

**CANDIA PLANNING BOARD
MINUTES of November 7, 2018
UNAPPROVED**

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

Absent: Joyce Bedard; Mike Santa, Alt.

Present: Dennis Lewis, Road Agent; Bryan Ruoff and Rene LaBranche from Stantec; resident Dick Snow; resident Judith Szot, ZBA Vice Chair.

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

MOTION:

A. Hall **motioned** to appoint alternate Joshua Pouliot to temporarily fill the vacancy from Ken Kustra's resignation until the next election in 2019. J. Lindsey **seconded**. Josh Pouliot **abstained**. **Motion carried (5-0-1)**. R. Cartier said you're a member of the Board until the next election in March. He suggested that Josh Pouliot apply by February 15th but check with the Town Clerk; not sure of the deadline for the ballot.

Minutes October 17, 2018:

A. Hall made a **motion** to accept the minutes of October 17, 2018 as presented. J. Pouliot **seconded**. S. Komisarek was also **in favor**. R. Cartier, M. Chalbeck and J. Lindsey **abstained**. **Motion passed (3-0-3)**.

Other Business:

Ashwood Development/Donovan Road-Class VI Road and their 3rd Party Review Letter: Stantec presented the inconsistencies with the 3rd party review letter from Fieldstone Engineering dated October 3, 2018 for Ashwood Development. This letter had been presented to the Planning Board requesting a different third party review due to a perceived conflict of interest between Ashwood Development and Stantec Engineering.

R. Cartier said Chad Branon did go over this letter a month or so ago. I did have the opportunity to talk with Rene and Bryan from Stantec; they had asked if they could come in and discuss the letter. There were a few things in the letter that seemed to be inconsistent and I'll take responsibility for this but I think we might have acted a little too quickly without giving Stantec an opportunity to address the inconsistencies in the letter so Rene and Bryan are here tonight to discuss. I want to be fair to both the applicant and to Stantec because they have been our Town engineer for a long time and have a good relationship with us. They had asked to come in and I thought it as a good idea.

Present: Rene LaBranche and Bryan Ruoff of Stantec Engineering.

R. LaBranche introduced himself, Rene LaBranche from Stantec. I'm talking about the Fieldstone letter dated October 3rd, 2018 regarding the Ashwood Development Companies request to have us replaced as the review engineer on their project. I read the letter and on the last page and I was surprised at the accuracy (*meant inaccuracy?*) of the information. It's the last sentence on the second page and then the entire paragraph associated with that. R. Cartier read: This request is being made per RSA 676:4-b which states that "*The applicant may request the planning board choose a different third party consultant and the request may include the name of a preferred consultant. The planning board shall exercise reasonable discretion to determine whether the request is warranted*". *Since this RSA allows the applicant to request a company our client would ask that the Board consider contacting Keach-Nordstrom Associates as they perform municipal reviews in many other Towns. In regards to the validity of this request, our client permitted a large residential subdivision in Milford, NH in the early 2000's and the review and approval*

of this project resulted in the firing of Dufresne & Henry as the Town's consultant and shortly thereafter apparently the Town's Public Works Director was also released. At the time Rene LaBranche was the manager at Dufresne & Henry and the Town's Director of Public Works was Brian Ruoff's father. Stantec purchased Dufresne & Henry in later years but Rene LaBranche is still involved with this portion of the business and is a Senior Principal and Brian Ruoff is the Project Manager for the Town and just so happens to be the son of Bill Ruoff. Given these details we respectfully request that the Board consider my client's request for a different third party consultant.

R. LaBranche responded so I'll tell you the parts that are correct or accurate. Yes I was working for Dufresne & Henry at the time and yes we were involved with this large development with Ashwood Development in Milford, NH. Bill Ruoff had just started in 2000 as the Public Works Director in Milford. It was a large project. Interestingly, you want to keep in mind what a conflict of interest is, the engineer of record and the design engineer of that project was Keach-Nordstrom. What he's saying is that somehow we were fired as a result of this project; it had nothing to do with it. Our company stayed on in Milford til about 2006 for the Planning Board and we still work there to this day. We're doing a water main project for the water and sewer departments. There was no firing going on. Bill Ruoff stayed on with the Town of Milford until approximately 2010 or 2011. His leaving the Town of Milford had nothing to do with this project. I know why he left and it had nothing to do with this project, it was between him and his supervisor and they disagreed on something so he left. The information in this letter is not true. He's implying that something terrible happened. I don't remember this being a bad project. I've never met Mr. Tancreti, the owner, I don't believe, the owner of this company that is making this request. I remember there was a difficult project manager for his company that we dealt with and there was a field superintendent that was a really good guy that we dealt with. There were some design issues on the project that was the responsibility of the design engineer that we had to work through; drainage, grade issues. We worked through all of those and I know Mr. Ruoff (Bill) through this process was very accommodating to these people and tried his best to get them through the process as efficiently as possible. I have no recollection of this being a knock down dragged out project. I had no issues with this company until I read this letter and I said boy I didn't realize we had such an issue. You know that plans here and projects are reviewed by Bryan, not me. I review the letters for QC and I really have not noticed Bryan having a vendetta against this individual for his father's history. His father's history in Milford had nothing to do with this individual and I think working on a project with another developer or engineer, does not create a conflict of interest. If that were the case, then Scott and I would have a problem because we worked on a project years and years ago. If every time you had a rough project back in the day that created a conflict of interest....that's just not how it is. We had no contractual relationship with this company; we were working for the Town of Milford in the same situation that we have for the Town of Candia, we were the review engineers. Keach-Nordstrom was the design engineer working for Ashwood Builders on that project. I don't know if they have an ongoing relationship or not, I know that we never had.

