

**CANDIA PLANNING BOARD**  
**MINUTES of December 7, 2016**  
**APPROVED**  
**Public Hearing**

Present: S. James, Chair; Tom Giffen; Ken Kustra; Scott Komisarek, BOS Representative; Mike Santa; Judi Lindsey; Rudy Cartier Alt; Joyce Bedard, Alt; Carleton Robie, Alt; Dennis Lewis, Road Agent; Dave Murray, Building Inspector

Absent: Al Hall, Vice Chair

Chair Sean James called the meeting to order at 7:00 pm immediately followed by the Pledge of Allegiance. S. James asked Alternate Joyce Bedard to sit in for Al Hall.

Minutes November 16th:

T. Giffen made a **motion** to accept the minutes of November 16, 2016 as submitted. S. Komisarek **seconded**. S. James; K. Kustra; M. Santa **were in favor** J. Lindsey and J. Bedard **abstained. Motion passed (5-0-2).**

Abutters Present:

Rene & Claudette Bessette of 586 High Street, Candia NH 03034; Scott Blevens of 39 Donovan Road, Candia, NH 03034; Phillip & Sharon Packard of 614 High Street, Candia NH 03034; Carol of FLB Associates LLC of 650 High Street, Candia NH 03034.

**16-010 Final Major Subdivision & Lot Line Adjustment Application:** Applicant: 66 Vinton Street, LLC, 56 Manchester Road, Auburn, NH 03032; Owner: same; Property location: 608 High Street, Candia NH 03034; Map 405 Lot 45; LLA Map 405 Lot 44 and Map 405 Lot 45-1; Intent: To create 9 new lots in the Residential District & a lot line adjustment with lots 405-44 & 405-45-1.

Present: Joseph Wichert, LLC, Inc.; Applicant 66 Vinton Street, LLC represented by Cory Hill; Jennifer McCourt of McCourt Engineering Associates, PLLC; Rene LaBranche from Stantec.

S. James said the last meeting on this was the preliminary on September 7<sup>th</sup>, 2016. They are back tonight for the final. Rene LaBranche is here from Stantec for the Town.

J. Wichert introduced himself. I'm Joe Wichert here on behalf of 66 Vinton Street, LLC and in the audience is Cory Hill who is a member of the LLC and Jen McCourt of McCourt Engineering Associates who is our engineer. We were here in September; actually I think we were here in May where we subdivided off the existing house at 608 High Street. We did a lot line adjustment with the Martels at lot 43. Previously that was an odd shaped triangle lot that sat in the middle of this. We reconfigured that lot and we subdivided the existing residence. We came to you in September to try to get some input relative to a couple of waivers we were asking for. The large one being, whether you would approve the waiver on the length of road. I think we are around 1350, 1360. We have since went back and re-worked everything. The overview is that the subject property is lot 45 on tax map 405. As it's configured now it has about 65.4 acres. We have frontage on High Street. When we did the lot line adjustment we left a strip, access easement from the common drive between 608 High Street and the Martel property. We left that in there because although we have frontage on High Street, that frontage has a large wet complex in front of it. The proposal calls for constructing a new road approximately 1350 something feet long; we're creating 9 lots. Out of those 9 lots, 5 of those lots will be less than 5 acres, so they will require State subdivision approval. Four of the lots are over 5 acres. First lot as you come in; is 5.4 acres of which we have 1.5 acres of contiguous upland. Lot four is 6.06 acres which is over 1.5 acres of contiguous upland. Lot 5 is a 16.5 acre parcel again over 1.5 acres of contiguous upland and lot 6 is 18.4 acres. So if you look at those two lots, there at the end of the cul-de-sac and they go back to the South lot. There's a large wetlands complex here. We're not disturbing that in any

way. As part of the application we have the two definite wetland crossings. The first one is right as you come in off the road for the proposed crossing at the road. The second one is a small; we nick this second wet area slightly when we come in with that. What we had proposed was, the Packard's, Mr. Packard owns lot 44, which is a little 150 x 150 foot lot. That fronts High Street and he's 604 High Street. So currently his driveway comes in here, has direct access onto 27. What we were looking to do was to annex additional property to the Packard parcel in exchange we'd relocate his curb cut from 27 onto the new road. That proposal is mainly for cleaning things up you don't have the driveway entrance next to the road entrance. We spoke with Mr. Packard after the September hearing, we sent him a couple of emails with the PDF's but we haven't heard back from him yet so depending on how this works, if we don't hear shortly, we'll eliminate that parcel, that application, and his driveway would stay on 27 and we'll continue forward with our proposal. We had a letter dated November 23<sup>rd</sup> from Stantec. We met with Bryan last Tuesday. We went through most of the items and there's agreement on the majority of them. There are a couple of them we're not seeing the same on but we're close. We weren't going to turn this around in time to get them to review it and sign off on it, we wanted to come forward, meet with you this evening and go through what we're proposing. We're not looking for formal approval tonight; we just want to go through what we have. We already know the Stantec comments; we can take into account any Board comments. We'd ask to be tabled, come back next month and hopefully we'll have our wetlands permit at that time, our AOT permit will be going and possibly our State subdivision approval. In the interim, we have spoken to the Fire Chief so the proposed method of fire protection will be sprinkler. That was one of Stantec's comments but we did speak to him, I guess the chief didn't send in a letter. The only items we're looking for, I don't know if I'd call it clarification or disagreement on, a couple of Stantec comments were what we're showing on the plan if you go to sheet 5 of 14, the topographic sheet that has the test pits and the 4k areas on it. What we're showing are the parcels with the rectangles and the hatches, those are your suitable 4,000 sq foot footprint, leach fields, required by DES for State subdivision approval. Lot 6 4k area, rest underneath, possible driveway that would go out back and we have a comment relative to the septic system underneath the driveway, comments #66, 67, 95 which are more or less the same. It's a 4k area, if we did a stone and pipe system and assume a 4 bedroom house, leach field size 1,000 to 1,200 square feet. If went to an alternative technology system, presby's, tubes or whatever, about a ¼ of that, about 350 sq. ft. 300 sq. ft. That 4k area for an actual septic system is oversized by a factor of 3 to 10. So we can fit that in. We showed the driveways and the houses strictly for regulation and illustrative purposes to give you an idea but what we want to make clear to the board the LSE isn't sure if they are actually going to build this or just develop it for sale. So we have at this point, we don't have a clear cut, we're not guaranteeing that this is where the houses will go. If the houses are built by spec it's by the builder, or someone wants a certain custom build (*not intelligible*) it would affect where on the lot it would go. We're in the pending process for all our permits and there were a lot of comments on the review. We went through them with Bryan and we're going to make another submission after this meeting. I'll open it up and myself or Jen McCourt can answer any questions that the Board may have.

