

**CANDIA ZONING BOARD OF ADJUSTMENT
MEETING MINUTES OF
June 25th, 2024
UNAPPROVED MINUTES**

PB Members Present: Judith Szot, Chair; Ron Howe; Tony Steinmetz; Bill Keena, Gale Pellegrino, Alt.; (sitting in for Boyd Chivers)

PB Members Absent:

B. Chivers (excused)

*Judith Szot, Chair called the ZBA meeting to order at approximately 6:30PM, followed immediately by the Pledge of Allegiance

New Business:

Case #24-005:

Applicant: Gary Beaulieu & Matt Beaulieu, 9 Pasture Lane, Bedford, NH 03160; Owner(s): Topnotch Properties, LLC, 9 Pasture Lane, Bedford, NH 03034; Property Location: 48 Old Deerfield Road, Candia, NH 03034; Map 406 Lot 163.

Intent: *Seeking a special exception, as provided in Article XV, Section 15.04E, to build an attached, 750 square foot ADU over the garage.*

G. Beaulieu: As far as the special exception, no hazard to the public...No detriment to the property values to the properties in the vicinity. No creation of traffic safety or hazard. It's a big open space. No excessive demand on municipal services. Private well and private sewer.

No significant increase of stormwater runoff to adjacent property. We tore down the original barn. Existing footprint or smaller. The applicant pointed out and explained the three access points to the Board.

R. Howe: Are you living in this house now?

G. Beaulieu: No.

J. Szot: One of the conditions for an ADU is that either the primary or the accessory dwelling unit shall be occupied by the owner of the property.

G. Beaulieu: If we were to sell it, that would be one of the first disclosures.

J. Szot: He meets every one of the conditions that are required. He has provided evidence that they have a proper sewer system. They provided an additional parking spot. All the setbacks are met, it's within the main unit. If they don't live in that unit, they will make it known that the owner has to live in one of the units. The Building Inspector and Fire Chief have met with the applicant. He meets all of the requirements for a special exception.

R. Howe: How do we guarantee?

J. Szot: I think we can make it a condition of acceptance.

B. Donovan: Didn't we have another unit where we required that it be recorded at the registry of deeds?

J. Szot: We would require that in your notice of decision.

M. Beaulieu: That's clean and crisp.

J. Szot: Closed the Public Hearing at 6:53PM

T. Steinmetz: **Motion** the special exception be granted, making sure that the Notice of Decision has a statement that it has an accessory dwelling unit. T. Steinmetz. W. Keena: **Second**. All were in favor. **Motion passed.**

Case #24-006:

Applicant: Sondra and Kathy Martineau, 168 Patten Hill Road, Candia, NH 03034; Owner(s): Sondra and Kathy Martineau, 168 Patten Hill Road, Candia, NH 03034; Property Location: 168 Patten Hill Road, Candia, NH 03034; Map 409 Lot 228-3.

Intent: Seeking a special exception, as provided in Article XV, Section 15.04E, to build an attached, 750 square foot ADU within existing garages.

K. Martineau: Thank you for having me. It would only be about 550 square feet. I would be eliminating the two garages. Not to exceed the firewall. The applicant reviewed the plan with the Board.

B. Keena: How high would the egress windows be?

K. Martineau: Whatever code requires that is what they would be.

J. Szot: Now I understand there is a hold up with the septic design.

K. Martineau: There is one guy doing all the work. He has reached out to the existing company that did the existing design. They didn't have enough time to finish before this meeting.

R. Howe: So, the system is adequate?

K. Martineau: Yes

B. Donovan: The way that the building department. They have to get an updated septic design. They need to have it just in case.

J. Szot: Closed the Public Hearing at 7:06PM and reviewed and reiterated that all of the conditions of the special exception.

R. Howe: I **Move** that we grant the special exception with the condition of the applicant providing an updated septic design. B. Keena: **Second**. All were in favor. **Motion passed.**

Old Business:

Case #24-001:

Applicant: Candia Tank Farm, LLC, 6 Hillside Avenue, Amherst, NH 03031; Owner(s): Candia Tank Farm, LLC, 6 Hillside Avenue, Amherst, NH 03031; Property Location: 5 High Street, Candia, NH 03034; Map 406 Lot 201.

