

CANDIA ZONING BOARD OF ADJUSTMENT
Minutes of May 23, 2017
APPROVED

Place: Town Hall; Meeting room

Call to Order: 7:00 pm

Members Present: Bob Petrin, Chairman; Judith Szot, Vice Chair; Ingrid Byrd; Boyd Chivers; and Ron Howe.

Absent: None

7:00 pm Pledge of Allegiance

Approval of Minutes March 28, 2017:

MOTION:

Motion made by Judy Szot to accept the minutes from March 28, 2017 as presented. B. Chivers **seconded**. **All were in favor**. The **motion carried** with a vote of **(5-0-0)**.

NOTE: Judy Szot was absent for the ZBA meeting on March 28, 2017 and should have **abstained** from the vote on the minutes from March 28, 2017. The **motion** should have **carried** with a **vote of (4-0-1)**.

Incorrect Dates: On page 1, line 16 and line 18; it says November 22, 2016. These two lines should have been March 28, 2017.

Public Present: Dave Murray, Building Inspector; David Batzdorf of 18 Pine Ridge Drive, Candia, NH 03034; Dave Fischer of 32 Pine Ridge Drive, Candia, NH 03034; Jeffrey Walz of 193 Crowley Road, Candia, NH 03034.

B. Petrin asked for a moment of silence in memory of those lives lost in the bombing in Manchester, England.

Case 17-619: Applicant: David Batzdorf, 18 Pine Ridge Drive, Candia, NH 03034; Owner: same; Property Location: same; Map 413 Lot 108; For a Variance under Article VI Section 6.02 and Article X Section 10.06B. Intent to build a detached 16' x 26' single car detached garage on a concrete foundation within the side setbacks and wetlands buffer.

Present: Applicant David Batzdorf of 18 Pine Ridge Drive, Candia, NH 03034

No abutters present.

D. Batzdorf handed out his presentation and said the first page is the application. The next page is a small not to scale drawing of the building itself. A single car garage, full foundation, one garage door, one man door, no windows, for security purposes; vinyl sided and metal roof. The second page after that is my plot plan. Once again not to scale but the numbers are correct. And all of the buildings are located on there. The next page is an aerial view and on the left side of the property, you'll see a white RV, that's pretty much where it's going to go. The RV is gone; I was able to sell it. The final page is the front view and the black trailer is pretty much where it will sit and that one big tree will have to go.

B. Petrin asked what's the dimension between the stream or this wet area; wetland boundary, to where this structure's going to be? D. Batzdorf replied about 30 feet also. I measured the house also and it's about 30 feet from the stream. B. Petrin asked and 10 feet from the side. D. Batzdorf replied yes, I'd like to do 10 feet if possible. I did talk to Pat and Stephanie Hewey, the old Foster's place at 2 Pine Ridge Drive, they are okay with it. And also Dick Therrien just to the North of me, he is okay with it also.

B. Chivers commented it looks like you're in a rock and a hard spot here because of your property line and the stream and if you move it towards the stream, you encroach on that and it gives you the 25 foot setback and if you keep it on the property line, you're encroaching on that setback there. Seems to me that's the lesser of the two evils, putting it on that side lot setback instead of getting it any closer to that stream. The way you have it laid out it looks like that's probably the most logical way to do it. D. Batzdorf replied like I said, the diagram is not to scale of course. J. Szot asked how far back is the front of the building from the road. D. Batzdorf replied I believe it's supposed to be 50 feet so I was going to go 51 feet. It's on the bottom of the page, 51 feet.

B. Petrin replied so looking at this recent picture, should it get approved to beyond that lot line, it's not a lawn area, it's just a wooded area, that's the buffer between the neighboring home. I don't imagine there's going to be any disruption there. Any lighting or electricity? D. Batzdorf replied internal lighting and lights on the outside only when turned on. No motion lights. B. Chivers asked no plumbing to tie into a leach field? D. Batzdorf replied no, no plumbing.

D. Murray said it's a pretty big elevation change here from the stream to his proposal here. I don't know if the stream is man-made or what, it's kind of a drainage from the subdivision up here. The land goes along pretty flat and then there's a good four foot swale where this brook is. I saw it at the height, well at the end of February with the big thaw, and it's just a little brook, it's not a big deal but its running water which is why we're here tonight. There's a gravel drive there already, there's a gravel pad there already. B. Chivers replied so that stream is a lower elevation than that proposed site. D. Murray confirmed oh a good four feet. He was kind of hoping the Road Agent was here tonight, he might have some information on that. J. Szot said well the other side of the street is all wetlands and that stream drains, it's the runoff from those wetlands that come up from Douglas Drive.