S. James asked you're looking for some initial feedback tonight and then continue it to the beginning of next month. J. Wichert replied yes. We talked about this in September but it was an informational meeting only so you couldn't give us a definitive answer but we are looking for the waiver on the length of the road and then we are also looking for, at the back of the lot, sheet 6 of 14, we stopped our high intensity soil survey around here. We didn't do the back 20 acres. We did that on lots 5 and 6, we did enough to prove compliance, and we have over the 1.5 acres of contiguous buildable and all those other things. We didn't have the soil scientists go any further back. Those are the two waivers we'd be looking for. The length of the road is actually 1,361 lineal feet. I think when we were here in September; our initial proposal was a pond. The dry summer proved that the pond isn't viable so we spoke to Chief Young and we went ahead and we're specifying sprinklers be in all the houses.

S. James commented I think that's a good overview. As a Board and to Stantec, the first thing is to accept the plans as complete, I assume they are. R. LaBranche said he would recommend that, yes. S. James asked does anyone want to make a motion to accept the plans as complete.

K. Kustra questioned how close do entrances to driveways have to be if they are next to each other? The reason I ask is because over here shows off of 27, then there is a 3<sup>rd</sup> road off to the left of that, it looks close. J. Wichert replied if we were going for a DOT permit to put driveways there, they wouldn't allow it that close. What we're constrained on and why it's different and I'm not sure if there is an actual regulation for it, is this parcel wasn't part of our trac and we can't force someone to do something they don't want to do. Fortunately if you look at the property, the wetlands to the East, that's where the wetlands are the narrowest. The Wetlands Bureau, Fish and Game, EPA, they don't want anything into here so we have dueling issues going on. We have to cross up here because that's the least environmental impact. If we work with Mr. Packard and come to terms I think that's the perfect solution. Then there's only one curb cut on 27, his driveway will come off of the new road but we can't force him to do it. We have made the offer. In September when we spoke with him after the meeting he asked us to send him a set of plans, he had a brother or brother-in-law who was an engineer who wanted to review them, we've done it. I've emailed him the plans twice and tried to follow up one other time.

R. LaBranche asked what is the distance from the driveway to the proposed road. J. Wichert responded 40 or 50 feet. R. LaBranche asked if they've talked to DOT about that. J. Wichert replied Jen's trying to set up a meeting with them but we haven't gotten quite there yet. That was one of the items because Bryan had a concern over drainage right here; we're trying to arrange that to meet with them.

#### MOTION:

S. James asked for motion to accept the application as complete. M. Santa **motioned** to accept the application as complete. S. Komisarek **seconded**. **All were in favor (7-0-0) Motion passed.**

S. James said okay we've accepted as complete. Let's go over the waivers. Have you submitted those in writing? J. Wichert replied yes. S. James said ok we do have those. Let's have Rene go through the remaining questions, discussion for the Board and open it up to the public.

R. LaBranche replied Joe hit on everything. We did a preliminary letter then we did a follow up letter on the latest set of plans which I think are in front of everybody. There are a number of comments, some just administrative cleanup items, others more significant. Bryan, our review engineer, met with Joe and their team in our office and pretty much whittled things down to about a dozen outstanding items. I don't really know where you're going with a couple of them. We were concerned with some storm water issues. Some of the numbers need to be re-run to see what the effects are because they were retaining water below the outlet pipe in that wetland which we don't really think that's an appropriate way of doing that. So we were concerned about that so I guess they're going to re-run the numbers on that. We asked about the condition of the culvert on High Street and we're going to have a meeting with DOT to discuss that. I understand that one is deteriorated; there are two culverts there actually. One is pitching backwards or something like that.

J. McCourt stated it's the same one that's pitching backwards that's deteriorated. R. LaBranche replied ok. They need to talk to DOT about that. Where Jen comes up with her numbers, whether or not there is an increase off the site or how they do all of that, will be significant relative to utilizing that culvert. So that's something they need to work out at this point. Other than that, most of the issues have been resolved or at least there is agreement to resolve them.

S. James asked there's a note on here about a box culvert? Can you point to where that is and what size is that?

J. McCourt introduced herself, good evening, Jennifer McCourt with McCourt Engineering and Associates. The 4 foot wide and foot and a half high box culvert and the reason for it is for wildlife transfer and the flowage of the water. But more for the wildlife because we will be putting in a natural bottom, rounded stone so wildlife can traverse underneath it. It's there at the entrance. R. LaBranche asked so is it more for equalization of the water on both sides of the road rather than transfer? J. McCourt replied no, there's quite a watershed coming down through there but we were trying to minimize the wetland impacts and we're coming right of the road to make a smooth transition off of there. We didn't get into putting a big fill in there and doing a larger culvert, we did a wider culvert to transfer the water through and to

provide a wildlife corridor. S. James asked approximately how long is it. J. McCourt replied 48 feet. S. James asked if it was just a straight box section; will there be light wells in it? J. McCourt responded it will be in sections. S. James commented well if it's a dark tunnel they won't use it.

J. Lindsey commented there was the issue of the Blanding's turtles and other endangered species. Have you heard or got approval from the NH Wildlife Heritage program. J. Wichert replied the wetland scientist has done the initial NHI inventory checks. It came back positive for turtles, bats and snakes. But when they do that check, it's not necessarily just on the subject property; it's a radius of whatever mile around it. We've had pre-application meetings with the Wetlands Bureau and Fish and Game. Fish and Game is asking, there's a possibility we may end up putting a buffer back here. There are wetlands to the rear, I forget the name of that brook. J. Lindsay and M. Santa said Moose Meadows. J. Wichert replied yes, thank you. We may end up having to do that in order to get the permit. But we're waiting to hear back. I think Fish and Game is okay with the buffer and we're waiting for either EPA input or sign off, I'm not sure which it is.

J. McCourt commented Fish and Game were the ones that asked for the box culvert being rounded stone underneath.

S. James said on sheet 2, there's a note on the back lot...the third sheet. J. Wichert replied it's a note no one likes. I'll go over it. When we did the first one, when you look at your tax maps, the tax map shows 2 parcels of land that the Town owns. And on the depiction on the tax map, there actually drawn on our lot and I think its lot 43 to the east. So we did the Deed research for what the Town took for taxes, the taxes are two lots east of us so it's not on our property. Bryan and I are sticking on this one because the note that we left on there just intended to say we were aware of what the tax map said and it's incorrect. I look at the last sentence and it says *south of the rangeway shown on this plan and are therefore, not a part of this subject parcel*. I left it on because when I looked at your tax map, it still shows. So I didn't want to look down the line and say we weren't aware of it. We're aware of it, it just doesn't come out of our deed ... (*unintelligible*). And the tax collector of the deed isn't against our client. It's not in his chain of Title. But we'll come up with some wording that's clearer.

S. James said the box you have there, the text above it is fine but the signature box, usually we have five lines there for the Board to sign, a housekeeping thing. Are there any abutters to the project? Can we get your name and address for the record. Claudette Bessette 586 High Street. Scott Blevens and Tracy Blevens 39 Donovan Road. Carol West 650 High Street. Mr. Packard 614 High Street. Rene Bessette.

