

CANDIA ZONING BOARD OF ADJUSTMENT
Minutes of August 27, 2013
APPROVED

Place: Town Hall; Meeting room

Call to Order: 7:00 pm

Members Present: Boyd Chivers, Chairman; Judith Szot Vice Chair; Ron Howe; Amanda Soares, Alt.

Members Absent: John Easter, Ingrid Byrd, Bob Petrin, Alt.

Pledge of Allegiance

Chair Chivers asked Amanda Soares to sit for Ingrid Byrd and for Sharon Robichaud

Approval of Minutes

Members Sitting for Approval of Minutes: B. Chivers; J. Szot; R. Howe; A. Soares

MOTION: made by J. Szot, seconded by R. Howe, to approve the minutes of July 23, 2013 as written. The motion carried with a vote of 4-0.

Case 13-597 Applicant: Candia Volunteer Fire Department 11 Deerfield Road, Candia NH 03034; Owner: Town of Candia 74 High Street, Candia NH 03034; Property Location: 11 Old Deerfield Road; Map 406 Lot 197; for a Variance under Section 6.02 Table of Dimensional Requirements to permit the construction of an 28' x 30' garage within the side setbacks in a Mixed Zone.

Members Sitting for this Hearing: Boyd Chivers, Chairman; Judith Szot Vice Chair; Ron Howe; Amanda Soares

Applicant/Agents Present: Dave Murray, Candia Building Inspector as representative for the Candia Volunteer Fire Department

Chair Chivers confirmed that abutters Geoff Goff and Mike Hickey have been notified and Dave Murray clarified that Moore School as well since they are across the street. Dave Murray, Town Building Inspector, will be presenting on behalf of the Fire Department for the variance. Chair Chivers stated the applicant has a copy of the property map with the existing firehouse and proposed garage locations highlighted. The proposed garage will be approximately 20' from the side, the requirement is 25'; the rear setback will be approximately 15', the requirement is 25'. Dave Murray read from his memo dated August 23, 2013, "vehicle storage is becoming a problem at the station now with the purchase of the rescue ATV and the trailer. The department is looking to upgrade the rescue vehicle they presently have, they maintain all their equipment to perfection so it lasts as long as possible and without the adequate space, the ATV and trailer are stored outdoors. The original proposal was for a 28' X 30' garage however Fire Chief Dean Young and Dave Murray have been measuring the length of equipment presently stored in the main building and realized the new building should be built deeper to provide adequate room for any additional fire apparatus. They do not have a set of drawn plans yet but once the final dimensions are finalized a set of plans will be drawn promptly. The situation is that the side and rear setbacks are closer than normally allowed." Dave Murray explained that Dean Young spoke with Geoff Goff about the location of the propose garage, and Mr. Goff had no problem with the proposed location of the garage or the structure. The rear setback is bordered by Michael Hickey's property. Dave Murray

spoke with Mr. Hickey. Mr. Hickey has no problem with the proposal because it doesn't affect his property.

Chair Chivers summed up that the two issues at hand would be that the building would not be meeting the setback requirements from the side and rear of the proposed location on the property. Chair Chivers asked the members if anyone had any questions about the variance. Ron Howe asked a clarification of who actually owns the Candia Fire Station, does the Town own it or does the Fire Association own it? Selectman Dick Snow answered that the Town of Candia owned the Station and the property. Ron Howe then asked does the Town have to get a variance? Chair Chivers said that Fire Chief Young called him on that very subject, and he replied that there was no reason why the fire department should not get a variance or at least make the effort to comply with the Zoning Ordinance. It is good to be fair to the abutters otherwise the abutters do not get noticed. Chair Chivers did say that the normal fee for the application was waived since the money was a Town department. Chair Chivers stated that if the Zoning Ordinances are so burdensome that the Town cannot comply with them then the Zoning Board shouldn't expect residents to comply.

Judith Szot asked Dave Murray if there is some reason why the fire department can't move the location of the proposed garage into compliance for the rear and side setbacks?

Dave Murray explained the open space on the property on the left is open for a reason. The garage location was placed to use the open space for entry and then the vehicles would back into the garage. There is a well located close to the rear side of the building not far from the proposed garage that affects the location of the garage placement as well.

The two garage doors will be facing the Moore School at the front of the garage. Dave Murray mentioned that with the change in building orientation that the distance from Hickey's property might meet the requirements, but the map shown at the meeting was definitely not to scale. Judith Szot determined that Geoff Goff would be most affected by the garage more than Michael Hickey because of property locations. Dave Murray stated that the garage is looking to be about 30' wide and 38' deep based on measurements on present ladder trucks of the department.

Ron Howe asked if this building isn't dry, unheated storage. Dave stated that he had no idea if the Fire Department had any plans of making it heated or not. Dean Young was talking metered, but no heat at this time. Ron Howe said that Dave mentioned getting a ladder truck in there, he was wondering if this was just the beginning and was the ZBA possibly looking at another 30' X 38' building. When does the Town get to the point that the fire station just isn't big enough? Dave clarified that this was not the intention, only one garage was proposed, and that's all the department is looking to put onsite. Maybe at some point heat and power will be added to the structure, but for now the goal was to see if the department could place the garage onsite on the proposed location. Ron asked what was Dean looking to put in the garage? Dave stated the ATV with trailer and another vehicle to be determined. Chair Chivers asked Dave why Chief Dean Young was not present to answer the ZBA questions for the proposed garage. Dave Murray mentioned there was pumper training going on this evening with other Towns and that nothing was really finalized which is why he was presenting to the Board.

