

**CANDIA PLANNING BOARD
MINUTES of August 1, 2018
APPROVED**

Present: Rudy Cartier, Chair; Al Hall III, Vice Chair; Mark Chalbeck; Judi Lindsey; Scott Komisarek, BOS Representative; Josh Pouliot, Alt.

Absent: Ken Kustra; Joyce Bedard; Mike Santa, Alt.

Present: Dennis Lewis, Road Agent; Bryan Ruoff of Stantec

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

R. Cartier invited newly appointed and officially recognized Planning Board Alternate Josh Pouliot to sit on the Planning Board since two members were absent. (*Josh received his certificate*).

Minutes July 18, 2018:

A. Hall made a **motion** to accept the minutes of July 18, 2018 as presented. S. Komisarek **seconded**. **All were in favor**. J. Pouliot and J. Lindsey **abstained**. **Motion passed (4-0-2)**.

Officially Vote on accepting a Waiver Request on Planning Board Case **18-005 Minor Subdivision Application**: Applicant: The Cynthia C. Nye Revocable Trust c/o Cynthia Nye, 112 Lane Road, Candia, NH 03034; Owner: Same; Property Location: Lane Road & Crowley Road; Map 414 Lot 150-1; Intent: To subdivide a 10.886 acre parcel to create two new lots for a total of 3 buildable lots. A waiver request from Section 5.06.B of the Minor Subdivision Application requires buildings within 200' of the subject parcel be shown on the plan. They could not be located without trespassing and the majority of them would be beyond the plan limits so a waiver was requested. The Planning Board accepted the waiver but did not officially vote on its acceptance during the July 18th meeting. This Application and Minor Subdivision Plan was accepted and approved on July 18th, 2018 at the Planning Board meeting.

MOTION:

A Hall **motioned** to accept the waiver. S. Komisarek **seconded**. **All were in favor**. **Motion carried with a vote of (6-0-0)**.

ZBA members to present a draft of ideas on zoning amendments to the ordinance for the Planning Board to receive review and re-write and eventually hold public meetings on in order to submit warrant articles for Town vote.

Present: Judy Szot, Vice Chairman of the ZBA

J. Szot presented the draft of the recommended zoning changes and pointed out some were housekeeping items. J. Szot said on this first one, the state law says attached or detached unless the Town designates only attached and so they want to remove detached so the accessory dwelling unit is attached to the house. That's the purpose and you see the recommendation down below of where the change is.

1. **Article III, Definitions. Accessory Dwelling Unit.** "A second dwelling unit attached or detached which is permitted by a land use control regulation to be located on the same lot, plat, site or other division of land as the principal dwelling unit. RSA 674:21.

Problem: *A second dwelling unit may not be detached but must be attached to the principal dwelling unit. See 15.04 E 7.*

Recommendation: *Strike or detached. Recommended text: "A second dwelling unit **attached** to the main dwelling unit which is permitted by a land use control regulation to be located on the same lot, plat, site, or other division of land as the principal dwelling unit. RSA 674:21. 5/18/18*

2. **Section 5.01 D. Parking, Storage, or use of Major Recreational Equipment.**

Currently reads: "No such equipment shall be parked or stored in the front yard area in the R district and shall not be used for living, sleeping, or housekeeping purposes on the premises.

Purpose: *to ensure this restriction applies to all zoning districts. Add 5/18/18*

Strike: *on the premises*

ADD: *in either the R district or in any district within the Town of Candia.*

Proposed Text to read: *"No such equipment shall be parked or stored in the front yard area in the R district and shall not be used for living, sleeping, or housekeeping purposes **in either the R district or in any district within the Town of Candia.**"*

3. **Add under Article V, 5.02 Table of Use Regulations, Section 5.02A Residential:**

ADD A to Residential: *To read A. Residential*

ADD 13. Home Shop and under Zoning Districts add an "S" under residential district and "—" under all other districts. *(This means it's allowed by Special Exception in the R district and not allowed anywhere else.)*

Purpose: *To include a previously omitted reference to Home Shop and missing A from Residential. J. Szot we took it out at some point but I don't remember why.*

J. Szot said I would defer to Dave and Boyd as to why they want that back in. R. Cartier said I think there was Home Shop in here.

