on the Board if needed Bill stated that the longest standing alternate is asked first.

Bryan O'Day and Susan Chiarella will be attending the UVLSPC Fall Conference on October 29, 2011; they have registered and paid for themselves. Bill Sullivan, Gene Hayes and Brandt Denniston would like to be registered and asked that the town pay for their reg. fee.

Board will be ordering new Planning and Zoning books for the coming year.

Motion to adjourn at 8:45pm
Respectfully submitted
Tamara Butcher

Town of Springfield

Application for a Variance

Property of Jane P. Handley, Trustee of the Jane P. Handley Trust

Tax Map 6, Lot 670-243

298 Twin Lake Villa Road

Background:

The Handley property formerly operated as an inn and consists of House A, containing two bedrooms and two bathrooms, House B containing two bedrooms and two bathrooms, and the Main house, previously the Hide-Away Lodge which has been converted to a five bedroom house with five full and two half bathrooms. The configuration of the property is such that the septic system is located to the south of the former lodge and the two smaller houses are located to the west of the driveway located on the westerly side of the house, and the parking lot is located toward the back of the westerly side of the lodge and adjacent to House B. It currently exists as a graveled surface, approximately 75 feet by 30 feet. The same area allows for the delivery of propane serving the main house. In conjunction with their renovation, they have retained Hinds Septic Design who has designed a raised enviro-septic gravity system to enable the existing cottages to also utilize the existing leach field serving the main house/former lodge. The current system was designed for 1,640 gallons per day use by the lodge/main house and is in good working order as determined by Deborah L. Hinds, LSD No. 1316. The applicant intends to add a 2,500 gallon concrete septic tank for House B. See progress print dated July 15, 2011. The plan has been approved by the Town of Springfield and has been submitted to NH DES for approval.

The challenges of this site are due to its pre-existing non-conforming configuration of the two houses clustered along the westerly side of the driveway which is flanked on the opposite side by the former lodge and the septic field and tank area. Additionally, there is a sharp drop directly behind the lodge and the existing graveled parking facility.

The Applicant proposes to utilize a portion of the parking lot to erect a two car garage connected to the existing house back entry/mudroom. In approximately 2008, the Town of Springfield amended its ordinance such that any structure must be located 100 feet from a stream, where previously it would have had to be located 50 feet from the ordinary high water mark of a stream, consistent with the current regulations of the shoreland protection act, NH RSA 483-B:4(XVI)(c). Bruce J. Parsons Design, LLC has designed the structure and has located it on the site plan such that the corner of the proposed garage closest to the brook is approximately 68 feet from the high water mark. The garage will hold two vehicles and still allows adequate turn around for the propane delivery truck as well as still allowing for additional parking within the existing lot. At this time, the existing lodge

accommodates the Handleys' daughter, her husband, and four children. The additional cottages continue to be available for rental.

A variance of the set back from the high water mark of Kidder Brook is required pursuant to Article VII, Section 7.10. The regulation also provides that where there are multi-unit buildings and clusters of buildings, structures are to be a minimum of 150 feet from the normal high water mark. The entire lot is 3 acres and is bounded by Kidder Brook flanking the northerly boundary and .8 acres of additional area, consisting of Twin Lake Villa Road, flanking the southerly side of the lot. The property is unique in that it slopes downward from the ridge on which the Inn sits and the land drops off behind the existing structures in which area the brook is located.

Facts Supporting this request:

A. The Variance will not be contrary to the public interest:

The public interest is the conservation of the Kidder Brook and perhaps to maintain the stately appearance of the historic inn. It has been generally accepted that having vehicles parked inside a garage with a concrete floor keeps various potential pollutants such as road salt or vehicular fluids from running off and potentially draining into open bodies of water. The proposed garage will allow access to and from the primary residence to two vehicles without having to negotiate the elements. The construction will not disturb any existing vegetation and will be built utilizing the Best Management Construction techniques to eliminate or minimize any runoff toward Kidder Brook during construction. Additionally, the garage design implements a gutter system along the roof that will end in drainage basins underground, again to minimize eroding runoff.

