

CANDIA ZONING BOARD OF ADJUSTMENT

Minutes of June 24, 2014

APPROVED

Place: Town Hall; Meeting room

Call to Order: 7:00 pm

Members Present: *Boyd Chivers, Chairman; Judith Szot Vice Chairman; Ingrid Byrd; Ron Howe; Bob Petrin, Mark Laliberte Alt.*

Members Absent: A. Soares, Alt. Chairman Chivers asked Bob Petrin to sit for a full quorum.

Pledge of Allegiance

Memorial for John Easter

Chairman Chivers said John Easter a Board member passed a few weeks ago. He said there were no calling hours in Candia. He said J. Szot had an idea what they could do to recognize him. He said she thought it would be nice for the town to recognize him and she suggested they buy a book in his name and donate it to the library. Chairman Chivers said he tried to call his wife to see who his favorite author was but could not get a hold of her and asked if anyone knew his wife and none did. J. Szot suggested something appropriate like history because the ZBA makes history in a sense. Chairman Chivers said he checked with the Selectman's office and there is a budget item for memorials. R. Howe suggested another idea. He said the Heritage Commission is working on one page stories of people in town and they need to find a printer and wonder if they could donate money towards this in John Easter's name but he has no idea what that would cost and may be far more than a book in the library. J. Szot said she likes R. Howe's idea.

J. Szot said she wrote up something today to recognize and remember John by. She read "*New England Town Government is the purest form of democracy. Everyone counts. Everyone can make a difference all that is needed is time and commitment. John made that commitment and gave us his time and his experience to this Town. He made a commitment to serve his town and this board, he made a difference. John we will miss your smile and your hearty laugh and your insightfulness and your many contributions to the Board we will sincerely miss you.*" She said she wanted to recognize his contribution. She said she truly believes that town government is the purest form of democracy. Chairman Chivers said if they bought a book they could paste a memorial inside for John. J. Szot said that is a lasting tribute as someone 20 years from now goes in the Library and opens the book they will see the town recognized him.

Recognition of New Alternate Mark Laliberte & Discuss vacancy on the Board

Chairman Chivers wanted to welcome Mark Laliberte a new alternate to the Board. Chairman Chivers said they need to nominate someone to take John Easter's place.

MOTION: J. Szot made a motion, seconded by R. Howe, to nominate Bob Petrin as a full member. J. Szot said he comes to all the meetings and has sat on the Board. The motion carried with a vote of 4-0-1. B. Chivers, J. Szot, R. Howe, I. Byrd were in favor. B. Petrin abstained. Chairman Chivers said a recommendation will be sent to the Board of Selectman that B. Petrin be appointed as a full member to the Board.

Approval of Minutes March 25, 2014

Members Sitting for Approval of Minutes: *Boyd Chivers, Chairman; Judith Szot, Vice-Chairman; Ingrid Byrd; Ron Howe; Bob Petrin*

MOTION: Motion made by R. Howe, seconded by J. Szot, to approve the minutes of March 25, 2014 as amended. The motion carried with a vote of 5-0-0. All were in favor.

Case 14-602 Applicant: Mr. & Mrs. Arthur & Jeanne Herbert 187 Deerfield Road, Candia NH 03034; Owner: Same; Property Location: 187 Deerfield Road; Map 406 Lot 175; for a Special Exception under Section 15.04 E: Accessory Dwelling Units and a variance under Section 2.02B Change and Expansion: to enlarge the house: to permit the construction of an Accessory Dwelling Unit in a Residential Zone. For additional information, please call the Land Use Office at 483-8588

Members Sitting for this Hearing: Boyd Chivers, Chairman; Judith Szot, Vice-Chairman; Ingrid Byrd; Ron Howe; Bob Petrin

Applicant/Agents Present: Arthur Herbert & Tracy Clark of 187 Deerfield Road, Candia NH 03034,

Abutters/Public Present: Abutters Al Hall III representative for the Baptist Church and Tracy Clark of 187 Deerfield Road were present D. Murray Building Inspector was present.

A. Herbert said he would like to put a 600 sq foot dwelling with a breezeway to the main house. He said the breezeway is where the walk in cellar is into the original house and said it won't be heated. He said the septic system is 6 years old.

Chairman Chivers said that Dave Murray the Building Inspector has reviewed the application and has confirmed there is only going to be one bedroom unit with no more than 600 sq ft of heating living space with adequate onsite parking for an additional vehicle, he meets the setbacks and that the one septic system will serve the entire property. He said they currently have 3 bedrooms with a 3 bedroom septic. A. Herbert said the septic system was enlarged when he just had it put in 2006. D. Murray said the tax card views the septic system as a 3 bedroom. A. Herbert asked what he had to do. Chairman Chivers said they either have to expand the septic system or abandon the use of one of the bedrooms in the home. He continued saying it is a nonconforming structure because the house is within the 50 foot setback to the road and predates zoning. A. Herbert said he will keep the addition out of the 25' side setbacks. Chairman Chivers said the Building Inspector's indicated that the residential character will be retained. A. Herbert said he would live in one of the units.

Chairman Chivers said because he is expanding he needs both a variance under Section 2.02B Change and Expansion and a special exception under Section 15.04 E: Accessory Dwelling Units which is two separate sets of criteria.

