

CANDIA ZONING BOARD OF ADJUSTMENT
Minutes of July 25, 2017
APPROVED

Place: Town Hall; Upstairs Meeting room due to State Senate Election Voting

Call to Order: 7:00 pm

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

Absent: None

Approval of Minutes May 23, 2017:

MOTION:

Motion made by I. Byrd to accept the minutes from May 23rd, 2017 as presented. B. Chivers **seconded**. **All were in favor. The motion carried** with a vote of **(5-0-0)**.

Present: Dave Murray, Building Inspector; Applicant Derek Brady; Xanthi (Zoe) Soulios, Applicant William Holbrook; Ann Holbrook

Case 17-621 Applicant: Derek Brady, 332 New Boston Road, Candia NH 03034; Owner: Xanthi Soulios, 409 Central St., Manchester, NH 03103; Property Location: 3 Main Street, Candia, NH 03034; Map 409 Lot 092; for a Variance under Article VI Section 6.02 intent to build a 16' x 12' addition for storage within the front setbacks; and a Variance under Article II Section 2.02B to enlarge a non-conforming use within a Mixed Use Zone.

Abutters Present: None

D. Brady introduced himself I'm Derek and this is Xanthi (Zoe). There's a bump-in in the building. I have some pictures. I would like to build a one story room right there; we're running out of space at the Pizza. D. Murray said it's just going to be for storage. D. Brady agreed, she's got her office back there now and it's pretty much shelves and storage. B. Petrin confirmed you will just be squaring off that portion of the building. D. Brady agreed. B. Petrin continued and pitching it towards High Street. D. Brady agreed, correct. D. Murray confirmed that he won't be encroaching onto the road any more than 30 feet. B. Petrin asked if it was a slab or full foundation. D. Brady replied full foundation. I talked to Roger from Paradise and that's what we decided to go with, better off with a sturdy, full foundation. B. Petrin asked is that a granite block foundation or poured. D. Brady asked what they have their now? It's old, granite and then part of it has a slab. To get in there, you have to slide through a window. I want to do my own footing, frost footings and a cement floor, a solid footing to build on. One window on each wall and one doorway going into where's there's a window right now, into her office. B. Petrin asked no exterior door? D. Brady confirmed no exterior door. B. Chivers asked if it doesn't encroach on any of the setbacks and this is a conforming use, why are you here. D. Murray explained it's under acreage, non-conforming actually because it's only .97 acres and he's already too close to the road. So it is enlarging a non-conforming lot. I. Boyd said it's a legal non-conforming. B. Chivers said so it would be within the 50 feet of Route 43 then? D. Murray replied he's 31 feet right now. But it's not going to encroach any closer upon it. B. Chivers said on the application it says ZBA 223-SE denied for adding two apartments to the building. D. Murray said that was an old one. There's one apartment upstairs and they had wanted to make two and they didn't let them. B. Chivers said so they don't have any violations of the zoning ordinance. D. Murray replied no. The site is what it is. B. Chivers reiterated it's a conforming use on a non-conforming lot. And use it for storage for the pizza place. Do you run the pizza place? D. Brady

replied it's my girlfriend, Xanthi's (Zoe's), her family has owned it for 35 years. I. Byrd asked if this gentleman is not part of the family can he legally speak to this case. D. Murray said they have a letter. Xanthi (Zoe) replied I'm the owner. D. Murray said we did do that letter and they got authorization.

B. Chivers read the five criteria for 6.02:

- 1) *The variance will not be contrary to public interest. All Agreed. (5-0-0)*
- 2) *The spirit of the ordinance is observed. All agreed. (5-0-0)*
- 3) *Substantial justice is done. All agreed. (5-0-0)*
- 4) *The value of surrounding properties are not diminished. All Agreed (5-0-0)*
- 5) *Literal enforcement of provisions in this ordinance would result in unnecessary hardship. All Agreed. (5-0-0)*

MOTION:

B. Petrin said having met all those criteria we'll go to a vote. **All were in favor (5-0-0). Motion carries.**

B. Petrin said we've satisfied all the criteria on the first one. We did the front setbacks, now the second one, Article II, 2.02B. It's the same job with two questions, one was setback and one was non-conforming.

