

CANDIA PLANNING BOARD
MINUTES of August 15, 2018
APPROVED

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

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

Present: Dennis Lewis, Road Agent; Boyd Chivers, Board of Selectman

Chair Rudy Cartier called the meeting to order at 7:00 pm immediately followed by the Pledge of Allegiance. He asked Alternate Joshua Pouliot to sit in for Joyce Bedard and excused Scott Komisarek. (Mr. Komisarek left the meeting at approximately 7:05 pm and was unable to return).

Minutes August 1, 2018:

A. Hall made a **motion** to accept the minutes of August 1, 2018 as presented. M. Chalbeck **seconded**. R. Cartier, J. Lindsey and J. Pouliot **were all in favor. Motion passed (5-0-0)**.

Possible Informational: Scott Davis – Gunnison’s property regarding a Major Subdivision (3 new lots). Map 406 Lot 148 Address: 115 Critchett Road, Candia, NH 03034. The Land Use Office had requested he turn in the Informational request form filled out by August 10th in order to get on the agenda. This form was never received. R. Cartier said having not had anything we’ll cancel that one out, they’re not here.

Other Business:

R. Cartier read: **Manchester Water Works Letter:** Proposed Lake Massabesic Protection Overlay District Revisions As part of MWW’s ongoing efforts to work collaboratively with watershed communities to protect and improve water quality, we have received grant funding from the New Hampshire Department of Environmental services (NHDES) Source Water Protection Program to develop proposed revisions to update and strengthen the City of Manchester’s Lake Massabesic Protection Overlay District (LMPOD) regulations. R. Cartier said everyone has a copy of the letter, I haven’t had a chance to read it but it seems that they’re updating what’s currently there. **ARTICLE 7. SPECIAL DISTRICT-WIDE REGULATIONS.** There are some prohibitions and also a map in there of where it is and obviously Candia is in that overlay district, Lake Massabesic watershed.

R. Cartier read the table of prohibitions:

Use No.	Use	Critical
D.3	Materials research and testing laboratories	X
E.1	Taxi, bus, rail terminal	X
E.5	Bulk fuel storage for distribution	X
E.6	Airports, passenger terminals, air freight	X
E.1 1	Solid waste and resource recovery facilities'	X
H-2.4	Medical and dental laboratories	X
H-2.5	Medical research and development	X

¹ Env-Or 702.19 defines “resource recovery facility” as any facility engaged in an activity beyond sorting or physical volume reduction methods to treat or process solid waste into usable secondary materials or products, including but not limited to fuel, energy, or compost.

Use No.	Use	Critical
H-6.1	Domestic laundry and cleaning services	X
H-6.2	Photographic studios	X
FI-6.5	Photo labs and copy centers	X
FI-6.8	Industrial launderers and dyers	X
1.1	Sales or rental of motor vehicles	X
1.2	Sales, rental, repair of boats, etc.	X
1.3	Sales, rental, repair of heavy equipment	X
1.4	Automotive repair	X
1.5	Automotive service station	X
1.6	Carwashes and car care centers	X
M.2	Accessory outside storage for industrial or commercial use	X
M.3	Accessory manufacturing use	X

R. Cartier continued we'll have to look at that in our Zoning Regulations. Some of them I know we have. I haven't read through it so I can't make rational comments on it. R. Cartier read: Manchester Water Works looks forward to working with the Town of Candia to discuss the information provided in this letter and to work towards cooperative approaches to protecting the water quality of the Lake Massabesic watershed. I would advise everyone to take it home and read it and see if you have any concerns.

A. Hall commented the date of the letter is May 31, 2018 and the stamped received was two days ago, August 13, 2018. It's on their shoulders. M. Chalbeck said there are prohibited uses like watering lawns and the golf course is inside that map. Maybe they should have someone come over to one of our Board meetings and explain the implications. R. Cartier agreed. I actually know the director, Phil Croasdale, we'll see if we can get someone here. See if we can invite them to one of the meetings. We would have to approve them. Right now it says the Candia Planning Board will consider adopting a similar overlay district ordinance and can benefit from the proposed LMPOD revisions as a starting point for development of related municipal regulations. It's nothing they can force us to do but looking at it real quick, I have the same concerns that you do (to Mark Chalbeck).

