

**CANDIA ZONING BOARD OF ADJUSTMENT
MEETING MINUTES OF June 27th, 2023
APPROVED MINUTES**

PB Members Present: Judith Szot, Chair; Mark Raumikaitis, Ron Howe; Tony Steinmetz (via Zoom)

PB Members Absent:

Boyd Chivers, Vice-Chair (excused)

*Judith Szot, Chair called the ZBA meeting to order at approximately 7:00PM, followed immediately by the Pledge of Allegiance

Old Business:

Case #23-001: Public Meeting

- **Applicant:** Applicant/Owner – Bob & Claudia Carr – 17 Vassar Street, Manchester, NH 03104. Property Location: 669 High Street, Candia, NH 03034 Map 405, Lot 48
Intent: Public Meeting for the board to consider a Motion for Rehearing. (Continued)

J. Szot: This is a continuation of a request for a rehearing. Mr. Carr is objecting to some of the conditions that were placed in the Notice of Decision. And specifically, Mr. Carr stated that there was never any mention of “no commercial”. I would like to play the tape. A part of the tape from that night. Plays a bit of the recording from the audio recording from the initial meeting on 3.28.23. (This is available on the website.)

So, several times the attorney states no subdivision, no commercial use. Also, Mr. Carr, in the pleading, said that they weren’t noticed. That there was some question about whether we noticed that we were continuing the hearing and you could hear Boyd clearly say that we were continuing the meeting because it was during the discussion. So, Mr. Carr stated we did not talk about commercial. This area is zone residential. If he wanted to do anything commercial there, he would need to come before our board to get a variance to do it and if you read the Notice of Decision, it states that he can come back if he wants to make any changes to the conditions. So, he got exactly what he wanted. He had three legal ways to put houses on that property without a variance. He didn’t want to do that. He wanted all of the houses up front, claimed that he had a wetlands crossing, couldn’t get across it, it would be expensive to cross it but when he was talking about the barn, they stated that they could. We either rehear it or we

don't rehear it. This is the decision tonight. Very clearly, his attorney said, no commercial, no further subdivision. Quite honestly, we never talked about the other things that he added to that, which were solar and biomass. If he is allowed to do commercial there, that is what he said he wanted to be able to do. He can certainly, if he wants to put solar panels on his barn roof, he is well within the law to do that. As long as it is done for his own personal thing. And several times during the meeting he said, "I want to keep it like it is, I want to use it for my personal use." I don't understand where this disconnect...he got everything he wanted. He got an accessory use without a main dwelling. He got six units on one parcel of land. He got three buildings without subdividing, which is exactly what he wanted. We have to decide, do we want to rehear this and go over it. I know, Mark, one of the questions you had was, you didn't want to bind another board...all we are saying is this is all we gave you and if you want to do anything else, you have to come back before the board to get permission. So we are not binding anyone, we are only giving him exactly what he asked for.

M. Raumikaitis: It sounds like you are rehearing the original meeting. Whereas this meeting is to discuss and to decide whether the board made a mistake and that should be the singular issue in front of the board.

J. Szot: Well, the issue is, the issue actually before the board is do we grant him a rehearing. And by granting him a rehearing, we grant a rehearing because we made a mistake... He said we made two mistakes. He said that they didn't know we continued the meeting, and they didn't know that there was going to be no commercial. But you clearly heard his attorney say, "no further subdivision, no commercial." And he was sitting right there.

The vote tonight is, do we grant a rehearing or don't we. So, we either have a motion to grant a rehearing and it fails or it passes. But that's the motion. And you grant the rehearing because you realize we made some error. But we haven't made the errors that we stated, that he's claiming.

R. Howe: But how was he aware of being at the last meeting? That would be my only question.

J. Szot: How was he aware of what?

R. Howe: That his attendance was necessary. Did we make that clear? At some point?

J. Szot: They knew that the meeting was continued.

R. Howe: But did they know that the meeting, that they needed to be here?

J. Szot: They received copies of all of the paperwork. Of our Notice of Decision and all of the stipulations, just those words that we added, the words non-commercial, because that's what we said.

R. Howe: I have no problem with that. My only problem is the noticing. So that's my question, I guess for Amy. What contact was there.

Amy Spencer: I emailed Bob, his attorney, and the engineer.

