

**CANDIA ZONING BOARD OF ADJUSTMENT**  
**Minutes of October 22, 2013**  
**APPROVED**

**Place:** Town Hall; Meeting room

**Call to Order:** 7:00 pm

**Members Present:** Boyd Chivers, Chairman; Ingrid Byrd; Bob Petrin, Alt

**Members Absent:** Judith Szot Vice Chair; Ron Howe; John Easter; Amanda Soares, Alt

**Pledge of Allegiance**

Chair Chivers asked Bob Petrin to sit for J. Szot

Approval of Minutes

Members Sitting for Approval of Minutes: B. Chivers; Ingrid Byrd; B. Petrin

MOTION: Motion made by I. Byrd, seconded by B. Chivers, to approve the minutes of August 27, 2013 as amended. The motion carried with a vote of 2-0-1. B. Chivers and Ingrid Byrd were in favor. Bob Petrin abstained.

Case 13-598 Applicant: David & Kristen Gould 81 Halls Mill Road, Candia NH 03034; Owner: DKAM LLC 81 Halls Mill Road; Property Location: 81Halls Mill Road; Map 402 Lot 007-6; for a Variance under Section 10.06B Buffer Provisions - to permit the construction of a 24' x 36' barn within the side setbacks of a pond in the Residential Zone.

Members Sitting for this Hearing: Boyd Chivers, Chairman; Ingrid Byrd; Bob Petrin

Applicant/Agents Present: David & Kristen Gould 81 Halls Mill Road Candia NH 03034

Abutters/Public Present: None

Chairman Chivers told the applicants they were entitled to be heard by a full Board consisting of 5 members or they could continue with a quorum of 3 members. D. Gould said a quorum would be fine.

D. Gould presented his plan. Chairman Chivers asked if there were two lots in this case and D. Gould said it is only one, Map 402 Lot 007-6. He said he also owns Map 402 Lot 007-5 where the pond is located. D. Gould said there were two factors which made this appeal necessary one being the house sits on a break on a very steep hill and only starts leveling off again when you get down to the pond. The other factor is the access to the proposed barn and also the livestock need to be adjacent to a pasture as well. He said the access road which was built when his house was built goes down to an existing old log road shown on the plan. He said the house and garage were built on a break in the terrain that takes up this area and then it drops off again until it levels out near the pond. He said the only suitable place for a pasture is above the log road which would be adjacent to the proposed barn but the problem is when you put the barn in this location it encroaches on the wetland buffers 60 to 50 feet depending on how you measure.

D. Gould said in considering other locations on his property, there are steep grades which he does not have any access to unless they build an access road which would mean removing trees and the barn would be built on a hill and would lack an adjacent pasture. Chairman Chivers said his is limited by topography and access to the pasture and continued saying it would be difficult to build a barn on the side of a hill. I. Byrd asked what kind of livestock they were thinking of. D. Gould said they were thinking of a small flock of sheep.

B. Petrin asked if the stone wall pictured on the drawing was the property line for the two lots and if the pond is actually located where it shown on the plan. D. Gould said the stone wall was the property line and the pond is located where it shows the wetland delineation. B. Petrin asked if it is really a pond or wetlands and D. Gould said a marsh. D. Murray called it a beaver pond. Chairman Chivers asked about the line on the Candia Tax Map if it was the wetlands or the pond and D. Gould said it does not look as accurate as the plans he is using plans which were surveyed when the subdivision was done. Chairman Chivers said his plan which was surveyed was more accurate then the Town Tax Map which is approximate. B. Petrin confirmed the setback is 100 feet. I. Byrd said they are proposing to reduce the setback 40 or 50%. B. Petrin confirmed he owned the land with the pond.