C. Bessette asked if she could get a map out of what actually happened, we weren't here for the previous meeting and we purchased the property in the interim so I'd like to get a map if possible so I can take a look at it. I pulled up the minutes from the previous meeting. S. James said it looks like we're continuing this to another meeting anyway.

S. James said we have two waivers. Letter dated July 5<sup>th</sup>, 2016 from Joseph Wichert asking for the two waivers mentioned before; high intensity soil survey on the back portion of the lot and also the 1361 linear feet for the cul-de-sac, which is longer than the 1,000. We do allow longer than 1,000 with Planning Board approval. J. Wichert added we did check with your Fire Chief on life safety issues on the length and he wasn't opposed. S. James continued the citation for the cul-de-sac is 14:11. Soil survey is 10:06F per J. Wichert.

#### MOTION:

S. James asked does anyone want to make a motion to approve (*in reference to the 2 waivers*). S. Komisarek **motioned** to approve. T. Giffen **seconded**. **All were in favor (7-0-0) Motion passed.**

S. James asked Jennifer McCourt, the item related to the storm water...do you want to wait on that until you've gone through some of the comments or do you want to talk about it tonight?

J. McCourt said it's for the 100 year design storm. When your regulations were created it was under the soil survey NTRS 100 year storm event, which basically equals the 50 year storm event with the extreme rainfall numbers that we have to use for AOT. What I did for the calculation, I used AOT's requirements for

the storm water requirements and a 50 year storm is actually a little bit bigger than your 100 year storm. But your regulations are kind of vague when it says design for the 100 year storm. To meet AOT's regulations, I can't design the retention ponds and stormwater treatment ponds for the 100 year storm, because they deal with a 2 year flush to make it work and to design those for a 100 year storm, you'd create these incredible areas that wouldn't be economically feasible. And it really wouldn't gain you anything, it would actually disturb more of the environment than it would actually treat the water or do what you're looking for it to do. So basically, I do have this designed for the extreme rainfall 50 year event, which is a little bit more than your 100 year storm would be. S. James asked I'm not clear why you would need a waiver then. You're saying the DES 50 year is more than we're requiring so...R. LaBranche commented when she submits the report, it's going to say a 50 year storm, not a 100 year storm and your regulations clearly say 100. However, I will tell you that we agree with her proposal so we recommend that you approve the waiver. A 50 year storm is say 5.5 inches in a 24 hour period, 100 year might be 5.4 inches let's say, but the document that we get, her stormwater report is going to say she designed the system for a 50 year storm, not a 100 year storm.

S. James replied I get that but can't you just say in a cover letter and explain that? R. LaBranche suggested you could do a narrative of what you just said, that would probably be adequate as far as we're concerned. J. McCourt replied I was requested to submit the waiver so I did. S. James replied ok, so Bryan talked to you about the waiver. J. McCourt suggested I can add a sentence or two to the stormwater management report and not have to ask for a waiver. I did what I was asked to do. R. LaBranche commented and actually your regulations need to be updated so they are consistent with the present regulations that are out there, consistent with AOT. I think there is some old regulation that's hanging around that we wanted to make sure you were aware of when we wrote the letter. S. James replied understood. The Board agreed they would be fine with her just adding that. S. James continued we appreciate you submitting the waiver but I think we'd be all set with that.

J. Wichert said we had a question on the pre and post drainage study area. J. McCourt continued number 93 on the Stantec letter. On the drainage area plan, Bryan wanted down by the cul-de-sac, a pre and post development study on this area here because we're not developing that area but he said in your regulations it says to show that there's no increase offsite for the development but I'm not doing any developing there so I didn't do it. Basically, it's doing extra work to show the pre and post are the same because there's no difference between the two. R. LaBranche said I agree with Jennifer. That's just an engineering issue we can resolve.

R. Bessette asked when you guys survey, do you put boundary lines? J. Wichert replied we do on the new lot corners we don't necessarily set the existing ones and I don't think there's anything out your way because it's in the middle of that swamp. I can tell you where they are on paper.

S. James said we'd like to continue at our first meeting in January. Meetings are January 4<sup>th</sup> or the 18<sup>th</sup>.

J. Wichert said we'll take January 4<sup>th</sup>. S. James continued with that we'll continue the hearing to January 4<sup>th</sup>, 2017. As far as the abutters, we're not going to re-notice so you won't receive any notification but that's when the next meeting for this project will be.

### Quick Other Business

#### **Candia First Stoppe Surety Bond - Previous Earth Excavation Case 16-012**

Present: Joe Sobol and Craig St. Peter from Candia First Stoppe

S. James said we have a quick other business. We have a request for the Candia First Stoppe project. The projects been approved, met all the conditions with the exception of the last one, which was submitting the surety for the project. Stantec had submitted an estimate, which we provided. The applicants provided another estimate \$120,000 vs. \$42,050. We had Stantec do the surety. Let's start with Rene if you could just explain what the surety is, what it's supposed to cover and then we can talk about the request.

R. LaBranche explained basically the type of surety we're talking here is reclaiming the site. So if the owner decided to move forward with the project, got in there and then, let's just say some financial disaster happened and they disappeared and the site's all ripped up and you have to basically restore the site so that it grows grass basically and there isn't a scar on the face of Candia. We talk about putting in silt fence and again, there may not be silt fence out there when this occurs so you want to put silt fence in. Restore the site, spread loam, seed and then address any kind of safety issues that might occur too. In this case, because they have those ledge cuts, ledge faces, the thought process here was to put in permanent fencing that would provide safety on the site so that was included. One could argue that the stone entrance would probably be in place so you could take that off. That's the thought process behind what we do when we do this estimate. Did you have this estimate, you provided it?

J. Sobol said Tom Severino provided his estimate to us.

R. LaBranche said taking a quick look at this there are 3 items he's included in his estimate. One item is to re-grade the site at \$20,000. That's a good item; we use that number a lot. I don't really debate that. I'm going to skip to the other one I agree to also, hydro seeding at \$7,200 bucks is probably a good number. Spreading 6 inches of loam on the site at \$4.50 a cubic yard that would be a challenge because a lot of people think of this as a big pile of loam on site and you just have to pick it up and move it around the site and spread it and that's not the intent here. Although a lot of times there may be a big pile of loam that's pushed into somewhere on the site but sometimes when things go south on a project, they start selling off these commodities from the site and the assumption that we make is that there is nothing on the site, the loam is gone. So we assume that the loam has to be trucked in or imported from another site and to do that the cost would be more than \$4.50 a cubic yard so we would typically go with something like \$12 to \$15 a yard. And that's unscreened loam. Screened loams about \$25 yard delivered to your house. It's less than that but \$4.50 seems cheap and if Tom wants to describe where he's getting this \$4.50 per cubic yard loam.