Discussion ensued about the direction of the stream and culverts. D. Fischer commented it comes almost from the golf course, Douglas Drive and all the way down. D. Murray said it meanders its way down through that subdivision really. J. Szot said I'm pretty sure there are pipes underneath there in that subdivision. D. Murray confirmed culverts, yeah.

B. Chivers asked Dave do you have any recommendations to this Board on this application. D. Murray replied I have no problem with approving this but I had to bring it to the Board because of the stream. There's no way this garage is going to affect this stream and vice versa. I think he's compromised quite a bit, he's only 16 feet wide on the garage, and it's basically an oversized shed. B. Petrin added on a slab you said. B. Chivers replied and no objection from the abutters. D. Fischer responded that's correct. I talked with them personally. I introduced myself to the new owners of the old Foster's place. D. Murray replied I think they were surprised that they owned all the way up that far. They were happy. That's a good 100' buffer there.

J. Szot asked the lights that you're going to put on the outside, what kind of lights? D. Fischer replied they would be LED but only on a switch. Not on all the time, no motion. J. Szot replied there are no neighbors across from you, that's all wetlands. I'm not sure that could ever be built on over there. D. Murray agreed. D. Fischer replied I'd like to put switched lights, they'll all be switched lights of course, one small one above the man door and one small one above the garage door itself. J. Szot said so if you're going in there at night you can switch them on from the house. D. Fischer confirmed no from inside the garage itself. I. Byrd asked it's not going to be attached to the house? D. Fischer confirmed no, totally detached; independent.

D. Fischer said the purpose of the garage is to store a classic car and to store my motorcycle in the winter time. So the actual usage of the driveway and the door itself is only going to be on really nice days and in the winter time it's going to be closed; and more storage for my Christmas lights. R. Howe asked if this would ever be part of a home business. D. Fischer replied no. J. Szot asked Dave (*to Dave Fischer*) you're like one house up from that. D. Fischer said two houses up. It's him then Therrien's and then us. J. Szot replied I know you're not a physical abutter but do you have any comments or concerns. D. Fischer said one of you said he downsized it because of where it was going. It's 16 by whatever and he and I have had discussions on this for over a year. We've staked it out and looked at it and I said call Dave and have Dave come take a look at it and get his input. I think it's a good compromise. The new people that bought

Foster's, like Dave Murray was saying they were surprised that they owned up as far as they did. I think they only thought they had 50-60 feet behind the house and they have a 100' buffer.

B. Petrin said if there are no more comments let's close it to the public and if you could guide us through the criteria; J. Szot went through the criteria: *1. The Variance will not be contrary to the public interest; (J. Szot said 5 to 1 in error here) 2. The spirit of the ordinance is observed;* J. Szot said I think it appears he's done everything he can to get away from the stream and to not be intrusive on his neighbors. He could put it way in the back but then he'd have to cross that stream bed. B. Chivers said he's made an effort to meet the front setback. He has no choice of where the side lot setback is and the stream so I agree, the spirit of the ordinance is being observed here. *3. Substantial justice is done; 4. The values of surrounding properties are not diminished; and 5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship*". Board was in agreement with all 5 criteria. **(5-0-0)**

MOTION:

B. Chivers said the applicant's met all five criteria of 14.02c and I move that we grant the variance to allow the construction of this building within the setback and close to that wetland. R. Howe **seconded**. **All were in favor. Motion carried. (5-0-0)**. J. Szot clarified its section 6.02 not 14.02. 6.02 is dimensional requirements. 10.06b is the wetlands you need to do both of them. Dimensional requirements; there's you're sideline, is 6.02. B. Petrin confirmed so we just approved 6.02. B. Chivers restated having met the conditions under 14.02; he gets the variance under 6.02. **Agreed.**

MOTION:

B. Chivers made a **motion** to grant the variance under 10.06b for the same reasons that he met the criteria of 14.02. J. Szot suggested we go through each one; 10.06b, poorly drained soils. *Permitted uses in areas containing very poorly drained soils, marshes, bogs, open water and major are as follows:* Uses under 10.05, which is none of the above, *construction of fences, footbridges, catwalks* because these are poorly drained soils, he needs a variance because it doesn't fit under 10.06b.