R. Howe: Then I have no issues.

J. Szot: And they all received copies of the covenants that we were going to discuss at the meeting. Tony, do you have any questions?

T. Steinmetz: I have no questions.

J. Szot: Mark, do you have any questions?

M. Raumikaitis: No.

J. Szot: Okay, so we need a motion that will either pass or fail. Does somebody want to make a motion? The motion is to either grant a hearing or to not grant a rehearing.

R. Howe: I **move** that we don't grant a rehearing based on the information that you just provided.

Second: T. Steinmetz. Raumikaitis – Nay. Howe, Steinmetz, & Szot – Aye. Three to 1 **Motion Passes**.
The request for a rehearing fails.

J. Szot: So the next thing on our agenda is we've got three sets of minutes to review and I don't know if you've had the chance to look at the minutes. There are three different sets in there. If you want to, we can have you read them and we can go through them the next meeting.

M. Raumikaitis: I would recommend that we look at these minutes at the next meeting, if that is acceptable to other members of the board.

J. Szot: If you recall, the next thing on our agenda is we were going to adjust our fee schedule. We have to talk about it twice. So, this would be the second time.

M. Raumikaitis: Actual cost plus a dollar.

A. Spencer: I thought it was two dollars.

R. Howe: I **move** that we increase the fees, the cost plus \$2.00. M. Raumikaitis: **Second**. All were in favor. **Motion Passed**.

J. Szot: The other thing that we talked about was, if you recall, we had no procedure for someone who applied for an extension of a variance. Because in all the years I have been on the board, we have never had anyone that didn't use their variance. So, Amy came up with a proposed new page for our book, which lists the application for the extension of the variance. So, this is another one of those things we have to look at twice. So, this would be the first time and we will look at it a second time, and then it would become part of our manual.

R. Howe: I guess my only question would be, do we want something on there that states why you would want to renew the variance?

M. Raumikaitis: Let me ask you a question. If someone comes before the board anyway, we would have that discussion in public.

J. Szot: Maybe just a few lines, the reasons. It all depends on what you consider the phrase "good cause" means. If you recall, when the applicant came in, they started to talk about all of the environmental concerns and how long with Covid, you could clearly see why they could not get working. That was very definitely just cause. And it does state in here.

M. Raumikaitis: I don't think there is a problem adding "Reason for Extension Request".

J. Szot: I think that is a great idea.

R. Howe: What's the story with a building permit? You can request an extension but only once. Am I correct?

A. Spencer: We have people that have extended them for quite some time, many times. It's half the cost of the original permit.

M. Raumikaitis: And the risk for someone who is asking for an extension if the building codes change. When they ask for that next one, don't they...is that why they do it? In order to maintain the old building standards? Or if they get multiple extensions, do they have to do the new building standards.

A. Spencer: Would you mind asking that question again to the expert?

M. Raumikaitis: In the case of someone in the town asking for an extension of a building permit that they didn't act on in a one-year period. If they get an extension, apparently there is half the fee to get another extension. Do the old building codes apply continually? Or if the town adopts one of the new building codes, electrical, plumbing, what have you... Would the new rules apply at the time of that extension of the building permit?

B. Donovan: As far as I know, all codes go with the date of the original permit.

M. Raumikaitis: Is that an automatic approval?

B. Donovan: Pretty much.

M. Raumikaitis: So that is a way for someone to maintain the old code, if they continue to reapply. There is no limit on how many years they can continue to do that?

B. Donovan: We had a situation today with someone with a permit from 2001 and they are still continuing it. I talked to Andria today and we are going to talk to the Selectmen about coming up with a shutoff date of maybe one extension.

M. Raumikaitis: That makes some sense because things have changed from 2001 obviously.

J. Szot: Well especially since when you are talking about the old building codes apply. The new building codes are, I would assume the changes are for the safety of the occupants in the community so that you would want the applicant to do everything up to the current code.

We have one more thing.

This is Bill Keena.

Do you remember, it was probably March or April of last year when they came in, they were up in the new development off of High Street, where he wanted to put an apartment for his sister who has multiple sclerosis.