4. **Section 14:06.** *"Variances and special exceptions shall expire unless used within a period of **two (2)** years (currently states one (1) year) from the date granted. The Board may for good cause shown extend such period by as much as one year."*

Strike one (1) year and ADD two (2) years

J. Szot said extend this for 2 years so if you have a variance you have 2 years to use it and extend it for another two years.

Purpose: *to ensure consistency with RSA 674:33, I-a which provides for a 2 year period. 5/28/18*

5. **Section 16.04C: Filing of Complaints:** *Currently reads: Wherever any violation of this Ordinance occurs, any person may file a complaint in regard thereto in writing to the Building Inspector. The Building Inspector shall investigate said complaint, and, finding a violation to exist, shall act according to paragraph 14.01A of this Ordinance.*

Problem: *14.01A should be 16.01A*

Correction: *Strike 14.01A*

ADD 16.01A *in its place.*

ADD *a period to the end of the sentence after Ordinance.*

SUGGESTIONS AND IDEAS THAT NEED MORE WORK:

J. Szot said these next sections are sections that we've had difficulty with but we think the Board needs to look at. Boarding and Rooming Houses:

6. ***SUGGESTION ONLY – needs a lot of work.*** *This would apply to Section 5.02A Residential #5 Boarding or Rooming House and/or Article XV Section 15.04 E Accessory Dwelling Units*

Problem: No short term rentals of rooms, boarding and/or ADU's (accessory dwelling units) are currently allowed. Planning Board is tasked to come up with a solution to possibly allow short term rentals of ADU's or rooms. (There is already an Airbnb Bill HB-654 trying to override local zoning for this). For example, websites like Vacation Rental by Owner and Airbnb.com. This would then be a business so a change in the description under Home Office or Home Shop for example would be necessary in order to encompass this type of business use in the Residential district. See NH Municipal Assoc. Article attached

J. Szot continued I would caution you to read 674:72 which is the RSA that deals with ADU's. There's a particular section in the ordinance, Bart and I went over this, section 10 of that ordinance says an accessory dwelling unit may be deemed a unit of workforce housing for the purpose of satisfying a municipalities obligations under RSA 674:59 if the unit meets the criteria for 674:58 for rental units. Bart said this is described as a dwelling unit. It's not taxed under rooms and meals tax but if you rent on Airbnb or the other short term things you are taxed rooms and meals because that's considered a business. So renting this short term, they have to pay rooms and meals tax but if you rent it long term, you're not subject to that, so it's considered a business. He felt that that was having a business in a residential area. It's up to you how you want your community to be. If you want to have short term rentals anyplace in Town then set it up that way but if you want to have residential areas then be cautious about what you do here. Generally, people set up residential areas because they want to get away and not have businesses around. They want it quiet and come home from work. I would read that section of the RSA's on this. There is also a copy of the brochure by the NH Municipal Association and it delves into this issue of short term rentals. There are two 50 billion companies in California that tried to influence our legislature this year to pass a law that said that no municipality could ban Airbnb or rent by owner or any those things from any place in Town. It restricted the Town's ability to go in and inspect those units and receive a certificate of occupancy, they're not subject to it. This is part of the bill they tried to pass. The house had a version, it went to the senate, got changed in the senate. The House wanted to study it. It did not pass this year but will come back up. We need to look at this and address it, do we want to have short term rentals in the residential area or if we have them where do we have them.

This one came about from a call to the Land Use Office. Someone called about a 2 acre property with a 3 stall barn and wanted to build another 8-10 stall barn and a riding rink. We don't have anything that describes how much acreage you need per horse. I remember on New Boston Road when Peter Onksen put in his barn and he had a huge riding stable and the manure from the horses and how to remove it. He had cribs for the manure and they leaked and it was running down on the neighbors land. R. Cartier asked would this be commercial or private? J. Szot said you need to look at it. Can you have 5 horses on 2 acres of land? Is it humane? R. Cartier said we should look into it. J. Szot said we don't have anything so it's an issue that needs to be addressed.

