

**CANDIA ZONING BOARD OF ADJUSTMENT
MEETING MINUTES OF
August 27, 2019
APPROVED**

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

ZBA Members Absent: n/a

Audience Present: Dave Murray (BI), Bradley & Teresa Beebe (applicant) as well as town residents.

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

Case #19-007:

Applicant: Bradley & Teresa Beebe, 100 North Road, Candia, NH 03034; Owner: same; Property Location: 98 North Road, Candia, NH 03034; Map 406 Lot 039; For a Variance under Article II Section 2.02(B): Non-Conforming Uses and Structures-Change and Expansion.

Intent: to remove the existing mobile home and replace it with a new, extended or enlarged version and a concrete slab.

B. & T. Beebe start their presentation by stating that they currently have a 15-year-old, 14'x56' mobile home on the lot and would like to upgrade to a new 14'x66' mobile home and have family members move in. Based on a previously approved variance in 2005, they are approved for a 14'x64' dwelling so they are before the Board requesting the variance to gain the extra 2 feet they need for the new style mobile home they wish to purchase.

I. Byrd asks if the current mobile home is the original or a replacement. J. Szot states that it is a replacement of the original owned by Robert Perkins.

B. Chivers asks if the mobile home is currently occupied and confirms with the applicants that no one lives there at this time and it has only been vacant for approximately 2 months.

T. Beebe states they want to move her husbands' mother and autistic brother into the new mobile home. The style is designed with 2 bedrooms/2bathrooms so they will each have their own space.

The Board discusses whether the mobile home meets the criteria for an accessory dwelling unit and after input from D. Murray (BI), it is determined that this was pre-existing and it does not apply to this particular case since the mobile home has been on the lot ever since 1964.

R. Howe confirms with the applicants that there are 2 separate septic systems for each of the dwelling units. He questions if the bathroom is the issue as far as the new unit and the applicants confirm that the goal is to have 2 bathrooms. The Board discusses the square footage further and deems it to be an extra 28sq. ft in total.

I. Byrd states that her concern is that this is a substandard lot at approximately 1.65 acres, with 2 residences, 2 septic systems and this is going to be the 2nd expansion of the mobile home.

R. Howe confirms that there is only 1 well for both residences.

I. Byrd asks D. Murray if there are any setback issues and he confirms there are no issues and the direction of the expansion will not encroach on any setbacks.

M. Raumikaitis notes that the applicants currently have a 15 yr old structure and want to replace it with a brand new manufactured property, which will meet the latest codes, a new concrete slab, in order to meet the new standards. As a member of the community, he looks at this as an improvement of the property.

B. Petrin asks why it's necessary for the applicant to have the 14'x66' instead of the 14'x64' they are already approved for. T. Beebe states that the 2nd bathroom can not fit in the smaller version of the mobile homes. The 2nd bathroom is important because of her husband's brother's medical condition. It's easier for an autistic person to have their individual area instead of sharing all that space.

B. Chivers states that the focus should be on the fact that this is only an additional desired space of 28sq ft.

I. Byrd states that the Board needs to think about how many variances you can have on a parcel. There has already been 2 in this instance.

Gary York (abutter) asks the Board what the zoning is and B. Chivers confirms that it is zoned residential. He confirms with the applicant that the reason for the change is based on wear and tear and that it was once a rental property. He asks if the applicants' family no longer live there, will the applicants turn it back to a rental

property and T. Beebe states that it will stay in the family. G. York is concerned that the mobile home is not in a properly designated zone and may affect property values around the neighborhood. D. Murray notes that if you replace the existing mobile home, the property value can only go up.

R. Howe asks what the typical target life is for a mobile home and M. Raumikaitis notes that based on his professional opinion is approximately 20 years.

The Board discusses possible options such as manufactured homes, rebuilding a completely new home in the mobile home footprint and keeping the same size but new mobile home. The applicant decides to move forward with the Board for the variance to extend the footprint area.

Al Hall (resident) notes that there has been no problems since the mobile home has been on the property and encourages the Board to approve the request.

***B. Petrin closes meeting to the public at 7:41pm**

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. -4 Yes – 1 Abstain.

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 because the mobile home pre-existed zoning, has been on the property since 1964 and the applicant is only requesting to replace the current 14'x 64' mobile home with a 14'x 66' mobile home.

-4 Yes – 1 No.

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 agree by allowing the expansion of the 28sq. ft. because the loss of the individual that will be living in the mobile home will definitely outweigh that of the general public if not. **-5 Yes, 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 and may actually enhance the surrounding property values with the upgrade. **-5 Yes, 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 any "fair and substantial" way.

Boyd moves the Board find that it would be an unnecessary hardship because it pre-existed zoning. **-4 Yes – 1 No.**

B. Petrin suggests a motion be put forth to **grant** the variance. **All were in favor. Motion passed**

B. Chivers **motioned** to grant the variance under Article II Section 2.02(B); allowing a 14' x 66' mobile home to replace the existing 14' x 64' mobile home on the property of Bradley & Teresa Beebe, Map 406 Lot 39. The Board agrees that as a condition of approval, this will be the final variance that will be considered by the ZBA for this non-conforming use. B. Petrin **seconded. All were in favor. Motion passed.**

Approval of Meeting Minutes -July 23rd, 2019:

B. Petrin **motioned** to approve the public minutes of July 23rd, 2019 as presented. B. Chivers **seconded.** I. Byrd **abstained. All others were in favor. Motion passed.**

Other Business

- Brief discussion regarding the alternates on the Board and what responsibilities they have during meeting according to legislation. A warrant article will have to be submitted by the BOS enabling the proper legislation RSA 673:6. This item has now been discussed at 2 consecutive public meeting and is scheduled for the 3rd and final meeting (9/24/19), to be voted on by the Board.
- I. Byrd resigned from the ZBA, effective immediately due to an eye disease. The Board voted to appoint M. Raumakaitais as a full ZBA member, effective immediately, and he will carry out her term.

J. Szot **motioned** to adjourn at approximately 8:02pm. B. Chivers **seconded. All were in favor. Motion passed.**

Respectfully submitted,

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