

**CANDIA ZONING BOARD OF ADJUSTMENT
MEETING MINUTES OF
September 23, 2025
APPROVED MINUTES**

ZBA Members Present: Judith Szot, Chair; Ron Howe; Tony Steinmetz; Gale Pellegrino, alt.

ZBA Members Absent: Bill Keena, Excused; Boyd Chivers, Vice Chair, Excused

*Judith Szot, Chair, called the ZBA meeting to order at 6:30PM, followed immediately by the Pledge of Allegiance

- **Case #25-009:**

Applicant/Owner: Andrew Boddie, 196 Brown Road, Candia, NH 03034; **Property Location:** 196 Brown Road, Candia, NH 03034; Map 413 Lot 122; ***Intent:*** *Seeking a variance to waive terms as stated in Article II Section 2.02 to resume a nonconforming use that was discontinued over one year ago*

Mr. Boddie begins by explaining that the previous owner operated a business on the property for 36 years, and he was unaware that the non-conforming use would lapse if not actively maintained within a year of his purchase. Boddie is trying to sell the property and had a potential buyer who wanted to rent out the accessory building for commercial purposes. Once Mr. Boddie was informed that the building no longer qualifies for the legal non-conforming use, and therefore cannot be utilized commercially, he lost the sale. The board clarifies that the ordinance states any legal non-conforming use discontinued for over a year cannot be resumed. The purpose of this regulation is to maintain conformity within zoning districts voted upon by the residents of the town. The board discusses the difference between a homeowner running a business from their property versus renting out a structure for commercial use, noting that the latter is not allowed in residential areas.

The applicant's real estate agent, Leigh Drapeau, argues that denying this variance would diminish the property's resale value and limit the pool of potential buyers due to the uniqueness of the accessory building. She also points out that the tax card for this property classifies the land use as "COM/IND" (commercial/industrial). The board acknowledges the discrepancy but emphasizes that the cessation of commercial use for over a year is the determining factor, regardless of the tax classification. Mr. Boddie is encouraged to meet with the tax assessors to discuss solutions for this discrepancy. However, it is emphasized that the responsibility lies with the previous and current owners to understand the regulations relating to the property they own and communicate with the tax assessors when a change of use has occurred.

Board member R. Howe states that he feels uncomfortable with the idea of granting this variance due to the uncertainty of the future business on the property. If the variance was requested by the homeowner for himself, and there was a clear plan for the type of commercial operation, there would be less concern. He states there are other conceivable uses for the accessory building. Board member T. Steinmetz suggests looking through the zoning ordinance and finding the use options to help market the property.

Following this, the Chair opened the floor for questions from the board members and the audience, both in-person and via Zoom.

Abutter Matt Woodreau, who lives directly across the street, expresses concern about the potential increase in traffic and noise if the property were to be used for a commercial business. He notes that the previous business was primarily storage-based and did not significantly disrupt the residential character of the area. However, there is uncertainty that the potential future business would result in the same low impact to the street, which is already susceptible to damage in the spring. The uncertainty of the type of commercial operation is emphasized as a concern.

Judith Szot closes the public hearing at 7:09pm

The board reviews the variance request using the five established criteria:

Variance from Article II Section 2.02: Non-Conforming Uses and Structures

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 contrary to the public interest because there is no knowing what type of business may work out of the property. It has the potential to negatively impact the quiet residential neighborhood and the traffic surrounding the area. Abutter testimony spoke of an increase in traffic and large trucks through this residential neighborhood due to the previous owner's business.

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 variance will not observe the spirit of the ordinance. The previous owner far expanded upon the nonconforming use, and resuming this use will alter the essential

character of the neighborhood. There is risk the variance will result in further violations of the ordinance's basic zoning objectives because of the uncertainty of the type of business that will operate on property.

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.

There is no loss to the individual if this variance is not granted. The current owner has not used the building commercially throughout the past two years and is asking for this variance to market to potential buyers of the property. There is potential for injustice to the general public by granting this variance because this use is specifically prohibited in this area.

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.

Granting this variance may result in the depreciation of the values of surrounding properties depending on the type of business that may operate out of the building, and the risk is outweighed by the reward. It has the potential to change the character of the neighborhood, which is a quiet residential area.

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.