J. Szot went through the criteria: *1. The Variance will not be contrary to the public interest; 2. The spirit of the ordinance is observed; 3. Substantial justice is done; 4. The values of surrounding properties are not diminished; and 5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship*". Board was in agreement with all 5 criteria. **(5-0-0)**

I. Byrd said to J. Szot, Judith on the previous one when you went through, the first one you said 5 to 1. J. Szot, said I'm sorry, five yes's. Everything has been 5 yes's. Now Boyd you can make the motion.

B. Chivers **moved** that we grant the variance to allow construction of this facility variance from section 10.06b. I. Byrd **seconded**. **All were in favor. Motion carried (5-0-0)**. B. Petrin said based on the fact that we've met both of those criteria, you'll receive a notice of decision.

Case 17-620 Applicant: Jeffrey Walz, 193 Crowley Road, Candia, NH 03034; Owner: same; Property Location; same; Map 414 Lot 152-7; For a Variance under Article X Section 10.06B. Intent to build a detached 2 stall 24' x 24' garage on a concrete foundation within the wetlands buffer.

Present: Applicant Jeffrey Walz, 193 Crowley Road, Candia, NH 03034

Abutters Present: Bob Petrin of 194 Crowley Road

B. Petrin recused himself "as I am a direct abutter to Mr. Walz" and asked J. Szot to continue. J. Szot said Mr. Walz, you need to know, we do not have a full Board. We don't have an alternate so you are entitled to be heard by a full Board or you can choose to be heard by this Board with four members. If you choose to be heard by a full Board we have to find an alternate, first, so it would put you off but it is your right to be heard by a full Board of five members. J. Walz replied I think the Board we have here is fantastic, this is *fine (unintelligible)*.

J. Walz said it's ironic because everything we just talked about with the exception of a different name and a different classic car is almost what we're doing at 193 Crowley Road. The setbacks are

similar, do you have a sketch because I did not make copies. So essentially, the intent again is to build a garage 24 x 24, this was not in your packet but this is the idea of the garage that would go up, you're standard 24 x 24 garage. The setbacks in this case are met, 25 feet off the adjacent lot line; 52 feet off the frontage of the road. The issue is similar to the first case, a wet area, but in this case it's not a river it's coined or described as a drainage area. Essentially the way Crowley Road is set up, I live at the bottom of a hill so as you're coming over Crowley and you come down, this is an area of river runoff or snow runoff or something like that, it kind of collects in this general area. At its highest point, most wetness if you would, is half the size of this room. It doesn't get that large. If you were to see it in the springtime, it would be at its most moist, or enough after the runoff season and as we move into June, July, August, September; it's almost non-existent; it almost goes away. It has a culvert under the road as you can see so any water that's there gets diverted or under the road in that matter. The proposed building site is 30 feet from that area and similar to the first case, we have an elevation change that Dave can attest to. I would say it's about 3 feet in this case, not quite 4 feet. But the building will be higher than that water area. That's essentially the project in a nutshell and the variance again is for the purpose of being close to this drainage area or wet area. B. Chivers replied and really you don't have an alternative on this lot. If you put it on the East side, you'd be right in front of your house or you'd encroach on another side lot setback. J. Walz agreed. The most economical and way to present it is come up your driveway and put it right there. B. Chivers said tie it right into the existing driveway. J. Walz said you could throw it out behind the house but there's extra cost involved with it, go around the back yard.

J. Szot asked where's your septic system. J. Walz said this is the existing garage of the house now and the septic system is right out behind it here. J. Szot responded so that would limit your going in the back because you can't get around your septic system and your leach field. J. Walz agreed. J. Szot said and your (*lot*) line goes straight back. J. Walz agreed and the other side right there.

J. Szot asked what's your frontage. J. Walz said I don't have the frontage other than what's here, the 52 feet from the garage. I believe we have a plot plan in the package. It shows the lots. I think it's a little over 200 feet. The entire lot is 3.2 acres and most of it's in Chester and the rest of it's in Candia. D. Murray said on the drawing there it shows the flow heading towards the culvert, the wet area is really caused by what's running down the side of Crowley Road. It comes down and it takes a 90 over towards Mr. Petrin's property and that's why it backs up here. I was over there last week and it was pretty much dry. But when I went out to see it with Mr. Walz it was a *bigger (unintelligible)* area. J. Szot replied that's basically a vernal pool. For the spring, an area that floods in the springtime. So that drainage pipe is actually on your neighbor's land. There's water in this picture now. If this is 52 feet, if that's accurate, is this drawn to scale? J. Walz replied no, it's not to scale but that is accurate, 52 feet. J. Szot said the numbers are accurate. J. Walz agreed. B. Chivers said I don't have any more questions.