D. Murray asked what they were proposed to use for the foundation, concrete or 4 foot frost walls and what his primary use would be. D. Gould said he using a concrete pad and frost walls and would be used for livestock. I. Byrd asked about the slope around the barn. D. Gould said it still is not level just less severe of a slope. I. Byrd said there is runoff into the pond they have to think about. D. Gould said there is a fair amount of green buffer before the pond to act as filtration and also water goes along the access road before it goes down. I. Byrd said there is a reason the town put in a 100 foot setback to ponds. D. Murray asked what the elevation change was from the proposed barn to the pond and D. Gould said maybe 6 feet. I. Byrd asked about supplying electricity and or water for the animals. D, Gould said he has no plans for electricity yet. B. Petrin asked if there is a plan for manure management and where would it be stored. D. Gould said the compost pile is going to be further up the access road beyond the 100 foot setback. Chairman Chivers asked if he would be willing to stipulate he would stockpile the manure beyond the 100 foot setback and D. Gould said yes. Chairman Chivers said you could put a berm around the stockpile to help with drainage. I Byrd said there is no way to control the manure when they free range.

Chairman Chivers read Section 1.02 is the purpose of Candia's Zoning Ordinances *"To prevent pollution of air and water; to conserve and protect land values and amenities, to encourage existing and proposed agricultural activities, recognizing that agricultural activities are a beneficial and worthwhile feature of Candia's landscape and shall not be unreasonably limited by use of planning and zoning powers or the unreasonable interpretation of such powers."* He said we have an applicant who wants to build a barn within 50-60 feet of wetlands and is willing to sequester the manure over 100' from the wetland and continued if we deny this application we are being unreasonable and the use of any potential pollution as reason to deny this applicant is unreasonable. D. Gould said it is the only logical place to put the barn to be adjacent to the pasture. I. Byrd said the pasture has to be close to the barn. She asked if they could put the barn somewhere else as they have almost 10 acres. She said she was part of the group that wrote the preamble to the regulations regarding agriculture as she feels Candia residents ought to be able to raise livestock but livestock owners also have a responsibility not to cause problems to the environment. D. Gould said maybe he didn't communicate that well at the beginning concerning other areas to locate the barn.

He said he would have to clear trees away and spend a lot of money to put in another access road and the barn would have to be put on a very steep grade and then it would not be near a pasture. He said he wouldn't be here if he could find a better location as it is much easier to get a permit than a variance. He came to the ZBA after much thought and after he had walked the land with a local framer who suggested the spot and after thinking about felt it was the only place to put it.

I. Byrd asked how close the neighbors are and it was estimated 1000 feet to the closest house. B. Petrin said he hears I. Byrd's concern of runoff and questioned the toxicity of animal waste from an omnivore vs. carnivore and continued is there different toxicity levels or are they grouping them all together in the feces category. He said you can pick up a ball of manure it is digested hay and grain and not too sure how toxic that is. D. Gould said it is the concentration of the nitrogen in the manure but also has to do with the volume of the manure and the barn is small structure and limited to how many animals it can house.

D. Murray said he has seen the property and felt the applicant had located it in the only location that would work. B. Petrin asked if future water and electricity would be an issue and it was confirmed it would not be.

Chair Chivers asked I. Byrd to read Section 14.02C Variance "*No Variance may be granted unless ALL of the following criteria are met: 1. The Variance will not be contrary to the public interest;*" All of the members agreed there would be no diminution in the value of surrounding properties. "*2. The spirit of the ordinance will not be contrary to the public interest;*" All Board members were in agreement. "*3. Substantial justice is done;*" All Board members were in agreement. "*4. The values of surrounding properties are not diminished; and*" All Board members were in agreement. "*5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship*" All Board members were in agreement.

Chairman Chivers said if there are no other questions he will close the public hearing to deliberate and decide. He said the applicant has met all 5 criteria for a variance and asked for a motion.

MOTION: Motion made by I. Byrd, seconded by B. Petrin, to grant the variance as presented. The motion carried with a unanimous vote of 3-0-0.

### **Other Business**

Hearing no other business Chairman Chivers asked for a motion to adjourn.

### **Adjournment**

MOTION: Motion made by B. Petrin, seconded by B. Chivers, to adjourn. The motion carried with a unanimous vote of 3-0-0. The meeting adjourned at approximately 7:35 pm.

Respectfully submitted,  
Sharon Robichaud  
Recording Secretary