Budget:

R. Cartier said we can use the same budget as last year. We haven't had time to do anything with it but the Master Plan Implementation for \$10,000 that we have in there. Last year there were some ideas to do things but with everything going on, larger sub-divisions, we just have not had a chance to do it. We want to do some more work with the Village District so we can spend some money on that. A. Hall confirmed that the numbers were from the previous year and we didn't overspend. R. Cartier said we only had one person go to the seminars; I'd like to go if I can.

MOTION:

A Hall **motioned** to adopt the same budget and we had in the previous year. J. Lindsey **seconded**. R. Cartier said we have a motion and a second to request the budget be flat from 2018-2019. **All were in favor. Motion carried (5-0-0).**

New Boston Road-North Road Issues:

D. Lewis said I want to make the Board aware of the New Boston Road, North Road situation. The four lots that were approved on New Boston Road last year, they're building on them now. They started during the winter clearing them. They cleared them all and last Tuesday night I got a call around 9:30 pm and one of the people told my wife that their driveway was washed out on North Road. When I got there, it was coming from the new lots on New Boston Road. It took out two driveways and flooded out a third driveway and property. It came off those lots, came through the backyards of lots on New Boston Road and deposited in all the driveways on North Road. At that time of night there was too much water coming down so I went back the next morning to take it out of North Road and put it back in their driveways. I looked around, there is no erosion control and now there's silt in all these backyards, silt in the streams. Dave Murray and I talked about it and I said don't say a word, just call DES and get them down there. So we met DES today at Noon. Boyd Chivers came, Dave Murray, Building Inspector was there, a representative for the builder and DES and we looked it all over. They'll have to do a mitigation plan and restoration work and stuff. As a Planning Board, as a Town, we have to look at this. Those lots were denied a subdivision 10 years ago for a reason. They got approved this time around and this is what's happening. We had an incident on Chester Turnpike for one that just got approved that flooded out the neighbor from the construction of the new house. We did talk to DES about ways the Town can protect ourselves from this, with some things in the subdivision regulations. In the meantime, the damage is done. It's an eye opener for the Town to realize what can happen when you build on marginal lots that are ledge, very steep, hills, lot of water. It's unfortunate, I don't know how they're going to clean up the abutting properties but DES is going to make them do a plan and the Town has to figure out how we're going to implement that. It puts everyone in an unfortunate position; The Town, myself as the Road Agent, the Board of Selectmen. The residents came to the Board of Selectmen's meeting Monday night wanting the Town to remedy the situation. It's already gone too far and we have to start paying attention to what's being built and where it's being built.

R. Cartier asked Dennis do you remember why it was denied 10 years ago. D. Lewis replied steep slopes, ledge, everything that went wrong was the reason for the denial. Andrea had pulled the file for the Planning Board from 10 years ago before it got approved and it had all the reasons in there. J. Lindsey responded why did we approve it the second time around? What changed that made...D. Lewis said you tell me, I'm not a Planning Board member. M. Chalbeck said if they meet all the requirements. J. Lindsey commented right but what did they meet this time that they didn't meet last time? M. Chalbeck said but if they're constructing and not putting up silt fences and not doing what they're supposed to be doing, then they have to pay the fines to DES and they should be mitigating for these people and we should probably have something in place for the Inspector and the Road Agent to be able to enforce fines if they're not going to do that. R. Cartier said Dennis brought up a good point as we do have regulations in place for steep slopes and I know, I can't remember if I was on the Board or not at that time, but I took a look at it and it was the same basic property as next door, when they built the houses over there. The biggest difference between the houses that are there now and these two lots is that they didn't clear cut anything. They trimmed so that's why it seemed okay to me, that precedent was set. But when I went by there once they subdivided and all of a sudden the whole thing was denuded and the ledge was sticking out. D. Lewis said if there's ever a case for a site walk for the Planning Board, take one and see what the end result is here, this is one you may want to view.