A. Hall said Stantec is an international company. R. LaBranche confirmed yes, about 23,000 employees. A. Hall continued so if there was a thought of a conflict of interest you would defer to another associate. R. LaBranche replied yes, if we thought there was a conflict of interest, we would come to you and tell you that. We didn't see it and don't see it. We have individuals in our office; some know your regulations, that person right now is Bryan. That's why he does the reviews in Town. I used to know them. We identify an individual to work with specific Towns so they know their regulations best. That person is Bryan. I can tell you that if I reached out in Stantec to find someone as good as Bryan, I can't say that we can do that because knowing you're regulations is critical for this. I am one of the leaders in the North East and we do have those resources to reach out too but I can tell you that I certainly wouldn't subject us to being involved in a conflict of interest type situation.

J. Pouliot asked you said Bill Ruoff had just started in 2000 and he wasn't let go because of this project. R. LaBranche agreed, he started in early 2000 or so and was not let go because of this project. He stayed on for about 11 years working for the Town of Milford. He left later in 2011ish for various reasons.

It was unrelated, nothing to do with this project. Interestingly, we had done a project with this company in 1996 and we had done another project with them in 2005 or 2006 also. We were doing the construction monitoring for the water and sewer on another project with them.

R. Cartier said the major concern from Fieldstone Consultants was the section in here that said basically it's going through some of the stuff normally done by Stantec for us with some reviews. Apparently they took umbrage with Bryan saying the application was incomplete and they were saying he can't make that determination that has to be made by the Board. As you all know, we do completeness reviews before and if there is anything we find that is missing, we let the applicant know so we can get things done on a fairly efficient basis. Two things: 1) is the application missing a few things and the other issue that came up 2) is this project can't go forward because we as a Planning Board can't approve this project because it's on a Class VI road. That's in the law. We have nothing that we can do about that. We can't even accept an application so to me the application is null and void before it even gets here. The line (*in the letter*) that concerned me was "Given this our client now feels very strongly that there can be no advancement of his project with Stantec as the Third Party Consultant." That in my estimation is not a true statement because the project can advance and it has nothing to do with Stantec and everything to do with our regulations and the state law. I'm a little concerned on both of those parts and as Rene had said, the mis-information characterizing how the project was. R. LaBranche said the letter reads like we didn't want them to do it, then we said it was okay, then they upset us, now we don't want them to do it and this is why. That's not valid in my opinion. A. Hall said the reason we're not proceeding on this is the Donovan Road Class VI, let's move on. R. Cartier replied we don't have an application before the Board. There isn't an application because we can't accept one, which makes this letter moot at this point in time. In the meeting about 6 weeks ago we did discuss this and were going to look at having another consultant. I think we were in error to make that motion because we did talk about the fact that we couldn't have the application but the information was there so I would say that we could probably rescind that motion because we really didn't have an application to deal with and as the Vice Chair has said, we'll put this letter on file and when and if an application comes in, if they still want to do another 3rd party in here, then we'll have to address that point as part of their application process. That was the consensus of the Board. R. Cartier continued I don't think we need to take a vote to rescind the motion that we did because it was really not to an application we just talked about it at the time. M. Chalbeck said I thought it was more of an informational. R. Cartier agreed. Oh no they did submit an application and then we made some determinations that during that time we couldn't accept it because the applicant didn't own the property. M. Chalbeck recapped they didn't own the property and the Class VI where they had to go to the Selectmen. We couldn't do anything anyway. A. Bickum confirmed they withdrew and then were going to re-apply. R. Cartier said they can't reapply, well they can re-apply but then we'd have to say we can't accept the application. We'll place this on file and Rudy thanked Stantec for coming in to clarify.

Informational: Robert Johnston; Map 402 Lot 85; Intent: To subdivide the existing lot (Map 402 Lot 85) into 2 new lots making a total of 3 lots. This would fall under minor subdivision (*Currier Road*).

Present: Owner Robert Johnston of 24 Currier Road, Candia, NH 03034 and Jim Franklin, Surveyor.

Jim Franklin presented I submitted a number of copies of the conceptual plan when we made the application. Mr. Johnston is here with me, he's the owner of the property. Over the course of a number of years, we have surveyed his property. This is the last piece of property that he has in this area. It's at the far end of Currier Road, North end where the Deerfield Candia line comes in and the road takes a 90 degree turn. There are 9 plus or minus acres there and he's proposing 3 lots for the estate planning that he's done in the past. This is not connected to the last application. There's no connection between the properties now, there was 100 years ago there was connection but not now. We did a boundary survey, a topographic survey and we had the wetlands delineated and we did test pits to make sure this was all workable. So we'd

like to let the Board know we're planning on coming in with a formal application and if all goes well, permits, I'd like to be back here for your meeting in December. Andrea said if we get the paperwork in and it's a complete application in by the 19th of this month, we could be on the agenda for December. We've been working on these for awhile; the date is October 2018 (*date of the plan*). Perhaps an upgrade to the road may be requested by the Road Agent, I'm hoping not but that's between he and the Board.

