

CANDIA ZONING BOARD OF ADJUSTMENT
Minutes of September 26th, 2017
UNAPPROVED

Place: Town Hall; Meeting room

Call to Order: 7:00 pm

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

Absent: Ron Howe

B. Petrin informed the applicants that because we have an even number of Board members, a tied vote is not the granting of a variance. Take that into consideration if you do want to postpone until we have an odd number of Board members. We shall proceed.

Residents Present: Dave Murray, Building Inspector; Paul Frazier of 63 Currier Road; Betsy Kruse of 53 New Boston Road, Al Hall 40 Adams Road; Crystal and Elwin Mandigo of 387 North Road; Ron Severino of 49 Thresher Road; Mark St. Peter of 381 North Road.

7:00 pm Pledge of Allegiance

Approval of Minutes: July 25, 2017

MOTION:

Motion made by B. Petrin to accept the minutes from July 25, 2017 as presented. B. Chivers **seconded**. **All were in favor. The motion carried** with a vote of **(4-0-0)**.

Case 17-623 Applicant: CoPart, 14185 Dallas Parkway, Dallas, TX 75254; Owner: Candia South Branch Brook Holdings, PO 410 Candia, NH 03034; Property Location: Raymond Road; Map 409 Lot 96-1; for a Variance under Article V Section 5.01B; Intent: An expansion of a permitted junkyard.

Present: Ron Severino, Owner of Candia South Branch Brook Holdings of Candia was present.

Abutters Present: None

R. Severino said I'm the owner of the property. We were here about a year ago and we did an application on the other side. We came in for a variance to get 10 acres of that parcel. We never got 10 acres that we could use there due to the shape of the land and to keep it out of the wetlands. So we did 5 acres they want 5 acres. I own on the other side and that's why we're here. I. Byrd asked could you clarify what you mean by the other side. R. Severino replied the east side of CoParts. They purchased 5 acres from me last year. I. Byrd commented because there is the river too. R. Severino responded over 1,200 feet away. J. Szot questioned you said this new parcel is on the east side or the west side? R. Severino confirmed this is on the west side now. J. Szot asked you said they purchased it last year? R. Severino replied they purchased the east side from me. J. Szot replied you told us last year you were leasing the land. R. Severino replied technically it's a long term lease. It's a ground lease which means it's a 99 year lease. It's pretty much theirs and they have an option to buy if for a \$1, which they will...they don't own the property, they are leasing the main property right now. I wasn't able to subdivide and give them...we couldn't do a boundary line adjustment so it's a lease arrangement right now, which will probably happen on this side. Before I go too far, I want to get a technical thing out of the way. Judy is big on these notarized letters. I did put CoPart down as the applicant, I'm the landowner, and it says if the owner is not the applicant or the applicant is not the owner the owner needs a notarized letter. The applicant couldn't

be here, who is CoPart, but I still own the property and I'm here. I want to make sure we're okay with that. J. Szot replied yes, you're the owner. B. Petrin said duly noted.

R. Severino continued they are tied up down in Texas retrieving hundreds of thousands of cars. *Ron handed out maps:* this is a Google map, this is the technical map, it is a survey. There's a large one showing the surrounding properties. As far as the orientation, we own 10 acres that the courthouse sits on, the front of that lot. This is actually the rear side of that lot is what we're talking about. The RSA says we need to be 300 feet off the road. We're going to be 500 feet as I want to leave a good buffer in between there. The actual lines will be coming to the Planning Board but the idea is to look at the 5 acres. J. Szot asked what is the dotted green line. R. Severino said that's land that they own; they're not all the way to the property line yet. That's still the parcel that CoPart is operating on. J. Szot said the land to the east of that that is cleared, is that the land they did last year. R. Severino confirmed, yes. J. Szot said so they don't have anything on it just yet. R. Severino replied no it's done, that is all done and full of cars, the one on the right. It's not that full cleared area because we didn't give them that whole area.