7. ***SUGGESTION ONLY – Needs work:*** *This is a zoning ordinance from another Town. We have nothing in our ordinance now regarding horses and the building Dept. has received numerous calls on people wanting to have large numbers of horses on small lots so there should be some sort of minimum acreage (1 acre per horse) or something. Then you have to also consider horse boarding, stables, riding rink, lessons etc. which would make it a business, which is not currently allowed in the Residential district.*

New proposed ordinance for stables and kennels: *Allowed by Special Exception in the Residential area. Permitted in Commercial area only.*

Article 5.02 F (f-6): Stables and Kennels – The keeping of all non-pet horses, dogs, cats or other animals. The facilities shall conform to the following:

- (1) Minimum site area – two (2) acres plus, in the case of horses, one (1) additional acre per horse, i.e., one (1) horse would require three (3) acres of land.*
- (2) No barn, shelter, or building used for boarding of said animals or the storage of feed and supplies shall be located closer than sixty (60) feet from any property line.*
- (3) Animal wastes shall not be stored any closer than one hundred (100) feet from any property line or surface waters.*
- (4) The area used for grazing, exercising, or training of said animals shall be securely fenced to prevent the animals from straying or a suitable restraint shall be provided to prevent straying.*

J. Szot says this I'm not familiar with. R. Cartier said we're looking at that right now and #9.

8. *HISS Mapping*: B. Ruoff to recommend language. The Zoning requires High Intensity Soils Mapping and the subdivision regulations require site specific and it's a problem every time, every subdivision. We grant a waiver every time. *Need to change this in subdivision regs vs. zoning regs?*
9. *Sign height limits* – discussed in July 18th ZRRC meeting and to be investigated by B. Ruoff from Stantec. *Zoning sign regs Section VIII may change in conjunction with Major Site reg changes. Definition for animated signs may be added as well.*

J. Szot said this next section is home service contractor and it's a section we've been dealing with. We've had some problems and issues. J. Szot read:

MEMO TO THE PLANNING BOARD:

A Home Service Contractor section was suggested to encompass small businesses that are not listed under Home Shop or Home Office; i.e. landscapers, contractors etc. Would need to be considered to be able to run a business from home in Residential and/or be able to have their commercial vehicles parked on site. See example below but this will need some thought and re-working. Problems: how restrict size of construction and/or commercial vehicles; trucking is not allowed in residential, what about parking a school bus which is a Class 6 vehicle (Class 6-8 being large buses, tractor trailers, 6 axel dump trucks etc).

J. Szot said so there are 3 sections:

POSSIBLE IDEA THIS STILL NEEDS WORK

***PROPOSED ZONING PROVISIONS FOR HOME SERVICE CONTRACTORS –
This is NOT currently in our zoning ordinance.***

1. *Article 5 Use Regulations. Add new section: 5.03D. Home Service Contractor (level 1). Permitted by Special Exception and subject to the provisions of Section 15:02. Includes customary tradesmen such as carpenters, plumbers, electricians, painters, and machinists. Subject to the following restrictions:*
- *The accessory use is practiced exclusively by the owner of the lot of record.*
 - *Outdoor storage of material prohibited.*
 - *On site retail sales prohibited.*
 - *No more than one employee shall be employed at the site who is not the owner of the lot of record.*
 - *Use does not cause any additional vehicular traffic between the hours of 7PM and 6AM or on holidays observed by the town.*

J. Szot commented I think about electricians, contractors etc. My husband was a contractor, there were times he had seven employees but nobody was at the house. Everybody showed up at the job in the morning. He has his truck and a little trailer he hauls his tools in. It is a business but he lives there and he has a business and you just bill out of your house; the office. People call the house, you go someplace else, no work is done on the site. They want to add this new section:

2. *Article 5 Use Regulations. Add new section: 5.03E. Home Service Contractor (level 2). Permitted by Special Exception and subject to the provisions of Section 15.02. Includes customary occupations such as landscapers and arborists. Subject to the following restrictions:*

