

CANDIA PLANNING BOARD
MINUTES of September 17, 2014
APPROVED
Public Hearing

Present: Sean James, Chairman; Albert Hall III, Vice Chair; Ginny Clifford; Judi Lindsey; D. Lewis Road Agent; Dave Murray, Building Inspector

Absent: Amanda Soares, Michael Santa; Ken Kustra

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

Minutes August 20, 2014

A. Hall **motioned** to accept the minutes of August 20, 2014 as presented. J. Lindsey **seconded**. **All were in favor. Motion passed (4-0-0).**

Other Business

Linda Tierney 28 Lane Road addressed the Board concerning Timbering

L. Tierney said she is here tonight concerning logging being done right next to her on her property line. The address being logged is 34 Lane Road. She said it has been very disturbing and has been ongoing for over 3 weeks. They are running a chainsaw from 9am until dark. She said the permit that she has is not for the property that is being logged.

Chairman James said this isn't something they normally handle and asked if the Building Inspector or Road Agent could comment. D. Murray said they have to get an intent to cut permit from the front office and said he does not get a copy. He said that he has seen this permit and he has talked to the logger who has talked to PSNH and that he is all set to cross the property. Chairman James asked about the timber tax and D. Murray said he has his intent to cut. L. Tierney said they are not cutting in Candia he is cutting in Raymond too. D. Murray said he has his permit for that as well and he has permission to cross the Public Service right of way.

L. Tierney said there is access road through to Green Road from the power lines and she has pictures that he could have utilized that access road and then they would not have had to disturb anyone. She said this access appears to have been used for years and he could have brought the logs out he cut down in Raymond out this way and would not have had to disturb anyone in Candia. She showed a picture of her house showing the property line is less than 50'. She said this has been going on for 3 weeks straight, including weekends from 8am until dusk. She said she called the police because one day she woke up and trees were falling and she had no idea or knowledge that this was going to be occurring. She said the logging has made them prisoners in their own home for the last month. They cannot go outside because of the chainsaw could potentially damage her hearing permanently. She said the decibels hit 120 and 70 is where it is annoying and this is louder and actually louder than some turbo jet engines. She said she is not objecting to him cutting a tree or two she is upset because he is operating a milling operation cutting them into little chunks and said there is no reason this should occur.

L. Tierney said she has a copy of the permit that is issued to their residence Map 414 lot 92 which is 4 houses down on the other side of the road and is not aware of another permit that was issued nor is there one posted for the Raymond property. Chairman James said this is more of an enforcement issue. L. Tierney said when she called the police the police did not even look at the permit and read it correctly which was three weeks ago today. D. Murray said he would look into this and make copies of the permits and if corrections need to be made they will be made. L. Tierney said it is not a correction she cares about it is about losing the use of her backyard and continued she cannot even go food shopping and bring her groceries home until after dark because the logger has the chainsaw running. She said you can have permanent damage if you listen to a professional chainsaw all day. She said she can hear the chainsaw on the other end of the house with the windows and doors closed. She said it has woke her up every single day.

She had to close all her windows and doors during August during the hot weather and couldn't enjoy the outside and her pool and had to cancel parties. She said they have had to listen to this continually.

Chairman James said he clearly understands her concerns and that she is obviously upset enough to come here tonight. She said she is not trying to harm anyone only protect other people. She said she has talked to the logger and asked him how he would feel if his bedroom had a logging operation under his bedroom window. She said his answer was he doesn't care he lives in the woods and no one can get close to his house. L. Tierney said she bought her house in Candia when her son was one year old knowing there was a house next door but never expected a logging operation. She said it has been 3 weeks and shows no signs of abating. She said his permit said it is good until March 2015 and said there should be laws on the books to notify the neighbors and they shouldn't be allowed to log in another town and drag the logs through Candia. She said the neighbors are lucky and go to jobs but she is disabled and has to stay home every single day. Chairman James said he understands her concerns. L. Tierney said he is cutting with his chainsaw right near their mailbox all day long. She said the road will be damaged by their large equipment. D. Lewis said there shouldn't be any damage.

Chairman James said the Planning Board does not have any enforcement or regulations against logging. L. Tierney asked doesn't this Board work on adding regulations. She said couldn't they come up with a regulations to put out for the town to vote on because she feels other residents would be just as horrified if they were living just as close as she is to someone using the chainsaw continually for a month,

Chairman James said D. Murray can look into the permit. He confirmed with D. Murray that the permit is issued by the State, and the town also requires intent to cut which has to be signed off by the Board. He said the only thing the Planning Board could do is put a potential zoning article on the ballot for regulations on logging. L. Tierney said that is what she is asking for. Chairman James said this logging would be grandfathered in and any regulation voted in would be for the future. L. Tierney said she understands and continued would you want this at your house and it has already happened and she cannot get back those 3 weeks and she is going to get her hearing tested as she has had ringing in her ears. L. Tierney said to her if you buy a property out in the country you should be entitled to some peace and quiet.