B. Petrin asked so the area in question tonight is going to be this red area and that represents 10 acres? R. Severino said no, there is a purple one, a big one and then a darker purple where the courthouse is, that is the 10 acre lot. The red within that purple is half of that, so that's what we're talking about. J. Szot asked so you own this whole parcel outlined in purple? R. Severino replied and I also about all around that. J. Szot reiterated so you own the whole parcel in purple. The dark purple was the 10 acres that the courthouse was on and you want to take 5 of those 10 acres. R. Severino agreed, right. J. Szot asked and is all that land going to be suitable because they cleared all this and then found that some of it wasn't suitable. R. Severino replied it's not...on this one here, the red line is back far enough. The survey maps show it closer, there are some wet areas behind the courthouse so we won't be going as far as that. This one you can see by the size is taking up about 8 acres. We've cut it back to 5. I. Byrd asked if Ron owned the other land in back going back.... R. Severino said if you look at the Google map, we pretty much own everything; almost to Severino Trucking. Between Jeff Canter and I, Jeff's not here, but his heirs; I own over to the end of this page and back to the river. I have 175 acres, which is what this first piece came off of. J. Szot asked what about to the west of the courthouse, do you own anymore? R. Severino said just that piece that's outlined, the larger purple piece about 40 acres there.

B. Petrin asked is the intent to clear all that as you did on the other side? R. Severino replied that 5 acres will be, yes. It will give them about 4 acres of yard and we need an acre to do detention areas for water and filtration of water. B. Petrin asked what is going to become of that green section that they already own. R. Severino replied they will probably come in; we did that on the other side. We came in and incorporated that into the site plan, they will probably connect that. All that is, back years ago when they stripped off the site, they pushed all the stumps and loam into a big berm. We cleaned that out on the other side to give them more access.

I. Byrd asked have the gas and oil tanks from Simano's when it was a gas station ever been removed? R. Severino replied those are long gone. I think that was done when they took that over and the original garage burned in the late 70's, when he built that building that's there now, he came in for site plan and that site was completely cleaned up. Just a bit of history; we're applying for a junkyard permit but these really aren't junk cars that are going to stay there. CoPart's statement is in the application, they're a holding facility for insurance companies. They're typical turnaround is 30 days, they might have cars up to 60, depending on how the auction goes, but everything comes and goes as you can tell by the wreckers going up and down the road. B. Chivers asked about dismantling. R. Severino confirmed they don't dismantle, they come in and they're accounted for when the insurance companies settle the claims, CoPart handles the disposition of cars through onsite auction. (*Correction: should be online auction, not onsite as stated. Auctions are conducted via the Internet, not "on site"; see ZBA minutes from 9-27-16.*) Because some of the cars have damage on them the RSA states if you park so many vehicles or are over so many days on a wrecked vehicle, you need a junkyard permit. It's not really a junkyard, it used to be but, basically it's a parking lot for cars. Some are wrecked and some aren't wrecked but they don't stay there, there is no dismantling.

I. Byrd asked no dumping of fuels. It looks great from the road. R. Severino said they have 200 locations around the country and they have a very strict policy. We've even suggested they do this and they say no, we have to build them this way; they want a certain type of material. That's what they follow, the fencing, screening they put up is the same no matter where you go around the country. That's why we're here, the RSA states we need a junkyard permit for that reason and it also states it's up to the ZBA before the Selectmen can grant a junkyard permit, it has to go through the ZBA in the Town.

I. Byrd asked isn't there already a junkyard permit in existence for this site? R. Severino said yes but we're expanding, because it's a different site, we can't carry that over. I. Byrd commented so one junkyard permit will cover this area and another one will cover another area. What about the area in between? B. Chivers said it will be CoParts permit. R. Severino said there will be 3 permits. The permit that CoPart already has that's been in existence for years since the 70's, I think around 1972. Then there's the permit we got last year for the 5 acres on the east. This will be the 3rd permit on the left and I think that would be it, because we're running out of room.

B. Petrin asked is there a question regarding what it's zoned as, it's not residential. J. Szot replied commercial. R. Severino agreed all of it is commercial. That got changed and I think that's commercial to the river now.

R. Severino commented we feel this isn't number one about being contrary to public interest. It's just an expansion of an existing operation. The spirit of the ordinance, we are following, all the rules lead us through this application. Substantial justice is being done by allowing them to expand their business. Property values; if you look at the map where this new section is there aren't a lot of homes even visible from that site. The only hardship is they are where they are at and luckily there is room to expand, I don't see it benefits them or the Town to have them try to relocate somewhere else. I. Byrd commented it's certainly an improvement over what was there previously. R. Severino replied it's been a huge improvement. They run a first class operation. Even going by the front you don't see a lot of stuff out there anymore. I. Byrd asked this is not taxed as current use land. R. Severino said no I'm not in current use. I used to own this 10 acres by itself and when you take the courthouse out, it put me under 10 acres. I. Byrd said there is nothing in current use so your taxes will change because if you're taking it out of current use, you have a penalty to pay. R. Severino said we did that on the other side; we took a small piece of that out. This side, it's already out of current use.