T. Severino said on site. R. LaBranche continued I agree if it were on site, that would be fine but that not's what we assume. You assume worst case scenario, everything has been removed, sold that commodity and it has to be trucked in. What would your trucked in number be? T. Severino replied \$10 a yard, what you said; raw loam. R. LaBranche continued not screened loam, you're not trying to make it a pretty yard to mow, and you're just trying to put organic top soil down. The other debate would be whether or not you need to deal with safety issues out there. Unlike a regular site that might be flat or sloped you're just trying to stabilize, this one will have those big cuts. If a lot of blasting took place there'll be ledge faces and consistent with the RSA relative to ledge faces, temporary or safety fencing is required. So that's why they include that on their plan. So the intent in our estimate is to put the fencing in as part of this restoration of the site. That's the rationale and how we come up with that number.

T. Giffen asked what kind of number is associated with permanent fencing. R. LaBranche said one could argue that. He used \$25 dollars a lineal foot. If it was me and I was these gentlemen, you could get a price out of penny fence for maybe \$12 bucks a foot, I don't know. We kind of use means and they kind of go conservative.

T. Severino replied just about the fencing, I understand Rene and I understand Bryan's concern but in this case, if they were to walk away from that site, there's 10 feet of overburden on top of that ledge. If they walked away, they are increasing the distance from the existing edge of pavement to the back of the site so it would actually be more room to flatten that slope. If they were to build their permanent site, it creates a steeper slope but in this case if they just walked away from the site there's more room to make a flatter slope, just cave in all the existing fill and bring in the 2:1 or 3:1 all around the perimeter of the site so in the re-grading, we just figured just ripping everything apart, flattening it out and placing the loam on it. I don't think a fence would be needed. L. LaBranche said your describing the ledge faces are already cut and there's enough fill on site. T. Severino said there is. There's 10 feet of overburden and again they own the land, if someone left, you wouldn't want the fence because you're surrounding something that didn't get build. R. LaBranche interjected it would be better to flatten. T. Severino said we take overburden off the top and make a nicer, flatter slope all around the site. We looked at what it would take to clean it up I think a note on

the plan loam to restore the site shall remain on the site. We are going to put the loam in one corner on their site. Loam isn't going to leave the site. J. Sobol asked I don't think it's that valuable.

S. James commented we're always looking at worst cases, not to disparage anyone here, you could take all the loam off site just clean the site off and take it off. T. Severino said as a compromise, if you deleted the fence and you double the cost of my loam from \$4.50, we'll call it \$10, we still wouldn't be...R. LaBranche said I think that would be adequate.

C. St. Peter commented so the estimate here is about \$121,000, which the purpose of an engineer's estimate is to try and simulate what the real cost would be. The real cost is a contractor right here in Town, one of the best contractors in the State, he's come up with his real cost. I'm an engineer also so I know where Rene's coming from but I would always defer to a contractor's real cost and his real cost had also that the re-use of the loam, leaving a note on the plan is fine with us, we're good with that. But just to get a bearing, the magnitude of disturbance is about 3 to 4 acres and when we built the store, it was actually 3 to 4 acres and the Stantec estimate or the restoration bond when we built it was \$11,000. So I know inflation has gone up but \$11,000 to \$120,000, that's a lot. S. James replied \$11,000? That seems like a mistake. Bargain. C. St. Peter replied I think somewhere in between is really the contractor's estimate, that's basically \$42,000 and the materials on the site. It's not going away. If we need the material.

S. James said I think like Tom said, if you go to \$10 bucks a yard, that gets you somewhere around \$57,000 but the other item you had in there too was the silt fence, erosion control. R. LaBranche replied the other thing you really should have is silt fence because if things go south on the job, ultimately you have to spread loam and the loam goes down and it's not stabilized and there are some steep areas on the site. You want to put silt fence up. Silt fence should be included. I think Tom's grading scenario he talked about is reasonable. We didn't think that way, just kind of going in and putting the fence up to protect those drop offs, the public from those drop offs. I think the \$10 a cubic yard to truck it in would be reasonable. I just say that because I've seen the loam trucked off sites before, it's unfortunate but it does happen. I'm not saying Severino would do it.

S. James said so if we went to the \$10 bucks a yard and you add the silt fence in, we're at around \$60-65,000 something like that, is that more reasonable, that's half. It's not \$11,000. J. Sobol agreed I think we're fine with that Sean. S. James reiterated to reduce it down to \$65,000. J. Sobol said I guess so. C. St. Peter said let's agree to that.

**16-015 Major Site Plan Application:** Applicant: Candia South Branch Brook Holdings, LLC, PO Box 410, Candia, NH 03034; Owner: same; Property location; Raymond Road, Candia, NH 03034; Map 409 Lot 104; Intent: To create a 4-acre gravel lot for car auction site.

No abutters present.

Present: Applicant Ron Severino with Candia South Branch Brook Holdings, LLC; Tom Severino; Tom Smith, Property Manager of CoPart.

R. Severino introduced himself. I'm Ron Severino. My brother Tom and I own the property. The plans right there. This is a 170 acre parcel on Route 27, which is adjacent to the CoPart property. They approached us about expanding the parking area. We were into the ZBA a couple of months ago to obtain the variance because there are vehicles that are wrecked, we had to have a junkyard permit for that. We got that part done and we're proposing an area that's a 5 acre but take away the slopes and it will yield a 4 acre gravel pad. It's to park cars on for the auction site. We submitted the plans. We surveyed out the front part of the parcel and we do have a couple of waiver requests because this parcel is so large, it was unreasonable to go way out back. We submitted everything to Stantec a few weeks ago. We had received comments back from Bryan and we had our rebuttal and we pretty much got things ironed out. Bryan couldn't be here tonight but Rene is here. There is not much to comment on. There's no access from Route 27, they would just be coming over from the other lot. There is an existing roadway going back to the parcel that we have a

gate on. That gate will stay there but it won't be used for the projects, no access to 27. It's not a paved area. We're requesting a waiver because the regs it does require the area be paved but because it's not a public parking area, there's no need to be paved. It would make the drainage issues a lot better. M. Santa asked for more clarification on the plan. R. Severino explained that this is the existing, they are using this as a big parking lot and they want to be able to come over and add this area.

J. Lindsey asked what is there now. R. Severino replied woods, well before I cut the trees. M. Santa asked are they buying this from you. R. Severino responded the property is still owned by the previous owner. CoPart has a lease on this property and we'll also be doing a lease on this property so there is no subdivision involved in this process. Ground lease.

R. Severino asked I don't know if you want to go through the comments. S. James said first I want to get an overview but we need accept it first. R. LaBranche said no issues.

MOTION:

S. James said anyone want to make a motion to accept the application. J. Lindsey **motioned** to accept the application. K. Kustra **seconded. All were in favor. Motion passed. (7-0-0).**

R. Severino continued the first couple of comments back from Bryan, one was the mention of the survey and Topo. I do have the waiver request for that. The other is paving. It did state on the plan the intended use, it's pretty clear what we're doing with it. Pretty much all the other items have to do with drainage and runoff which most of these have been addressed. We have heard back from AOT on our permit, they've started reviewing it and we have two comments back from them. Rather than go through the comments does anyone have any questions?