Intent: To request to expand the current facility to include the addition of three additional fuel oil storage tanks and three 30,000 Gallon Propane Tanks.

J. Szot: I would like to recognize the fact that all of you received a letter from Kevin Coughlin. We would just like to thank him for taking the time to come to the meeting and to provide us with his input.

I listened to the audio and read through the minutes. We need to read through the facts. Also, these facts are not set in stone. If there is any other thing that people think I have left out or needs to be changed or modified. We will use these facts to go through the variance criteria.

R. Howe: Could you outline what we are supposed to be doing tonight?

J. Szot: This is new procedure because the state legislature passed a law that states that whether you deny or you approve that you should provide findings of fact. This is to help, in the case of an appeal. Whoever the appellant and the defendant are in the case.

The Board proceeded to review the findings of fact that the members gathered independently of one another.

J. Szot: The purpose of the ordinance is to provide for the orderly and planned growth of our town. It says, it will not be contrary to the public interest. We've instituted a zoning ordinance because the people have said we want to order our town this way.

The Board proceeded to review many of the previous points that were made regarding the location of the proposal. *(Please see attached Meeting Minutes from 1.30.24, 3.26.24, and 5.28.24.)*

The Board reviewed, evaluated, and voted on the five variance criteria:

1. The variance will not be contrary to the public interest

For a variance to be contrary to the public interest, it must unduly and to a marked degree violate the basic objectives of the zoning ordinance. To determine this, does the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?

R. Howe: Yay.

B. Keena: Yay.

G. Pellegrino: Yay.

T. Steinmetz: Yay.

J. Szot: Yay.

2. The spirit of the ordinance is observed

To be contrary to the public interest, the variance must unduly, and in a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives.

R. Howe: Nay.

B. Keena: Nay.

G. Pellegrino: Nay.

T. Steinmetz: Nay.

J. Szot: Nay.

3. Substantial justice is done.

Perhaps the only guiding rule is that any loss to an individual that is not outweighed by a gain to the general public is an injustice. A board of adjustment cannot alleviate an injustice by granting an illegal variance.

R. Howe: Nay.

G. Pellegrino: Nay.

B. Keena: Nay.

T. Steinmetz: Nay.

J. Szot: Nay.

4. The values of surrounding properties are not diminished.

The ZBA members may draw upon their own knowledge of the area involved in reaching a decision on this and other issues. Because of this, the ZBA does not have to accept the conclusions of experts on the question of value, or on any other point, since the function of the board is to decide how much weight, or credibility, to give testimony or opinions of witnesses, including expert witnesses.

R. Howe: Nay.

G. Pellegrino: Nay.

B. Keena: Nay.

T. Steinmetz: Nay.

J. Szot: Nay.

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

When the hardship so imposed is shared equally by all property owners, no grounds for a variance exist. Only when some characteristic of the particular land in question makes it different from others can unnecessary hardship be claimed. The property owner needs to establish that, because of special conditions of the property, the application of the ordinance provision to his property would not advance the purposes of the ordinance provision in a "fair and substantial" way.

R. Howe: Nay.

B. Keena: Nay.

T. Steinmetz: Nay.

J. Szot: Nay.

G. Pellegrino: Nay.

J. Szot: **Motion** to deny the special exception: **Second**: G. Pellegrino. All were in favor. **Motion passed.**

Other Business:

- Review of Minutes

R. Howe: **Motion** to approve the minutes of May 28th as amended. B. Keena: **Second**. All were in favor. **Motion passed.**

- Any other matter to come before the Board.

Motion to adjourn B. Keena: **Second**: G. Pellegrino. All were in favor. **Motion passed.**

Meeting adjourned at approximately: 9:00PM

Respectfully submitted,

Amy M. Spencer

Land Use Coordinator

cc: file