

CANDIA PLANNING BOARD
MINUTES of May 2, 2018
UNAPPROVED
Public Hearing

Present: Rudy Cartier, Chair; Al Hall III, Vice Chair; Judi Lindsey; Ken Kustra; Joyce Bedard; Mark Laliberte, BOS Representative.

Dennis Lewis, Road Agent; Dave Murray, Building Inspector, Dean Young, Fire Chief

Absent: Mark Chalbeck; Mike Santa, Alt

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

Minutes April 18th, 2018:

A. Hall made a **motion** to accept the minutes of April 18th, 2018 as presented. J. Bedard **seconded**. **All were in favor. Motion passed with a vote of (6-0-0).**

R. Cartier stated we do want to offer our thanks to our former Chair and Planning Board member, Tom Giffen. I'd like to read a letter to you. This is from the Town of Candia Land Use office:

Mr. Tom Giffen

RE: Planning Board Years of Service

Dear Tom,

On behalf of the Candia Planning Board, We would like to sincerely thank you for your three years of service on the Candia Planning Board and specifically for your term as the Planning Board Chairman in your last year (March of 2017 to March of 2018). Your efforts were very much appreciated!

Thank you for your hard work and many hours of your time on the issues before the Planning Board. Your fairness, dedication and eloquent speech, especially on formulating the motions, will be sorely missed, as will you. We wish you the best in your future endeavors. And we all signed that for you. Congratulations on that. Tom Giffen replied thank you. R. Cartier continued and we have a: Certificate of Appreciation In Recognition of Thomas Giffen for your outstanding contributions and volunteerism to the Town of Candia. We truly appreciate your dedication and are proud to recognize your service as a member of the Candia Planning Board. A sincere thank you from the Planning Board, myself, Al Hall, Judi Lindsey, Ken Kustra, Joyce Bedard and Mark Chalbeck. Thank you very much Tom, we appreciate it.

18-004 Minor Subdivision Review Application: Applicant: John Seidner, 15 Langford Road, Candia, NH 03034; Owner: Same; Property location: High Street, Candia NH 03034; Map 405 Lot 26; Intent: To create a 5.02 acre lot with the existing house and a 58.9 acre lot for residential use.

Present: Applicant John Seidner of 15 Langford Road, Candia, NH 03034

Abutters Present: None

R. Cartier said we do have an application in front of us. I did a review for completeness awhile ago. There were a few items that have all been addressed for the Board so you all know. John has requested I believe 3 waivers. J. Seidner replied I believe 2. R. Cartier continued I have them right here. Based on what I can see the application looks complete and I'd welcome a motion to accept or not accept the application.

MOTION:

K. Kustra **motioned** to accept the application as complete. A. Hall **seconded**. **All were in favor. Motion passed with a vote of (6-0-0).**

R. Cartier asked John Seidner to explain a little of what you're doing on this property for this subdivision. J. Seidner responded sure. It's a historic property in Candia with a beautiful farm house that was built about 1800 and it's a large lot of attached land that we bought a few years back with the intent of doing some farming on there and for practical purposes that didn't work out so we rented the house to a couple of different people in the meantime. The people who are renting it now have fallen in love with the property and use it as a horse property, equestrian property, and wanted to buy the house from us but can't afford to buy the entire property which we purchased in part to protect that open land, open space. Our goal is to sub-divide it off and keep the open space for our own recreational use and give them a sizeable chunk of land that they can use to continue their homesteading here in Candia.

R. Cartier said just so the Board knows there was a variance granted on the property. It was for a *variance under Article II Section 2.04 Driveways and a Variance under Article VI Section 6.02; Table of Dimensional Requirements; Lot Width and Frontage. Intent To allow for a lot with 368.05' of non-contiguous frontage (181.93' and 186.12') where 200' of contiguous frontage is required, and a lot width of 158.35' where 200' width is required.* That was granted on March 1st (*actual date of hearing was February 27, 2018*) so that is part of the record for this particular piece of property. *Conditions: Lot 405 26-1 be limited to access for a single family home.*

R. Cartier continued the **first request for a waiver** is for section 5.06i; *where individual on-lot sewage disposal systems are proposed or in existence, the Sub-divider shall present evidence of State approval of the suitability of each lot for on-site sewage disposal for building purposes. For lots greater than 5 acres, an opinion by a registered Professional Engineer that a suitable site for a subsurface disposal system exists may be substituted for state approval. For lots greater than 10 acres, a request for a waiver from this requirement may be made when supported by appropriate soil data. In all instances shall specifically indicate on each such lot that state approval for an on-site subsurface disposal system has not been applied for nor has been granted.*

J. Seidner replied the five acre lot has an existing septic system that was re-built 5 years ago and then the larger lot being 60 acres, it has plenty of suitable options, not that we intend to build a house on it, but I don't really need that approval at the moment. But Earl Sandford from the survey company went out and dug test holes and then wrote a letter attesting to the suitability of the soils. R. Cartier confirmed we do have that. This letter is from *Sandford Surveying and Engineering, Re: Soils investigation on Map 405 Lot 26, 410 High Street; On March 2, 2018, Earl Sandford, PE went to the Site and Augered several areas around the existing horse paddock. Soils were found to have bright or high chroma soils coloring in the B and C horizon down to 20 inches, with no observed SHWT. This indicates that all the soils within the paddock are more consistent with the 44c-Montauk soils and not the 657A-Ridgebury, poorly drained soils shown. Regardless of the technical designation, the 70,000+ sf of soil within the paddock area, based on drainage, water table, texture, and vegetation, is suitable for a septic system.* Mr. Sandford's relevant qualifications are listed in here. (*Wetland Scientist NH CWS#209; Professional Engineer NH PE# 7849 (Civil); Septic Designer NH Permit #1203*).

R. Cartier continued between that and there was approval provided to you by Environmental Services, approval for construction for lot 405 26 that said a suitable septic is on the house lot itself. J. Seidner agreed, correct. R. Cartier said it appears to me that he's met the intent of the section for the waiver, actually having a septic system design on that and I would be open to a motion to accept that particular waiver or not.

MOTION:

M. Laliberte **motioned** to grant the waiver. A. Hall **seconded**. **All were in favor of granting the waiver. Motion passed with a vote of 6-0-0)**

R. Cartier continued the **2nd waiver** is for *Section II Article 5.06h; Water courses, significant natural and man-made features, culverts. Have shown the information in the area of the existing house and a reasonable area for the 58.9 +/- acre parcel. Since the Zoning Variance limits the vacant parcel to a single family home, These areas will be defined if they occur within the area that the house is proposed during the design phase (State Individual Septic Approval process).* That's signed by Robert Kilmer Sandford Surveying and Engineering. The reason that this came up if you looked at the map the wetlands delineation didn't go all the way back to the end of the parcel. In a normal situation, if we had a subdivision with 58 acres in the back that could be easily subdivided, then I'd probably have some concerns that that wasn't done because you'd have to come back and do it again anyways. But with the limitation on the variance that this can only be a single family home and it can't be developed at this point in time, I feel that it's a reasonable request. Does the variance get recorded with the plan? I believe the variance language has to be on the plan that this is what the variance allowed so it's registered with that. R. Cartier checked the plan. It's on the plan so we're covered and it will be registered at the county registry, it can only be a single family lot and you're intention is to put it into conservation but things can change.

MOTION:

A. Hall **motioned** to grant the waiver as submitted. M. Laliberte **seconded**. **All were in favor of granting the waiver. Motion passed with a vote of 6-0-0)**

R. Cartier said we've accepted the application and I'll open up the Public Hearing on the application itself to see if there are any questions or concerns or comments on the project itself.

J. Bedard asked so you're going to carve this out and sell it to the people that are renting it, the 5 acre lot. J. Seidner agreed. J. Bedard continued and the variances that we accepted and then the approval if we approve it, as the Chairman mentioned, things can change. So what happens if someone comes along and they buy it from you? Do they have to come before us and request that they want to build a house? Your intention is not to do that but if things did change and someone wanted to buy the property would we have to approve anything further? R. Cartier replied if it was a single family residence, no. We're approving it as being capable of being a single family residence location. If they changed any of that, then yes, if they wanted to put a development in there or something along that line. There are driveway permits that have been approved by DOT for that area, so that's all set and they wouldn't need to come back. J. Bedard confirmed so what we're approving is then the ability to put a single family home on the property and if anybody wanted to do anything further we'd have to approve it. K. Kustra asked so a duplex? R. Cartier replied if it was allowed in the zoning for there but I believe it's only single family. The way that the note says, it's for single family.

J. Seidner said my understanding was when I agreed to the stipulation of limiting construction on this lot, the larger lot, to one house is that it was not a reversible negotiable option. That was part of the approval and that stands in perpetuity. A. Hall and R. Cartier agreed, correct. J. Seidner continued so they can't come to you and ask for a subdivision. R. Cartier said if it's registered and it's recorded...J. Seidner replied yes I get it but you're wording led me to suggest that there is some leeway there and that's not my intention. I made that agreement intentionally to protect that property so I want to make sure that I was successful on that matter. R. Cartier suggested to make it solid; put it in the Deed. Deed restriction and then there is no question. That is one way to have it on the plans but if someone came along in 10 or 15 years and came to the Board for a waiver for that or something along that line, I don't know how it would be handled at that point in time but if it's a Deed restriction then it would take a lot to change that. J. Seidner said then its forever.