- *The accessory use is practiced exclusively by the owner of the lot of record.*
- *Outdoor storage of materials is prohibited.*
- *On site retail sales is prohibited.*
- *No more than one employee shall be employed at the site who is not the owner of the lot of record.*
- *Use does not cause any additional vehicular traffic between the hours of 7PM and 6AM or on holidays observed by the town.*
- *Equipment storage must be beyond the following setbacks:*
Front Lot Line 100'
Side Lot Lines 50'

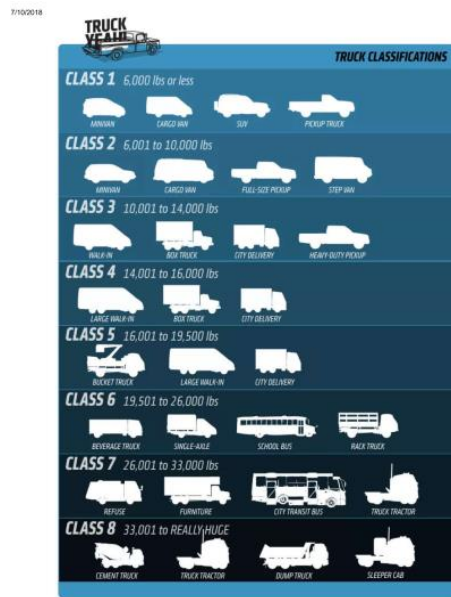
J. Szot said I think the problem is...I think of Abelson. He has his little truck and his trailer and he's a landscaper. The other day I passed this truck that said Advanced Landscaping, that's what I mean, small truck and trailer. Then I see another one, same company but it's a different and trailer and then I passed a third one and it's landscaping with the barrel on it to weed or feed the lawn. Is that the same thing? There's nothing to address how many vehicles are on site. These are the things you need to think about, what exactly does that mean. How big a site, storage? I think of Abelson, if he's lucky he has a ½ acre lot there so there's no way he could go back 100' there to store his equipment. That's an old property. Most people in Candia live on 1, 2 and 3 acre lots. These are things you need to think about. J. Szot read #3:

3. *Article 5 Use Regulations. Add new section: 5.03F. Home Service Contractor (level 3). Permitted by Special Exception and subject to the provisions of Section 15.02. Includes truck operators and occupations requiring the use of construction equipment. Subject to the following restrictions:*

- *Minimum lot size is 5 acres.*
- *Minimum road frontage is 300'*
- *No more than 2 Class XX (Class 5, 6, 7, 8? – Class limit?) or larger vehicles are permitted. (see diagram)*
- *The accessory use is practiced exclusively by the owner of the lot of record.*
- *No more than one employee shall be employed at the site who is not the owner of the lot of record.*
- *The use does not cause any additional traffic between the hours of 7PM and 6AM or on holidays observed by the town.*
- *Equipment and material storage must be beyond the following setbacks:*
Front Lot Line 150'
Side Lot Lines 75'

Purpose: To expand the allowable uses in the R district in recognition of Candia’s diverse occupations and livelihoods.

J. Szot said again, most lots are 1, 2 or 3 acres. These are problems that we see on the ZBA; 4.5 acres with 300’ of frontage. Well how did 5 acres become mandatory, why can’t I have it with 4.5 acres? I’ve got the frontage or maybe he’s got 8 acres but not the frontage so then he comes in for a variance and you have to say if you give a variance for 50’, why can’t you give a variance for 60’ or 70’. If you have an ordinance and you stick to it, Bart can always defend that in court. It’s once you vary and you grant a variance then you have to justify why. If you give someone a variance because their 5’ short the next guys got 8’. What’s the difference and then you have 8’ and then 12’. What’s the difference? He said you lose your ordinance. You need to figure out which of these issues do you want? Do you want trucking in a residential area? Do you want the other types, contractors, builders in residential areas? These are issues we’ve gone back and forth with on our Board with recent cases that we’ve had. It’s the residential area so you have to determine what Candia’s



going to be. Is every place going to be mixed use with commercial and residential? Then you wouldn’t have residential. You have to sit down and think about this. These are issues we have. There are a lot of things in Town under that section 3; paving company in a residential area. People come into Town and they just move into their building and start doing what they’re doing and nobody says anything because people in Candia mind their own business. But if you do bring something up, then you’re the person who’s vilified because you brought it up to the Building Inspector and this is something and you’re called out. A lot don’t want to be called out so they don’t say anything and businesses like this come into our community and stay for a long time because we have nothing being done about it.

