

**CANDIA PLANNING BOARD
MEETING MINUTES OF January 3rd, 2024
APPROVED MINUTES**

PB Members Present: Rudy Cartier, Chair; Mark Chalbeck, V-Chair; Brien Brock, BOS Representative; Judi Lindsey; Scott Komisarek; Tim D'Arcy; Kevin Coughlin.

Linda Carroll, Alt.

Mike Guay, Alt.

PB Members Absent:

M. Santa, Alt.

* R. Cartier, Chair; called the PB meeting to order at approximately 6:30PM, followed immediately by the Pledge of Allegiance

New Business:

- **Proposed Zoning Amendments for 2024**
After review and discussion, the Board will set a date for the Public Hearing.

R. Cartier: I am going to open up a Public Hearing for the Proposed Zoning Amendments for 2024. Zoning Ordinance Amendments for Warrant Articles to consider Drafts of Amendments for the Candia Zoning Ordinance for the 2024 Ballot. Public Hearing Opened at 6:32PM

Tom Severino, 92 Adams Road: I do not think it is a good idea to amend this. I do not think it would do any good. This is mainly concerning 5.01 G that you want to create the zoning about the regulations to regulate 15% Slopes or greater. Currently in our regulations we have a note about buildable lots, which I believe is 25%. What makes it not buildable is very poorly drained soils, standing water, and steep slopes of 25% or greater and right now I guess I just want everyone to understand that a 3-1 slope, which is the slope that is required on the side of a septic system. So when a septic systems is designed, it must have 3-1 slopes or flatter. A 3-1 slope on a septic system, which you could mow with your mower is 33%...If we change this regulation to 15%, you are going to engulf 80% of Candia. 15% is a 6-1 slope. So an extremely flat slope...a flat slope on the side of a highway is a 4-1. A steeper slope on the side of a highway behind the guardrail is a 2-1. That's 50%. So, we already have a regulation in there that tells us that the area is not buildable if it's 25% or greater. I commend what you are trying to do because some of these lots were out of control and I think some lots got away from us but the problem is that those people that cannot do work on a 25% slope, which is where they were doing that work, they are not competent to do work on a 10% slope. So, making a rule for 15%, you're gonna add, modifying a plan, engineering a plan. So a guy like me, on all those lots on Landing Way, I am going to spend 10 / \$12,000 more to hand you this certified plan to show you that I know I can grade this lot properly, when I already know how to grade a lot properly. I can grade a 50% slope properly. So, you are going to hurt the people that already know what

to do and the only reason that happened is they didn't know what they were doing in the first place. The second problem with that situation on New Boston Road, if you look at the Candia Steep Slopes Maps, which is already in your zoning, that area is all shaded at 25%, so those lots, from the beginning when they were subdivided, that should have been noted way back then when that subdivision happened, that technically, that area should have opened up those lots when they originally subdivided, because on the side of Walnut Hill, across from where I built a driveway, which by the way was also 25%, but across the street there, it's almost steeper than 25% and all those houses hang on that hill. Again, nothing against the board, that was just plain missed from way back in the beginning. Those incidences never would have happened because they never would have been allowed on that 25% slope. Now if we do this knee-jerk reaction, and again I understand what you are trying to do, that the board is trying to protect things, but if we do this knee-jerk reaction because of that situation and push it to 15%, I can't even explain to you how detrimental that would be, of how much area in Candia has a 6-1 slope, that's everywhere. Again, you know my experience in the industry, and I highly recommend this is not something we should do. We have the regulation, if something needs to be done to tighten up when someone hands their septic plan in for their house lot, that it goes under some other scrutiny, there may be a better way to do it, to protect from people that are doing that work. I mean, I wish all people were certified, then we wouldn't have the problem in the first place, but I just think there is a better way. This is not the answer. So, I am just pleading to the board that we do not do this.

R. Cartier: Thank you. If there is no other public input, I am going to follow up a little bit on the next item which is input from our consultants. In our last meeting, we did talk extensively about the 15%, the 25%. We could not quite put our hands on where it came from. The closest that we could come to was DES had a 15% slope for some of the requirements that they had. I had sent an email from the Board to Bryan Ruoff from Stantec to see where that came from because a lot of the regulations, a lot of the ordinances that we have seen have been 15% slopes and then 25%. Bryan was going to be here tonight but unfortunately; he is sick, and he is to the point where he has no voice. I sent him the ordinance, the proposed ordinance today and he sent me back a very good, detailed email. His general comment was that there are a number of areas where there are some conflicts between some of our regulations and some of our ordinances, the way that this is currently written. The issue that came up is that we have certain regulations that are being looked at from a regulation standpoint, but they are not in the ordinance, so they don't have the same level of power. After going through his evaluation, he suggests it needs a lot of work and based on that, my feeling is that the Board may want to consider holding off on this one until we can get a better correlation between what's in there and what's missing, so that we don't run into those problems in the future.