G. Clifford asked how many acres are being logged and it was confirmed it is approximately 8 acres then another 8 acres in Raymond. L. Tierney said she believes he is taking trees from other places but that is not her concern that is in Raymond. She said she went out in the power lines one day to see what kind of mess was left. G. Clifford said the owner has the right to log. L. Tierney said she isn't saying he shouldn't but shouldn't so close to neighbor. G. Clifford said in looking at it in terms of regulations, they have a permit, allowing them to cut, people are allowed to cut so what is the remedy. L. Tierney said the remedy is to make it so there are certain hours of cutting and another is distance to property lines he is right on the property line. D. Murray said they are allowed to cut up to the property line. J. Lindsey said they are logging for weeks and weeks isn't there some kind of common sense that says you cannot do it a residential area? D. Murray said the trees are found in the residential commercial. L. Tierney said she has talked to the University that does forestry and also contacted the forest ranger warden. She said she knows for a fact when she bought her house the power company came in and decimated the back yard and came within 50 to 100 feet into her yard and they were so close that the sand piles where her children were there was large equipment and that growth has only gotten about 10' tall in growth. She said whatever damage he is doing will not grow back for a long time. A. Hall asked if she had legal counsel and she replied no. A. Hall asked so it is more a noise pollution problem. L. Tierney said he is milling and cutting them into 8 foot chunks. Chairman James said the first thing is to check the permit and if correct and it doesn't sound like he is doing anything illegal

L. Tierney said she would like to see the laws changed and is concerned with the welfare of the citizens of the towns as it has been 3 weeks already.

Chairman James said there two separate issues. One they could certainly consider is going forward with a proposed regulations and the other is to have D. Murray check on the permit. He said he wishes they could do more but they cannot. L. Tierney said she understands there are no laws on the books now but

would like to see laws be put in place so others do not have to go through what she had. She said the logger went to school and thinks he knows everything but he is not as knowledgeable as he thinks he is. She said 200' tall trees could come down and she could get killed or her son upstairs in the house. She said the noise was so bad her husband wanted to play a recording of the chainsaw which goes on all the time and never stops. She said she was so very upset one morning she ran outside with nightgown on and yelled at him and said he was rude and said he would not give his name. A. Hall clarified he is not the owner but the contractor. L. Tierney thanked the Board for their time.

D. Murray said that they cannot drag the logs out through the PSNH power lines because some of the property out to Green road is not all owned by PSNH. D. Lewis said they have all their permits and are taking the logs out and are not milling onsite just cutting them in standard 8 foot lengths.

Re-sign Mylars 378 South Road Major Site Plan Atlantic Bridge

The Board signed the Mylars.

Sign Mylars 20 Main Street, Major Site Plan Farm Stand

Chairman James said the site is built and is open. He said S. Komisarek called a couple of times talking about putting in a second entrance. He said he told him that he was not in favor of it. He said either way initially it was not a town issue but a DOT issue. They did obtain a DOT permit. Chairman James said that he was to come and talk to the Board about it but that did not happen and subsequently the second entrance was built. He said you can cut through from CYAA. A. Hall said it would be a challenge to cut through at 30 mph because of the curbing.

Chairman James said another issue is now there are several new lights in the parking lot. He said they talked about lighting during the hearing process and they didn't want to put them in as part of the plan was to reduce the hours open to daylight hours. He said he talked yesterday to S. Komisarek about it and he said he had some reasons for why he put in the second driveway and the additional 3 lights and that he knew they were not on the plan but he did install them. Chairman James asked him to revise the plan with the addition of the second entrance and 3 more lights and bring in the amended Mylar. He said technically they need a lighting plan or they could submit a waiver request. He said he has concerns with the cut through issue and with abutter concerns from light from cars coming through. He said he remembers telling the abutters there would be trees on the CYAA side but the trees are now cut down. He questioned whether they should even be using the entrance as it is not on the plan. D. Murray said the main reason for the entrance is safety and even during the construction phase he said he witnessed people going by and doing u-turns down by the church on Main Street and said he felt you can't have that happening. He said when you go to pull out of the original entrance and look to the left there is a pole and it is kind of obscure there and you cannot see well and he had concerns about that as well. D. Murray said the second entrance was not put in until they received their Certificate of Occupancy for the project. Chairman James said he is not accusing him of anything but the facts are that once he received the CO he put in the second entrance and it is not on the plan and he felt they should have a Cease & Desist and not let them use the entrance. D. Murray said if that is done you would be creating a safety hazard with the traffic at that point as it was quite the situation before. Chairman James said it is a situation now. D. Murray said it is much safer for the residents and traffic going by and would hate to close it off. Chairman James said it was the same issue before when people would leave the CYAA if you are heading back into town.

Chairman James said they had abutter concerns on lighting but the lighting is not 20 feet tall with bright lights but shorter and not as bright. D. Murray said they were low wattage. Chairman James said he doesn't see where anyone would have a problem with the lighting but there is a process and they have run into this before with another project recently that went and did things. He said he knows that D. Murray is the enforcement person but in his opinion the second entrance should be barricaded and closed off as it is not approved.