R. LaBranche offered to hit the highlights. We have no issue with the first waiver on the lot size. But relative to paving, we reviewed the large auction site in Hooksett. It's a huge site, Ritchie Brothers, they require paving also and they didn't want to pave it either. It's very costly and it's not worth it cars are just sitting there. The concern though, is with cars and equipment, there is gasoline and if it drips on pavement, you can catch it and put it into some type of treatment system. What the compromise over there was, there was something on the plan, a procedure in place, where whoever does the auctions checks out these vehicles to make sure there is no active leak on any of them. The last thing you want is gasoline or oils accumulating in this gravel. I would recommend the same thing here. Put a note that there is some standard operating procedure to deal with that as part of a waiver for no pavement.

R. Severino responded I hate to mention this word, junkyard, the regulations made us get that permit but it's not, what was out there before was a junkyard, recycling of automobiles, that's all been cleaned up and that's done anymore, these are just vehicles and we have a representative here from CoPart. R. LaBranche commented I wasn't meaning to imply that it was a junkyard. R. Severino said no you mentioned leaks.

T. Severino replied CoPart does have a procedure for spill prevention when a car comes in and what they do and what they keep on site. We put that whole procedure in the AOT drainage submittal, we requested that from them so they have provided that, we do have that available. Instead of part of the AOT submission, we can make it part of this waiver, however you want to do it, but they do have a very strict policy. They did provide it to us. R. LaBranche said it's best to just put a couple of notes on the plan. Then when the building inspector's looking around, rather than have him pull out the AOT permit, he can just pull this plan out. T. Severino agreed. R. Severino reiterated so make a note on the plan for that.

R. LaBranche continued so the other big ticket question, there's two; one was a request you get approval and you start construction prior to getting your AOT. R. Severino replied no, that's gone. R. LaBranche said because there is a process you can go through with AOT. R. Severino replied time was of the essence. I think we're close enough to the permit; we're not worried about that. We'll take it off the plan.

R. LaBranche said so lastly, the drainage design and to be honest with you, when Bryan showed it to me I said what the hell. This seems very unusual. Typically you have a drainage system and you're trying to

detain water and you put it in a detention pond or something like that. And you changed to AASHTO #3, which is great, my preferred stone.

T. Severino stated it always was AASHTO #3 but Patrick had put the wrong item, so I can understand when Bryan had a concern when he thought it was 304.5, so that was a mistake because 304.5 wouldn't have worked. We have checked the void ratio, we check it quite often and it is 42.5%.

R. LaBranche confirmed that it's the right product for getting water from the surface to where you want it to go. The concern that I have, and I think it will work, the problem is with the entire site sloping like this, the design, you're drainage design makes one assumption, that you're going to infiltrate water into the ground so it doesn't have to go anywhere else, right. Well the soil below your gravel layers is a Type C soil which has a lot of fines so the permeability of that soil low, very low. So what's going to happen, we believe, it wasn't just me, maybe I'm just not getting this so I'm going to talk to Jerry Fortin who is a highway, hydrologist guy. All he does is stormwater and highways. I said what you think. Jerry said this is crazy, I don't think this is going to work, go talk to this guy. So I talked to a professional geologist in the office and asked him. And then I asked the hydro-geologist and asked him and got his input. We all kind of agree, the concern we have is this, it's just a simpler way to do this than the way you're doing it but the water is going to go into this stone layer, it's very permeable. So the water is going to run in and it's going to run laterally in addition to dropping through so in a 24 hour period, you're going to get 5.5 inches of rain, we already talked about that. It goes in here and the concept is that it's going to go into the ground. But you know as well as I do that water seeks a low elevation plus it goes to the path of least resistance. The path of least resistance in this is this 40% void space that they're talking about so it's going to go this way rather than this way. So you might get 10% going down but the other 90% is going down the hill. R. Severino commented I don't know if it's 90/10. R. LaBranche continued well someone could do calculations to demonstrate exactly what's going to happen. What happens is you get more and more water and it starts coming out of the gravel as it comes down the hill. I don't know why you don't put a couple of ditches down the side and run it down to a pond or something at the bottom of the hill.

R. Severino responded well first of all, we're not putting this on top of existing soil. We're going to have gravel and layers in there. R. LaBranche said keep in mind you're going to have 4 inches permeable per the plan and 8 inches, I believe of 304.2 probably. T. Severino said and then two feet of (*unintelligible*) granular embankment so it won't be on top of the Type C, which is what you explained to everybody. Everyone that you asked a question, you explained it as being on Type C, which I would agree with you, if we benched this in and put this in on top, I would agree with you that there would be a problem there, but because we're stripping the whole site, elevating this site above existing ground, there's a minimum of two feet of granular embankment underneath everything. R. LaBranche interjected 304.1. T. Severino continued it's going to be like *get four (unintelligible)* pavement you could say. R. LaBranche said that is true.

S. James asked where is that shown on the plans. T. Severino said you'd have to see the elevation, the contours. R. LaBranche said it doesn't really talk about what the fill is going to be. R. Severino said there is an existing elevation and a new elevation and the difference between those two it needs a lot of fill. We want to put something in there that's granular, there's a lot of loam in there. If we were to strip the loam and then put a foot of gravel on this stuff, it would be gone. We need to put more material to get this elevated so we don't have any problems with water.

S. James said I had the same questions it has 4" of crushed, 8" of bank run and compacted sub-grade. T. Severino said and the sub-grade is imported sub-grade material. R. LaBranche replied our assumption was that it was on site. T. Severino said it's not, in fact there are no cuts on this site. If you look at these contours, every contour is above existing grade all the way through, there are zero cuts on the site, it's all fill. If you look at infiltration rates, you can't even use sand, we have to blend sand with stone dust to slow the water down on infiltration rate because then you're getting zero ...(*unintelligible*) if the water goes through the sand too quickly. CoPart has 155+ sites throughout, they brought this to us. We just did 12 acres on their parcel next door this summer. Covered that entire site with 8" of gravel and 4" of stone, those ponds, maybe Dave's been in there, those ponds haven't seen water since that point. I've been in and out of there when it's absolutely down pouring and this stuff really works. I get Rene's concern, absolutely, it's something you

wouldn't normally see but it's absolutely a fantastic method to capture stormwater, slow it down and use infiltration rather than building ponds. Ponds disturb more trees, more earth, more room. This is truly an infiltration system.

S. James said I had the same comment as Rene. What you're describing is not necessarily what's shown on the plans. T. Severino replied unless you looked at the contours correctly. R. LaBranche said there's nothing in your regulations that dictates he has to use 304... (*unintelligible*). R. Severino said we could specify what our embankment fill is going to be.