T. Severino: I don't disagree with that. That's correct. That's the problem.

R. Cartier: If there is no other public hearing, if there is no other consultant hearing, what I would like to do is close the public hearing and then go into the deliberative portion of it, to see what we want to do from the standpoint of the board.

R. Cartier: The second one is **Amendment #2**: To see if the Town will vote to revise

Article XVI, Section 16.01: by adding the following section:

C. Building Codes

The following New Hampshire State Building Codes as currently in effect statewide are used for all construction in Candia:

1. International Building Code (IBC)
2. International Existing Building Code (IEBC)
3. International Energy Conservation Code (IECC)
4. International Mechanical Code (IMC)
5. International Plumbing Code (IPC)
6. International Residential Code (IRC)
7. International Swimming Pool and Spa Code (ISWPSC)
8. NFPA 70, National Electric Code (NEC), as published by the National Fire Protection Association (NFPA)
9. NH State Fire Code

R. Cartier: This is basically out of the State RSAs for building codes. All it does is codifies the fact that Candia is using what the current state building code is, no more, no less.

(Per a request of the Candia Land Use Office)

Amendment #3: To see if the Town will vote to authorize the Planning Board to make typographical, syntax and other revisions that do not alter the intent of any section of the Zoning Ordinance.

R. Cartier: Basically, this allows us to change anything that we find is a typo, as long as it doesn't change the intent of any of the ordinances. This is something that has been brought up several times in the past because we can't just go and change things. We can't even change a typographical thing without going through voting.

Motion to close the Public Hearing at 6:44PM: K. Coughlin. **Second:** J. Lindsey. All were in favor. **Motion Passed.**

R. Cartier: My recommendation is that we not submit Amendment #1 this year.

M. Chalbeck: I would like to make the **motion** that we not submit the steep slopes amendment for this year. K. Coughlin: **Second.** All were in favor. **Motion passed.**

M. Chalbeck: **Motion** that we accept Amendment #2 as presented. J. Lindsey: **Second.** All were in favor. **Motion passed.**

K. Coughlin: Motion to present Amendment 3 to the voters as presented here. T. D'Arcy: **Second.** All were in favor. **Motion Passed.**

Public Hearing - Candia Warrant Article Petition / Citizens Petition – Section 5.04: Conditional Use Permit, Section 5.05: Conditional Use Permit Review Criteria, and Section 5.06: Conditional Use Permit Standards. (see attached)

R. Cartier: Open the Public Hearing at 6:51PM:

T. Severino – Adams Road: I didn't come here for that. Does that just take the Board's rights away?

R. Cartier: Yes.

B. Brock: Exactly.

R. Cartier: What will happen with this particular warrant article is it will eliminate..and I am going to kind of confuse it a little bit. Section 5:04, 5:05, & 5:06 are the enabling sections for us to issue Conditional Use Permits under the Innovative Land Use Requirements under the RSA Requirements in planning.

T. Severino: Okay, so I think this is another case that...again, I have been here for over 50 years. This is probably the first time, maybe the second that I have seen a major uproar in a vote. And, again, we are going to take the right of the board away because of one situation. I really get nervous about changing longstanding rules that we've had for one particular situation. I think that is bad practice. Period. And I am not going against what these people were standing for but by repealing what the board has always done, is not the answer. The public has the right to come out when these meetings are going on. The public has the right to speak on those conditions but if the board loses the right...because I know how many things come up with the plans that come through here and the board needs to have that flexibility to vote on those conditions because they are all very specific. So, I guess I will just speak as a resident that I disagree with that. I do not think that should be voted on in that way.

R. Cartier: Just to clarify one thing. 5:04 and 5:05 are the enabling legislation and 5:06 refers specifically to elderly housing. Just to make that clear because the next one is going to actually be related to that. Other comments / questions? Comments from the board?

S. Komisarek: I couldn't agree more.

T. D'Arcy: My real concern is that we all know that the legislature and the State Government is really pushing Innovative Land Use because we need more housing. And they are ruling in favor of this almost universally and the Town of Candia will give up it's ability to control it's own zoning when we allow Concord to do it. Which is exactly what this amendment would do.

K. Coughlin: Let me just verify that is correct. That was my assumption as well. If we lose the ability to adjudicate on these conditions, it will automatically get bumped to the state?