J. Lindsey commented I have a question about that because I'm not sure that a Deed restriction could hold up as strong as a conservation easement. I'm thinking what he's thinking; if that property was sold it could be open to any type of development that was allowed at the time unless he had the conservation easement. That's real in perpetuity. M. Laliberte replied he may want to put a single family home on there. J. Lindsey replied he can. R. Cartier commented John the only thing I could see happening

in there if it says single family on that lot, there could be the possibility to carve out where the house is and nothing else done to the rest of the property. That would be my only thought process on that and that's not any legal opinion. I don't think a conservation easement would work in this case. J. Lindsey replied first you have that big piece of land, carve out 3 ½ acres let's say and the rest would be in a conservation easement so you can still build your house lot. It depends on what you really want done with the rest of the land. R. Cartier said right now you're protected from anybody doing anything other than what you want to do. J. Seidner replied because I own it. J. Lindsey reiterated he owns it so he can do what he wants. R. Cartier said the bottom line is if you sold it there are conditions you can put on it even above this, that's your prerogative if you're selling your property. J. Seidner replied it's something to think about if that's not absolutely bound in perpetuity then that's something to think about. R. Cartier said I would ask your lawyer what he or she's opinion is on that. I think it's binding the way that it looks. A. Hall said it sounds like from a layman's point of view we're giving the gentleman the okay to do this; one house on a small lot and then the open space if you will which is statement of fact. Everything else that I hear is conjecture. Is that correct? J. Seidner commented that's the sense that I'm getting. A. Hall continued it's subject to the Supreme Court let's say. J. Seidner I asked the question before the group that decides these matters who better to ask but the Chairman makes a good point that a lawyer that deals with these matters is going to be the final authority on the topic. A. Hall said and the best we can give you today. J. Seidner replied indeed.

MOTION:

A. Hall **motioned** to grant the application as submitted. J. Bedard **seconded**. **All were in favor. Motion passed with a vote of (6-0-0).** *Application was approved.*

R. Cartier asked so we have all the records for the files, we'll need one Mylar that we can sign approving it from the Board and four printed copies. J. Seidner agreed and said I believe that happens after granite posts go in the ground at the property corners is that correct? R. Cartier said I thought you had granite posts in there. J. Seidner replied these two are the new boundaries, three new boundaries that have to be marked and the others at the historic boundaries so I'll have posts put in those three spots and then the location of those will have to be surveyed and marked on the final plan for the signatures of the Board. R. Cartier said I believe in your notes that it's going to be granite bounds on those corners. They would need to be done, submit the final plans and then we can sign off on it. J. Seidner asked it appears there might be rock at this one location here so if we can't actually put a granite post in the ground would a pin in the existing rock wall be acceptable? R. Cartier replied would it be because of rocks being there? J. Seidner agreed; it looks like it's a historic wall which I gather we're not supposed to move because it's a property boundary. It's being used as a property boundary marker so I thought we'd do drill holes in those. R. Cartier asked was there one there before? J. Seidner agreed; it's pre-existing. R. Cartier replied if it was there before and it's on the plans already, just have your surveyor confirm that the bound was found, if it's not, then you'll need to put a granite bound in there.

Continuation of 18-003 Major Site Plan Review Application: Applicant: In-Laws Construction, LLC, 298 Chester Turnpike, Candia, NH 03034; Owner: In-Laws Construction, LLC / Roger Demanche Jr.; Property location: 510 Old Candia Road, Candia NH 03034; Map 413 Lot 105; Intent: To build an office building in the L2 District. *(Application was not complete on 3-14-18 so this case was continued to April 18th, 2018. Application was not complete on April 18th, 2018 and was continued to May 2, 2018.)*

Present: Applicant Roger Demanche of In-laws Construction, LLC; Robert (Bob) Breault; Attorney Maria Dolder of Concord, NH; Bryan Ruoff from Stantec Consulting Services.

Abutters Present: None

R. Cartier said we did have some issues with non-completeness back on April 18th and since that time I've reviewed it again and Bryan Ruoff from Stantec has reviewed it again. It appears to both Bryan

and I that the application does have everything that we're looking for at this particular time. There are a number of questions and comments Bryan has had, actual technical questions, but it appears at this time that the application is complete and I would be open to a motion to accept the application as complete.

MOTION:

A. Hall **motioned** to accept the application as complete. J. Lindsey **seconded**. **All were in favor. Motion passed with a vote of (6-0-0).**

R. Cartier asked Roger to briefly review the project. R. Demanche said the project is going to be an office building. Trying to make it look like the other houses that are around there and our offices are going to go in there, that's pretty much it. A. Hall commented the architects rendering is beautiful. R. Demanche continued so the other paperwork, the comments from Stantec, we met Monday and we went through all the comments at his office. R. Cartier commented we do have some waiver requests and we'll probably have Bryan involved too on the discussions on this. The waiver requests that we have, this was submitted April 30th, 2018, *Waivers for Major Site Plan for In-Laws Construction LLC*

- 1) *Regarding Major Site Plan Review Regulation #4.03J: We are requesting a waiver for driveways being shown as they are shown on the plans.*
- 2) *Regarding Major Site Plan Review Regulation #4.03M: A plan for exterior lighting and signs. Lighting Layout is attached with the plans pg 1 of 1: We are requesting a sign waiver and sign will be displayed above the door.*
- 3) *Regarding Major Site Plan Review Regulation # 4.03 N: We are requesting a landscaping waiver because of tight constraints.*
- 4) *Regarding Major Site Plan Review Regulation for Sub Division #19.06: We are requesting a waiver to use HDPE pipe instead of RCP pipe, from 15" to 6" for outlet pond #2.*
- 5) *Regarding Major Site Plan Review Regulation Table II: Parking: Given the tight constraints we are requesting a parking waiver.*

R. Cartier said so the first one they're requesting driveways being shown as they are shown on the plans. R. Demanche said sheet 4 of 10. R. Cartier continued now Roger this waiver is to show the driveways on the other properties. R. Demanche replied that's on the back of this page, the last page that you have right here; larger scale plan from Corner Post plans survey. B. Breault commented the engineer did delineate some of the driveways, whatever's shown on this drawing with a little more emphasis on them. R. Cartier said what the regulation is requiring is to show the driveways and properties abutting it. R. Demanche agreed, that shows both. R. Cartier said is that the one taken from an aerial view. R. Demanche agreed, yep. J. Bedard asked so what is the waiver requesting? R. Cartier said I don't know if you need a waiver. R. Demanche said because we ended up doing it because at first it wasn't marked out. R. Cartier said so we'll just mark that one as not needed, I don't think we need to vote on it, it's not required. B. Ruoff commented said the waiver is actually for them to show all existing driveways I believe within 500 feet of the existing property. I don't necessarily know that it's been confirmed that all the driveways are shown but I don't know that's its necessary because DOT's already granted a driveway permit for this driveway. You have the regulation but in this instance it's already been addressed. The concern is with showing all the driveways you don't have a proposed driveway placed where it would be in conflict with an existing driveway or a spot that would make two vehicles have a hard time getting out at the same time. I think it's still applicable, required for this application. R. Cartier said so we should grant the waiver based on the request and what you're saying. B. Ruoff agreed.

MOTION:

J. Bedard **motioned** to accept the waiver. M. Laliberte **seconded**. **All were in favor of granting the waiver. Motion passed with a vote of (6-0-0).**

R. Cartier continued the second one; *Regarding Major Site Plan Review Regulation #4.03M A plan for exterior lighting and signs. Lighting Layout is attached with the plans pg 1 of 1; We are requesting a*

sign waiver and sign will be displayed above the door. R. Demanche said that would be page 6. R. Cartier said the lighting is shown on page 1 of 1, site lighting layout. It's small to see but it's an actual engineering program that does lighting levels at different areas and it shows where any of the lighting is going to fall on and off the property. So where you see zeros there shouldn't be any light coming over into that area. Where you see it closer to the building it's showing where there will be visible lighting and all the fixtures from what I can see are going to be dark sky compliant. R. Demanche agreed. R. Cartier said the waiver was for both lighting and the sign but now it's just for the sign. R. Demanche responded it's the way it's stated in the regulation. R. Cartier continued but now it's just for the sign. B. Breault said there won't be a free standing pylon sign; it will just be over the door, very limited signage. J. Bedard asked and you need a waiver why? I don't understand. A sign waiver meaning you wouldn't be allowed to have a sign and you're saying you're going to have one or you want a sign and you're not going to have one, I'm confused. B. Breault replied so as long as it meets the Town ordinance we really don't need the waiver. R. Cartier said the section refers to just a plan for exterior lighting and signs. J. Bedard said so a plan for it. We just need to know your plan, not the dimensions or if you have one or don't have one. B. Breault said the sign over the door is all there's going to be. R. Cartier replied and those are limited in size by the building regulations. R. Demanche replied so it's a building regulation. R. Cartier asked Dave Murray; the question is on the waiver for site plan regulations on lighting and sign layout. They have given us a lighting layout with the lumens so that's not a problem, the only question is the waiver for the sign. It says they need a plan for the sign. Their plan is to just put one over the door. D. Murray said on the building itself; that's fine. R. Cartier said so you have no concerns with that because there are size limitations that you'll be dealing with. D. Murray said it will still apply but if they want it on the building that's fine.