R. Cartier replied I think that's going to be the problem. Currier Road is probably one of the worst roads we have and we did the other subdivision for you. We had another one across the street. The traffic increase even for those is unacceptable for basically keeping that road going on there. That would be the thing that's going to be the sticking point on approving anymore subdivisions on that is the road. Dennis is that a Class V? D. Lewis yes, everything up there is a Class V. R. Cartier continued Class V road which is really, especially with all the development going on on the Deerfield side with houses going in there, that's the thing that will be the biggest hurdle in here. As far as the subdivision from a quick glance it seems to be meeting the requirements that we have for subdivision but the Board also has to take into account the impact on the road up there too so that will be the tough part.

J. Franklin replied well the last subdivision we had after the approval one of the requirements was for Mr. Johnston to come in and make a sizeable monetary, I can't say donation, but it was money contributed towards the maintenance of this portion of Currier Road. And those lots have not been built on and it's my understanding that at least at this time, there's no intention of building on these three. Again it's for estate planning, long term. R. Johnston said it's for the children. J. Franklin continued the potential for the increase in traffic is there. R. Cartier said and that's the thing the Board has to take a close look at. J. Franklin said last time it was on a per lot basis would that be reasonable to...R. Cartier replied I'm not sure without seeing the plans and talking to the Road Agent and getting his evaluation of basically the traffic and the way that road is right now. I know from past experience it's very tough to get emergency vehicles up Currier Road at any point in time, even to get up to your current residence and up around that corner it gets pretty bad. We have no control over the section in Deerfield but they've approved some housing up there that's going to affect us too so we have to take a look at that. To me that's going to be the only, the biggest problem. There might be something else that we're not seeing right now. A. Hall asked is it just this portion of Currier Road or the entire road that's in rough shape. D. Lewis replied it's the lower end. The upper end is narrow but it doesn't get muddy and doesn't have the issues that the lower end has. This is the worst section because the water table is right there. You go up there now and it's just standing water on both sides of the road. R. Cartier said we've had warrant articles to upgrade that road. D. Lewis said we've tried but the people up there do not want to see it repaired but they aren't the ones up there at 3 in the morning and hauling stone to get the school bus through. R. Cartier said I know there will be abutters coming in to give thoughts on it.

J. Franklin said I'm just curious if the citizens of the Town don't want this road upgraded is that reason to deny a subdivision. S. Komisarek said no. J. Franklin continued that's the way I've looked at. The contribution; capital improvement program is appropriate for the Town. Have an assessment per lot makes a lot of sense. R. Cartier said we can't make any decisions on it today but just to let you know that that will be one of the sticking points to having an approval on that. Just a forewarning I guess. J. Franklin said we'll handle it as it comes in. R. Cartier said we'll work with you the best we can but our responsibility is to the Town to make sure the Town is properly taken care of and I know everyone on this Board is reasonable and we look forward to you coming in.

18-011 Lot Line Adjustment Application: Applicant: Beth Bartlett & Stephen Galperin, 125 Podunk Road, Candia, NH 03034 and Susan Hebert, 2001 Cedar Street, McKenzie, TN 38201; Owner/s: Same; Property Location: Podunk Road & Currier Road, Candia, NH 03034; Map 402 Lots 56 & 57; Intent: To discontinue a 50' access way to lot 57 and add the acreage to lot 56. Lot 57 has frontage on Currier Road. Upon a finding by the Board that the application meets the submission requirements for a lot line adjustment the Board will vote to accept the application as complete and a public hearing on the merits of

the proposal will follow immediately. Should a decision not be reached at the public hearing, this application will stay on the Planning Board agenda until such time as it is either approved or disapproved.

Present: Applicants Beth Bartlett & Stephen Galperin, owners of 125 Podunk Road, Candia, NH 03034; Jason Lopez from Keach-Nordstrom and Associates.

R. Cartier said Andrea reviewed the application and I've discussed it with her and it seems that everything is complete; this is basically a lot line adjustment.

MOTION:

A. Hall **motioned** to accept the application as complete. M. Chalbeck **seconded**. **All were in agreement. Motion carried (6-0-0).**

MOTION:

A. Hall **motioned** to open the public hearing on the application. J. Pouliot **seconded**. **All were in agreement. Motion carried (6-0-0).**

J. Lopez introduced himself, I'm Jason Lopez from Keach-Nordstrom Associates. We have a piece of property with an existing home owned by Susan and Armand. They sold that property back in May. They also owned a larger piece out back; 28 plus acres. The property had a 50 foot wide access strip that connected to Podunk Road. At the sale of the home that they were living in at 125 Podunk they sold the 50 foot strip with that house. That was back in May and the deed was drafted up as such but the proper lot line adjustment, the plan was not completed prior to that sale so essentially what we have is a plan being done after the fact to correct what has essentially clouded the title. We are looking to formalize that lot line adjustment. So this 50 foot strip would come from the larger property, which has adequate frontage along Currier Road. It would eliminate that frontage that it had on Podunk and that 50 foot would then go with that existing house. With that lot 56; the lot would increase from 4.2 acres to 4.9 acres and the frontage would increase from 253 feet to 347 feet. The larger lot in the back, lot 57, would decrease from 28.8 acres to 28.1 acres and it would maintain 991 feet of frontage on Currier road. Both lots comply with the frontage and area requirements of the residential zoning district. The larger lot that is being decreased in size does not decrease below the 5 acre threshold for requiring a subdivision permit from the state. So a simple lot line adjustment would rectify this transfer that took place.