R. Cartier said I think the Board should site walk everything. I have no problem with that; I have the time to do it. J. Lindsey said I plan to go tomorrow. I was shocked when I drove by and it was denuded as you said. Somehow they met all of our requirements and they were going to do this and do that and then to hear this, something has really gone awry.

B. Chivers commented they didn't meet any DES requirements. There's no alteration of terrain permit, no silt fencing, no precautions, nothing. They were putting them in yesterday and today. J. Lindsey said but in their plans didn't they say they would do this and now they're not doing it? D. Lewis replied everybody says they'll do it. J. Lindsey said right, we're approving with the idea that they're really going to

do this. They don't do it and we don't catch it until disaster. D. Lewis said due to the volume of water, a silt fence wouldn't do any good. There was a stone wall 2 ½ feet high on the back corner of one of the lots. The debris came down there, backed up against the wall; the silt built up to the height of the wall and then went over the wall. Other places it would take a spot the size of this room on an abutting property to clean every bit of leaves, vegetation right off of that and keep right on going. No amount of silt fence would have cured this. M. Chalbeck asked how did the other properties that were done 8 to 10 years ago make out. D. Lewis replied they didn't have too much trouble; the weather wasn't bad when they did those. They didn't clear cut so whatever eroded off that property had about a ¼ mile to filter itself; through the woods, trees until everything got stabilized. But this one, everything goes right down to those properties, no resistance, it just took off. It was just a river of mud and rocks on North Road. It was a phenomenal amount of water.

R. Cartier said this is another thing we need to look at in order to tighten things up. I don't have the plans in front of me but it would be interesting to see if the plan they gave us had the contours on that lot. D. Lewis said it did. Of course the contours are totally changed now. Boyd saw it, one of the houses rather than buying back fill for it they dug a pit to the ledge and behind there has to be a 30 foot drop. They took every ounce of soil off the ledge and brought it up around the house. Out back it just drops right down and that increases the velocity of the water. It's on ledge, it cleaned the ledge and just took the mud with it and off it went. DES did give us some ideas of what to put in our subdivision regs.

R. Cartier asked will they send you anything in writing. D. Lewis said they'll send a letter with what has to happen on this property but it's up to us to do our own subdivision regs; give us advice on what may work. On lots like this, maybe require a bond. Limits of cut. All kinds of things we can do. If this builder walks away from this you know who's going to be responsible, us.

A. Hall asked there are two culvert replacements by the dam. Any of that caused by this problem we have. D. Lewis said indirectly yes because there's more flow at that brook where it went over and washed out. It comes up now in about an hour and a half after a two hour rain and it's over the road. It used to go over the road once every 3 years. Now it goes over the road all the time. A. Hall said can we expect that future excessive rains like we've been having will exacerbate the problem with the road. D. Lewis agreed. Stantec's working on putting two box culverts there. We have five foot culverts there now but they are no longer adequate. You can't just attribute it to this subdivision; you have Halls Mill up there, all the other subdivisions that feed that same brook so it's getting there quicker than it ever did. We have a lot more houses on New Boston Road, more on North Road; every one of them adds to the problem in its own way. These lots; the contours changed so much the water course isn't the same either. How that affects it, no one knows. A. Hall said a development on New Boston Road is going to exacerbate the problem on North Road. D. Lewis replied we're looking for some mitigation money. There is some money available, it came available in the last few weeks, and maybe we can tap into that to replace those North Road culverts because they aren't going to make it this winter. We need to be careful on our planning... (*Unintelligible*).

R. Cartier replied and this is timely because we're going through the regulations now. D. Lewis replied I think all these are subdivision regulations so it's not like they go to the voters. You have to have a public hearing for them but this is something we could get in place fairly quickly. J. Pouliot asked if they had the suggestions from DES written down. D. Lewis said we can get them in writing from them. A. Hall confirmed DES will be writing a letter regarding this situation. D. Lewis agreed. They'll be letters going to the Board of Selectmen, the Planning Board will probably get copied, Building Inspector and myself. DES is going over to Chester Turnpike tomorrow to look at the driveway. R. Cartier said it's unfortunate the Board didn't catch that it was denied before. D. Lewis said you'd think common sense would prevail with builders but it doesn't and you have to put all these things in place. R. Cartier commented we have to learn how to say no.