MOTION:

J. Lindsey **motioned** to accept the waiver for the sign. A. Hall **seconded**. **All were in favor of granting the waiver. Motion passed with a vote of 6-0-0)**

R. Cartier said the third one *regarding Major Site Plan Review Regulation # 4.03 N we are requesting a landscaping waiver because of tight constraints.* Can you explain that a little bit more? R. Demanche said so the constraints are because we're not doing a SWPPP so inside this area in here is the only area we can touch. B. Breault said it's based on the wetlands and the pond. Installing the necessary drainage systems it doesn't really leave a tremendous amount of space on that site. R. Cartier said is that sheet 4 of 10. R. Demanche agreed. It's within this designated area here. Everything outside this area can't be touched so it doesn't give you much room for any kind of vegetation. J. Bedard asked so what are we waiving? What's required? R. Cartier replied a landscape plan. The intention of the landscape plan is to soften the look of the building instead of just having like a strip mall with just pavement with nothing in that area whatsoever. J. Bedard asked so the regulation requires landscaping? R. Cartier confirmed a landscaping plan. R. Demanche replied a plan, like the lighting plan. J. Bedard said I see. R. Cartier said an example would be when we were looking at Candia First Stoppe with how they were putting plantings and the landscape rocks and retaining walls and things like that; landscaping to soften the building. J. Bedard said so you're requesting a waiver to not have a plan because there isn't anything you can do. R. Demanche replied limited space. A. Hall said you're not going to strip the lot off of every growing thing. R. Demanche replied no, I can't do it because of the way we have it set up. B. Breault replied the ponds will naturally go wild so there will be some vegetation there. The ditches, you're going to get some encroachment, natural vegetation. R. Cartier said this is going to be their limits of what they're doing so all the rest of this is going to stay the natural vegetative state. B. Breault agreed.

MOTION:

J. Bedard **motioned** to accept this waiver or grant the waiver. A. Hall **seconded**. **All were in favor of granting the waiver. Motion passed with a vote of (6-0-0).** Waiver granted.

R. Cartier on number four I'm going to depend on Bryan to address this *Regarding Major Site Plan Review Regulation for Sub Division #19.06, we are requesting a waiver to use HDPE pipe instead of RCP pipe, from 15" to 6" for outlet pond #2.* Bryan would you like to comment on that? B. Ruoff said the Town standard is reinforced concrete pipe, it's required both under the road and in green space areas. Where this is a private development which will be maintained by the homeowner it's not as big a concern I suppose that it's not the Town standard drainage pipe. For the 6" pipe we recommend a precast outlet structure in lieu of what's being shown but that's more of a maintenance concern than the existing regulation. R. Cartier asked do you feel that there would be a concern from either the Town or the state if the system wasn't maintained properly. B. Ruoff said with the proximity to two state right of ways that would be a concern if it isn't maintained, it would impact existing state roads yes. I'm not sure how that is handled in Town if private systems aren't maintained if the Town is able to go in and make amendments to existing systems that aren't maintained, that would be my concern.

D. Lewis commented we never do work on private property. We can make the property owner repair something but we don't do it ourselves. It wouldn't affect any Town roads there. The closest road we have that everyone assumes is a driveway is right next door to the pond is a Class V road. We maintain it into the curve by that little house abutting his property but it would flow down from there anyway so it wouldn't affect anything we have. R. Cartier confirmed Bryan it sounds like it shouldn't be an issue as long as it's properly maintained in this particular case. B. Ruoff replied I wouldn't have any reason to think it would be based on the drainage calculations that show adequate capacity for the 50 year storm event. It may be prudent to send to DOT with this latest set and say just want to make sure you're all set with this system but they'll probably say they're fine with it, I don't see a reason why they wouldn't. The only roads that would be impacted would be theirs. R. Cartier said so we could put a condition to submit it to the local state engineer for this area just to make sure they don't have any issues on it based on the fact that it's going to have to be maintained and it could affect their road if wasn't properly maintained. From a Town standpoint we don't have the concern because it's not our road but we want to make sure we don't put something on the state that they could come back to you after or in the middle of the project and say oh no you can't do that, you have to do RCP because that's going to affect our road. R. Demanche replied I don't think it's a problem. R. Cartier replied I don't think so either but just to cover the bases and make sure everything is up and above and you don't get caught in the middle of something while you're trying to do the work. J. Bedard asked what is the reason you're requesting it, is it a hard-ship. R. Demanche replied it's an easier way to do it. J. Bedard said it costs less; it's more costly to do it the other way? R. Demanche agreed. R. Cartier summarized they'd be using plastic pipe vs. concrete pipe. B. Breault commented the pipe is designed for that use.

A. Hall asked how close would they be to the proposed gas line from Manchester to Stratham on the North side. The power company will be proposing that on the North side of 101 in the state right of way. You border that. R. Demanche replied I haven't seen the plan on 101 yet. B. Breault commented I've been involved in several projects where Granite State and Tennessee gas line have several different pipeline's and they have the reach to do just about anything; they cross wetlands and I don't think they'll be any impact. They bury it deep enough and have monitoring systems on these pipelines. A. Hall commented it would be economic advantage. B. Breault replied possibly and to the Town as well.

R. Cartier said I'd entertain a motion but with a condition that it be looked at and a letter from the state saying they'd be okay.

MOTION:

A. Hall **motioned** to grant the waiver request with conditions. J. Bedard **seconded**. **All were in favor of granting the waiver. Motion passed (6-0-0).**

B. Breault reiterated so the condition would be that we submit to NH DOT for their review and get a letter coming back. R. Cartier said a letter from their area engineer just that they are okay with that having that situation.

R. Cartier continued, last one: *Regarding Major Site Plan Review Regulation Table II: Parking: Given the tight constraints we are requesting a parking waiver.* I believe you have 14 spaces but there was some concern based on the number of possible employees...B. Ruoff clarified this is specifically for the dimensions of the lot. This table reference required 18' deep spaces and 24' deep lanes or wide lanes. The applicant is showing 20' deep spaces and 22' foot wide lanes so in my opinion, it's just semantics. It's the same total distance, it should be reworded when these waivers are finalized on the plan; that they're asking for a variance from the dimensional requirements of the regulations. R. Cartier asked for the parking spaces. B. Ruoff said well for the lane; the lane's 22' wide vs. 24' wide required for the lanes.

B. Breault said there are 3 designated spaces behind the building for employee parking (in response to a question from K. Kustra regarding employee parking).

MOTION:

J. Bedard **motioned** to grant this fifth and final waiver. A. Hall **seconded**. **All were in favor. Motion passed (6-0-0).**

R. Cartier continued so that takes care of the waivers. There was a technical review that Bryan has done. Bryan submitted a letter dated May 2nd, 2018. His completeness review #3, the bottom line is: *The submittal was reviewed in response to a request by the Town of Candia and was reviewed for completeness with the Major Site Plan Application checklist. The information provided in the submittals satisfies the Major Site Plan checklist and we recommend that the Planning Board accept the Application.* You should all have Stantec's letter of April 27th, I believe that's the latest one with the technical aspects. B. Ruoff replied that's correct. It's a little outdated because we've received because we've received so much stuff the last two days. We can hit the highlights of what we view as remaining.

R. Cartier read:

1) *The property boundary is required to be provided from a valid boundary survey and is required to be stamped and certified by a land surveyor licensed in the State of New Hampshire, as specified in Regulation Section 4.03-D.* B. Breault commented survey plan last page. R. Cartier said so Bryan's that's addressed. B. Ruoff agreed.

2) *The plans are required to show an exterior lighting and signage plan with the plan set, as specified in Regulation Section 4.03-M.* Comment partially addressed. A signage plan is required but not provided as part of the plan set. R. Cartier commented I believe we just took care of that with a waiver so that one's done.

3) *The plans are required to include landscaping plan(s) indicating plantings to be installed and natural cover retained as part of the plan set, as specified in Regulation Section 4.03-N.* R. Cartier commented we just did a waiver on that one so that's addressed.