A. Herbert asked if he can delete one of the bedrooms and J. Szot said if a bedroom is deleted there has to be some kind of notation made that the bedroom deleted cannot be used as bedroom. A. Herbert asked what constituted a bedroom and D. Murray said a room with a bed in it and it doesn't matter if there is a closet or not. J. Szot suggested the Board consider if granted having a notation on the tax card that it is a 3 bedroom and one of the bedrooms is in the new dwelling and at a further time if the property is found to have 4 bedrooms they will have to upgrade the septic system. A. Herbert said he could upgrade the septic. J. Szot said they could have an engineer review their septic and see if it is adequate for a 4 bedroom. A. Herbert said there is room to expand if need be. R. Howe asked for clarification on the plans because it shows different owners. A. Herbert said he used an old plot plan from J. Franklin and it showed the previous owners. J. Szot said the buildings shown on the plan are not accurate to what there currently have. A. Herbert helped explain the plan submitted and showed where parking was. He said he had drawn to scale from what he received from Jim Franklin.

Discussion ensued on the inaccuracy of the buildings on the plan. A. Herbert said he used the scale on the plan and drew the addition to scale and pushed the addition back away from the 25' setback.

Chairman Chivers asked J. Szot to read the special exception criteria under Section 15.04E. She read, *“Any Dwelling in a residential zone may be converted or built to contain one Accessory Dwelling Unit on the following conditions by Special Exception: 1. There shall be only one bedroom in the accessory dwelling unit;”* The Board said that has been determined. *“2. Adequate sewer and water shall be provided. One septic system shall serve the entire property;”* Chairman Chivers said that has been determined provided they meet the conditions discussed. *“3. There shall be a maximum of 600 sq ft of heated living space in the accessory unit;”* The Board was in agreement. *“4. Onsite parking for one additional vehicle shall be provided;”* J. Szot asked where the parking was and A. Herbert showed on the plan where his driveway was saying there are 5 to 6 parking spaces. *“5. All existing setback ordinances must be met.”* The Board was in agreement *“6. The accessory unit shall be within or attached to the main dwelling unit or located in an accessory building that exists on March 15, 2003, located on the same lot as the main dwelling;”* The addition will be attached. *“7. The residential character of the area must be retained;”* The Board was in agreement. *“8. Density requirements of Article 15.04c will not apply; 9. So long as an accessory dwelling unit is occupied, either the primary dwelling unit or the accessory dwelling unit shall be occupied by the owner of the property.”* The Board was in agreement. Chairman Chivers said he has met all the criteria for the special exception.

MOTION: Motion made by I. Byrd, seconded by J. Szot, to grant a special exception under 15.04E: Accessory Dwelling Units to allow an In-Law apartment with the notation on the tax card that the combined dwellings are limited to a maximum of three bedrooms unless it is demonstrated that the existing septic system is capable of supporting a greater number in the Residential Zone. The motion carried with a unanimous vote of 5-0-0.

Chairman Chivers asked J. Szot to read the variance criteria under Section 14.02C for a variance under Section 2.02B Change and Expansion: to enlarge the house. J. Szot read, *“No Variance may be granted unless ALL of the following criteria are met: 1. The Variance will not be contrary to the public interest;”* The Board agreed it would not be contrary to the public interest. *“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 they have met the criteria for the variance.

MOTION: Motion made by J. Szot, seconded by R. Howe, to grant the variance under 2.02B Change and Expansion to enlarge the house in the Residential Zone. The motion carried with a unanimous vote of 5-0-0. A. Herbert thanked the Board for their time.

Other Business

Elections

MOTION: Motion made by J. Szot, seconded by I. Byrd, to nominate as Boyd Chivers Chairman. J. Szot, I. Byrd, B. Petrin, R. Howe were in favor. Boyd Chivers abstained.

MOTION: Motion made by B. Chivers, seconded by R. Howe, to nominate Judith Szot for Vice Chair. The motion carried with a vote of 4-0-1. J. Szot, I. Byrd, B. Petrin, R. Howe were in favor. Judith Szot abstained.

B. Petrin said he wanted to go on record in regards to the diagram received for the case tonight. He said the mapping was poor and they had to ask many questions and felt it was less than adequate and

his measurements did not match. Discussion ensued for more accurate mapping and the use of graph paper. J. Szot made a motion to instruct that they inform the building inspector the requirements for application and if not drawn to scale it is not accepted. Discussion ensued. She withdrew her motion.

R. Howe said there are many small lots in East Candia and asked how do you get a well in, septic system and not encroach on the neighbors. D. Murray said it can't be done as the 75' setbacks overlap onto other boundaries and DES knows about it and has allowed exceptions. I. Byrd said another subject that has not been discussed is former junk yards under houses and wells have been dug particularly one on the corner of Depot Road and Langford Road and said Ray Rodier is building his house where there was a former junk yard where cars, batteries and gas tanks were turned over. D. Murray said they did not dig anything up when they put in the new foundation and footings. He said they found hard clay and he doesn't imagine there was anything in that particular spot. I. Byrd asked if they should be looking at water issues. D. Murray said but how do you cover that. R. Howe when you drill a well you have the water tested. J. Szot said as a homeowner you can have a well put in and you don't have to test it but most people do test the water and once in the home most homeowners never test it again.

Adjournment

MOTION: Motion made by J. Szot, seconded by B. Petrin to adjourn. The motion carried with a unanimous vote of 5-0-0. The meeting adjourned at approximately 7:40 pm

Respectfully submitted,
Sharon Robichaud
Recording Secretary