R. Cartier asked Boyd about building on the Class VI Road Policy that was adopted 10 years ago? B. Chivers replied the Board of Selectmen has the authority to authorize a building permit on a Class VI road, that's in the state law but other than that, I don't think the policy has changed. R. Cartier said it's something that will probably come up and we're trying to figure out the best way to handle that when it

does come in. B. Chivers said frontage for a lot has to be on a Town road but is Class VI deemed to be a Town road? So do they have the required frontage on a Class VI road? R. Cartier said but doesn't it have to have frontage on a Class V or better road? D. Lewis replied for subdivision. I think Rudy's talking about subdivision on Class VI roads and you're talking about building permits. B. Chivers said that's a whole different thing. Subdivision on a Class VI road that gets complicated. So someone has a Class VI road, the only access to this lot and they want to create a subdivision with more than one house lot? And they all have frontage on a Class VI road? Have they come to this Board? R. Cartier replied not yet. D. Lewis said and they already have an existing house on a Class VI road so that card's been played. A. Hall said this is all on record Boyd. B. Chivers said so two more houses on a Class VI road? R. Cartier said three more houses. The Board has approved the one existing house on the whole lot. B. Chivers said so they want to carve up that lot and put two more houses on it. R. Cartier corrected three more houses. B. Chivers so a total of four homes serviced by a Class VI road that the Town has no responsibility to maintain. The Board agreed. J. Lindsey said I understand that if you have that lot on a Class VI road you can build one house on it but you can't subdivide your lot. That was my understanding. B. Chivers replied otherwise someone could have a 200 acre lot on a Class VI road and come in every year for a building permit. D. Lewis said we went to court on that and the Town prevailed. We had one with 160 acre lot, Libbee Road and that was denied because it was on a Class VI road. R. Cartier said Sanderson property. D. Lewis said the difference between a Class VI road and a closed road, the only way it makes it a Class VI is we lapsed in maintenance for 5 years or more. We vote to close roads but we don't vote to make a road a Class VI. I don't think we have a Class VI left that doesn't already have a home on it. We have a lot of closed roads.

R. Cartier said the reason I ask is that although there is a tie in the Class VI Road Policy and the Subdivision Regulations, it's not clear which comes first and how to make it so the two mesh a little better. When I read the Selectmen's abilities on what they can do, it looked to me like they would have to upgrade the Class VI road to at least a Class V or better in there. So should something like that be in our regulations that you can't build on a Class VI road unless you bring it up to a Class V, the entire road to whatever the specs are; a foot of gravel and 20 foot turnoffs and things like that. D. Lewis replied to upgrade it to a Class V it would be whatever the Selectmen deem it needs to be. B. Chivers said that's an excellent idea Rudy, to have something in there now before it becomes an issue. D. Lewis continued if you look at Sanderson vs. Candia, they were going to upgrade the road and they still got denied. Part of that was due to the fact it was a scenic road and they couldn't get the width and drainage and other things and then the rest of it was that it was a Class VI road and it wasn't a benefit to anyone except themselves.

R. Cartier said we'd be on solid ground if we looked at it; is it in the best interest of the Town, what kind of issues we have with access and maintenance. B. Chivers said it would pretty unlikely to get 4 or 5 people to agree on who's going to plow the road for emergency access.

R. Cartier said my goal for tonight is to get through the rest of the regs that are in here. Clean them up so Bryan can give us an updated copy of everything and then we can look at it and see where those tweaks need to be. Rudy thanked Dennis for the information. We'll start on the regs and then review the zoning recommendation draft.

ZRRC Meeting to follow Planning Board Meeting

MOTION:

J. Lindsey **motioned** to adjourn at approximately 7:34 pm. A. Hall **seconded**. **All were in favor. Motion carried (5-0-0).**

Respectfully submitted,

Andrea Bickum

Land Use Secretary

cc file