4) *The plans are required to include the location of any fire suppression systems as required by the Fire Department, as specified in Regulation Section 4.03-T. It is recommended that the Fire Department make a determination regarding fire protection measures for the proposed site and whether the proposed access to the building is sufficient. The Site Plan, General Note #6, states that "in lieu of a fire suppression system, the Fire Department has agreed to accept a donation to their capital reserve fund." However, a contribution to the Capital Reserve Fund is only allowed for major developments that meet specific criteria; this proposed development would not qualify. Additionally, if a waiver was requested from these requirements the Applicant would still need to provide a donation in the amount equal to the cost of a sprinkler system for the building, or provide a cistern, as outlined in Regulation Section 8.08. **Comment is pending a determination by the Board.***

R. Cartier said the regulations are pretty straight forward. R. Demanche said I brought my attorney so she can do the legal. M. Dolder introduced herself; for the record my name is Maria Dolder and I'm an attorney. So I'd like to hear your position on it and then we can address the issue. R. Cartier replied the regulation in section 8.08, he read:

8.08 Utilities and Fire Protection:

B. Fire Protection: *All new multi-family structures of three or more dwelling units, commercial and industrial buildings constructed in the Town of Candia shall have provisions for on premise use water supply in accordance with the NH State Fire Code and NFPA #1142. Options include but are not limited to a cistern, fire pond or approved building sprinkler system. The volume of the cistern water supply shall be based on the (not read: Major Site Plan Review Regulations August 4, 2010) formula used by the NH State Fire Marshall's Office with the minimum supply consisting of a 30,000 gallon, 20 year warranty, fiberglass cistern, which the property owner shall be responsible for maintaining access to at all times. Actual water supply requirements will be determined by the use, type of construction and the fire load inside the building. Sprinkler systems shall be designed and installed in accordance with NFPA Standard 13 for commercial and industrial buildings and NFPA Standard 13R for multi-family structures. The fire department may, at the discretion of the Chief, require the developer to contribute the cost for the installation of an on-site cistern or fire pond to the Town of Candia Water Supply Capital Reserve Fund if it is determined that this option will improve the overall fire protection of the Town.*

M. Dolder asked this Board have you voted that you are going to ask for a waiver for that as opposed to...I wasn't here at the last meeting so I read your minutes and it looked like there was a lot of back and forth between yourselves and the Fire Chief and the Fire Chief has a different opinion on this issue. Quite frankly we agree with the Fire Chief. Do you want me to layout our case for you as to why we don't believe we need a waiver; we believe we are entitled to go with the Fire Chief's recommendation. So in the first instance, you are correct. You read verbatim your stipulations in your fire protection but when you read the options include it does say they are not limited to. R. Cartier agreed, correct. M. Dolder continued so just the fact that a cistern, fire pond or approved building sprinkler system are not the only options, there are other options that are anticipated. R. Cartier agreed, correct. M. Dolder continued in this very section you give discretion over to your Fire Chief and quite frankly when planning sends a plan over to your Fire Chief, you look to your Fire Chief to give you ideas and recommendations on plans for fire. You defer to his expertise on the fire issues and that's what Boards do. You go to Police and Fire and they give you their recommendations. That was done in this particular case. In writing, on February 16th, 2018, the Fire Chief sends a memo to this Board, which my client also received, said obviously he has no issues to the plan relative to fire. They need a fire alarm system and the applicant has four choices to pick from; it says pretty clear on that. Based on that, this memo was provided to this Board and my client also got a copy of it. My client reasonably relied on the fact that these were the recommendations from fire and that he was agreeable to pursue this basically the Capital Reserve Fund. And based on anybody reading your ordinance, it's clear here there is discretion and that is an option. So he had no reason to believe that what the Fire Chief was telling him was not true or would not be...for that reason, that's one that's considered municipal estoppel, meaning that he reasonably relied on this memo. He went forward with this project based on this cost and what was anticipated and quite frankly he's incurred substantial expenses since this time. Had back in February this not been the case, this not been the recommendation, he might have made a different choice for this property. So for the first instance I'd like to reserve that argument for appeal purposes if we need to go that route. It's our position that we don't actually need a waiver. The Fire Chief stated and it's clear in your minutes that he's been here for 9 years. This has been his policy; his precedence that he's set over the years so to change it for this particular applicant tonight would be contrary to what the Town has already been doing. He was clear that his suggestion is both in the best interest of the Town and also the Fire Department and he felt that this site was appropriate to have this type of contribution made. Apparently there are some ponds that are in close proximity to this site so he didn't see it as being a fire issue. From our perspective we don't feel that we need a waiver because we are meeting your intent of the regulations, we have it straight from the Fire Chief that it's not a hazard and these are the options and my client is willing to do that. A. Hall said for the record the Fire Chief is present in this room and listening to whatever you say. M. Dolder replied sure, absolutely and he's welcome to comment, I've based my interpretation based on the minutes which were quite frankly very clear and I thought the minutes were

very well done so it's pretty easy to tell how that discussion went. So I don't want to quote him but based on the minutes, that is what I gathered from his opinion; that he felt strongly that this was appropriate; that he's been doing it for this time and I'd be happy to hear from him as well. R. Cartier replied you've captured it well. A couple of things; one of them is the regulations say that shall have provisions for on premise use water supply and it does have some options but are not limited to those items. It would have to be something that was on premise as the option which I don't know what it would be. M. Dolder commented the fact that your next paragraph in that very same section allows the chief to have discretion to take money instead clearly contradicts that. R. Cartier agreed, correct. M. Dolder continued so in that in itself would say to me, if I were going to somebody well that's not absolute, because you gave the power in the very next paragraph to allow them to not have it on-site. R. Cartier replied correct and you're interpreting it the way that it should be interpreted. The difference of opinion is the fact that it's the cost of the installation of an on-site cistern or fire pond. There is nothing in the planning regulations that authorizes the Fire Chief to come up with an arbitrary number on a square foot basis to say that it's going to be \$1.50 a square foot. It's pretty specific that it says the installation costs for a cistern or fire pond. M. Dolder replied however, I would disagree that it defines there how you determine what the cost of the cistern would be, it doesn't say that you get three different people to come out and bid on it. Does the Town determine what that cost is and if that's the case then the Fire Chief has made a determination at his discretion that that's the cost? There's nothing to say...my client could come up with somebody who says well the cost of a cistern would be \$5,000, are you bound to take that or do you have your own...do you know what I mean? Your regulation doesn't specify that. R. Cartier commented understood. M. Dolder continued so the ambiguity from that perspective needs to be taken into account from the applicant's perspective because quite frankly they didn't write this regulation, they're just bound by it, they're reading it and they have something from the Chief that seems to fit into that and I just think at this point in time for the Planning Board to say, nope sorry we didn't tell you back in February, the Chief sent, we have this letter; you've relied on it and now you have to spend an additional \$30,000 to \$60,000, I mean he wouldn't do this project, it's cost prohibitive, it just wouldn't happen. R. Cartier said they were notified back in February that the contribution, the way the Fire Chief had put it in there, was not acceptable. M. Dolder asked how was that done? R. Cartier replied that was sent. I sent, by email I believe, we sent an email to both. M. Dolder replied but that wasn't done through a public hearing which the Planning Board made that decision. R. Cartier corrected no that was in the application review. When we did the application completeness review, one of the items in the completeness review said what do they have for on-site fire protection and when I saw the Chief's letter in the review I said there's nothing in the planning regulations that allows to come up with an arbitrary figure of \$1.50 a square foot. The only thing it has in here is the cost for an on-site cistern. What I would propose from the Planning Board's standpoint is to find out what that contribution amount should be as I would refer to our Town engineer to come up with an engineering estimate of what a cistern would cost. M. Dolder replied but I can be frank with you, if we're talking about \$30,000, \$60,000 their going to appeal that. They can't do it. This project does not sustain that and we would be appealing it based on municipal estoppels that he relied on that and he spent money going forward with the project. This is from your Fire Chief and most courts say when you look to your Fire Chief to talk about fire issues, he has the final say. This is what he deemed to be appropriate. R. Cartier replied unfortunately that's not the case in the case of the Planning Board. It is a discretion that he can either say instead of doing a sprinkler system or a cistern, you can contribute to the water supply fund and it does come up with what the determination for the cost is going to be. That cost again, I would depend on a written engineering estimate of what it would cost to do that. But the other option is they could sprinkler the building which is a much cheaper cost. You're talking roughly like you said maybe \$40,000 for a cistern when you're looking at sprinkler systems you're talking more in the vicinity of \$2.00 a square foot, \$3.00 a square foot, type of a situation which is obviously much cheaper and gives you better fire protection because it's going to protect the building. This regulation has been in for many many years, over 20 years that I can remember. We have many commercial buildings that were put in place that all have

either cisterns or sprinklered. This building is sprinklered. The Town actually thought the sprinkler system would be good. We have very small operations that have sprinklers in them; the Courthouse is a sprinklered building. We have cisterns in smaller buildings; this little building over here that's Viking Oil has a cistern in front of it so the precedence has been set for commercial buildings over the years that this is in here. I've only been on the Board for a year and so I can't speak for the Board before but I'm looking at it from the standpoint of what the precedent was and what the regulations say in here and to me it's very clear. You were saying the Chief has discretion but the discretion is only what the contribution amount is going to be. M. Dolder replied but it says that he may at his discretion and I think that could be interpreted that he has the discretion to decide what that is. Ultimately that will be the decision for the court if that's where we are to interpret it and we'll have the Fire Chief saying for the last 9 years that's been how this Town has been interpreting it. R. Cartier replied and it could be in violation of the planning regulations for the last 9 years. M. Dolder responded but if that precedence has been set, we have municipal estoppels than quite frankly you're stuck with it. R. Cartier replied right and we do have the precedence set where all of these other buildings were put into place and following the regulations. M. Dolder replied only if those parties were provided with the same information. That would only impact municipal estoppel is per case and it's only what was provided to this particular applicant so if none of those applicants came before this Board and said I want to do this with the Fire Chief and you all said no, then that doesn't apply, it's not even the same case. R. Cartier said but again, I go back to what you said at the discretion of the Chief but if you read further they're required, the developer, to contribute the cost for the installation...M. Dolder commented you're stuck on the require I'm stuck on at the may. The Fire Department may, at his discretion. When you look at that it gives discretion. Ultimately if this Planning Board deems that's the interpretation and therefore this project will probably be killed for that, it will ultimately be the decision of the Board. That's the bottom line, it's too costly if he thought he was going to have to pay something to the tune of \$30,000 to \$40,000. R. Cartier agreed and but that's why the other option is there in cisterns, I'm sorry, sprinklers. M. Dolder replied I don't know, I'm not an engineer, I don't know the cost of what that would look like and I don't know if that is feasible. R. Cartier reiterated we do have a lot of buildings in Candia basically of the size that Roger's looking at that have cisterns, I'm sorry, sprinkler systems in there which is a relative inexpensive way to go. R. Demanche commented out of the four the inexpensive way is the fourth option. R. Cartier continued you'd probably be looking at, again this is based on my knowledge of fire codes, I was Chief before the current Chief, sprinkler systems in general run anywhere from a \$1.00 to \$2.50 a square foot to put in and I think with your building with the two floors is about 6,000 square feet, 6,500 square feet for basement and upper areas you're probably talking somewhere, again I can't give you an estimate because I don't own a sprinkler company but looking at engineering estimates, you're probably looking at somewhere around \$12,000 not \$30,000 or \$40,000.