B. The spirit of the ordinance is observed:

The spirit of the ordinance is such that pre-existing, non-conforming lots are protected and can continue to be utilized. However, the ordinance also promotes conservation of natural resources and compatibility with abutting properties. The spirit of the ordinance is observed as the proposal does not affect the aesthetic aspects of the properties located around the subject parcel and improves the environmental status of vehicular parking.

C. Substantial justice is done:

The Handley proposal addresses current existing environmental impacts while improving household access for the use of the former lodge and restaurant which had been open to the public. The Handleys' use will be less intensive than that previously made when the lodge was operating commercially year-round.

D. The values of surrounding properties are not diminished:

Given the current configuration of the property and its elevations, there is minimal impact of any sort, except to improve any environmental impact which previously existed and would continue to exist without this proposal. The new structure is behind the existing lodge and will not be as tall as the existing structure, will be barely visible from the street, and is well designed relative to both the drainage to be implemented as well as the aesthetics overall. There is no evidence that the value of surrounding properties is impacted except positively, given the attention and aesthetic improvements and upkeep.

E. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

1. For purposes of this section, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

a. **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:**

The set back which applies to lakes as well as streams affects both aesthetics in terms of maintaining and protecting the natural environment surrounding bodies of water which, in some instances, especially with lakes, are used by the public at large; and protects the condition of the water body. In this instance, cars are already parking within the established graveled surface. Having the vehicles which will be utilized most frequently and would have continued to be parked in proximity to the residence and the brook now be contained inside a structure, in fact, benefits the environment. Hence, no fair and substantial relationship is served if the variance is not granted. There is no other practical area to locate a garage given the existing configuration of the property, especially in light of the shape of the lot, the grade of the lot and the location of the dwellings and utilities serving same. The beauty of this historic inn and the character of the primary structure will be maintained under the terms of this proposal.

And;

b. The proposed use is a reasonable one:

Northern New England is known for extreme weather conditions. Being able to access one's vehicle without getting wet or falling in snow or ice is not only reasonable, it is integral. Furthermore, the protection of the environment is improved by housing vehicles inside a structure to catch and collect fluids and salts which may run off, and the drainage from the impermeable structure will be addressed in an environmentally responsible manner via gutters and drainage-diffusing basins to be implemented consistent with the professional design and implementation proposed.

2. The criteria of subsection 1 above have been established. The setback, in this instance, does not promote the intended benefit of the ordinance, as the use of the parking area exists and the

location of the parking area is restricted by the contour of the property and the configuration of the utilities serving the existing structures of this beautiful and historic property.

The unnecessary hardship in this instance requires a dimensional limitation of a permitted use and structure. The applicant has explored various angles for the garage given the obvious intended benefit of having access to and parking for the primary vehicles being used in conjunction with the residential use of what is now a large residence.

Conclusion

The applicant has worked to maintain the aesthetic and historic appearance of the inn and continues to strive to improve the operation of the property while recognizing that the Kidder Brook is of value not only to the applicant, but to the public and abutters for its pristine beauty. They have sought to improve the operating systems such that they are improving the septic system serving the existing cottages and are working with the existing configuration of structures and the challenges of the the hilly and sloping nature of the site. The public interest is benefited by the proposal inasmuch as there are no real alternatives to allow for an attached garage providing access to and from the large residence. Additionally, the professional design and construction maintains the aesthetics of the existing historic inn structure.

Respectfully submitted,
Jane P. Handley, Trustee
By her attorneys,
McSWINEY, SEMPLE, HANKIN-BIRKE & WOOD, P.C.

9/13/2011

By: _____
Susan Hankin-Birke, Bar #1082
P.O. Box 2450
New London, NH 03257-2450
(603) 526-6955

F:\Clients\Handley\AppforVariance.doc