J. Szot continued so we'll go through the conditions for a variance.

1. The Variance will not be contrary to the public interest; 2. The spirit of the ordinance is observed; 3. Substantial justice is done; 4. The values of surrounding properties are not diminished; and 5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship". Board was in agreement with all 5 criteria. **(4-0-0)**. J. Szot said he can't put it in the back and if he puts it on the side, he's going to have another problem.

MOTION:

B. Chivers made a **motion** that the applicant's met the conditions under 14.02 and he's therefore entitled to a variance from section 10.06b of the ordinance to allow him to build the structure within that 100 foot setback of wetland. I. Byrd **seconded**. **All were in favor. Motion carried (4-0-0)**. J. Szot said in a day or two you will receive a letter and then you can take that letter to the building inspector and he will give you your building permit.

B. Petrin came back to his seat on the Board.

Other Business:

Alternates: B. Petrin said since the last meeting, I attended the Board of Selectmen's meeting and the topic came up to reappoint Boyd to the Board, which passed. And then I made a comment during that meeting that we, as well as the planning board, are looking for alternates. They had a full house of attendance that night and I petitioned the residents there to get involved since it's not a big requirement, that they step forward and give some time back to the Town. It was duly noted in the minutes that we're looking for help and there is a blurb on the front of the web page, I'm not sure if it's appropriate to take out an ad or just talk to your friends and neighbors and petition them to get involved. So that's the commentary for getting Boyd Chivers back in there and those are the comments I made to the Board of Selectmen.

D. Batzdorf asked if there were any specific requirements. R. Howe said be a resident of Candia. B. Petrin said you drop a note to the Board of Selectmen saying that you're interested in being an alternate, you're a resident and you may be qualified because of a building background or construction or what might prove beneficial. We meet once a month, 4th Tuesday of every month so the time requirement is not huge. As an alternate, you only sit if someone is not here as in this case where I recused myself, you would sit for that. If someone is absent, you would sit for that. J. Szot added there are law lectures you can attend but a lot of its common sense. D. Murray suggested that there is a handbook also. J. Szot agreed. This handbook by the state spells everything out. It tells you why you can grant something, why you can't. This is the bible. If you're interested, we would welcome your company.

Four Corners: B. Petrin said that Andrea has some correspondence she was sharing with someone interested in the four corners property and wanted to make sure the information she was disseminating was accurate and correct. A. Bickum shared with the Board that interested parties in the Funeral Home that's for sale have inquired about the process to turn it into a multi-family. I wanted to verify the process: It would require a special exception by the ZBA; it's mixed use. But then there is a 3 acre zoning requirement in 15.04b under multi-family (*even though mixed use is a 2 acre zoning requirement*). And would it need a variance for the density requirement in that same section, 2c? At least 2 variances?

J. Szot said the specifications for two-family and multi-family it says they have to *be located on an arterial street; lot size shall contain no less than three acres and have 200 feet of road frontage*. They have frontage but they don't have 3 acres. Make a note to check that: under 200 feet. B 2a. The dimensional requirement shall comply with Section 6.02 of this Ordinance; specifically yards shall be 50 feet, side and rear yards; none of that, this is all pre-existing. It's a change of use so it's not grandfathered. I. Byrd said it's already been mixed use as an apartment and a business. J. Szot said that's something else that needs to be looked into. Front yards shall be 50 feet, side and rear yards, you're talking about another variance. It's a pre-existing use but once you change the use, I think you lose that pre-existing. And then density shall be one dwelling unit for the first three acres and an additional unit dwelling unit for each additional contiguous buildable acre. So now you need section c. One bedroom units shall contain a minimum of 600 square feet per unit. That's something we should note for the planning board that has to be changed it has to be 750. J. Szot continued and then it says *two parking spaces shall be provided for each dwelling unit. All applications for 3 or more units shall be subject to site plan review. A maximum of four dwelling units shall be allowed in any multi-family structure.* So they could put four in the house and probably 2 or 3 in the barn. *Multi-family dwellings shall be wholly located no more than 800 feet from an arterial street on which the lot has frontage.* So it's those sections. Section a, b and c. D. Murray said I don't know if there's enough room to put in a septic for 4, 5 or 6 units.

B. Chiver **motioned** to adjourn. I. Byrd **seconded**. **All were in agreement (5-0-0)** Meeting adjourned at approximately 7:45 pm.

Respectfully submitted from recording,
Andrea Bickum,
Recording Secretary