B. Chivers read the five criteria for 2:02B.

- 1) *The variance will not be contrary to public interest. All Agreed. (5-0-0)*
- 2) *The spirit of the ordinance is observed. All agreed. (5-0-0)*
- 3) *Substantial justice is done. All agreed. (5-0-0)*
- 4) *The value of surrounding properties are not diminished. All Agreed (5-0-0)*
- 5) *Literal enforcement of provisions in this ordinance would result in unnecessary hardship. All Agreed. (5-0-0)*

MOTION:

B. Petrin said having met all those criteria we'll go to a vote. **All were in favor (5-0-0). Motion carries.** You have approval on both those conditions. (*Variances 6.02 and 2.02 were granted*). You'll receive a notice of decision and you can move forward with your project.

Case 17-622 Applicant: William Holbrook, 372 Raymond Road, Candia NH 03034; Owner: Ann V. Holbrook, 372 Raymond Road, Candia, NH 03034; Property Location: 372 Raymond Road; Map 408 Lot 028; for a Variance under Article II Section 2.02B non-conforming uses and structures: Intent to continue a Residential use on a Light Industrial Lot while allowing a 26' x 32' detached garage to be built and used as a contractor's shop. See Article V Section 5:02 C-2: Craftsman's or contractor's shop as permitted in the L1 Zoning District.

Abutters Present: None

W. Holbrook and Ann Holbrook stated their names. W. Holbrook said I'm Bill Holbrook and we've been in Candia for a little over 2 years. I have a small sign business. I do carved signs, truck lettering, pin striping, those kinds of things. I'm operating out of the house now, it's a split level and it's cramped. I've been working on trucks out in the driveway in the hot sun, rain and New England's wonderful elements and I'd just like to put in a garage, within the proper setbacks and side it just like the house. Just a single story garage. I don't have any employees, it's just me. B. Petrin asked W. Holbrook to clarify the map. W. Holbrook pointed out that this is where it would go. Here's the house now and the driveway and that's the location where it would go. B. Petrin commented so we have the setbacks satisfied. And currently that's all trees. I. Byrd said it would be free standing. W. Holbrook agreed, freestanding. B. Petrin asked how would you gain access to that. W. Holbrook replied right in the driveway there. We'd clear those trees and put in a driveway right there. There will be enough of a setback and hidden in the trees. B. Petrin asked

the vegetation will stay as a buffer there. W. Holbrook agreed. It won't be an eyesore there. The present home is vinyl sided and it's going to match exactly to keep the integrity of the property. B. Petrin asked will that structure have water and electric. W. Holbrook said electric but not water. I don't have any employees now and haven't had employees for 30 years. B. Petrin asked about slab and not a full foundation. W. Holbrook replied I am going to do a full foundation as the terrain is a little rocky and did some research and talked to the building inspector. I want it to be secure and historically there has been some lifting and cracking with just a slab. I've opted to go with a foundation. I think it's a sounder way of doing it. B. Petrin and gain some more square footage. I. Byrd asked if he had any comments from abutters. W. Holbrook replied no. One of the neighbors stopped by and came and looked and said that looks great; that will be nice. He's seen me out in the driveway. I've done a couple of the Candia Fire Department vehicles and I just did a Raymond ambulance, out on the driveway. It's so much more difficult not to have a garage to work in. Especially in the winter, I've had to rely on friends and everything else. D. Murray said you did the CYAA sign. W. Holbrook agreed. That was an Eagle Scout project so he got a Christmas price. B. Petrin said keeps the business in Town.