B. Breault added I am in the business of building. I buy sprinkler systems weekly. The current state of the economy and the cost of materials for a sprinkler system, you're value is clearly understated. Things have been skyrocketing in our economy right now and the business industry and the building industry and you're clearly understating that, it would be significantly more than what you're saying. R. Cartier replied and that would be something if you get an estimate from one of these sprinkler companies. B. Breault replied it still doesn't seem fair that given this information you were made to contribute more towards a fund or install a system and being the Fire Chief you should know that a sprinkler system is designed for the safety of the occupants, to get them out of the building. The building is being constructed with fire rated drywall and everything is there. This is a state of the art type of construction, even though its wood, its combustible nature is not such as a 100 year old building that would go up in a minute. They're taking measures, there's a fire alarm system. I think the \$5,130 as it's stated is a reasonable expectation and he's prepared to contribute that.

A. Hall suggested let's not belabor this subject any further but our actions from here be subject to Candia's Town counsel's opinion. We obviously have a difference of opinion between parties. M. Dolder commented well first of all I would like a consensus does the entire Planning Board feel that they're not

going to support the Fire Chief's letter that was submitted because ultimately it would be a majority vote. Does the majority of this Planning Board not support the Fire Chief and his recommendation? M. Laliberte replied if we decide we want to go to counsel we don't have to make that decision tonight. R. Cartier replied I think Al's suggestion is probably appropriate. We should take it under advisement and check with Town counsel on that. I don't have a legal background, I'm just looking at the regulations and this is what is says to me in black and white. M. Dolder replied as the Planning Board obviously you have the ability to make the decision as to what the Fire Chief is stating, what he's put in writing. R. Cartier commented we do, but what the Vice Chair has suggested, I think we should take it under advisement and we'll bring it up to Town counsel on that particular aspect of it. Obviously we want to do the right thing all the way around. Make sure the Town is enforcing their regulations properly and that we're doing fairness to the people who want to build in Town but again, my constraint is right here. I can't find anything else in the regulations that says the Fire Chief has the ability to set standards or set costs for anything. It's all in the regulations including plan reviews and all of that. If we need to change the regulations, somebody could suggest that. Whether we need to do that or not is not my determination, my determination is to make sure we're following our regulations properly. A. Hall asked the applicant if we took an action subject to Candia Town counsel, which I believe we could obtain that within a day or two, would that delay your progress that much. M. Dolder replied it will delay it because we'll have the ability to either appeal that or counter that. We'll contact your Town counsel with our position so it will delay this a few months. R. Cartier said based on your suggestion and based on the concerns that are being expressed at both sides of the table to be open and honest and frank with you, I think that it would probably behoove both the Board and the applicant to turn this over to Town counsel to get their opinion on how we should proceed. I think it's appropriate that we do that.

J. Lindsey replied I feel comfortable with that decision. J. Bedard commented can I ask a question, I have two questions and I'm fairly new on the Planning Board so bear with me. One, this memo was sent to the Planning Board, this to me is an internal memo. M. Dolder replied its part of the public record, part of the review. J. Bedard said okay, that shows you how much I don't know. The second question is the application was just accepted as complete tonight so I'm curious as to why this would affect any planning if you haven't even been able to start yet because the application was just accepted as complete. M. Dolder replied Stantec has already gone through the entire technical review and my client's on the hook for paying for all that. They've reviewed the entire application for technical prior to it being accepted. So that's what they sat down....J. Bedard said so the costs you're talking about they would not have incurred if you didn't think this was okay. R. Demanche replied correct. M. Dolder said that was their meeting yesterday was to actually...they went through the entire technical review to make sure that quite frankly everything from a technical standpoint met everything that Stantec was looking for. J. Bedard said okay. A. Hall said Stantec did not consider the legal ramifications of this issue. R. Demanche replied it's not up to them. A. Hall said that's the point I'm getting at. R. Cartier said in the Stantec letter that we have the comment from Stantec was ***Comment is pending a determination by the Board*** on that. He did not address that from any standpoint. I think the action of the Board at this point in time is going to defer this particular aspect of it to Town counsel and get Town counsel's opinion on the review and then we can proceed accordingly. M. Dolder replied generally the applicant is not privy to Town counsel's opinion so how will we address that issue and be able to provide Town counsel with our position. R. Cartier replied I believe if we get Town counsel's opinion we can share it with the applicant once the Board has had a chance to review it. It's part of the public record. M. Dolder said the Board has to vote to allow that. *Discussion ensued about continuing to the next meeting date being May 16th.* R. Cartier continued that can be the only, if we go through the rest of these and everything is fine, it will just hinge on getting Town counsel's opinion. M. Dolder said and they'll have that for us prior to May 16th? R. Cartier said we will. We'll make sure that this question goes to Town counsel; I believe we can do that tomorrow. B. Breault asked is it a requirement of this Board that you take a vote on that action? R. Cartier replied I don't think we need to take a vote on that

action. I think it's something that the Board, the Chair has the option of doing that we need to have Town counsel. But we can make a motion that we want to do that and have it as part of the record.

MOTION:

A Hall **motioned** to have Town counsel review item #13 April 27th Stantec letter to give us legal interpretation on how we should proceed. J. Lindsey **seconded**. **All were in favor of having this reviewed by Town counsel. Motion passes (6-0-0),**

D. Young asked Mr. Chairman could I address the Board for a second. R. Cartier agreed. D. Young continued you hit the nail right on the head when you said the regs been around for 20 years and maybe it's time to change the reg. I agree totally with that and I'll give you background as to why I think that. Putting in a cistern is a huge chunk of change; to me its way more than a small building like that should have to do. I believe we have upwards of \$750,000 worth of cisterns in Candia and I don't think, in my 9 years, none of them have ever been used. There's no maintenance on them because it's left to the person who puts it in to do the maintenance. We check them from time to time but it can't be on us to take care of them all the time. We have and in this day and age, when this cistern thing started years ago, Lenny started it I believe; tankers were not very good and we didn't have much water. Now things have changed. Rudy knows we have a 3,500 gallon tanker. All the surrounding towns have plenty of tankers. We have fifty five hundred gallons on wheels that we roll up to a house or a building like his. Fifty five hundred gallons of water, think of that for a minute. And I tell all my guys, if we have a call, if I'm not around, structure fire get some water coming right away. We would probably never run out of water before we flowed upwards of...the surrounding towns, before they had to be filled up, 15,000 gallons of water. If we put 15,000 gallons of water on this building over here I guarantee you they're going to tear it down. We might only have to put 1,000 gallons on his building and they'll tear it down. Because of the way the insurance companies work nowadays and it's so expensive to repair buildings. I used to do fire jobs in construction and we would do some huge jobs; tear buildings completely apart and fix them. It doesn't happen anymore. There was a fire in a garage on Green Road in Raymond. It was stopped at the wall, two stall garage, stopped at the wall. Derry fireman owned this home, Colonial. New home, fire wall. 5/8 sheet rock stopped the fire at the wall, did not get into his house. Guess what happened, they tore the house down. They tore the house down. So my point is to make the applicants spend this type of money on a cistern upwards of \$50,000, \$70,000, I think the guys at the First Stoppe have \$80,000 (*80 grand*) in their cistern over there, it's crazy. I think the regulation needs to be changed. And the money that we get is hugely important to us. It helps the taxpayers, it keeps taxes down. We need to buy two dump valves for our tanker, they're \$1,000 each. We get that out of that money that we get from applicants. We're not raping the applicants, getting \$30,000, \$40,000, \$50,000 dollars from them but the \$5,000 or \$6,000 dollars that we get is hugely important. We just had hose testing done at the fire house, we had some hose fail. We probably need to buy \$2,000 dollars worth of hose. That's not coming out of the tax-payer's pockets, okay. That Capital Reserve or that fund is hugely important to us and that money has an advantage for everybody in this Town wherever they live, they get part of that money because we have that stuff in our department. Rudy's 100 percent right, the regs 20 years old and I think it needs to be changed and I will propose some changes to that reg that the Board can look at because things have changed in 20 years. I think it's downright for lack of a better term, extortion to make him pay this kind of money. Now you talk about sprinkler systems. Sprinkler systems help only one person, the insurance companies. Life safety, getting people out of buildings, is the fire alarm system. That fire alarm and he's going to put a state of the art fire alarm system in his building. That fire alarm system better alert everybody in that building to get out long before a sprinkler opens up. It better, if it's doing its job. The sprinkler's going to come on and maybe save the building but we're not working for the insurance company here. I want life safety. Life safety is my primary job as the Fire Chief and so if we have that money in our Capital Reserve, that's life safety. That's money we spend for life safety. I think you need to look at this. Whether I've been wrong, what I've been doing, it's working really really good. The applicants