B. Petrin asked do you know of any future plans to expand upon, if this goes through, expand again and again. Is there a vision to expand another 10 acres here, 10 more there? R. Severino said if they want more land, I don't want to sell them anymore. Anything in front of that, I have no interest to sell because I don't think it benefits what we're trying to do here. I do own land in the back but it's not as pretty as this picture. If they want to expand, anything's possible, but there would be a lot of cut and fill areas back there to do it.

I. Byrd said there was discussion at one point of running a road from here to Island Road and cutting back into Raymond Road. R. Severino said it will never happen. Jeff Canter when he was alive was after me every year, let's do it. I'm in business and it's not feasible. It would be millions to put a road through there, you'd never recoup it. In our lifetime, there will not be a road through there. Not to say that there wouldn't be a 1000 foot dead end road with a cul-de-sac to like where the transfer station is, but to come out and to connect somewhere, no. Now can they grab 5 acres somewhere, if they have the money to do the site work, that's up to them. I don't see that right now. This whole thing from the beginning was supposed to be a 10 acre expansion and we just couldn't give it to them there so we're trying to accommodate them on the other side. I. Byrd commented keep them happy, keep them in Town, keep them paying taxes.

B. Kruse introduced herself; I'm Betsy Kruse from New Boston Road. The back side of the CoParts lot looks like it abuts right where that hill goes down precipitously. The section where you own, it doesn't look like it's that steep. R. Severino confirmed when you go beyond the back of the 10 acre parcel, it really starts to drop. It drops off after that. B. Petrin said these are lines of declination right here? R. Severino agreed. It's about twice as steep as you cross the back of that lot. B. Kruse replied I'm asking that question because the cars that may or may not be leaking oil or gasoline or whatever, right on the

edge of that lot, what assurances do we have that this isn't going to add to that. R. Severino replied it's called an Alteration of Terrain Permit. There are a lot of measures in place. If you look at the right side of that where the expansion is, at the back right corner you'll see a pond. Everything has to be collected into a series of trenches and ponds to get filtered out before it leaves your property. It has to be clean when it leaves there. We also have to notify the Lamprey River people when we're within 1,200 feet. We notified them both times. At the right side we were just over 1,200 feet and we're well over 1,200 feet, a quarter mile away on the other side. There are practices we have to follow which is not done here it's done at site plan review with the Planning Board and through the engineering and the Alteration of Terrain permit. We have to take all that into consideration. B. Kruse asked and you're feeling pretty confident that there's not a danger to the river. R. Severino replied I'm confident that whatever was there before this is 100 times safer. Jeff Canter had a very green operation. It was very clean and nothing left that site. And he was dismantling. Now you're adding a factor, they're not even dismantling over there. They get monitored. When you have a DES permit, they're checking it out. It's a good concern, that's why we're all here to watch out for all that stuff.

J. Szot said I do have some concerns. I think it's for our discussion. B. Petrin closed the public session and continued the discussion amongst the Board. B. Chivers, I. Byrd and B. Petrin had no concerns. J. Szot had concerns. This is a pre-existing non-conforming use. There's a regulation that you can't expand pre-existing non-conforming uses. The problem with the use is that the non-conformance has nothing to do with the size of the lot but the non-conformance has to do with the use of the lot and it's not allowed in that area. This is the third variance for this piece of property. There was one when Jeff Canter when he put the building up on the left, he needed a variance for that. He was granted a variance. I. Byrd said he was granted a variance for the building. J. Szot agreed, for the building, yes. That was an expansion of his use. Last year we gave another variance to expand the use and this year another variance to expand the use. And Ron mentioned that there might be more, when does it stop. Hardship, there is no hardship here. There are special conditions to this property, that's why you grant a variance, distinguish it from other properties. There's nothing that distinguishes this from other properties except that they want to expand their use, which is allowed to be there because it pre-existed zoning. But now we're expanding. The people down on the other side can see all this stuff from there. I went through the minutes and this is exactly 1 year from when they were here, they were here September 27th last year and I went through their minutes of last year's meeting. I just can't see how there would be any way that we could grant a variance for this expansion. Where does it stop? We don't have the right to change zoning and basically what we're doing is we are changing zoning by allowing this to go on this piece of property and we don't have the right to do that. If there was a hardship that makes this different from other properties there, I could see that but there is nothing that makes this property different from any other property along that street. So how do we change the zoning on it? I. Byrd replied we're not changing the zoning on it. Isn't it zoned commercial? J. Szot replied yes, it is zoned commercial but a junkyard is not allowed. I. Byrd replied but if you're not changing the zoning, you're expanding the use and I think that's different than the argument you're presenting. J. Szot replied it's not allowed there Ingrid. That use is not allowed in that area. You cannot have a junkyard in that area, it's not zoned for that. So if you allow another expansion there, this is now the third expansion in that area, where do we stop? It was 4 or 5 acres last time, it's another 5 acres now and then it's 10 acres and this 28 acre parcel suddenly becomes 50 acres. There were millions of cars damaged in Florida and Texas and you know their down there buying those cars and they need a place to put them. Because the insurance companies are going to sell those cars, they need a place to store those things and I understand they need the space but is that the best use of this land in Candia, is that what we want? I don't see how we could grant... B. Chivers said Judith a year ago we granted a variance for the property to the east. How large was that area? J. Szot replied it was 10 acres and he said (*Ron Severino*) they could only use 5. B. Chivers continued but we granted a variance for the entire 10 acres. Had they been able to use that entire 10 acres, they wouldn't be here tonight. What we're doing now is approving land to the east of this (*should be west*) to make up for land that we previously approved to the west (*should be east*) so the net result is the same. J. Szot disagreed. B. Chivers reiterated we had no problem approving 10 acres last year and if they were able to use that site, the full 10 acres, they wouldn't be here