R. Cartier thanked J. Szot and said this is good timing as we’re going through our regulations now. Our next step is to look at zoning because we have the Village District we’re working on, which will take some zoning things. This is great; the Board is looking for input from other Boards. What are you seeing for problems that we’re not seeing? This will be a good starting point for discussion and I speak for the Board that I appreciate the ZBA taking some lead on this and giving us some information. J. Szot said we’re trying to keep track of issues that we see. I’m sure we could have joint meetings; I’m certainly able to come to the Board and have input. R. Cartier said yes, members of the Board are welcome. J. Lindsey thanked J. Szot for explaining the behind the scenes of what this is all about.

S. Komisarek commented I think about this non-compliance with some of these operations in Town so someone calls to complain and Dave goes out to enforce that case and that person’s going to say well what about this person and that person...J. Szot said it’s like 5th grade. S. Komisarek said someone’s living there and then they decide they want to get into a certain line of business and no big deal but then the business does pretty well and then add a bigger piece of equipment and then next thing you know, there it is. It puts Dave at a disadvantage to try to make somebody comply when somebody can turn around and say what about these other 15 or 20, because it’s quite prevalent.

J. Szot said it can’t be the whataboutism. He did it why can’t I do it? We’re here right now to talk about you. If it’s someone else then it’s Dave’s responsibility to bring them before the Board to talk about it. Hopefully by changing the language in those first two sections, it will legitimize, we’ll know what kind of businesses would be legitimate and could whittle that list down that Dave has from 42 down to 10. Sometimes as Bart said to me, you’re a victim of your own success. You start out little, you’ve got your little landscaping business and it goes well and you get another guy and another truck and then it really

goes well and then you outgrow your business and it's time to get to a commercial site; you've passed the point where you belong in a residential area.

Other Business

608 High Street Waiver for Power Lines:

R. Cartier said on the 608 High Street project. There was an issue with running the power lines into the project because of the way the box culvert is set up there wasn't enough cover to go over the culvert and it wasn't practical to go under the culvert. So the request was to allow one pole to be set about 200' from High Street. B. Ruoff said it's about 180', about 184' from the edge of High Street into the site just beyond the edge of the box culvert. R. Cartier continued the usual requirement is that all utilities on subdivisions be underground from the point of entry. This will basically be a request for a waiver from our requirements to allow a power line be run overhead for about 180'. It seems to be appropriate for what the contractor is looking to do and safer for the power lines coming in.

MOTION:

R. Cartier said I'd entertain a **motion** to accept the proposal from DBU Construction to run an overhead line beyond the box culvert to approximately station 2 plus 40. M. Chalbeck **motioned** to accept that proposal. J. Lindsey **seconded**. **All were in favor. Motion carried (6-0-0)**. R. Cartier said that's approved.

FEMA:

R. Cartier continued FEMA is going to have discovery meetings for the Risk Mapping, Assessment, and Planning Program mapping project in the inland communities in the Piscataqua/Salmon Falls Basin. This is for flood hazard mapping. It's going to be at the University of NH on August 21st. If you're interested you can see Andrea and she'll be more than happy to sign you up. A. Hall added and you only need to be there from 1:00 to 2:00 pm. Candia, Raymond and Deerfield are from 1pm – 2pm.

MOTION:

A. Hall **motioned** to adjourn at approximately 7:35 pm. J. Lindsey **seconded**. **All were in favor. Motion carried (6-0-0)**.

ZRRC Meeting to follow Planning Board Meeting to continue the discussion with Stantec on the Major Site and Major Subdivision Regulations.

Respectfully submitted,
Andrea Bickum
Land Use Secretary
cc file