R. LaBranche said I still have another concern that I'm sure Tom and Ron could come up with an effective solution, porous pavement. One of the issues we have with porous pavement, it's supported by a lot of environmental people and UNH is the hub of porous pavement right, but the concern we have is you have your porous pavement, you put your system in, usually there's 3 feet of stone below it, so it's very porous, it goes through the pavement into that stone. But what happens when you have an ice storm. The porous pavement surface is blinded and then it changes over to rain, how does that water get into that storage area, that infiltration part. What we're seeing now is a secondary system that at least transports that water so that you won't have an erosion issue if that water is not actually going through the stone surface. ON your project, the water comes down and goes into natural ditches that would be created. Fill in, existing slope, you have a naturalized ditch, my concern there was if the water does come up, it will get some velocity and could cause some significant erosion there. Do something to stabilize it. T. Severino commented the back slopes, all of the side slopes are all going to be stone. No loam on any of the side slopes, that's a request from CoPart. R. Labranche reiterated so you're going to go stone down here and return it up a little bit and go thicker than 4". T. Severino said yes. CoPart prefers stone from an erosion standpoint and maintenance standpoint. So those side slopes that will all be armored right back down to the existing ground. R. LaBranche said it wouldn't hurt Tom to periodically every 50-100 feet put a, use the same stone as your check damn and create a one foot check damn and keep slowing that water down while it's going down the hill. T. Severino said we can check damn it. And if you like, we can show on the slope section to thicken that stone as it reaches the bottom which will give us more volume at the bottom.

R. LaBranche stated with your sand storage area and your stone ditches I think you've pulled all your drainage in to so we are comfortable with it. S. James asked does that show side slope stone on the plan. T. Severino replied no I forgot to tell Patrick that CoPart preferred stone, it doesn't show. R. LaBranche commented I just don't like it when someone builds something, I know you guys wouldn't, but they build it the way the plan shows and then 6 months down the road we get a rain storm and I get a call from you or Dennis and say hey come take a look at this, I don't like those calls. R. Severino said we own everything around it so we're concerned about it, there are no property lines for thousands of feet. We'll be there if something was to go wrong, we're always watching this stuff anyway. I think a lot of the housekeeping stuff was put on the plan. R. LaBranche said those were the big ticket items that we felt needed to be addressed to get this in a condition we were comfortable with.

S. James reiterated so if the typical section cleaned up and showed what we talked about tonight. R. LaBranche said you should tweak the AOT permit note to show it's consistent. T. Severino said we already emailed Patrick. It's on this one but we won't do any work until we receive an AOT permit. R. Severino said we can take that off. S. James said I just had a comment on C-501 there's a Sequence of Major Activities, number 9 says Finish paving all roadways and parking lots. You should take that one off since you're not paving. I think you said it but I don't see it, you build your new pad, they have their pad, how do you get between the two. It doesn't show any connection between them. R. Severino said they are going to be doing work on their site too. This bottom section here, where the culvert is, there's a 24 inch HDPE, goes from here out to the pond. I'm on sheet 601. R. LaBranche said so go across there. You probably ought to show it as a driveway if you're going to use it as a primary driveway between facilities. S. James asked it's not wet there right? R. Severino replied no, what they are showing wet here is a stone line swale that was put in. That's kind of in contention right now. T. Severino said that's why we didn't make the connection yet because when he flagged all the wetlands he also flagged a ditch, and I'm like I just stoned that this summer, why are you flagging that. He goes oh well there's a wetland there. That ditch has been there for I don't

know how long, but I just stoned it. R. Severino said but that ditch was created. T. Severino continued so then if I had made the connection to the property, A. it's not our property, so that's one problem. So we said so if we need to do a separate plan, CoPart will do a plan for their 1 acre on their parcel but they couldn't do anything because I'm trying to work out that wetland issue with the soil scientist who signed the plan. So until we work that out, we're trying to get ours permitted, we can start on that, get that moving and then work out the 1 acre, even if we have to come in with a small plan to connect that 1 acre. R. LaBranche asked do you think as your updating your plans you'll have that issue worked out. T. Severino said it's possible, yeah, one thing led to another and we never got to that issue. Ultimately we'd want to pipe in that swale and make a complete connection right there but we never expected him to flag that stone swale. To go to a wetlands permit, would have been a whole another delay to this whole concept and we may still have to do that, but if we do, at least we could be getting 4 acres of the 5 acres built. It was the bigger part of getting something done for CoPart where their desperate for space and if we have to wait 90 days for a wetlands permit, so be it, but now it's just waiting for a ½ an acre to build some other day. It's not our property so CoPart would have to put that application in once we get all that resolved.

MOTION:

S. James said so we have two waivers. Waiver dated today requesting a waiver from section 8.03A of the Candia Site Plan Regulations and that's regarding having a paved parking area. *This is an expansion of an existing site which is not paved. There is no public parking on this site.*

M. Santa **motioned** to approve. J. Lindsey **seconded**. **All were in favor. (7-0-0) Motion passed.**

S. James said and then a waiver from 403D to 403F of the Candia Site Plan Regulations because of the size of the lot, there only within 5 acres of a 170 acre lot as far as doing the Topo on the whole back portion. R. Severino said we did survey the front ten, so we have all the abutters out front, that's all been done; Topo was done. M. Santa **motioned** to approve. J. Lindsey **seconded**. **All were in favor. (7-0-0) Motion passed.**

S. James asked you wanted to get this rolling quickly. R. Severino said well we hope we were close enough for conditional approval. I know we need the AOT permit, we just had these few comments that we need to add to the plan so that's what we'd like to see. S. James asked what does the Board think, conditional approval. T. Giffen replied I'm fine with it. I know what the intent is. I know the responsible parties, I don't have an issue with it. A lot of this seems to be modifying the plan to reflect the conditions to which it will be built rather than reflecting conditions as described right now, that's the biggest hurdle. Would you agree Rene? R. LaBranche agreed. T. Giffen continued said that's pretty cut and dried. Fairly simple situation with minimal change, I don't think we have an issue that would hold these guys up in my opinion.

S. James said so Stantec had comments on November 23<sup>rd</sup>, most of which have been addressed other than the ones we talked about tonight so let's call it resolution of outstanding issues from the November 23<sup>rd</sup> Stantec letter. The other one was to submit a copy, I know there'll be a note, but submit a copy of CoPart's spill prevention plan. R. Severino mentioned the detail on the soils. T. Severino said change detail on the slopes and the fill material.

MOTION:

S. James said so add the items commented on tonight which were the side slopes and fills. Motion would be conditional approval with the three conditions.

M. Santa **motioned** to approve conditional approval based on those three comments. T. Giffen **seconded**. S. James said conditions within 60 days. **All were favor. (7-0-0). Motion passed.** *Letter within five days.*

**Informational Only:** Applicant: Candia South Branch Brook Holdings, LLC, PO Box 410, Candia, NH 03034; Owner: same; Property Location: 240 Critchett Road; Map 407 Lot 015; Intent: To create a Lot Line Adjustment.

Present: Ron Severino was present.