Literal enforcement would not result in unnecessary hardship for the homeowner. The current owner has used it residentially for the entirety of his ownership and can continue to do so. The property is in a residential zone. Establishing and maintaining unique characteristics in the different zones throughout the Town is clearly defined in the ordinance, which is voted upon by the residents.

Variance request does not meet any of the 5 criteria. Variance **Denied** by unanimous vote.

The Chair announces the transition to the next case.

- **Case #25-010:**

Applicant: Kenneth Durand, 11 Winter Street #2, Peterborough, NH 03458; **Owner:** Nathan Durand, 444 Brown Road, Candia, NH 03034; **Property Location:** 444 Brown Road, Candia, NH 03034; Map 414 Lot 26; **Intent:** *Seeking a special exception as provided in Article XV Section 15.04E to permit the construction of a second accessory dwelling unit. The existing ADU is attached to the primary dwelling, this second ADU will be detached*

Applicant Kenneth Durand, with owner Nathan Durand, state their plan to build a detached ADU. The property has an existing attached ADU, which is home to the owner's mother-in-law, and this second ADU would be for Kenneth, the owner's father, allowing for multi-generational living. Mr. Durand states that the proposed ADU will comply with all ordinance requirements, including setbacks and size limitations. A new septic system is also planned to stay within NHDES requirements. It is confirmed that the application meets the requirements of Article XV, Section 15.04E and meets the special exception standards outlined in Article XV Section 15.02.

The Chair opens the floor to questions and comments from the audience members in person and via Zoom.

Abutter Richard Cox speaks in support of the proposed plan, stating the Durand's have been idyllic neighbors and that the project would allow them to take advantage of the new zoning regulations.

Judith Szot closes the public hearing at 7:51pm

R. Howe: **Motion** to grant special exception. T. Steinmetz: **Second**. All in favor. **Motion passed.**

The Chair announces the transition to the next case.

- **Case #25-008:**

Applicant/Owner: Andrew Mun, 80 Old Deerfield Road, Candia, NH 03034; **Property Location:** 80 Old Deerfield Road, Candia, NH 03034; Map 406 Lot 115; **Intent:** *Seeking a variance to waive terms as stated in Article VI Section 6.02 to build 2-car garage with a second floor in front setbacks.*

Andrew Mun and his father, Alvin, explain the situation that has brought them here tonight. The project goal is to construct a two-car garage with a room on top that connects to the kitchen. The existing structure had a deck that was falling apart, which was also used for parking underneath, and a retaining wall that was bowing out. The previous structure was legally nonconforming as it existed within the setbacks before the ordinance was amended. The new structure, in the plans provided to the building department, was shown to be in accordance with the current required

setbacks. However, the contractor who installed the foundation did so in the same footprint as the old foundation without permission. This puts Mr. Mun in a difficult position, as the violation was not brought to their attention until after the entire foundation was placed. The new foundation is farther back than the pre-existing one, making it more compliant but not fully.

There is no one in the audience or on Zoom for a public hearing.

The board reviews 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?

The variance will not be contrary to the public interest. The new structure will be more compliant to the dimensional requirements than the previous one, as it will be further back from the front property line.

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 spirit of the ordinance is observed because the property owner attempted to make the new structure more compliant and more conforming to the zoning ordinance by moving it further back from the front property line.

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.

Substantial justice is done because denying this variance would result in a significant financial loss to the property owner. This loss would outweigh the gain to the general public due to the fact that the new structure will be more compliant than the previous one.

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 value of the surrounding properties will not be diminished. By replacing the previous structure, the owner is improving the appearance of the home and property, therefore increasing property values.

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.

Literal enforcement would result in unnecessary hardship for the homeowner. It would result in a significant financial burden to move the structure further back. Hardship will not be imposed onto other property owners due to the new structure being more compliant than the previous one.

G. Pellegrino: **Motion** to grant variance. R. Howe: **Second**. All in favor. **Motion passed.**

Other Business:

- Review of Minutes from 8.26.25

T. Steinmetz: **Motion** to approve the minutes as presented. R. Howe: **Second**. All in favor. **Motion passed.**

G. Pellegrino: **Motion** to adjourn. T. Steinmetz: **Second**. All in favor. **Motion passed.**

Meeting adjourned at approximately 8:12pm.

Respectfully submitted,

Megan Ross

Land Use Coordinator

cc: file