Chairman James said Stantec has not reviewed the entrance for drainage and construction and questioned if there is a drainage pipe and was not sure if their engineers have reviewed it either. He thought there was a sheet flow in that area. D. Murray said there is an 18" drainage pipe required by the state that

was put in. Chairman James said it was a vegetative area that the water was pitched to and now it is paved and felt those are things Stantec should be looking at. D. Murray said there is a detention pond there that was required by Stantec and that is the route of the water and that is why there is a culvert is there. He said they haven't seen any water yet but should in the spring. A. Hall said wasn't it a requirement of the state to install the culvert? D. Murray said it was the DOT and continued the same material that was used for the other entrance and the parking lot and was used and was installed by the same contractor.

Chairman James said the issue is if you took any lot in town and you built something it is not okay to just decide after it has been approved and you have your CO to add this or that and what if he wants to make the parking lot twice the size and starts clearing that too. He said there needs to be some enforcement limits and he personally doesn't think the driveway is a good idea but he is only speaking for himself not the Board would most likely will be in favor and the lighting he doesn't think the Board would have an issue with that either. D. Murray said he didn't catch the additional 3 lights when he issued the CO and as far as the entrance goes it is a safety issue and would not want to close it off. A. Hall said from what he sees there is minimum lighting there and if he puts more lighting there again it would be for the safety issue. Chairman James said closing off the entrance is the Building Inspector's discretion. He said that S. Komisarek said he will do whatever needs to be done and will be back in to see the Board. D. Murray said he is a very agreeable person. J. Lindsey said they install and ask forgiveness.

D. Lewis said he has a general comment to make. He said they have run into this every single time where the plans are not finalized and signed and they start work with a conditional approval. He said he is not picking on this project or any other project just a general comment as he has seen this happen over and over in the 18 years he has been with the town. He said they should not start construction until all the plans are finalized to avoid this or have some mechanism to stop this from happening because they are always trying to forgive moving drainage, moving lights etc. They build it and then ask forgiveness. He said not that there is anything wrong with what he did over there but there are no plans to go by. Chairman James agrees with him A. Hall said it is like a design build. D. Lewis said they have no recourse and would you make someone tear it out? Chairman James said that is an option. He said is the entrance wide enough and the radius correct?

D. Lewis asked if the second driveway and lights going to be shown on the Mylar. Chairman James said maybe they should require a signed Mylar before they start. D. Murray said they do have problems getting the Mylars. D. Lewis said he has been dealing with the roads for 18 years and without final plans they are moving things around as they build them and of course that affects the drainage and they end up with problems on the road.

20 Main Street Bond Release

Chairman James said they have requested the release of the bond. The request was made verbally to the BOS office and a copy of everything was brought to the Planning Board. He said they have requested that the letter of credit be released which is a surety in the amount of \$35,832.50. He said it is up to the BOS to release the bond but the Planning Board can make a recommendation on whether to recommend or not recommend and he said he recommends they do not at this time considering they may potentially have a driveway to take out. J. Lindsey was in agreement. Chairman James suggested they make a motion to not approve the release of the letter of credit for 20 Main Street until the driveway and lighting is resolved

A. Hall made a **motion** to not approve the release of the letter of credit for 20 Main Street until the driveway and lighting is resolved. J. Lindsey **seconded. All were in favor. (4-0-0)**

Chairman James said he was not given a date when they would come forward on the second driveway and additional lighting but said they should hear soon.

Zoning Review and Revision Committee (ZRRC)

Chairman James said the ZRRC meeting is scheduled after this meeting but wanted to talk about it in this meeting because he was not sure if need to have the meeting. He said the secretary emailed out a revised version which has not all been gone through yet. He said the appendixes appear done and if no one

objects suggested they meet in a couple of months when the review is further along. He said then they can go through the document chapter by chapter.

2014 Law Lecture Series in October

Chairman James said there are three and are held the on the first 3 Wednesdays, the first, eighth and fifteenth. He suggested canceling the meeting on October 15th because some of the Planning Board members are attending the law lecture on the 15th.

2014 Planning Board Budget

Chairman James said the budget is the same as last year and he did not attend the meeting as he saw no reason to.

Letter from SNHPC for their membership fee

Chairman James said the membership runs July 15, 2015 to July 16, 2016 and the cost is \$2,468.97 which is based on a .63 cent capita rate which has been constant since 1992. D. Lewis asked if that went into the selectman's budget because they try and cut it out every year. The exact cost was requested for SNHPC membership dues from the select board so assumed it was to put in their budget.

The next scheduled Planning Board meeting is October 1, 2014 at 7pm at the Town Hall.

A. Hall **motioned** to cancel the meeting on October 15, 2014 due to lack of applications. J. Lindsey **seconded. All were in favor. (4-0-0)**

A. Hall **motioned** to adjourn at 8:00 pm. J. Lindsey **seconded. All were in favor. (4-0-0)**

Respectfully submitted,
Sharon Robichaud
Land Use Secretary