R. Cartier asked so there's no problem with access with wetlands or anything on the Currier Road frontage here, that was my only concern. J. Lopez replied we don't have the wetland delineation done but there is adequate frontage along there. M. Chalbeck said it's on the level side not where it drops way off. R. Cartier said the lot 56 was just sold recently? J. Lopez said back in May and a copy of that deed was attached to the application. R. Cartier said I think the only thing that would need to be done would be to provide a copy of the final plan to the Town so they have an updated one for the tax maps. J. Lopez replied the goal would be to produce Mylars; I'll bring them by the Registry of Deeds and have them pre-checked. They have a tendency to kick plans so I'll get them pre-checked and bring them back to the Town for the Board to sign and then a copy should be recorded in the Registry of Deeds just so it will be there to track with this deed that was recorded referencing this so the plan will be there if someone does future title searches on the property. A. Bickum gave J. Lopez the fee schedule if the Town is to record it.

MOTION:

M. Chalbeck **motioned** to approve the lot line adjustment application as presented. J. Lindsey **seconded**. **All were in favor. Motion carried (6-0-0).** *Note: Al Hall also motioned to approve but I believe Mark Chalbeck motioned first.*

John M. O’Neil of Manchester Water Works: Answer questions on Lake Massabesic Water Overlay District Letter and Map, presented in August 15th Planning Board meeting.

Present: John O’Neil

J. O’Neil introduced himself; I’m John O’Neil, the Watershed Forester for Manchester Water Works. R. Cartier said there were some concerns reading this overlay district letter, which would make significant changes to our zoning in Candia.

In summary: J. O’Neil explained Manchester Water Works is working with Comprehensive Environmental Inc. out of Merrimack, an environmental consulting firm. This was part of a NHDES grant program for surface water protection and storm water protection for drinking water supplies. Manchester Water Works did a grant where they helped revise our watershed management plan which includes 24,000 acres and includes parts of Candia, Hooksett, Auburn and Chester and that watershed management plan is looking forward at projects for the next 5 – 10 years. Different projects to help protect and improve water quality in Lake Massabesic. One of the suggestions was to revise the current Lake Massabesic overlay district which exists in the City of Manchester. As part of the requirements of the grant we were required to reach out to other watershed communities or other municipalities within our watershed to share the revised overlay district ordinance language and allow them to at least be aware that it’s there and take it into consideration in your own zoning regulations. Comprehensive Environmental looked around New England and looked at other overlay districts and zoning ordinances for water supplies and took them all and put them all into here. We have this document now which is **not approved** by the City of Manchester. We’re still working with them on it; it’s very encompassing and it does need some work, it’s still a work in progress but in order to fulfill the grant it was required that we send it out as is. It’s for your information and if you want to consider bits and pieces of it for adoption and as we get to a more completed product for the City of Manchester I can come back and share that with you; we’ll be working on it over the winter with the Planning Department if things slow down. The Manchester Water Works Overlay District is a work in progress, it’s not an adopted ordinance, its suggested wording but it encompasses a wide range of restrictions but they did this to fulfill the requirements of the grant, they did the research to show all of it out there and it’s very comprehensive. The overlay district would only apply to the area in Candia that falls in the Massabesic watershed, which is the south western portion of Town. There would be grandfathered uses here as well, it wouldn’t restrict those, it would apply to modifications and/or new construction. Manchester Water Works is a review agency to our Planning and Zoning Department in the City of Manchester. Our original overlay district really just restricted service stations, car washes and chemical plants and had some buffer restrictions and restrictions on impervious surfaces. We went from basic to much more involved and we are still chewing on it. I would say you might want to talk to NH Department of Environmental Services about expansion etc. R. Cartier asked this is just a suggestion that we would have to adopt as a Board in Candia so we would have to take a close look at it as part of the watershed overlay area is our commercial and industrial zones. This Board and many people in Candia are conscientious about environmental issues and water issues. We have a lot of wetlands in Candia. We’d have to look at it and work with you on those things in conjunction with Manchester.

R. Cartier stated we had a subdivision request come in for down on Brown Road and Old Candia Road, it’s the third submittal that came in. Waterworks had commented on it when it was a 7 lot subdivision. We sent the notice to Water Works that we now have it coming in as a 4 lot subdivision but we didn’t get a response back. But with this overlay district, this would be one of the areas of concern, its right in the middle of it. It’s prone to flooding too.

J. O’Neil said something like this overlay might be a benefit to everybody because instead of us looking at these situations on a case by case basis; review and come in to comment or step in; when you have it like this, it’s for everybody. In my office I have 620 property abutters and in each municipality we

have 20-30 projects per years so sometimes things fall through the cracks. I do remember that one coming across my desk; it's probably in an in box on my desk. Looking at an overlay or some sort of zoning for the Massabesic Water Shed would be helpful. The Town of Auburn has a 100' buffer around wetlands for any projects but then they make exceptions to that on a case to case basis. Maybe this overlay district is something you could take pieces of to adopt.

