

**CANDIA ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES OF  
February 26, 2019  
APPROVED**

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

ZBA Members Absent: none

Audience Present: Dave Murray (Building Inspector); Kyle & John Broek; many town residents.

Bob Petrin, Chair called the meeting to order at 7:00 pm immediately followed by the Pledge of Allegiance.

**Case #549:**

**Applicant:** Applicant Candia Crossing LLC, 38 Fieldstone Lane, Candia, NH 03034; Owner: same; Property Location: High Street; Map 406 Lot 16; For a Variance under Section 2.05 to build more than one residential building on a lot and For a Variance under Section 5.06-7B to allow an elderly housing community on one parcel or lot with more than one building on the parcel or lot.

**Intent:** To allow Site Plan Amendment relating to a 43 unit elderly housing project as per plans submitted to the Planning Board, as amended.

\*Case w/d via emailed letter dated February 25, 2019 at 5:27pm

**Case #19-001:**

**Applicant:** Kyle Broek, 487 Chester Turnpike, Candia, NH 03034; Owner: same; Property Location: same: Map 411 Lot 28; For a Variance under Article VI Section 6.02 Table of Dimensional Requirements; Lot Width and Frontage.

**Intent:** to construct a 30'x 42' addition attached to the main dwelling with a 5'x 30' front porch where the required minimum is 50 feet for the front setback and the proposal to build is only approximately 39 feet from the front setback.

J. Broek starts his presentation by providing an updated set of plans to the Board for reference. As he continues, he states that on page 3 of the plans, the house is 44ft from the stone wall. After further investigation and speaking with D. Murray (BI), it was determined that the stone wall actually starts the road front and is considered the property line. J. Broek states that where you have to be away from the house, it is currently 11ft from edge of pavement to the stone wall. Since the house itself is 44ft off stone wall he was planning on putting an addition off the south side that would be a 5ft porch, which makes it so its really 39ft off of edge of pavement and the way it sits right now is 50ft off the edge of pavement, so it would be at 45ft off the edge of pavement total.

D. Murray (BI) clarifies to the Board that the original stone walls, as with everyone on that side of Chester Turnpike, is the right of way where the road is. This situation is different because most of the rights of ways are usually 3-6ft from the hot top. On that whole particular side of Chester Turnpike, the road looks to have been moved over to the opposite side. This house and everyone on that side of the road, is 11ft from the stone wall to the hot top so it is a special situation over there.

J. Szot notes that if the applicant were to go back the 5ft he would be at the edge of your leach field, which is not a good idea and J. Broek comments that there needs to be 15ft from the edge of the concrete to the beginning of the leach field.

D. Murray points out for the Board that the applicant also cannot build to the opposite side of his house. That was also looked at and there are wetlands there that prohibit that, so this is his only option right there.

**\*B. Petrin closes meeting to the public at 7:09pm**

B. Petrin requests that B. Chivers read through the variance criteria and the Board will vote on each as they are read out. All agree.

B. Chivers read as follows:

Under *RSA 674:33*; the Zoning Board of Adjustment shall have the power to hear, authorize or appeal specific case variances from the terms of the zoning ordinance if 5 criteria are met:

**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?*

**Boyd moves the Board find that it is not contrary to the public interest -All were in favor**

**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.*

**Boyd moves the Board agree -All were in favor**

**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.*

**Boyd moves the Board find that substantial justice is done by granting this variance -All were in favor**

**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.*

**Boyd moves the Board find that the values are not diminished -All were in favor**

**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 ant "fair and substantial" way.*

**Boyd moves the Board find that it would result in unnecessary hardship -All were in favor**

B. Chivers suggests a motion be put forth to grant the variance.

J. Szot **motioned** to grant the requested variance. R. Howe **seconded**. **All were in favor. Motion passed (5-0-0).**

Approval of Meeting Minutes -November 27<sup>th</sup>, 2018 b h0:

B. Chivers made a **motion** to approve the minutes of Nov. 27<sup>th</sup>, 2018 as presented. I. Byrd **seconded**. **All were in favor. Motion passed (5-0-0).**

Other Business

- Review ZBA by-laws to amend its 21 day application submission timeframe with 30 days.

Board reviewed the information and after discussion, B. Chivers moved for the Board to vote on the change in the next scheduled public noticed meeting.

**All were in favor**

I. Byrd **motioned** to adjourn at approximately 7:18pm. B. Chivers **seconded**. **All were in favor. Motion passed (5-0-0).**

Respectfully submitted,

Lisa Galica ~Admin. Assist.  
Building/Land Use/Fire Dept.  
cc: file