tonight. But they couldn't so now they're saying we have 5 acres to the east (*should be west*; the net size doesn't change. J. Szot responded Ron was saying that there is other land that they might be interested in.

B. Petrin commented I didn't catch that. R. Severino replied no. B. Petrin said I asked are there plans for *improving or expanding (unintelligible)* and you said it went downhill. R. Severino replied possibly. Anything is possible but there is no talk of that right now, it's always been 10 acres. B. Chivers addressed Judith, your other argument that we have no right to re-zone. We're here to make these kinds of judgments. J. Szot said you are re-zoning; defacto. B. Chivers continued if we had no right to re-zone, we wouldn't have anything to do. Every time you make a decision from this Board, you're making some minor modification to that zoning ordinance. That's what the purpose of this Board is. J. Szot reiterated there is if there is something about a property that distinguishes it, makes it different from every other piece of property around. There are many times we have granted variances because there was some unusual aspect. If you get a piece of property and it pre-existed zoning and it's not the same size as a regular sized lot and you want to do something it's a pre-existing, non-conforming use. So you're not changing the zoning by granting a variance to allow something to happen on a piece of property that pre-existed that the use is right but you don't have the right size. There is nothing that distinguishes this property from any other property. B. Chivers replied there is. It's adjacent to a junkyard that's already permitted and in operation. I. Byrd said and legal. B. Chivers restated and legal; that's the difference. J. Szot said I disagree with your reasoning Boyd. B. Chivers asked Mr. Chairman instead of sitting here trying to wear each other down by arguing why don't we go through the five criteria, take a vote and see where this stands. B. Petrin agreed.

I. Byrd commented by saying to this applicant "no you can't have this", what we're saying to him and any other applicants is the next time you want 10 acres, come in and ask for 40, just in case because you might not get another 5 acres or 10 acres the next time. So ask for 4 times as much or 3 times as much and then you don't have to worry about it. J. Szot replied the people have said that they wanted this area to be zoned commercial. We don't have the right to change that. B. Petrin replied I don't think we're changing it, we're going to vote for a variance. Vary from that but not change the zoning, which is the purpose of this Board. I. Byrd stated they're bringing in a product and moving it out, that's a commercial use. They're not taking them apart; they're not making piles of fenders, door, etc. The cars arrive, the cars leave. B. Petrin agreed. Let's move on with the criteria.

B. Chivers read 14.02 C:

1. *The variance will not be contrary to the public interest:* I don't think it would be. We've already approved a 10 acre variance last year. They've used 5 acres of that and now they're asking for 5 acres on the east side (*should be west*), the argument is still the same. **B. Petrin and I. Byrd agreed with B. Chivers. J. Szot disagreed. (3-1-0).**
2. *The spirit of the ordinance is observed.* The applicant came in, made a presentation. I think he's trying to conform to the zoning ordinances. The purpose of this Board is to hear exceptions like this and I agree that the spirit of the ordinance is being observed. **B. Chivers, I. Byrd and B. Petrin agreed. J. Szot disagreed. (3-1-0).**
3. *Substantial justice is done.* What are you going to tell him, put that 5 acre junkyard someplace else? Reasonable request. **B. Chivers, B. Petrin and I. Byrd agreed. J. Szot disagreed (3-1-0)** stating that a Board cannot alleviate an injustice by granting an illegal variance. I think that this variance is illegal.
4. *The values of surrounding properties are not diminished.* Mr. Severino owns the surrounding properties; he doesn't think the values are being diminished. I. Byrd said there are no abutters here to speak up against this proposal. **B. Petrin, I. Byrd and B. Chivers agreed. J. Szot disagreed (3-1-0).**
5. *Literal enforcement of provisions in this ordinance will result in an unnecessary hardship.* It's an unnecessary hardship for CoParts and that operation there. J. Szot said I don't think it's our job to think about it's an unnecessary hardship, that hardship is shared equally by every neighbor. Every parcel of land there has the same restriction that they cannot have a junkyard there. Every single one.