A. Hall asked for some way to get a response as no response is like we don't care. J. O'Neil said that's not the message we want to send. We've been active about responding but we don't always get them all. They do come through my office indirectly; they come to me as an abutter situation. Auburn for example, they send me their planning stuff monthly so I know if we are an abutter or not. The path it takes to get to my office is cumbersome.

J. O'Neil said Hooksett and Auburn have GIS systems so I can click on it and see what they're doing. Otherwise it's cumbersome to contact the Town and go and look at their maps to see what's being impacted. *Andrea will submit the plan and the minutes from the preliminary meeting for the major subdivision for John to review.* J. Lindsey commented it would be nice to have this blown up and Brown Road located as with all the rain, I walked on the railroad bed, or tried too and I'm thinking if we have more information it might be helpful. A. Hall said the previous cases were prior to this Andrea. J. O'Neil said I remember commenting on the seven. A lot of time, my office, I send good comment letters out to the Boards because I can't attend all the meetings. This one slipped through the cracks.

M. Chalbeck asked about the overlay district timeline. J. O'Neil responded maybe Spring 2019 that is the goal. This will get re-worked. The state required that we send it out as is. It's pretty big, involved and we're still working on it. R. Cartier asked even if this gets reduced and adopted in Manchester it doesn't mean we have to adopt it. J. O'Neil replied no. We're trying to find that middle ground of protecting the resources and the people. Some of this is on a larger scale and open to interpretation. J. O'Neil left his contact information.

Other Business

A. Bickum sent the letter of appreciation and the certificate to Ken Kustra.

Rail Trail: R. Cartier said I spoke with Sue Young, Chair of the Select Board. There is an issue with the rail trail; we talked about that, the potential rail trail and the Transportation Plan. I had a conversation with Sue as the Chair and we came up with instead of trying to go through a bunch of rigmarole, I was going to draft a letter for the Planning Board to approve and sign and the Board of Selectmen to approve and sign basically stating that the inclusion of that was done in error and the Planning Board and the Board of Selectmen don't have any intention of creating a rail trail on that because there are issues with land ownership; it's not owned by the state, it's owned by a private person. With the Board's approval I'll draft the letter and we'll send it around to everyone. The next meeting that we have in December, we can vote on that. I'll give a copy to Sue and the BOS can look at it too before we approve it.

M. Chalbeck commented I want to make sure that if we change something we're not inadvertently dragging the Town into a private land dispute. We don't ending up being sued for millions of dollars for something we don't want to be involved in. Should we have the Town Attorney advise us on this.

R. Cartier said we'll have them take a look at it. To try to redo the Transportation Plan at this point, would be a waste of time and money to do what is relatively minor and I think we can cover it with a letter. I'll do that, draft the letter, and get it around to everyone.

Zoning Ordinance Suggested Changes Reviewed by Legal Counsel:

R. Cartier said we did get the recommended changes revised draft back from Mike, legal counsel. Board discussed the zoning amendments commented on by legal counsel.

RECOMMENDED CHANGES TO THE ZONING ORDINANCE

This is for the Planning Board to review, revise and amend, keeping the Zoning Ordinances in mind, for the purpose of preparing final versions of these or other recommendations to become warrant articles for the 2019 Town elections.

REVISED DRAFT

10-31-18

Proposed for Warrant Articles:

Zoning Amendment #1: Article III, Definitions. Accessory Dwelling Unit: to amend by striking or detached to conform to the special exception conditions as per Article XV 15.04 E7, a second dwelling unit may not be detached but must be attached to the principal dwelling. To read: **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. **Planning Board and legal OK with this.**

Zoning Amendment #4: Article V, Section 5.02 (A-5) Residential. Intent: To allow short term rentals in the R district. Omit not intended for occupancy by transient guests or tourists. To read: 5. Boarding, ~~or rooming house not intended for occupancy by transient guests or tourists~~ rooming, and short term rental accommodations not to exceed 14 consecutive days. Permitted by Special Exception subject to the provisions of Section 15.02 Special Exception Standards.

Legal Counsel recommended defining what short term is. Board discussed.

J. Pouliot said Airbnb has a policy for 2 weeks. J. Szot said the state does not charge room and meals tax after six months. Six months or more it's considered dwelling. R. Cartier said the intent was to do more with the Airbnb type situations. Maybe the 2 week limitation would be good. J. Szot said so this would allow Airbnb anywhere in town. People have come to the ZBA and have built apartments and are using the accessory dwelling unit law to put in Airbnb uses. Which is not...the ADU's were created, if you read the RSA, the very last paragraph says this is intended to fill the Town's requirements for work force housing. I would interpret this as the state saying the ADU's were intended for work force housing not to be used for Airbnb so I think that's a consideration to think about; if you read that enabling legislature on it. When we did the charette, SNHPC told us every town is required to have so many units of affordable housing; work force housing and they allowed this law to allow that. They changed the law to allow these ADU's which were initially in-law apartments to now be rented out to anybody. R. Cartier replied when we discuss very short term, we don't want it to be an apartment building. J. Szot commented but that goes against what the legislature says about accessory dwelling units. If they are rented on Airbnb then they are not being rented for work force housing. R. Cartier said we'll put the 2 weeks in there and we'll have legal counsel look at it again and we'll specifically ask that question is this in conflict in doing it? We were looking at the short term like Stephen Clay house. J. Szot said we've discussed that and Bart said that's specific to that building and it has no bearing on any other building and it's a completely different use than taking a room in your house or an apartment that you build in your house and then renting it out short term. It's completely different. R. Cartier said we'll do the two weeks and have Mike or Bart look at it. Board discussed. J. Pouliot offered 14 consecutive days. R. Cartier confirmed no longer than 14 consecutive days. J. Pouliot said the policy of Airbnb if you read their terms and conditions is to avoid squatters. Avoiding the rights of people being in the same location long enough to have rights and difficulty removing them past their stay. Tenant rights.