Dave explained that expansion is needed at the station because space is tight. Dean had thought of adding onto the existing building, but the roof layout and turn around radius for the equipment did not favor that option. Ron Howe asked about the existing shed in the back. Dave stated the shed will be removed. Chair Chivers asked what the shed was used for now. Dennis Lewis said the department uses it for storage items and supply items they don't use. Dennis also mentioned that the reason the proposed garage cannot be moved forward is due to the physical size of the main building. There is an access road that goes in used to fill up tankers. If you went in to fill up a tanker; you would go in, make a turn, pull up, and back up to the dry hydrant. If you move the building forward, there isn't room enough for a truck to come in and

make the swing after you leave that parking area. Dennis stressed that the map presented to the ZBA was nowhere near to scale so it is deceiving as to where the actual main station placement is located and the proposed garage location on the property. If the building is moved to meet the setback requirements, the fire department would not be able to get a large truck along the backside of the building. Judith Szot stated this is why the ZBA asks for scaled drawings because if a resident came in with a drawing such as this, she would not be able to get a realistic idea of the project and the property conditions.

Chair Chivers stated what the board has is a small lot with an intense use and the Fire Department needs every square inch of the land there. Since the abutters have both stated they have no objects with the setbacks, Chair Chivers could see no objections from anybody else. Dennis Lewis said that it could not be moved in the other direction because that is where the access to the pond and the dry hydrant are located. Chair Chivers said the variance appears to be the logical proposal by the Fire Department in view of constraints for the site. Chair Chivers stated he would not have an objection to the variance. When asked, Ron Howe stated he had no objection as well. Amanda Soares had no objection to the proposed variance when asked by Chair Chivers. Chair Chivers asked the board if anyone had any questions for the applicant and if there were any questions from the audience for the applicant, none were asked. Judith Szot was unsure if Dave Murray represented the Fire Department, similar to previous cases where a signed paper by the landowner is required, since Dave works for the Town of Candia and is representing the Town of Candia. Chair Chivers said that Dean delegated Dave as his representative this evening, and the circumstance is unusual but acceptable.

Chair Chivers asked if there were any other comments from the Board hearing none closed the Public Hearing.

Chair Chivers said the applicant has to satisfy 5 criteria to be granted a variance. Judith Szot read the first criteria under Section 14.02, “1. *The variance shall not be contrary to the public interest.*” He asked what the Board found. All of the members agreed. “2. *The spirit of the ordinance is observed.*” All Board members were in agreement. “3. *Substantial Justice is done.*” All Board members were in agreement. “4. *The value of surrounding properties are not diminished.*” All Board members were in agreement. “5. *Literal enforcement of the provisions of the ordinance will result in unnecessary hardship.*” All Board members were in agreement.

MOTION: J. Szot made the motion, seconded by R. Howe to grant the variance under Section 6.02 Table of Dimensional Requirements to permit the construction of a garage within the side and rear setbacks in a Mixed Zone. The motion carried with a unanimous vote of 4-0.

Other Business

Dennis Lewis addressed the board about Front Setbacks, discussed in their May 28, 2013 meeting. Dennis explained to the board where the front setback is measured from for future reference. He explained the setback is measured from front property line, which is the edge of the road. Usually it would be a stonewall but if there is no stonewall, you would have to find the edge of the right-of-way. It is never measured from the pavement because very few of the roads in Candia are in the center of the right-of-way unless they are a brand new sub-divisions. Some of our Town roads are to the left of the right-of-way and some are to the right. Chair Chivers asked if the Right-of-way could be inferred from the centerline of the road? Dennis said no. Most of our older Town roads it is very easy to determine the right-of-way, however some instances stone walls have been removed but the remnants remains on either side hence it is very easy to determine the edge of their property. On any Town road, they own to the center of the road, but the Town easement and right-of-way goes to the stonewall. Chair Chivers restated that abutters own to the center of the road, but our setbacks begin at the easement line of the Town.

Chair Chivers asked how do we know how wide that easement is? Dennis explained that a lot of the easements the Town has recorded based on rod lengths otherwise you can go by the stone walls. The stonewalls are incredibly accurate. If you go down any Town road with a tape measure and measure the stonewalls, you'll average 32,33,34 feet on a 2 rod road and 48-52 feet on a 3 rod road. Chair Chivers said that when an applicant comes in with a set of properly drawn plans; they should show the road, they should show the easement, and they should show each side of that easement. Dennis agreed with Chair Chivers. Dennis said that if the Town setback is 50' from the front setback that would be measured from the stonewall or the edge of the right-of-way. Ron How asked, if we don't know and we don't have the stonewall, and no recent surveying to find a property marker, what do we use to determine right-of-way? That was the question in the May 28, 2013 applicant issue. Chair Chivers said the board does know if the road is a 2 rod or 3 rod road, but Dennis mentioned it could be determined.

Judith Szot stated that what she got from Dennis's explanation was that the applicant has to do their homework and find out where the Town's right-of-way ends. That is where their property line begins. Dennis said that they should have that information when they go to the Building Inspector. Judith Szot asked Dennis to put something together for Sharon and Dave to have on hand about the right-of-ways and front setbacks. Also it needs to be brought to the Zoning Review Committee to add to the Zoning definitions.

On High Street, there is a concrete white post on the side of the road, the edge of the states property. The state put those in for their right-of-way edge after they removed the stonewalls.

Adjournment

MOTION: J. Szot made a motion, seconded by R. Howe, to adjourn. The motion carried with a unanimous vote of 4-0-0. The meeting adjourned at approximately 7:29 pm.

Minutes respectfully submitted,

Amanda Soares