B. Chivers responded and they are all entitled to come here and ask for a variance and if they meet these five criteria, they'll get it. J. Szot replied you would grant a variance to anybody who came in and wanted a junkyard there and let the whole area be junkyards? B. Petrin replied there are other hoops to jump through, DES is one of them. J. Szot said I asked you a question. What you're saying is anybody can come in and ask for a variance to have another junkyard. So if someone comes in on another parcel, across the street say and they want to have a junkyard, you're going to grant it? On what grounds? I. Byrd said anybody can come in and ask. We had a Selectmen at one point who thought it would be okay to have a nuclear waste dump across the street from Island Road on a private parcel of property because he had a right to make as much money off his property as he could. He didn't get very far but he had a right to ask. J. Szot continued when the hardship is shared by everybody, there's no hardship. I think that you're making a grave error here and you're going to see this again. Where do you stop? Where is enough for this junkyard and how do you next time turn it down? I'm asking you Boyd, if they come in again are you going to grant him? How do you turn it down next time? I. Byrd said can we wait until next time to see if they come and what they present? You can't look a year ahead. B. Chivers said we've covered the five criteria and we've voted on four of them. B. Petrin asked for the last one again for the record.

B. Chivers repeated:

5) *Literal enforcement of provisions in this ordinance will result in an unnecessary hardship.* I agree it would. B. Petrin agreed. I. Byrd agreed. J. Szot said I strongly object. B. Petrin stated having voted on all five criteria with a unanimous decision of three in favor and one against, I would say that the motion carries. **B. Chivers, I. Byrd and B. Petrin agreed. J. Szot disagreed (3-1-0).**

R. Severino commented I think the zoning; it's misleading to say we don't allow junkyards in Candia. Our zoning says that because it has to. I did research on this where it runs you in a circle. We have to put in there that the junkyard is not allowed because the state RSA's don't allow a junkyard anywhere unless you follow the procedure. We have to say it's not allowed, to make me come here. So if anybody wants a junkyard, they have to come here. We're never going to allocate a section of Town and say this is where we want a junkyard. No one's going to do that. It will run you in a circle. I'm not going to say it's not allowed, if you read it, it says you have to follow the RSA to get here and that's why I'm here. To say what's enough is enough, I don't know. B. Petrin said and DES will have an eyeball on that. R. Severino agreed. A million cars that need a place to go they're going to go somewhere, whether it's Candia or wherever.

MOTION: B. Chivers **moved** to approve the variance under Article V Section 5.01B and grant an expansion of the permitted junkyard for Map 409 Lot 96-1. I. Byrd **seconded**. B. Chivers, I. Byrd and B. Petrin **were in favor**. J. Szot was **opposed**. **Motion carried (3-1-0)**. B. Petrin stated you'll receive a notice of decision in the mail.

Case 17-624 Applicant: Crystal Mandigo, 387 North Road, Candia, NH 03034; Owner: Elwin and Crystal Mandigo, 387 North Road, Candia, NH 03034. Property Location: Same; Map 405 Lot 136; for a Variance under Article II, Section 2.02B Non-Conforming Use and a Special Exception under Article XV, Section 15.04E Accessory Dwelling Units. Intent: To build a 3 stall attached garage with an In-law apartment and storage above.