Zoning Amendment #5: Article V, Section 5.02 E. Public and Institutional - ADD NEW SECTION (e-9) ~~Multi-day other events and venues such as music events or venues, festivals, fairs, entertainment, camping or campgrounds and the like~~ not to exceed 3 consecutive days subject to inspection by the health and safety officer in regards to the health, safety and welfare of attendees, vendors, sponsors and the like. Special event or venue permits may be required. Any noise associated with any of the above is not to extend past ~~9~~10:00 pm and must respect the "right to quiet enjoyment" in the Residential district. Allowed only by special exception in the R district and the Mixed Use district "S", permitted in the Commercial and Industrial districts "P".

R. Cartier read Mike's comment: *This amendment raises concerns. First Woodstock is now permitted in the commercial and industrial zones. Furthermore the residential zones could be affected through a special exception. Given that Courts are tending to favor property owners when they bring*

appeals of ZBA and PB decisions, the chance of Woodstock or a substantial event coming to town is real. Also, placing this in the “public/institutional” section seems out of place as this could be a for-profit commercial event/festival. Also, presumably, a new festival could happen every weekend throughout the summer at a property.

J. Pouliot commented I feel like this is pertaining to me. With working with Dave Murray the year that this was existing; it seemed like there was a lot of unknowns and gray area in using your property, to have a cousin’s wedding vs. having a commercial use music event or whatever it is. I think the Town needs to do, and I can help Dave, we need to have parameters on what is a public event, what is a private event that can be in a residential zone. How many per year allowed as a maximum. If we set parameters we won’t run into a Woodstock problem or neighbors getting angry. **The Board’s consensus is to scrap this one and revisit it later.** R. Cartier mentioned farms wanting to do weddings and the state is looking at it because it’s an agricultural use but I think farms are great places for weddings and they are pushing for that.

Zoning Amendment #9: Article XVI, Section 16.04 C: Filing of Complaints: Purpose: To provide the proper citation to Section 16.01A and to eliminate the word “immediately” from the text.

Amend 14.01A with 16.01A Building Inspector Duties. Amend: Strike 14.01A and replace with 16.01A. Strike the word immediately. To Read: 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 ~~immediately~~ investigate said complaint, and, finding a violation to exist, shall act according to paragraph ~~14.01A- 16.01A~~ of this Ordinance.

Legal counsel agreed. We do not want to place added burdens on town officials.

Zoning Amendment #14: Article V, 5.03 Accessory Uses. ADD NEW SECTION.

Purpose: To expand the allowable uses in the R district in recognition of Candia’s diverse occupations and livelihoods – 3 levels. Allowed by Special Exception “S” in the Residential district and permitted by right in the Commercial and Light Industrial districts “P” and is not allowed in the Mixed Use district “—”.

1. 5.03E-1 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 and the like. Subject to the following restrictions:
 - 1) The accessory use is practiced exclusively by the owner of the lot of record.
 - 2) Outdoor storage of material is prohibited anywhere in the front yard.
 - 3) On site retail sales is prohibited.
 - 4) No more than one employee shall be employed at the site who is not the owner of the lot of record.
 - 5) Use does not cause any recurring non-emergency vehicular traffic between the hours of 7PM and 6AM or on holidays observed by the town.
2. 5.03E-2. 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:
 - 1) The accessory use is practiced exclusively by the owner of the lot of record.
 - 2) Outdoor storage of material is prohibited anywhere in the front yard.
 - 3) On site retail sales is prohibited.
 - 4) No more than one employee shall be employed at the site who is not the owner of the lot of record.
 - 5) The use does not cause any recurring non-emergency vehicular traffic between the hours of 7PM and 6AM or on holidays observed by the town.
 - 6) Equipment storage must be beyond the following setbacks:
 - Front Lot Line 100’
 - Side Lot Lines 50’
3. 5.03E-3. 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:
 - 1) Minimum lot size is 5 acres.
 - 2) Minimum road frontage is 300’
 - 3) No more than 2 Class 8 vehicles are permitted.