are happy, I'm happy, the taxpayers are making out on it and the citizens and it's a good thing. I will propose some changes in the rules and probably not in time for this but I think you need to look at this. I hate to see this going to the lawyers okay because no one wins when lawyers are involved. My tax money, when we call the lawyer, my tax money is going to pay for that. I wish the Planning Board would understand what I'm saying and trust me, trust me in looking at that particular project over there and what I'm asking for is perfect. It's perfect. It's good for everybody; everybody's a winner on that. That's all I've got to say.

R. Cartier asked how did you come up with the \$1.50 per square foot. D. Young replied we talked about that, the Building Inspector and I talked about that and we could probably re-write that into the regs somehow. I gotta tell you, I've talked to a lot of people that have put cisterns in and they are just out of their minds that they've had to spend this money. We talked last month or a couple of weeks ago about the one down on Raymond Road. It's way in the back. Who the heck ever told him to put that down back and designed that? I have no idea but that's pretty much useless. That guy's got \$70,000 tied up in a cistern there. The guys at the First Stoppe just shake their heads. They would have given much more money to this fund if they had known that it was an option for a little bit less, they'd save, we'd get some money in there and what we could do with that would be important. The one at the hardware store is up back, it's crazy, why is it there? We have the cisterns we have, I would rather put money into dry hydrants and water holes because they're there and we don't have to maintain those, well we have to maintain them. The money we get in that fund can also be used for water holes, for putting dry hydrants in and maintaining those dry hydrants. We broke one this winter that got plowed. Well actually Dennis fixed that up out of the Highway... (*unintelligible*) I think.

J. Bedard asked did you get an answer to your question. R. Cartier replied yes he did. But I think Chief I welcome obviously anyone in Town to propose any kind of updates to the regulations, which we're going through right now; we're looking at all the regulations. D. Young replied I know, I talked to Andrea today. R. Cartier continued I would suggest you do that, the problem is that right now we're, I don't want to say stuck, but this is what we have to work with. I welcome your input obviously when we do the zoning reviews immaterial of that we have an issue here that we have to address with the current regulations that we have. I wanted to mention this, I have no idea what that pond is over there. Whether that can be dug out and used as a fire pond because that's another option that's in here too. D. Young replied we used it way back years ago we drafted from it from something. I don't remember what it was. R. Cartier continued that's another one of the options you'd want to look at. You look at the hierarchy of things in there of what you can do and the key point in the regulation right now is on premise water supply unless the Chief decides he wants to take the money that would normally be for a cistern and put it somewhere else because as the Chief said, we've put a number of cisterns around. That's where we are at this point in time. M. Dolder replied I guess the only thing I would say to that issue is that the Planning Board has the ability to waive anything that is in the site plan regulations and this sounds to me like this is a health safety issue. You just heard from the Fire Chief that what you're asking of the applicant is not helpful for life safety. The fact that you have that in your ordinance it does not contribute to a life safety issue is clearly within this Planning Board's purview to say, well the spirit and intent of what this is supposed to do is preserve life and safety and the Chief just told you that's not what it does but what he's asking for actually does contribute towards that intent. I would disagree, the Planning Board does have the ability to waive that, these are your regulations. R. Cartier replied we do have the ability to act on anyway if it is requested we don't have a waiver for this at this particular meeting. M. Dolder replied if the Board would entertain such a waiver, that's something that I would reserve all of my rights to appeal it. Clearly we don't believe we need it. M. Laliberte commented we've already established that we're going to be revisiting this in two weeks on advice of counsel. It's getting late; we have other things that we need to address on this we could argue this all night. I would indulge you that we move on. R. Cartier agreed. Thank you for your input Chief. D. Young said I think I did say that last meeting, ask for a waiver. Did I not, I did say and you said sure. R. Cartier replied you did. I appreciate the information and we will take it under advisement.

J. Lindsey asked do we need to go through any of these. Give us the cliff notes? R. Cartier said I'll ask Bryan to let us know if there's anything that he's found that is not addressed. R. Demanche said we met on Monday in his office. B. Ruoff suggested the Board discuss item #19 next. R. Cartier said just so everyone knows what we're talking about:

*19. The plans are required to show all storage areas, waste collection areas and services areas, (i.e. dumpsters, propane tanks, etc) on the plans and shall be provided with screenings from onsite areas and neighboring properties, as specified in Regulation Section 8.05. **Comment partially addressed. Additional details are required for the proposed fence, the detail pages show a 4' high Chain Link Fence but this is not suitable for a dumpster area because it does not provide a visual screen and trash can escape above a 4-foot high fence.***

B. Breault said on the detail page, page 7 of 10; that has been modified, it's showing a 6' foot chain link fence detail. B. Ruoff replied if I may just cut to the chase because we've received the revised plans and looked at them and I think what the Board should discuss is whether the fence and proposed screening as its proposed meet the intent of what's required for waste area screening because right now it's shown enclosed on three sides but not the fourth as it faces 101. The applicant in our meeting made a good argument for not having it enclosed on that side but it's still something I believe the Board should discuss and whether it should be required as it's typically intended. B. Breault asked Mr. Ruoff the elevation of the highway in relation to this building, do you have any idea what that may be? B. Ruoff replied I don't know off the top of my head and as I said and when we met on Tuesday, there's a good reason to not put a fence on that side but it's something that always done, the trash area is fully enclosed. A. Hall replied the elevation of the highways gotta be higher than your...B. Breault replied probably 30' feet higher than the back of this building. R. Demanche commented so even if you put a fence there, people are still going to see it, because they're looking like a bird's eye view. R. Cartier commented I think the plans call for...R. Demanche said it says neighboring properties. R. Cartier continued dumpster pad location constructed 6' high chain link fence with privacy flaps around perimeter. If I read that I'd say it's on all four sides. M. Laliberte commented except if the privacy portion of it is 101 you're going to see it anyway, it's not affecting the neighbors. What do I care if I see it driving? R. Demanche commented at 60, 65 or 80 miles an hour. *Discussion ensued about whether a waiver was needed or not.* B. Ruoff confirmed it's not that a waiver is required it's just a determination of what will be required by the applicant. R. Cartier said I would say that it's an issue that is a moot point and doesn't need to be addressed.

B. Ruoff said I recommend the Board review #27 next.

R. Cartier read: *The plans are required to indicate poorly drained and/or very poorly drained soils to determine set back requirements and allowable uses, as specified in Ordinance 10. **Comment not addressed.** A 100-foot building setback is shown from the 'pond area' this pond location and very poorly drained wetlands are required to be field verified, located in the field by a wetland scientist and surveyed in lieu of shown on the plans from aerial photos as indicated. **Comment not addressed.*** B. Breault said on the final plan set there's a note defining the limit of poorly drained soils; the last page, there's a notation there limit of poorly drained soils it's up by the pond. B. Ruoff said I withdraw that comment. R. Cartier said so you're okay with that.

B. Ruoff stated I apologize, I didn't see that. All other items, even if they haven't been addressed at this time from this technical memorandum can be worked out with the applicant. Based on our meeting, I don't think there's anything else that requires input from the Board.

R. Cartier said so we'll continue the public hearing. Are you okay for the next meeting? B. Breault replied there's one condition already, stipulated, on the RFP pipe, submitting it to DOT. In relation to #15 can we just make it a condition of approval or do we have to wait for the comments to come through. The one regarding the fire suppression; #13, sorry. R. Cartier responded we won't have that as condition at this time because we'll be seeking Town counsel on that but that would be one of the items we'll be discussing. The only condition we have so far is the one we talked about for the state approval.

B. Breault confirmed so if we can satisfy that condition with NH DOT by the next hearing, we'd be good to go on that one and based on with what counsel comes back with. J. Bedard asked and you'll meet with Stantec one final time? B. Ruoff said no, we just received the revised plans today, we'll issue another letter or if it pleases the Board we can just work with the applicant until we get a final letter. It's up to you. R. Cartier thanked everyone. M. Dolder confirmed so it's being continued to May 16th? R. Cartier confirmed I believe so. The large meeting we were going to have on May 16th is not going to happen so this will work out fine. We don't have anything else at this point. Right now you're the only one.

Break for approximately 3-4 minutes - B. Ruoff asked if he could do one final letter for In-laws to keep them under budget. R. Cartier agreed.