Present: Applicant Crystal Mandigo; Elwin Mandigo of 387 North Road, Candia, NH 03034

Abutters Present: Mark St. Peter of 381 North Road, Candia, NH 03034

E. Mandigo said the plan is to put in a 3 stall garage with a small in-law type apartment above it. I. Byrd brought up the fact that drawings should be drawn to scale and submitted on quarter inch graph paper. D. Murray said our ordinance says 750 feet maximum (*referring to the in-law apartment*) and they're at 544. I. Byrd asked what is the square footage of the garage? D. Murray replied 28 x 36. B. Petrin confirmed 1,008 square feet. I. Byrd asked then how can you say you're going to have an

apartment that will be less? C. Mandigo replied the upstairs would have the apartment over two stalls and then just storage completely over the other stall. D. Murray said the applicant's here because their house is on ledge and they have no storage. How long have you lived there? E. Mandigo replied 30 years now. D. Murray reiterated 30 years and it accumulates. I. Byrd asked about the basement. C. Mandigo replied the basement floods; it has since we've owned it. We have a Page Street 20 foot trailer in our yard that we've used for storage in our yard for four years now. We'd like to get rid of that. J. Szot asked if the storage area would be heated. C. Mandigo and E. Mandigo said no. C. Mandigo said no heat, just fully shelved. B. Chivers asked so what's the heated portion of this? D. Murray reiterated 544, the area with the two dormers. B. Chivers asked is this attached to the main dwelling. E. Mandigo replied it will be. B. Chivers asked how? E. Mandigo and C. Mandigo said by a mudroom, whatever you want to call it. I. Byrd reiterated that's why I want a scaled drawing on that paper so we can see the whole. J. Szot commented there is a picture in the drawings of the connection. D. Murray said it's 11 x 18, the house is here. An 11 x 18 mudroom; single level.

B. Chivers asked if there was room on the side to meet the setbacks. E. Mandigo replied yes. B. Chivers asked how many bedrooms in the existing house. C. Mandigo replied 3.

B. Chivers asked and the septic system was designed for a 3 bedroom home or designed for a 4 bedroom home? Can you confirm that Dave? D. Murray confirmed a 4 bedroom home and I have the plan right here. B. Chivers said and this is a one bedroom apartment, so you made it then. Okay.

D. Murray said the biggest thing with this case, which to me makes it alright, is the lack of storage that they have due to the ledge, they have no basement. They've been living there for 30 years. They have one of those storage trailers that they'd like to get rid of.

J. Szot said so Dave the non-conforming use is the size of the lot is that correct? D. Murray replied yes. J. Szot said and it's a pre-existing lot. E. Mandigo said its 1.4 acres plus or minus it says. J. Szot asked who did the survey. E. Mandigo replied I have no idea. J. Szot wondered if it was Aza Gunnison. B. Chivers do you... (*unintelligible*) the ten restrictions in the accessory dwelling unit, the new code here. D. Murray yes, they will when they build it.

B. Chivers read the Accessory Dwelling Units ordinance:

1. *There shall be no more than one accessory dwelling unit for any single family dwelling.*
2. *There shall be no more than two bedrooms in the accessory dwelling unit.*
3. *Adequate sewer and water service shall be provided. One septic system shall serve the entire property and the adequacy of the system shall be certified by a licensed septic installer.* D. Murray said they have that covered.
4. *There shall be a maximum of 750 square feet for the accessory dwelling unit.* D. Murray said it's 544.
5. *On-site parking for one additional vehicle shall be provided.* D. Murray said they have that.
6. *All existing set back requirements shall be met.*
7. *The accessory unit shall be within or attached to the main dwelling unit.* Mudroom.
8. *Architectural enhancements will be employed for the purpose of maintaining aesthetic continuity with the principal dwelling unit resulting in both units appearing as a single family dwelling unit.* E. Mandigo said correct.
9. *Either the primary or the accessory dwelling unit shall be occupied by the owner of the property.* C. Mandigo said yes.
10. *The current State Building and Fire Codes for two family dwellings shall apply.* That's a big one right there, what does that entail Dave?

D. Murray said separation and with our regulation it has to be one door in between whether it's locked or not, we don't have any say on that; separating the two units. I. Byrd said the unit is upstairs and the mudroom is downstairs so how are they connected. D. Murray replied there has to be one coming through the door and all inside; you don't have to go outside to go into the unit, basically. I. Byrd questioned if the unit is upstairs, the entrance is downstairs. D. Murray said outside. I. Byrd continued if there is a fire how does the person upstairs get out if they can't get downstairs to the door. D. Murray replied we discussed that tonight. He's going to put a second egress, although he doesn't