- 4) The accessory use is practiced exclusively by the owner of the lot of record.
- 5) Outdoor storage of material is prohibited anywhere in the front yard.
- 6) No more than one employee shall be employed at the site who is not the owner of the lot of record.
- 7) On site processing of materials is prohibited.
- 8) On site retail sales is prohibited.
- 9) The use does not cause any recurring non-emergency vehicular traffic between the hours of 7PM and 6AM or on holidays observed by the town.
- 10) Equipment and material storage must be beyond the following setbacks:
 - Front Lot Line 150'
 - Side Lot Lines 75'

R. Cartier read legal counsel's comment: *The board should be aware that this amendment is inconsistent with the home shop use that is now allowed. The Ordinance now limits home shop use to inside the dwelling. For the amended uses the trades can be outside and allow for outside storage as long as the storage is not in the front yard. This would seem to be against the general purpose of the residential district. Also, it would allow using a detached structure for the commercial use.*

M. Chalbeck said we didn't want to put a plumber or an electrician, you store your pipe on a rack on the back of your shed, to be in violation. So I made that comment about not in the front yard or visible from the road for them to keep the ladders hanging on the shed but it's not visible. J. Szot said the problem is if you say only in the front and you may have the plumber has his ladders on there but that doesn't mean someone else and if you read further, the previous article said things have to be contained in the house, this means the way it's written they could convert a garage or barn and now they have a shop and they're running something outside of the home so it's no longer a home business. There's the guy who's going to follow it and then you have the other guy with all kinds of stuff stored everywhere. M. Chalbeck said if you have a shed, some of them have their tools out there. J. Szot said the current ordinance says home business; they have to be done inside the home. It's not done outside. If you read Mikes' thing it would also allow a detached structure for commercial use. So when do people get to come home from work and not have to listen to someone else working all day at their home. The purpose of the residential area is to get away from the businesses. You can have a plumber, an electrician, they don't work at home. You think of painters, sheet rockers. They store their stuff at home but do their work someplace else. When you get people doing their businesses as accessories to their house, they're out in their barn or something; you're turning that residential area into a commercial area. You have the airline pilot who sleeps during the day and the guy whose running his stuff in his shop and he can't sleep because all he hears is the saw running all day. This whole thing bothers me. M. Chalbeck said myself as a hobbyist woodworker; I have a detached garage where I do my woodworking, now I'm in violation. J. Szot said this is business. M. Chalbeck said but if I sell a couple of pieces of furniture I'd be in violation. J. Szot replied no that's not what this says. This came about because you have home service people, some of this in here is and some is not, but this is so you could have home service; you could have a carpenter who goes off and does his stuff and that he can store his stuff at home in his garage etc. as long as it's not outside so they are not in violation. I don't think there is anything that would prevent someone who is residing in a home that has a hobby; you're not out there every single day doing that hobby. But if you have someone doing this every day, now you have a commercial use in a residential area. J. Pouliot said you're saying it's strictly an in-home use but if they are inside a detached garage there shouldn't be a difference of noise really because they're still inside a structure. J. Szot said but it's still a commercial use on a residential property.

R. Cartier said I have to cut off the conversation because it's getting into more detail as to whether this is a proper thing to have or not, which is not a bad discussion to have but it's not a public hearing to do that. We have to have the public hearing to do that. I want to have the Board look at this to see if we're ready to go to public hearing on it. J. Lindsey said it doesn't sound like we are on that one. It sounds like a lot of discussion so we might want to wait on that one. R. Cartier replied I'm not sure. I understand what Judith is talking about and they're not invalid concerns but I think when we looked at this and discussed it the last time, the primary reason for this was to basically to make it so that all of the illegal, not illegal but

not in compliance things that are happening right now would be in compliance because we do have a lot of trades people, single owners etc.

J. Szot said so think of this issue then so basically what you're saying is you come into Candia, you do something that is not allowed in the ordinance and now we're going to change the ordinance to make you legal. Well these guys are here and they're doing it and irrespective of what we want, this is a residential area so oh we'll just change the ordinance and let you be legal now. R. Cartier replied I think we're trying to be pro-active because we have a lot of independent contractors that are in here, which we like to have and we need to come up with something that's a reasonable compromise instead of saying no. We realize we have independent contractors that aren't going to be able to rent condo space in some industrial condo because we don't have any in Candia and it would be a reasonable compromise. S. Komisarek asked where did this originally generate from. The fact that the ZBA was hearing a lot of cases? That's not where this came from. J. Szot said no.

R. Cartier said it came from the Land Use Office with a lot of the complaints that the Building Inspector was getting. J. Szot said no it all comes from one complaint. R. Cartier said I would say we go and have the public hearing and get more input from various sources on it. S. Komisarek said that's tricky because Judith is saying people have the right to quiet enjoyment in the residential area. We have in Candia, we have people that have different businesses and do different things and a lot of them aren't legally permitted and Dave Murray sits there and says well so and so's been doing that, it's hard, the whole enforcement thing. J. Szot said so do you say to Dave Murray go and do your enforcement or do you change the ordinances and let them be legal. Come into Candia, do whatever you want, when you get caught, we'll change the ordinance and let you do it.

M. Chalbeck replied the hard part is that a lot of the violators have been here, they're multi-generational people. J. Szot said but there are many that aren't. They move into Candia, then they get caught but does that make it legal? R. Cartier said the problem is we don't have anything that prohibits it. J. Szot responded our ordinance is prohibitive. What the law says, this comes from Bart Mayer's office, if something is not expressly permitted, it is implicitly prohibited. If it is not addressed in our ordinance, if there is nothing in our ordinance that allows trucking that means it's expressly prohibited because it is not permitted anywhere. R. Cartier said we're getting into more discussion that I'd rather have in a public hearing. J. Szot said but that's the law. That's what the law says. R. Cartier reiterated that's more for the public hearing, there are some positives and negatives in here and I'd like to have a full public hearing on and it's in the minutes why this came up too. What's the pleasure of the Board?