Informational: Applicant: Candia Village Development (AKA The Village at Candia Crossing). Owner: Candia Village Development, LLC, 38 Fieldstone Lane, Candia, NH 03034; Property location: High Street (Route 27); Map 406 Lot 16; Intent: Looking to discuss the existing approved plans and the owners desire to redesign the approved elderly housing project to reduce infrastructure and overall land disturbance. Contact: Chad Branon cebranon@fieldstonelandconsultants.com;

Present: Scott Komisarek, owner (*Candia Village Development, LLC*) and Chad Branon of Fieldstone Land Consultants.

S. Komisarek stated I know a lot of people aren't familiar with this project; it goes all the way back to December of 2007 so I'll give a brief history just to let everyone know what's going on. This is Chad Branon of Fieldstone Land Consultants. This is a project that we got conditional approval for 55+ project right here on 119 High Street. In 2008 we made substantial improvements there so that we could access the back of the property where the community well was to be located. We drilled a number of wells but we were about 2 gallons per minute under the required yield so everyone was like "oh my God". At that time the financial crisis of 08' began and the project was halted. Since that time we've kept our bond in place and every two years, the Planning Board has extended the approvals. Last year the 55+ housing market began to improve significantly so I contacted my engineer, Chad, who is different from the original engineer to resume the permitting process. After reviewing the plan he concluded that the road design and layout could be improved. He also proposed a new location for the well. We drilled that well last fall and it yielded three times the amount of water that was required by state law. That's a brief history. I'll turn it over to Chad to give you more details.

C. Brannon introduced himself, for the record my name is Chad Branon; I'm a Civil Engineer with Fieldstone Land Consultants. Our office is located at 206 Elm Street in Milford. What I want to do is talk a little bit about the approved plan so we're before you tonight, there's actually an approved plan for the project. It's a 43 unit elderly housing development. It's a pretty substantial development so when I first looked at this plan from an engineering standpoint I said wow there's a lot of infrastructure here so when you take a look at the plan that we have before you, this brownish shade area, that's all roads. That's a lot of roads to service 43 units. In fact, it's about 6,803 linear feet of road, well over a mile. And then because there is so much road there's a lot of grading and land impacts in excess of 22 acres. So it's a 43.7 acre property and because of the way this was designed and originally approved, we'd have to disturb just over 22 acres of the land. When we looked at this, we've done a lot of elderly housing developments and we don't typically see large road and a lot of spur roads off of it because it doesn't offer much of a community setting, not really neighborhood friendly. So when I was talking to Scott I think we can utilize the road infrastructure that you've already built and hold that alignment. Initially we were talking about using the existing wells in the back but there wasn't enough water here and so this is the plan that we're thinking about for this project. Same density. This plan has 3,575 feet of road servicing the same number of units so it's 3,200 hundred and change linear feet less road, that's huge. It's half. The other part to this is this is a

pretty standard setting where you'd have a walk-able community, people would have neighbors. It offers a very healthy living area. As Scott said, there was a well drilled in this location here. This one well will support the entire development, which is great. That was a huge issue that they ran into back in 2008. This project proposes to disturb 8.5 acres less of land than the prior development. What that ultimately means is you end up with a lot more green space that the residents will be able to utilize for hiking, passive recreation. You also have additional buffering to the neighboring properties. The regulations only require 50 feet along the perimeter but you have 8.5 acres of green space. Certainly the approved plan meets all the regulations, that's why it's approved. We think this plan is a better plan. It would require us to come back before the Board to get the approvals amended or re-approved and we'd have to go back to the state and get the Alteration of Terrain permit redone as well but we think in the end, this is a much better plan for the project. We're not proposing any changes to the density, it still conforms to the regulations in that regards. I believe we're going to hold all the same road geometry design standards because the regulations say it needs to meet Town minimum standards anyways. We do have some items in the elderly housing ordinance that we'd eventually like to talk to the Board about but we're here before you for an informational tonight so we know we can't get any real decisions. We're looking for some opinions of the Board because we have an approved project but we want to come back and do what we think is right and come up with a better project for the Town and the residents of this development so we're just looking for some feedback from the Board relative to if you think this is a good idea and if you'd support us and Scott through this endeavor, again.

A. Hall asked can you point out where the school and the library are? S. Komisarek said the library is here and the school is over here. The pond is here. The field's here. A. Hall asked so to the right is private residents? S. Komisarek said this is North Road here. This was Neil Sieminski's property here. C. Branon said there's a pretty good size piece of land here before you get out to North Road. J. Bedard asked so where's High Street? C. Branon replied its right there. J. Bedard apologized, I can't see it. M. Laliberte asked Scott what's the timeline here. I know you have some steps you have to get but what's your timeline if things theoretically go relatively smoothly, what's your timeline? S. Komisarek responded I was really surprised by how rapidly the market shifted. We kept coming back, 08' was a disaster and then nothing was happening there were a lot of projects that were out there, developers were picking them up etc. etc. And every year I talk with a broker that I know and I say hey what's going on out there and it was kind of like slowly slowly and then last year, talked with him and he said things are starting to happen in 55+ because of the demographics in the state, this market is really starting to go now. So I thought to myself, wow it just crept up on me I was kind of like ok sooner or later everybody was like hey when...*(unintelligible)*. M. Laliberte commented the ones in Durham sold out in days. S. Komisarek continued so I said ok so let's address this and I called Chad and we looked it over and we said let's look at the water. Unfortunately we didn't start there. I pulled some well data and I started looking at the 40 something gallons at the school and Rick Zane's property right next to mine, 30 something gallons and I'm seeing all the water was down here and a lot of that data I couldn't find because it was mislabeled on the DES website. They had Zane's property as Whitehall Road and I didn't pick up on that data. So we said let's go there and then we drilled that around...but the well guy was busy by the time we got it drilled it was Thanksgiving. I go away for a good chunk of the winter but we said ok we got water. Talked to Chad and he said this is a poor layout. I originally had a partner on this plan and I've since bought that partner out and he had a lot to say about the layout and when I look at it now it's like, it really wasn't a good layout. So Chad looked at it and said this doesn't make sense for a lot of reasons. Let's redesign it and go back to the Planning Board. R. Cartier said Scott you also know that we're working on a Village District concept in there too. How would this tie in from a walkability standpoint? Would you be thinking of doing sidewalks or something down 27 or somehow tying it in a little bit better than isolating it. S. Komisarek replied I've thought about that. I've thought about a trail that would go over to the library. You know where the Boy Scouts did their project behind the pond? The Board said yes. S. Komisarek continued so I looked at that and we'd like to do a trail and I thought tying that into the library to get people down into that area.

A. Hall asked what is that gray area. The big gray thing? C. Branon replied this is a wetland area. It's actually green but it looks gray.

R. Cartier replied I think probably from what you're proposing it would probably obviously require another public hearing because it's a major departure from what was proposed. I'd like to get the Board's opinion. J. Bedard replied I love it. R. Cartier said I don't know if it would require a new application because it's such a huge departure from it or whether it could be done...I'm trying to figure out how it can be done, I understand where you're going and the concept seems fine but how do we do it properly so we can go from plan A to plan B.

C. Branon responded typically in this scenario like this there would often times, it would probably be a new application but we typically wouldn't pay application fees because we already have an approval. So we would pay notification fees, advertising fees because obviously the abutters all still need to be noticed for a public hearing. I would expect a public hearing. But at the same time we wouldn't expect a very lengthy review in terms of... obviously the Town's already accepted the project in concept or actually in total. We're really coming in and in our mind making this a lot better. So we would need the Alteration of Terrain permit so it's a complete redesign of the storm water management, it would go to the state and get their blessing on that. It's going to be a complete package in that it's going to have all the elements of a re-submission. R. Cartier replied and that's where I'm having the biggest problem as you said it's an approved development as it stands. It gets in a gray area to me because now what you're proposing as I said before is quite a departure from the approved plan. It is there, we'd have to look and maybe even check with counsel to see if there is a possibility for amending an approved project or how it would have to go.

D. Lewis asked was it ever approved. Is the Mylar signed? S. Komisarek said we have conditional approval. D. Lewis said conditional approval to build a road to go search for water but the Mylar was never signed as for the original plan. It's not an approved subdivision it was a conditional approval to go in to look for water. What Rudy's getting at if there is a signed plan for that piece of property showing that whole layout and the roads and everything, how would you go about okaying this with that one out there all signed, sealed and delivered. But I don't think it was ever signed, sealed and delivered so I think Rudy's concern is it was never recorded, I don't think you ever signed the Mylar so you could just go start over with this plan without another one out there unless it got recorded that I wasn't aware of. C. Branon confirmed it's not and you're correct on some avenues. It's not recorded but it's technically approved because there is a conditional approval letter that outlines 6 or 8 items, I have a copy of it with me. But it approved the entire plan. One of the conditions was proving that you have adequate water. That was probably one of the bigger conditions. The other one was posting a bond which I believe that condition was actually satisfied so even though the conditions were not satisfied, the approvals have been extended through the years so the approval is still valid. But you're right there is no technical Mylar signed at the registry for this project. D. Lewis replied we never reviewed the roads. Those internal roads that you see there, the engineer and I never really...those were never finalized. The road going in that showed the wetlands, the crossings and all the way out, but a lot of those small things, the details weren't finalized between the Town engineer and myself. R. Cartier replied this conditional use permit in here is exactly what you're talking about and it looks like the plan and Dennis it doesn't look like the plan was ever submitted because there's a lot of things that still needed to be done. I'd like to check to see if what we can do is re-open the case number. Because to me it's still an open case so we just re-open it and I don't want to say start over from the beginning, because we don't have to start over from the beginning, but go with new plans and say we've looked at this and now we're looking at this, this and this. C. Branon responded I don't think that's unreasonable. R. Cartier continued its open; I think it's an open case. D. Lewis replied that's the way I look at it. There's nothing actually to take back and you could just modify. R. Cartier said as he said Scott keeps coming back every two years asking for an extension. K. Kustra asked I think we ought to approve the approval, think about it. Approve the approval. So we can continue on, he can add to whatever's he's got if we approve the approval. R. Cartier said the application's been approved, I think it's still an open case. I don't think we have to worry about approving the approval because it's been approved.