R. Severino said Jim's (*Jim Franklin*) done a plan for me. Where I live up on Thresher Road, there's a parcel on Critchett Road that I purchased which was supposedly 6.5 acres. And the back side abuts me. I wanted to buy a couple of acres of that back. So I bought the house and there's a stone wall behind the house, which would make the house 3.5 acres and then I would do a lot line adjustment for the other two. In doing the survey, there are more acres there than we thought. Which usually it goes the other way for me so I'm happy about that. So there are two issues; if I want to keep the stone wall and keep this parcel I'm taking off at 3.5 acres, I'm going to be moving 5 over. This is across the street from my house, so it's an existing 6 acre parcel and I would be making it 11 acres. There would be no frontage created on this other lot, we won't be creating another lot, we'd be taking the property line out. So under the boundary line adjustment deal its like 3 acres and after that it's a subdivision. So if we go to the subdivision, now the other part of this equation is the house, there's a new rule now, obviously if you had a 5 acre lot back then you'd need State approval, subdivision approval. Now we're going to make it less than 5 acres. We dug some test pits, there's a house here and a septic system and we have the approval for operation from 1979, which is better than a subdivision approval because this is actually a designed system in there. Jim was asking me, if this has to be a subdivision, I'd have to ask for about 15 waivers because everything is already there or should I just, I'm not even sure if this is something people do, ask for a waiver for the 5 acres because the boundary line adjustment, where I'm not creating any frontage, then I could ask for one waiver and do a boundary line adjustment. No hurry but we just want to get a feel for what I should have them do at this point.

K. Kustra asked are you going from 5 to 8 acres. R. Severino replied no, well I have a 6 acre lot across the street from my house, where my barns are. That will go from 6 to 8 now, it will go from 6 to 11. I was hoping he would be here with the map. The other reason I want that land back, is my land, not much of my land has been subdivided off since the original grant. In 1802, they sold a sliver of land off to the abutters and that's where my stone wall came from and little by little I'm trying to get it back to the way it was in 1750. So that's why I'm trying to move my line over, to put it back to the original lot. Right now my barn is 25 feet off that side line so it just gives me a little bit of buffer. There's a stone wall there that would fit nicely for the boundary and I'd like to use it.

S. James said I think we've done this before. T. Giffen commented very recently, didn't we talk about this with the Langford Road folks within the last few months? It was all back land that didn't affect anyone but it gave them a better shaped, larger, more useful lot for their own residence. This sounds similar in intent. I think one waiver would be appropriate. Do a waiver to make it a lot line rather than a subdivision. S. James replied the intent is obviously is to not have people go in and do lot line adjustments instead of subdivisions but this is different. R. Severino responded we're not creating a lot and there's no frontage to it. If there wasn't a house on the front piece, I would agree that we would need to go; that 3 acre lot would need to have the work done to be a State subdivision approval but that was done back around 1980.

S. James said without seeing the plan based on what you're saying I'm with Tom. R. Severino responded and that's fine. If you see a problem when we bring it in this isn't earth shattering. I don't want to bring it in and say why didn't you go this way instead of this way because I know the waiver thing gets out of hand sometimes and I'm trying to keep it simple. S. James commented yes it sounds like it, informal but sounds like it would be no objections to that. R. Severino replied we'll draw it up and bring it in and if there's a concern, we'll deal with it. That was it.

#### Other Business:

K. Kustra asked about the qualifications for the engineers from the last meeting. S. James said we talked about minimum qualifications for other engineers. I did have that to do and I didn't do it.

#### SNHPC, Budget, Warrant Article and Transportation Committee:

S. James said Jack Munn is semi-retiring from the Southern NH Planning Commission January 31<sup>st</sup>, 2017. We had submitted a NH Housing Grant.

S. Komisarek replied they had a problem with the use of funds. Our progression was what's the first thing you do before you get to an ordinance and NH Housing and Finance wants to see the money for

assessing, writing ordinances and the public outreach. That's specific for that grant, so Jack's going to have to tweak that request. When he wrote it, it was a lot of engineering type stuff; looking at the soils and water etc. He will have to resubmit that.

S. James commented the intent will be the same just less technical. S. Komisarek said we'll have to find money to do the other stuff. We have the Plan of NH grant that's \$10,000 grant, so we'll look at that. We'll talk at the 14<sup>th</sup> the Planning Board was unanimous in backing our request for \$10,000. The Select Board was unanimous but then the Budget Committee decided to take it out. I'll be there on the 14<sup>th</sup> and we'll try to get that back. If not, I've talked with Carleton and he'll bring it up at the deliberative session. Try to get that \$10,000 back in the budget so there is money to do some planning.

S. James asked S. Komisarek to clarify the warrant article information from the last meeting.

S. Komisarek explained that we'll have a \$15,000 warrant article for engineering for this bypass concept in the Transportation; sub-committee to the Master Plan. That's a priority, if we get on the State list, it's a \$6 million dollar project that all we have to do is put up \$15k and it would be Federal and State funds. We had a meeting and we're concerned that if we go to the voters with \$15k and \$10k simultaneously, it might not work out. So we'll we won't have a warrant article for the \$10k but push for the \$15k and go and lobby the budget committee. I'm confident we'll get the \$10k. Basically I went, all the Select Board left, everyone seemed fine with it but then there was confusion, the Budget Committee thought it was tied in with Exit 3 and if the Town doesn't sell the Exit 3 land, why would need to do anything. If we go back and say the Planning Board and Select Board were unanimous, we really need to invest in planning because we need to increase revenue in the next 10 year because our costs will go up. Dean Young was in to talk about the ambulance, AMR is going to go away. The roads etc. etc. This is an investment to generate revenue. Confident we'll get that back in the budget.

S. James summarized so the intent is to go next week to the Budget Committee to get the \$10k and then you'll withdraw. S. Komisarek said we'll withdraw it anyway. We're doing some master planning with the \$15k and so to go to the voters, it may be confusing and they won't approve either of them. That's the approach; we'll remove that one for \$10k.

S. James confirmed so the \$15k is to study the 43 and 27. I keep going back to Pinkerton. We had a couple of warrant articles that failed and I think we did a lousy job (I'll take full blame) of getting the word out. I think whatever we're going to do if we don't get the word out, they'll fail.

S. Komisarek said the \$15k warrant article. In order to get it to pass, we'll have a plan and a copy of the warrant article and get it out at the library, here, post office, and the recycling center so people can look at it. It will explain what the intent is, dangerous intersections and what we're trying to do. As for the \$10k I don't know. I don't know how you educate people on that and we'll work hard to get it back in the budget. If it doesn't work on the 14<sup>th</sup> and it doesn't work as a deliberative, are you in favor of having it as a warrant article and if so, we need to get the word out somehow.