B. Brock: Well not automatically. They can appeal it to the state.

R. Cartier: We did ask legal counsel how this affects us. Basically it was: "However, keep in mind that because this article would eliminate the Board's authority to grant conditional use permits, and pursuant to the ordinance, work force housing can only be authorized through a conditional use permit, it likely violates RSA 674:59. RSA 674:59 requires that every municipality create reasonable and realistic

opportunities for development of workforce housing. This would eliminate any possibility of workforce housing, except through a variance.”

As the Board knows, because everyone was on the Board at the time, the impetus behind this whole thing is there were variances granted by the board that people didn't like. Waivers. Last year, voters voted to take that ability away from the Board and give it to the ZBA. In my mind, the issue that was brought up was addressed. Now this one is going to take away our ability, again in my opinion, to do what we should be doing by RSAs and by our own knowledge of what Candia needs.

B. Brock: Not only that, it complicates the applicants ability to move forward. Having the ability to do this really expedites the process for the applicant. It saves time and money for everybody.

T. D'Arcy: This would, pure and simple, cost the town a lot of legal money and the chances are, we would lose.

R. Cartier: If we didn't have something like this and looking at the RSA, a developer could come into Candia and say we are in violation of a certain RSA such and such and you are going to have to let us do whatever we want to do.

T. Severino: This is actually going to have you lose more rights. Right now, you can control an application. You are going to lose all of your leverage. It is literally going to go from you to a lawsuit. It will go to the state. The state is going to vote in favor of the RSA and you will have no say in it. It would be detrimental to take that leverage away from the Board.

K. Coughlin: Unintended consequences.

T. Severino: Unintended consequences. Not a good idea at all.

R. Cartier: I was very disappointed and dismayed to see this come through.

B. Brock: Are we going to put our support, or lack thereof, on the warrant article?

R. Cartier: Absolutely.

R. Cartier closed the Public Hearing at 7:04PM.

B. Brock: **Motion** that the Planning Board does not support Candia Warrant Article Petition / Citizens Petition – Section 5.04: Conditional Use Permit, Section 5.05: Conditional Use Permit Review Criteria, and Section 5.06: Conditional Use Permit Standards. T. D'Arcy: **Second**. All were in favor. **Motion passed**.

Public Hearing - Candia Warrant Article Petition / Citizens Petition – Section 5.07: Conditional Use Permit – Workforce Housing. (see attached).

Second Public Hearing Citizens Petition: Open at 7:05

T. Severino – Adams Road: I will go on the record. Again, I will speak against it. I have been all over the state, many towns, many developments with many developers, and all I hear is lawsuit when I hear something like that. I think that's, again, detrimental to take that power away from the Board.

T. D'Arcy: I would just like to make a comment, that I think it is ironic and humorous that they say, development in Candia to adhere to the spirit and intent of the zoning ordinance. When the spirit and

intent of the zoning ordinance were to allow for this type of development with a Conditional Use Permit. A lot of things people are in favor of require Conditional Use Permits.

K. Coughlin: Unintended negative consequences for the town.

R. Cartier: A little bit of history on this, as you all know, we submitted the Workforce Housing one last year and it passed with a significant margin. I don't remember the exact number, but it wasn't insignificant. When the Petition Warrant Article that came in December was submitted, the people who submitted the petition didn't realize that 5:07 was in there. That is why there are two separate ones.

Close the Public Hearing at 7:09.

B. Brock: **Motion** that the Board does not support Candia Warrant Article Petition / Citizens Petition – Section 5.07: Conditional Use Permit – Workforce Housing. K. Coughlin: **Second**. All were in favor. **Motion Passed**.

Old Business:

- Nate Miller – SNHPC – CIP – Nothing on that yet.
- Southern NH Planning Commission - InvestNH HOP Updates – Steering Committee

M. Chalbeck: We have gone over the survey that is going to be sent out. I went on and did the digital one. I thought it was good. I am hoping that they decide to adopt the survey that would be sent to developers dealing with the Planning Board.

- Approval of Minutes, 12.20.23

T. D'Arcy : **Motion** to approve the minutes as amended . **Second**: K. Coughlin. B. Brock: abstain. All else were in favor. **Motion passed**.

Appeal Updates:

- *Foster Farms*, New Boston Road – No news. We are working on five or six months.

Other Business:

- Town Planning
- Any other matter to come before the Board.

Motion to Adjourn: J. Lindsey. **Second**: T. D'Arcy. All were in favor. **Motion passed**.

Respectfully submitted,

Amy M. Spencer

Land Use Coordinator

cc: file