M. Raumikaitis: I read the letter. I didn't look up the case to be honest with you but the scenario sounded very familiar to me but that's all I recall. I don't recall when. Obviously, this town allows ADUs. Occasionally people do come before the board for a variance. And we do what we do, we review the case and make a decision on a per case basis. Apparently, someone was pleased with our work.

Some discussion transpired about whether something should be put in writing regarding allowances for ADA compliant ADUs.

J. Szot: I think it is case dependent. And all of those rules are covered by the ADA.

B. Donovan: A lot of it would depend on the ADA Usage. The person's handicap, disability, etc. A lot of it would also depend on the layout of the building.

M. Raumikaitis: I personally see it as the building department. If you use all of the space for ADA Accommodations. I think the process worked well last time. I think the building department would obviously be involved. I think Congress worked for years to come up with something in writing. I don't know if I want to tackle it as a board. I just want to follow along with the ADA. I think a case by case is really where we want to be.

J. Szot: Back to Bill. Bill, do you want to tell us about yourself and a little thing about what you want to do here? And then we'll have to discuss the process of sending a letter of recommendation to the Board of Selectmen to appoint you to a position on the board.

B. Keena: We came to this town a few times to visit. We decided to move up here. We looked around. We really like Candia. When it came to having that one issue and asking for a variance. The way you handled it was very good. I thought it was well considered. You made a kind and correct decision. Boyd called the next day and said that was a really nice presentation, you should think about helping us. So, we are in the middle of building this house, but I promise I will remember. Let me get settled. We are a little more settled now. I am certainly busy; I work full-time. We have one of the Medicaid Contracts with DHHS. That's my full-time job but I really like this town. My son is over attending Scouts right now. Tuesday night is a good night for me. When I saw the notice requiring help with the zoning board, planning board I thought, if I can help, I am happy to help. In terms of zoning experience, I have none. I have run businesses for 40 years now. I have managed budgets. I understand contracts, I understand decisions, problem-solving, that kind of thing. And I don't have a big dog in the house, in terms of, I have no set opinion. I will give you an example. I know it stirred a lot of controversy. On one hand. My official opinion is, I am generally for growth unless there are good reasons not to have growth.

I am willing to learn, I am willing to listen, and my only goal would be to help.

R. Howe: You will find that it is a good way to get a feel for what is going on in town. The way to give back a little bit.

B. Keena: Exactly, and that's it. I believe in helping the community. I believe in serving charity. I have just been asked to serve on the board of the granite United Way. I already serve on the National Council for the March of Dimes, which is a charity I have supported for a lot of years. When I retire, I figure I will have more time.

J. Szot: We meet once a month when we have a case or cases. Sometimes, we just have one case. Sometimes we have two or three but not often. We meet on the fourth Tuesday of the month. There are months when we don't have any cases and we don't meet. As I explained to you before, once you are appointed, the boards can choose to have their alternates sit with them or to sit in the audience. We choose to have our alternates sit with us and participate in the discussions because it helps you learn what the process is. This thing from the state which explains the first four chapters explains how

the board works, what the five standards for making a decision are, and how they explain cases, help you to decide what that standard means. They do have training and a lot of it is virtual now. This last one, we got a tape of every one of the sessions. Usually, our meetings are over before 8:00.

B. Keena: I am here to help if I can help. I like the way we do things in NH. I like that the community gets involved.

J. Szot: I have always said that this is the truest form of democracy. When we had town meetings, it was democracy at its truest form. Because one vote, you realize your vote makes a difference when something passes or fails by one vote.

In all of the years that I have been on the board, I know there are times that we have been times when we disagreed, but we have never had anyone be disagreeable.

R. Howe: I kind of always go back to the fact that we are an appointed board with a quasi-legal function, but we are not lawyers. And nobody expects that we are. We do the best we can to be fair and follow the rules. Sometimes we make a mistake. Not intentionally.

T. Steinmetz: I remember the case and I remember making the comment that his son will probably never leave. Does it have an elevator? Welcome, we need all of the help we can get.

M. Raumikaitis: **Motion** to formulate a letter to be sent to the Board of Selectmen to recommend the candidate for the alternates position. R. Howe: **Second**: All were in favor. **Motion passed.**

R. Howe: **Motion** to adjourn. M. Raumikaitis: **Second**. All were in favor. **Motion passed.**

Meeting adjourned at 7:40PM