M. Laliberte said the only open issue other than the renewal of the bond is the proof of water correct? S. Komisarek replied those were the major. C. Branon said so the original plan had some multi-family units on there and there was a condition that said you have to remove those. So the latest plan that I've seen actually shows those eliminated and I don't know if that was submitted or not. Frankly I haven't checked the Town files to see if that was submitted. This plan that we have here before you for example, this doesn't show any multi-family. What it shows is a couple of duplexes in this location. We got rid of the duplexes so it's all single family anyways in that particular layout. That was one item. I think this is the item that Dennis may be referring to it says there was a letter from Stantec dated December 19th that any remaining items from that letter needs to be addressed so there very well could have been some comments relative to the roadway in that one. And then noting the variance on the plan. This project received a variance because there's a regulation in Town, I think it's 2.05 that just says anytime you have more than one principal structure on a lot you need a variance so obviously a project like this where you have a condominium style development would get that. So that's already been obtained we'd just have to add that note. The next one just says the plans won't be signed unless the state permits are obtained. All the state permits with the exception of the water were obtained so we have to modify those anyways. M. Laliberte said that's the point I was getting at. It's approved but it's still open as long as there's still something still open it sounds like we have the flexibility to re-visit the plan. You may have proof that there is water but it's wouldn't necessarily be something that you would be fulfilling because then that would fulfill one of the requirements. We don't want to close the case; we don't want a Mylar until we need a Mylar. R. Cartier said my advice and the Board please weigh in on this is to submit a request to re-open the case with the revised plans.

A. Hall asked the number of units and it was reiterated that the density was the same, 43 units. R. Cartier commented just a little closer together. C. Brannon replied we held 30 feet between the units, which is pretty standard, 30 to 35 feet is pretty standard in this type of a setting. M. Laliberte said make them much more efficient is what they do.

R. Cartier commented what I would caution you on is I can foresee some opposition to this. It would probably be very beneficial if you had a landscape plan on that because if you're looking at it right here all you have is grass and buildings and nothing really visually attractive to...M. Laliberte said like you could see it from the school field. C. Branon responded projects like this are substantially landscaped so there would be a landscaping plan. There's typical unit landscaping where you'd have shrubbery in front of the units and probably a street tree out in front but those are details that would definitely be part of the *lease (unintelligible.)* R. Cartier added and the architectural look of the buildings, don't forget those things. D. Lewis said would this be a private road or a Town road? C. Brannon confirmed private road. D. Lewis responded a private road; it still needs to be built to Town specs but my question is if you add sidewalks and it's a Town road we're obligated to maintain the sidewalks. We don't want to plow sidewalks. R. Cartier said I would defer to putting them on High Street so it's the state's problem instead of your problem. D. Lewis replied no it still turns into ours even on a state road. Ask the Town of Epping they found out the hard way. C. Brannon commented the state would prefer not to have sidewalks on their road. R. Cartier asked that's why I was asking about tying it in to the possible Village District with a lighted path or something that might be appropriate.

S. Komisarek replied I'm aware of that and I'm looking at this and this gives you a number of residences close to where we're anticipating more commercial uses here. When you look at this for a lot of different reasons. It's on an arterial road and I was with Dennis on the Transportation Committee and part of the Master Plan update and we looked at Candia with winding, undulating roads and we're really not set up and you're finding that out with Crowley Woods, for development so we came away from that and we said we want to go on arterial roads of course this one had to be on an arterial road anyway. I think that's a benefit. It's proximity to the Four Corners is really the area where we want concentration. When you look at this demographic, they have the time and propensity to volunteer, to give back to the community. If you look at the tax revenue of this it's probably going to be in excess of \$300,000 a year in revenue with very

little...it's not a Town road, there's not one kid going to the school system so I don't know. You'll have some trash going down to the transfer station so it's gotta be 90% net revenue. I just think when we look at Candia to be sustainable and viable in the long run this makes our community stronger to have these types of people and paying taxes in here and volunteering. As we know, we've had the report from Southern New Hampshire Planning a couple of years ago and we're in a state of decline and we've got to be able to sustain in the long run. We've done a really great job of conservation, we really have but I don't think we've done a good job of providing housing opportunities to young people or older people. At least this addresses the older people with some options that are a little more affordable because right now if you're going to build a house in Candia, the lots are over \$100,000 so the house is going to be \$400,000 plus. So that's pretty much what you get in Candia and you go down Chester Turnpike and you look at these homes, we're talking \$500,000, \$550,000, that's what we're getting in Candia. From a planning standpoint it really...R. Cartier said it is getting late so I don't want to hold people up but I think the Board's in agreement that we could open this up. A. Hall asked I think we all have just received from SNHPC a revised district map. Is this included in that or is it beyond that. R. Cartier said I believe this is about where we stop because it was just one lot up High Street. S. Komisarek confirmed that parcel doesn't really fit into what we're seeing as a...*someone said zone*. K. Kustra asked we were talking last time about maybe ½ a mile from the center, a ½ a mile in all directions so does your plot fall within that ½ a mile? S. Komisarek replied it does it's like a third of a mile but I think the whole thing with the Village District is there's more to it. You have what everyone's envisioning a tight little district here and then I think eventually at some point in time, you have to go one step at a time in Candia. Three years ago the mere mention of changing the zoning ordinance in Candia I was whispering out in the parking lot, that was mutiny and for the mere thought of trying to implement the Master Plan you're going see from a voice in Town that's been heard very well but I think there's another voice that needs to be heard from a Planning standpoint. M. Laliberte said it is not in the Village District. I just looked at a map. R. Cartier said I think that was where we were looking at the next zone of residential, it fits into that. S. Komisarek continued I think in the long run, you're going to need some kids over at the Moore School at some point. We're under 300 and if you talk to Matt Woodrow, Chair of the School Board, they're screaming but you also need a place for older people so at some point there's gotta be a little relief. Try to get some concentration but this addresses the 55+.

M. Laliberte asked when do you expect to be in here next. S. Komisarek replied I was just checking out that Crowley Woods thing because I don't want to be here the night of Crowley Woods. We're thinking the first meeting in June is what we're thinking. J. Bedard said that would be June 6th. C. Branon said that's when we'll be submitting. We'll be submitting plans for that meeting hopefully but there's a fair amount of work to do. If we could get penciled in on that meeting that would be helpful. R. Cartier said we just put you in and then you call if you don't want to go. A. Bickum commented if I have to notice I need everything in by May 6th. S. Komisarek said I'm pushing Chad a little bit but it's May and time is of the essence so. A. Hall commented if you want to get started in construction you gotta get going. C. Branon commented you don't need to send out notices by May 6th. R. Cartier said we'd like to have plans 10 days in advance of the meeting so we have a chance to review. A. Bickum commented I need a revised... whatever you guys are doing for an application, I need by May 6th. I need that 30 days ahead. The noticing is 10 days for the abutter letters and the public notice but 3 weeks for the newspaper. So I get the application, I have a week and then I have to put it in the paper, get the paper quoted, and then the abutter letters go out the following week. M. Laliberte said so you need it by Monday. A. Bickum confirmed, yes. S. Komisarek asked is Crowley Woods on the following meeting on the 20th? R. Cartier said right now yes. S. Komisarek if we go beyond that we're into July. R. Cartier and we probably won't meet the first week in July because that meeting is July 4th. S. Komisarek said so that puts us out to the second week in July Chad.

Other Business

R. Cartier said Crowley Woods Final Major Subdivision is scheduled for June 20th at the school. Eric Mitchell emailed Andrea to change from May 16th to June 20th and there is a vote next Tuesday to find

out what's going to go on with that. I'd caution the Board at this point in time, try not to discuss this outside the Board so that no one gets the impression that anybody on the Board has made up their mind because it could come up and haunt us in an appeal. M. Laliberte said this came up at our Selectmen's meeting last week for informational purposes only last week. Andrea sent over to you guys an article from the Tri-Town Times, which just gives the history of it, again just for informational purposes only. I cannot stress that enough.

MOTION:

A. Hall **motioned** to adjourn at approximately 9:10 pm. M. Laliberte **seconded**. **All were in favor. Motion carried (6-0-0).**

Respectfully submitted,
Andrea Bickum
Land Use Secretary

cc file