really need to because they can come down that one set of stairs and either exit out the front or exit through the house. I. Byrd replied exit through the house if you can get to the one door. I'm nervous about fire. D. Murray reiterated there is only one set of stairs in the drawings. I. Byrd commented but there's no second exit. D. Murray replied not without using the stairs. I. Byrd said most houses and apartments have to have 2 exits. You're providing only one exit. D. Murray replied there are two doors with one stairway. B. Chivers asked what does the fire code require. D. Murray said 2 exits, the stairs are the only way out, it doesn't verify that. I. Byrd argued but there is only one exit. D. Murray replied there are two exits, one outside and one through the house. I. Byrd said but you can't get to the house. D. Murray responded yes you can, you go through that mudroom. I. Byrd said but you have to go down the stairs. D. Murray said that's what I'm saying; the stairs are the only way out. J. Szot asked Dave is there any kind of an egress window? D. Murray confirmed and we discussed that tonight. J. Szot continued maybe an egress window from the bedroom that would go down to the roof at the side of the garage. Could that be considered an egress window? D. Murray said he needs an egress window here too but we're talking about putting a door right here with stairs and out. At least one of these has to be an egress window because it's a bedroom. B. Petrin said it's based on square inches correct. D. Murray confirmed 5.7 square feet. J. Szot said so this would go out to the roof of the mudroom. You could consider that but a stairway out back would make more sense. D. Murray said I don't like the idea of people jumping off the roof. They were good with the stairway. They thought that was a good idea. I'd like to see a completely separate set of stairs. J. Szot said asked about the building requirements for putting something over the garage; sheetrock. D. Murray replied that's all the fire code, you'll have to isolate that whole set of stairs, ceiling and underneath and separate the garage from the mudroom as well. It will all be 90 minute steel doors, 5 inch sheetrock. B. Petrin asked if the fire code included sprinklers. D. Murray replied no. It goes by square footage, 12,000 square feet. Three or four or more; 12,000 square feet. B. Petrin said my house had to have fire sprinklers with a big vat of water in the basement and it's about 10 years old. D. Murray said it could have been part of the site plan. We're doing single family houses now on the back roads that have sprinkler systems. I. Byrd asked could that be through the banks. D. Murray said doubtful, insurance companies and banks worry about water damage if the sprinkler fails.

B. Chivers reiterated the next time something like this comes in; I'd like to see it on quarter inch graph paper and drawn to scale. We've already plowed that ground a couple of times. It would be nice to have a standardized way of presenting these. I. Byrd said I'm going to go further than Boyd, if it does not come in on quarter graph paper that we bought specifically so that an applicant can be given one or two sheets when they put in their request to be on the agenda, I'm going to tell you, I'm going to vote against the application because you can't see the whole thing. D. Murray said let's go a little further, drawn to scale. I. Byrd said we've been beating this dead horse forever; we bought the paper so nobody had an excuse for not having it.

P. Frazier said I'm Paul Frazier of Frazier Construction, 63 Currier Road in Candia. I understand you want everything as close to scale as possible. Like here they discussed the egress and the 2nd set of stairways is a great idea. You can do a fire egress window but people try to draw their own plans, it's to keep the cost down. The architects get way too much money for what they do. If someone can draw up their own plans so it was clearer. I. Byrd reiterated what we're trying to do is not get a bunch of pieces of paper that are very difficult to tell how they fit together. Put the whole thing on paper that we'll provide. You don't have to go to an architect. The gentleman right there will help you draw it out (*referring to D. Murray*). This is what we're trying to avoid. We've had people come in with drawings on napkins. P. Frazier said and I've built houses off of napkins. A lot of change orders.

B. Petrin said let's close the case to the public. B. Chivers said I think they've covered all the requirements for the accessory dwelling. J. Szot and E. Mandigo discussed a drawing showing a screened in porch and patio area and verified the mudroom/breezeway from garage into here and door here into the house. B. Petrin said I have only one concern and that is the portion about the fire code. You were quite amenable to put stairways down the back. I want to entertain having a condition to the

variance that you have to provide that secondary egress as a condition in writing. The Mandigo's agreed.

J. Szot said first we need to do the variance because of the size of the lot; it's not a 3 acre lot which is required by our zoning.

1. *The variance would not be contrary to the public interest:* B. Petrin said I agree. J. Szot continued this is a pre-existing lot. It was legal when it was formed. This is the reason why we have a variance. They can't do anything and it allows us to give them the right to do something on their property that would allow them to do something to benefit them and benefit the Town. B. Petrin said it affords appropriate relief. **All agreed.**
2. *The spirit of the ordinance is observed.* It serves the purpose that the ordinance was intended to. Obviously they wanted larger lots but this lot pre-exists and it's in the benefit of the applicant and the spirit of the ordinance to grant the variance. **All agreed.**
3. *Substantial justice is done.* J. Szot read an excerpt from The Board of Adjustment in New Hampshire 2015 OEP Handbook: *Any loss to the individual which is not outweighed by a gain to the general public is an injustice.* This is justice for them to allow them to have this building on this site. **All agreed.**
4. *The values of surrounding properties are not diminished.* This is only going to improve the properties involved. **All agreed.**
5. *Literal enforcement of provisions in this ordinance will result in an unnecessary hardship.* There's no way they can meet the requirements for the lot size here. It's pre-existing and it makes sense to grant a variance. **All agreed.**