J. Szot replied so the problem on this site is not the garage, which is allowed, the problem is the house. D. Murray said the two uses. J. Szot continued the house is a pre-existing non-conforming use. If the house wasn't there, there would be no question about what he's doing. The issue is there are two uses now on the lot. D. Murray said the contractor's shop is allowed but with the residential at the same time. I. Byrd said but that's pre-existing so that's grandfathered. D. Murray said but he'll have two uses now. I. Byrd said I don't think you can deny the man a use that is legal now because the building was legal when it was built. D. Murray responded 2.02B you can't change or expand the use. I. Byrd said you're not changing or expanding, you're using the site as it was intended. J. Szot said it's in the Light Industrial. I. Byrd continued except that the house is grandfathered. If he came in and said I'm going to build a house and a shop, I'd say I don't think so but the fact that it exists, changes things. D. Murray replied well I would love to not have to have him come in but...I wasn't going to do that on my own. The building he's putting up is under 1000 sq. ft, no employees, he's the only guy. No supplies outside stockpiling. B. Chivers said it will never be a commercial use. It's indistinguishable from a 2 car garage. R. Howe said it could be commercial use. That's not his intent at this point. I. Byrd said painting signs is a commercial use but he has a right to do it on that site. B. Chivers said I'm in full support of this. This is a legitimate use of this man's property. It's a perfect location for it on Route 27.

J. Szot replied 202 which says *no non-conforming use shall be enlarged or extended*. The non conforming use on the property is the house. They're really not doing anything with the house. The part that's being enlarged or being used is a use that's allowed there. They're allowed to have the house there because it pre-existed the change in the zoning from residential to L1, so that's allowed to be there. They're not changing the size of the house. They're putting a use there that's allowed there and is being done there anyway now. It's allowed to be there. If there were conditions that said he was limited to 1000 square feet, the owner is the only employee and no materials outside, I would be willing to approve a variance that had those three conditions on it. W. Holbrook agreed; that's fine. R. Howe asked do you need the conditions on there. What if he wants to add 20 feet onto the back of his building down the road, it's still not a big issue. And we would have approved the building being 20 feet longer tonight if that's what he had asked for. J. Szot replied we can't worry about what going to happen 5 or 10 years down the road and deal with what is. B. Chivers said Mr. Holbrook is happy with it. W. Holbrook, agreed, that's fine. J. Szot said if someone else comes in and wants to do something else on that lot or add to the house or whatever, in the future if that's sold then they would need to come back before the Board to get guidance on what they can do.

B. Chivers read the five criteria for 2.02B:

- 1) *The variance will not be contrary to public interest.* **All Agreed. (5-0-0)**
- 2) *The spirit of the ordinance is observed.* **All agreed. (5-0-0)**
- 3) *Substantial justice is done.* **All agreed. (5-0-0)**
- 4) *The value of surrounding properties are not diminished.* **All Agreed (5-0-0)**

5) *Literal enforcement of provisions in this ordinance would result in unnecessary hardship.* **All Agreed. (5-0-0)**

B. Petrin before we vote on that, there was a question about conditions. I don't feel we have a need for it but Judith made a point. J. Szot added it would be approved subject to the three conditions:

1. Under 1000 square feet
2. No materials stored outside
3. Owner is the only employee

W. Holbrook said I'm fine, no problem. B. Chivers said and then it becomes a permanent condition of the property. After Mr. Holbrook moves out the next guy comes in and that's it. He's limited. W. Holbrook said we're keeping the shape and the size of the garage, so it will just look like a garage. When and if we were to move out, it doesn't have to be commercial, it could just be somebody's garage.

MOTION:

B. Chivers **motioned** to grant the variance under section 2.02B subject to the three conditions that Judith just outlined; no outdoor storage of material, the building is limited to 1,000 sq. ft. and no permanent employees. B. Petrin **seconded**. **All were in favor (5-0-0)**. **Motion carries**. You'll receive a notice of decision and thanks for working with us on those conditions and good luck on your project.

MOTION:

J. Szot **motioned** to adjourn. R. Howe **seconded**. **All were in agreement (5-0-0)** Meeting adjourned at approximately 7:25 pm.

Respectfully submitted from recording,
Andrea Bickum,
Recording Secretary

Cc: file