

**CANDIA ZONING BOARD OF ADJUSTMENT
MEETING MINUTES OF
March 23, 2021
APPROVED**

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

Audience Present: Amelia Heeley (applicant), Toby Sperry (AH applicant's dad), Scott Komisarek (applicant), John Cronin (SK applicant's attorney), Kevin Gagne (BI), Dean Young (FD Chief) and town residents.

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

Case #21-002:

Applicant: Amy Komisarek, 14 Main Street, Candia, NH 03034; Owner: 14 Main Street, LLC, 14 Main Street, Candia, NH 03034; Property Location: 14 Main Street, Candia, NH 03034; Map 409 Lot 202; For a Variance under Article II Section 2.02(B): Non-Conforming Uses and Structures: Change and Expansion.

Intent: *to change the use of our non-conforming lot, which has been residential use only, to residential and business operations in the mixed use district.*

B. Petrin starts by confirming that the applicants are present, and they are in person and asks them to explain their request to the Board.

Attorney John Cronin is representing the applicant and starts by providing the Board with history of the variance request and withdrawal of the application from last summer by the applicant based on the remodel expansion of the structure on a non-conforming lot. The applicant decided not to pursue the request at the time and the Board confirmed with him that he understands if he wants to move forward with that request, he will need to submit a formal application to the ZBA that is heard at a properly noticed public hearing. The Board and applicant agree to move forward with the current variance request in front of them tonight.

Attorney Cronin states that it would be a hardship to the applicant if this current request before the Board were not granted because of the substantial number of improvements they have made to the property as well as it is a permitted right in the mixed use district.

T. Steinmetz asks what is the business that will be operating out of the property and will there be a significant traffic impact on the area. Attorney Cronin states that it is general administrative title work and there are usually no extra traffic or clients that meet at the office. Most of their work is done in-house online.

B. Petrin asks if there are any further questions/comments from the Board or audience and there are none.

***B. Petrin closes meeting to the public at 7:25pm**

B. Petrin requests that B. Chivers read through the 5 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 agree that it is not contrary to the public interest. **All were in favor. (5-0)**

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 they are in the correct mixed use district that combines residential use along with small businesses. **All were in favor. (5-0)**

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 because of all the work the applicants have already done to improve the property. **All were in favor. (5-0)**

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 agree the values are increased because of the improvements done to the property. **All were in favor. (5-0)**

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 an "fair and substantial" way.

Boyd moves the Board agree because their request is an accepted use in the mixed use district. **All were in favor. (5-0)**

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

B. Chivers **motioned** to grant the Variance for relief under Article II, Section 2.02(B) for the change in use of the property at 14 Main Street (409-202). M. Raumikaitis **seconded**. **All were in favor. (5-0) Motion passed.**

Case #21-001:

Applicant: Amelia Heeley, 82 Critchett Road, Candia, NH 03034; Owner: same; Property Location: same; Map 406 Lot 129; For a Special Exception under Article V Section 5.02A(2): Table of Use Regulations: Type of Land Use - Residential and a Variance under Article XV Section 15.04(E): Specific Special Exception Uses: Accessory Dwelling Units.

Intent: *to allow the construction of an accessory dwelling unit with an increased square footage area above the maximum 750 sq ft.*

B. Petrin starts by confirming that the applicants are present, and they are in person and asks them to tell the Board about the project.

A. Heeley starts by introducing herself and her father T. Sperry to the Board and telling them they are interested in constructing an ADU to accommodate her parents, but it is larger than the allowed maximum square footage of 750 sq. ft. She then asks if her dad can take over because he can explain the project better than she can. The Board is agreeable to this request.

T. Sperry starts by explaining to the Board that he and his wife will be retiring in this addition and would like more room to gather with the family. The square footage they have in their design is approx. 1,120sq ft and they also will be building a foyer to attach the new ADU to the main home. They will also be building a small deck off the ADU.

The Board briefly discusses the design with the applicant and explains that the concern is that the design currently larger than the original home and is more like a duplex structure than an accessory dwelling unit to the home. The Board asks if the applicant has any other designs to offer the Board at this time that can reduce the footprint square footage and though he does not, he would like some time to review further and continue their case until the next scheduled meeting date to adjust the design to fit within a more reasonable parameter. The Board agrees to the request for a continuance so the applicant can further review the square

footage reduction options for his project. The case will be continued until the next schedule meeting date of 4/27/21.

J. Szot **motioned** to continue this case to the next scheduled meeting date of April 27, 2021. B. Petrin **seconded**. **All were in favor. Motion passed.**

Minutes -January 26, 2021:

The Board agrees to defer the minutes to the next scheduled meeting date.

MOTION:

B. Chivers **motioned** to adjourn the ZBA meeting at approximately 7:59pm. R. Howe **seconded**. **All were in favor. Motion passed.**

Respectfully submitted,
Lisa Galica
Land Use Office Coordinator
cc: file