MOTION:

B. Petrin asked for a **motion** to approve the variance with a condition. I. Byrd replied so **moved**. B. Petrin stated and the condition being for the record is that they will provide secondary egress through the back from the second floor to the ground level; an exterior stairway. I. Byrd also suggested removal of the storage trailer. C. Mandigo replied to get rid of all the stuff in the trailer and one of the other storage buildings on the property will come out too.

B. Petrin said so two conditions then. Secondary egress and removal of the storage trailer. I'll make that **motion**, B. Chivers **seconded**. **All were in favor**. The **motion carried** for approval with a vote of **(4-0-0)**.

B. Chivers summarized the **Special Exception** Accessory Dwelling Criteria:

1. *There shall be no more than one accessory dwelling unit for any single family dwelling.*
2. *There shall be no more than two bedrooms in the accessory dwelling unit.*
3. *Adequate sewer and water's...been provided and confirmed and provided by the Building Inspector.*
4. *No more than 750 square feet for the accessory dwelling unit.* It's 544.
5. *On-site parking...is available.*
6. *All existing setbacks... will be met*
7. *The accessory unit shall be within or attached to the main dwelling unit.* Mudroom.
8. *They've employed Architectural enhancements to integrate the two structures*
9. *Either the primary or the accessory dwelling unit shall be occupied by the owner of the property.* They've covered all 9 criteria for the special exception for the accessory dwelling unit.

MOTION:

B. Chivers **motioned** to grant the special exception under section 15.04E allowing an accessory dwelling unit on Map 405 Lot 136. I. Byrd **seconded**. **All were in favor**. **Motion carried (4-0-0)**.

Other Business**ZBA Cases and Tax Cards:**

There was discussion about recording and documenting the ZBA cases; variances/decisions on the tax cards.

A. Bickum explained that it currently gets added to the reference cards (*index cards*) in the Land Use office and that they also get entered under building permits in Vision. It will say ZBA or PB in the building permit section in Vision. I don't know how much actually prints out on a tax card but it's in the system. B. Chivers said we should test that. J. Szot suggested we talked about having to physically put a notation on those hard tax cards. A. Bickum confirmed that we tried entering the information under building notes in Vision because that would show up but the problem was there are only so many notes you can add and the assessor needs that space for notes. B. Petrin suggested maybe the notation says reference hard copy.

B. Chivers said if it's electronic, it needs to fit in that block. You go on the Town's website, look at those tax cards. They don't come in here and get a hard copy. B. Petrin said that's why there should be a notation that references a hard copy somewhere. J. Szot said there has to be some way that someone buying a property knows that there's a variance that's been granted on that property. A. Bickum suggested that they call the office and we can check because we have the activity/index cards. I. Byrd replied the average Joe does not know that. A. Bickum pointed out that even online, the Vision Appraisal program, in any town, is limited and only shows so much information. The tax cards printed here have much more information. Buyer's need to do their due diligence. I have been putting the ZBA cases in Vision itself, I'm just not sure if it actually prints. I. Byrd reiterated if its buyer beware they need to come in and look, they need to look at the hard copy, the cards. So we should make the note on the cards that says look up case XYZ. J. Szot says Andrea can pull it up on Vision. There are two places to look. B. Petrin said so nothing to fix then.

Graph Paper:

I. Byrd brought it up again to have applicants get 2 sheets of graph paper. If it's not drawn to scale, you have to come back next month.

Protocol for Noticing:

B. Petrin discussed a re-noticing instance where certified abutter letters had been approved, completed and stamped but then Boyd made a correction. I had approved it but Boyd caught something and we had to re-notice it. Costly but we needed to re-do it.

Decision: No change in protocol was necessary. A. Bickum suggested that she wait a week for all feedback from Board members on any upcoming cases come back prior to putting the notices together for mailing.

MOTION:

B. Chivers **motioned** to adjourn at approximately 8:13 pm. I. Byrd **seconded**. **All were in favor. Motion carried (4-0-0).**

Respectfully submitted from recording,
Andrea Bickum
Recording Secretary

Cc: file