S. James said yes if we can't get the \$10k back in planning then we go to a warrant article and try to explain why.

T. Giffen commented the \$15k one is a specific purpose for a specific limited scope job. The other one is more general and is basically to help fund proper planning for the town so we can work on developing better regulations that will foster and increase in the tax base. It's an investment in future revenue. I think it's a sensible thing and if we get the word out that we're attempting to diversify the tax base so we have a more stable and productive *income (unintelligible)* source.

S. Komisarek said when the Boy Scouts send out the Town Reports, put something in there. I know Mark Laliberte is working with Becky Saras, she's involved in the communications thing and so we get the word out about warrant articles. I'll touch base with them and give this feedback from tonight back to the Select Board. T. Giffen mentioned that the \$15k should have something in the Boy Scout packets.

S. James said you mentioned the Transportation plan, so the committee met tonight and approved the draft plan. The next step is to go to the public hearing for the Select Board to review and approve. The Master Plan Steering Committee meeting next Tuesday and there's a draft of the Master Plan update that we have so we're looking to have a hearing on that as well. The intent behind that is to get the Master Plan

update, finalized, approved, people can see what's in there, and then we can start asking for money for things. We want to get that in next month. (*January*)

There was discussion regarding whether the public hearing should be on December 21<sup>st</sup> or January 4<sup>th</sup>. However, since there was no time to notice it in the Hooksett Banner newspaper and The Union Leader was estimated to be \$300-\$400 per S. James, it was deemed too expensive and it was decided that the public hearing regarding the Transportation Plan would be scheduled and noticed for January 4<sup>th</sup>, 2017. S. James commented that we'll know next week regarding the Master Plan update, maybe we can do that on the 18<sup>th</sup>.

MOTION:

J. Lindsey made a **motion** to cancel the meeting on December 21<sup>st</sup> due to lack of applications. J. Bedard **seconded. All were in favor. (7-0-0) Motion passed.**

Zoning Warrant Article – Accessory Dwelling Units:

S. James so the Zoning Review and Revision Committee came up with the State RSA for Accessory Dwellings has changed and we needed to update our section to change with it. The biggest change is number four here, the square footage, we were at 600 sq. feet and the minimum now is 750. We're saying the maximum. You have to allow 750 so that's our max. This was something Boyd submitted and it was edited a bit. I took out there was a reference that didn't make sense so I took it out. This would be to replace the current section with the following. Deadline to submit this is next Wednesday at 3:00 pm for zoning articles. Submit that and then we have the public hearing on it, probably January 4<sup>th</sup>. So we'll have two public hearings.

M. Santa said this was a poorly written RSA, from Dave's standpoint, basically you have to treat an accessory dwelling unit like a dwelling unit and when it comes to construction or renovation of an existing structure, you have to think about fire separation and this nothing in here. If you have a duplex, two units, you are required to have fire separation between the two units. With this law change, basically an accessory dwelling unit is the same thing as a dwelling unit, they call it accessory dwelling unit but they are really allowing two families in every single family zone. There's no distinction between the two. We're working on this in Concord. I think this is pretty good but it doesn't address this. If someone wants to have an accessory dwelling unit then they need to have fire separation.

D. Murray replied it would make it a lot easier for me if it was in writing in there.

M. Santa continued they used to be called In-law apartments, which were part of the house and they were sharing services now you can separate them, build an attachment to your house.

S. James said there's no requirement that the person in the accessory dwelling be related at all to the person in the main building. M. Santa said no, the requirement to actually have the owner live in one of the units, would be hard to enforce, whether it would be challenged at some point by somebody. You don't require the owner of property to live in their home; they could rent their single family home out. Someone could challenge it and say you're discriminating. You're requiring in this type of unit that the owner be in there, why? It's in the RSA. Lots of Towns and Cities are trying to figure this out. Should we get legal counsel involved in writing this or are we comfortable enough?

S. James we'll submit it and it will go to counsel and they'll review it prior to it. M. Santa said they should weigh in. S. James summarized we submit it to town counsel, they would review it and we submit it by next Wednesday, hold a public hearing and then go from there. M. Santa said it's under Special Exception. S. James replied yes, it would go before the ZBA.

R. Cartier commented the building code and the fire code is probably very critical at this time. Maybe we should get some kind of opinion from the Fire Marshall's office or the NH Building review board to see what codes are going to be applicable. It sounds like it's going to be a two family and if it's a two family, it's going to go by those regulations. Is someone going to day it's not a two family, it's an accessory dwelling. It will go round and round. You have two different families in there and they don't own the house, then it's a two family. Personally I would wait.

M. Santa said the law goes into effect June of 2017. I suppose the local ordinance could lag behind.

T. Giffen replied the local ordinance would be unenforceable at that point because it would be superseded by State authority. That wouldn't necessarily be a problem. We could wait and see what happens. M. Santa said I think we can move forward with what we've got realizing it may need some modification. D. Murray said if it has to go to Town vote we should go with what we have there.

S. James said the three things in our current one that would not be enforceable; ours currently says one bedroom and the law says you can't do that; we have a maximum of 600 feet and now it's 750; and the other one is ours currently says the primary dwelling unit or the accessory dwelling unit shall be occupied by the owner of the property. Mike said the new law doesn't allow that. M. Santa said no no it does allow it. It's potentially unenforceable. *A municipality may require, may require owner occupancy in one of the dwelling units.* S. James said I apologize, I misspoke. M. Santa said so we decided we will. The law is giving us the ability to require the owner be in one of the units so when we write ours up, we're saying yeah, we want that, it shall be, until it's challenged.

There was discussion among the board about whether to update just a few items in the Zoning Accessory Dwelling Warrant Article or to update the entire section. R. Cartier commented there's a possibility there's going to be a lawsuit somewhere along the line anyways. So if we just do the bare minimum and wait until everything shakes out and then adjust it as the courts say no you're wrong. S. James disagreed. It's cleaner just to clean it up. Should we add in the fire in now?

T. Giffen said let's put something in there that says the newly developed accessory dwelling and primary unit shall meet the building and fire codes applicable to two family dwelling units. D. Murray replied it just has to meet the fire codes for a two family dwelling; it's not calling it a two family dwelling.

S. James reiterated so *the complete structure shall meet the building and fire codes applicable to two family dwelling units.* Do we formerly adopted any building or fire code or do we rely on State? D. Murray replied we just do it. Whatever's current, I run with that. M. Santa commented that there is a State building code and State Fire code and contractors in the State have to build to those so municipalities regulate to that. The fire code is 2014, the building code is still back in 2009. But we'd have to pass a local ordinance to go beyond what the State is currently at and propose legislation to go to the 2015 building codes and we don't want to do that. S. James replied so we should say the *current State building and fire code.* D. Murray said I'm still running 2009.

S. James so let's add *the complete structure shall meet the current State Building and Fire Codes for two family dwellings.*

MOTION:

T. Giffen **motioned** to adjourn at approximately 9:07 pm. J. Lindsey **seconded**. **All were in favor. Motioned carried (7-0-0).**

Respectfully submitted,  
Andrea Bickum  
Land Use Secretary  
cc file