

**CANDIA ZONING BOARD OF ADJUSTMENT
MEETING MINUTES OF
May 6th, 2025
UNAPPROVED MINUTES**

ZBA Members Present: Judith Szot, Chair; Boyd Chivers, Vice-Chair; Ron Howe; Bill Keena; Tony Steinmetz

ZBA Members Absent:
Gale Pellegrino, Alt., Excused

*Judith Szot, Chair, called the ZBA meeting to order at 6:34PM, followed immediately by the Pledge of Allegiance

Case #25-005:

- **Applicant/Owner:** Jeffrey Crum, 233 New Boston Rd., Candia, NH 03034
Property Location: 233 New Boston Rd., Candia, NH 03034; Map 406 Lot 96.
Intent: Seeking a variance to waive terms as stated in Article VI Section 6.02:
Dimensional Requirements: Table of Dimensional Requirements to permit the demolition of old 1780's house and a full rebuild on new foundation, minor changes to rear addition, with plans to move structure 10 ft back from where it sits now.

R. Howe recuses self from case due to being an abutter to the property in question.

Jeffrey and Kerri Crum, the applicants and property owners, are invited to the table to present their case. They begin to describe the project's scope, encompassing upgrades to the septic system, electrical work, plumbing, and foundation drainage. The applicants clarify that only the well would remain from the original structure. Mr. Crum explains that the existing building is very old and deteriorated, requiring a complete rebuild rather than continued patching. They aim to maintain a similar footprint to the original structure. However, this necessitates a variance because the proposed building doesn't meet the front setback requirement. To address this, they propose moving the building back 10 feet, reducing the rear by 4 feet, and adding those 4 feet to the side of a rear addition. The applicant explains that the property's limited size (0.8 acres) and the presence of a ledge running along the property line restrict the building's placement. They cannot easily adjust the building's orientation due to the ledge. The applicant also mentions an existing garage that will likely need replacement and is currently very close to a rock wall, limiting maneuverability. To avoid placing the new house directly on top of the future garage location, they need to maintain sufficient space for the garage to be moved forward.

The applicant describes the current state of their house, highlighting a dangerous, almost vertical staircase on the second floor. They plan to add a second story, removing the existing flat roof

section in the middle of the house. This modification aims to improve the house's aesthetics, addressing concerns about its current appearance and making it more visually appealing to neighbors. The applicant also mentions that the house is currently unsafe due to the staircase and ceiling heights and explains the necessity of the other renovations. They also emphasize the need for septic system upgrades as a major factor driving the renovation.

Following this, the Chair opened the floor for questions from the board members and the audience, both in-person and via Zoom. No questions were raised from the board or the audience.

Judith Szot closed the public hearing at 6:45pm

The Chair announces that the board will review the variance request using the five established criteria.

Variance from Article VI Section 6.02: Table of Dimensional Requirements

Five Variance Criteria

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?

Full compliance with the ordinance is not possible, however the new structure will be as compliant as possible. It will be more functionally safe for the residents and more attractive in the neighborhood than the existing structure and as such will enhance the value of the area.

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.

The applicant is physically unable to fully meet the requirements as there is not enough room on their lot, but they are making an effort to comply as much as possible.

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.

The existing home is unsafe for the family and does not meet the needs of the owners. Granting this variance would allow the residents of the home to live safely.

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.

The surrounding properties' values will actually be enhanced; there will be no reduction in the value of the surrounding properties.

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.

Denying the variance would result in unnecessary hardship for the residents of the home as the applicant cannot fully comply with the dimensional requirements without destroying the existing garage.

B. Chivers: **Motion** to grant variance. T. Steinmetz: **Second**. All in Favor. **Motion passed**.

The Chair asks to hear the next case at 6:56pm.

Case #25-006:

- **Applicant/Owner:** A-1 Ventures Group, LLC, 43 Lawson Farm Rd., Londonderry, NH 03052
Property Location: Old Candia Rd., Candia, NH 03034; Map 410 Lot 162

Intent: Seeking an appeal from an administrative decision from, and a variance to waive terms as stated in, Article V Section 5.02: Use Regulations: Table of Use Regulations to permit the construction of ground mounted solar array.

Brett Allard, an attorney with Shaughnessy Allard representing A1 Ventures Group, LLC (owners of the property), introduces himself and his clients, Joe Sobol and Craig St. Peter, principals of the LLC. The attorney notes the two applications (appeal and variance) have different review standards and analyses. They propose addressing the variance application first, believing it straightforward and hoping to satisfy the criteria, potentially rendering the administrative appeal moot. The Chair agrees, suggesting it's preferable to examine the variance application and its five criteria first.

The Attorney proposes a ground-mounted solar array on the lot to completely power the Candia First Stoppe property across the street and generate excess electricity. This excess power will be fed back into the Eversource grid via net metering, effectively replicating the First Stop property's annual electricity usage. The lot in question has no other intended use beyond the proposed solar panel installation. Mr. Allard explains the need for a variance because the solar panels constitute a principal use, unlike other existing solar installations in town which are accessory uses. The current ordinance hasn't yet addressed principal solar uses, necessitating the variance request.

Mr. Allard explains that the proposed solar array represents a new and emerging technology, at least in the context of similar arrays. He states that solar energy is a desirable and encouraged use, citing both general New Hampshire policy and specific state statutes (RSA 672:1) that promote clean renewable energy. Additionally, he discusses Candia's unique approach to renewable energy, referencing the town's 2024-passed community power plan aiming to support renewable energy generation within Candia, displacing fossil fuels and reducing greenhouse gas emissions. This aligns with both state-level and town-level initiatives encouraging such development. The panels, facing south, will be situated along a road running east to west, maximizing sun exposure. Tree removal around the array will be necessary to ensure optimal sunlight. However, it is noted that many trees have already been removed and that the proximity of an Eversource utility pole (approximately 50 yards from the north side of the array) allows for convenient grid connection, avoiding disruption to Route 43 and minimizing excavation.

The Chair inquires about potential monetary credit for excess power generated. The property owners confirm receiving credit, though the exact amount (believed to be a small percentage) remains unclear. They emphasize that their goal is to generate sufficient power for their business, with a buffer for less sunny periods, and have no intention of selling excess power or expanding the system. The aim is a self-sufficient system supporting their business operations. The owners further explain their desire to develop the property to create an industrial base in Candia, noting

that the lack of town water and sewer on the property has been a limiting factor. Board member Bill Keena confirms that there are limited development options for the property in question and points out that the use will generate tax revenue for the town without creating a visual eyesore. The location is such that it's unlikely to be highly visible from nearby houses, and Mr. Allard confirms that it's not situated in a highly trafficked area between highways and off-ramps. Mr. Allard asserts that the proposed development's impact on traffic is negligible due to its location in an industrial area, low intensity use, and lack of significant traffic generation, especially compared to the existing traffic on Route 43, to which the board agree.

Mr. Allard briefly reviews the criteria for variance approval, arguing that granting the variance would not be contrary to the public interest but rather encouraged by it. The proposed solar project is deemed to not alter the area's essential character due to its isolated location between highways and an off-ramp, its significant downgrade, ample screening, low-intensity use, and the existing public support for clean, renewable energy. The attorney asserts that the project aligns with the spirit of the ordinance, despite the ordinance's silence on solar energy, citing encouragement for such uses in the zoning ordinance, master plan, and community power plan. He concludes by stating that substantial justice would be served, balancing public and private harms and benefits, as evidenced by the previously discussed points. The project offers significant benefits to the owners, including reduced operational costs, improved energy independence, and a more sustainable business model. These benefits, the attorney claims, are publicly favorable, citing increased tax revenue and power fed back into the grid. No negative impact on surrounding property values is anticipated due to the site's characteristics, location (away from residences), and the passive, low-intensity nature of the project. The attorney mentions "unnecessary hardship" and several special conditions related to the site's location, specifically its position between highways and its proximity to a separate tax lot across the street from the client's property. This unique configuration, bisected by Route 43, is presented as the source of the hardship. The Attorney argues that the lack of town water and sewer has hindered industrial development in the area. They view the project as a positive step towards energy generation, well-suited for its location, and nearly compliant with existing ordinances, requiring only a variance.

The Chair opens the floor to questions and comments from the audience members in person and via Zoom. Residents Tom Severino, Dean Young, Sue Young, Kevin Coughlin, and Kenny Sell all speak up to show their support of the development. No other questions were raised from the board or audience.

Judith Szot closed the public hearing at 7:25pm

The Chair announces that the board will review the variance request using the five established criteria.

Variance from Article V Section 5.02: Table of Use Regulations

Five Variance Criteria

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?

The variance will be consistent with public interest. Use of solar energy is encouraged by the State of New Hampshire in RSA 672:1, III-a. The array will have a wooded buffer, preserving the town's rural character and making it not easily visible from the road. The land is difficult to develop, and a solar array will be a low intensity use. It will also further the town's goals by generating tax revenue and clean energy.

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.

The solar array is consistent with community power plan and master plan. The ordinance is silent regarding solar but because it is encouraged in other ordinances and throughout the town, it is assumed a future ordinance would be in support of this plan if such ordinance existed.

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.

This project is a positive use for land that is not able to be used in other, more positive, ways and it will reduce operation costs and generate tax revenue.

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.

The area is already zoned for light industrial use and no other properties exist near the site to be diminished.

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.

This property has no water or sewer and would be difficult to utilize in any other way. Denial of this variance would render the property essentially useless, and the owners would be burdened with paying taxes on undevelopable land. It is the perfect spot for a solar array.

B. Keena: **Motion** to grant variance. T. Steinmetz: **Second**. All in favor. **Motion passed**.

Attorney Brett Allard states he and his clients will withdraw the administrative appeal application.

Other Business:

- Review of Minutes from 4.22.25

B. Keena: **Motion** to approve the minutes as presented. B. Chivers: **Second**. All in favor. **Motion passed**.

- Any other matter to come before the Board.

The board briefly discusses the Building Inspector's file of proposed new ordinances as well as those in need of amending. A future collaboration with the Planning Board is necessary.

Public Comments:

B. Chivers: **Motion** to seal the minutes from the nonpublic meeting due to attorney-client privilege. R. Howe: **Second**. All in favor. **Motion passed**.

B. Chivers: **Motion** to adjourn. R. Howe: **Second**. All in favor. **Motion passed**.

Meeting adjourned at approximately 7:51pm.

Respectfully submitted,

Megan Ross

Land Use Coordinator

cc: file