J. Szot asked Rudy to look at the last section. Home Service Contractor level 3. Section 3 permits truck operators and occupations requiring the use of construction equipment and it says Class 8 vehicles. Do you know what Class 8 vehicles are? R. Cartier replied yes. J. Szot continued that means in the residential area you could have sleeper tractor trailers, cement mixers, city buses, furniture vans, refuse trucks...that's a Class 7. In a residential area. R. Cartier said no more than two. J. Szot said you want tractor trailers in a residential area. R. Cartier said I know of two. J. Szot said think about that, quiet enjoyment....R. Cartier cut Judith off wanting to wait for the public hearing. We want to make sure the public has input. Do we want to bring this to public hearing because I don't want the Board to making decisions at this point in time on the pros and cons of it. These were presented to us and put into a format that's legal to put in as a warrant article.

D. Snow commented said I have one typo on page 2 on Article #6. The description says less than six animals but the wording of the thing says you can have six animals so you should make that consistent. J. Pouliot says it says less than 6. D. Snow suggested less than seven.

Zoning Amendment #6: Article V, Section 5.02 F (f-1) Amend to add one acre per large domesticated animal and recognize small scale operations as being less than six (6) large animals. To read: Small scale part-time agricultural operations whether commercial or not, including the keeping of livestock and poultry- subject to the following conditions for large domesticated animals; one (1) acre per animal i.e. horses, cows, llamas and the like limited to six (6) large animals. Board said we'll change that.

S. Komisarek said I want to touch on #14 one more time. We can talk about it at public hearing but I'm going by what Michael Courtney is saying and he's saying it does seem to go against the general purpose of the residential district. As a Town Attorney he's looking at this and you guys are getting pretty aggressive in a residential area. R. Cartier said he's right. S. Komisarek said and Judith is saying with the Class 8 you have to think it through say you have a nice property in a residential area and we open this up and someone can go next to your property and engage in these types of activities it could be the diminution of the value of your property. It's trying to find a balance. R. Carter said but it's not allowed by right. S. Komisarek said by special exception but once you let one, you set precedent. Once you get precedent then you're off to the races. So why have it as a special exception? Once you let that guy do that use, he's going to come in with his attorney and say hey wait a minute. As a property owner myself. I talk to people. I own land and people say I want to do what I want to do; just going to do it. The right to quiet enjoyment is important. There is a reason why I don't have a second story with kids running around all day, I like it quiet. That's me. R. Cartier said I think this is good for the public hearing but that's why when you look at these things special exemption (*it's special exception, not exemption*) means they have to get a special exemption there can be other conditions applied to it and a special exemption is also going to require a hearing so if I wanted to buy property next to yours and do a Class 3 thing, if you object because of valid reason's it's going to create too much noise, they have to address things like that. J. Szot replied but they're not going to deny it, I'm on the ZBA, they aren't going to deny it.

R. Cartier said all of these are good comments and they need to be heard so should we bring these to a public hearing?

J. Pouliot **motioned** to put it to a public hearing. J. Lindsey **seconded**. R. Cartier said wait a minute. We're going to recommend that these would go to public hearing with the amendment to zoning amendment #4 which would add rental accommodations for no longer than 14 consecutive days; we're not going to put forth zoning amendment #5. That's going to change the zoning numbers. #6 is going to change six to seven. That was it. These are valid concerns I just want to make sure it's done in a public hearing so everyone can express their views on here.

S. Komisarek said I thought these came from the ZBA but then you're saying Andrea drafted, came up with all these? No, she didn't. R. Cartier replied Boyd had clarified that they came from the Land Use Office not from the Zoning Board of Adjustment. S. Komisarek said so Boyd did them and dropped them off to Andrea? You know what I'm saying? He came before the Board and talked about it. We're hearing things all the time from the ZBA this is something we'd like the Planning Board to look at.

R. Cartier said Judith you brought them initially. J. Szot said I can't talk about it. I was asked to bring them and then what I read was not what I agreed to at the ZBA meeting. If you read our minutes we've had spirited discussions about this, about whose job it is to write zoning ordinances. It is your job to write the zoning ordinances not the Land Use Office, it is not the ZBA's office, it is your job to write the ordinances; to come up with the wording. It is not our job to give them to you and for you to just go and say we'll take this. You need to look at it, look at the ramifications. That's all I can say. I would suggest you read the minutes of the ZBA. R. Cartier said we got it clarified. S. Komisarek responded I remember having a discussion with Andrea and I remember her saying to me do you know what a Class 8 truck is Scott? So we really have to get this one right but I'm looking at the comment from the attorney. We have to spend time on this one. R. Cartier said and his comment to me is perfect because that's what we need from the public input. We do allow home occupations, which in theory is the same thing. Home occupation is still a home occupation in a residential area, it's a business.

J. Szot commented but they're talking about Home Service Contractor. How does someone who drives a semi tractor trailer, how is that a home service? A plumber, electrician, sheet rocker, landscapers, home service occupations.

S. Komisarek commented I know we have to have a hearing on it but I'm thinking on the corner of Chester Turnpike and Old Manchester Road. So say you're that person's neighbor, a residential area. You bring the kids to the bus stop in the morning and now someone comes in with one truck. Then they bring in

a piece of equipment and start moving some material around and then they have 2 trucks, then they have barrels and they build a lodging shelter structure and bring in more equipment and move stuff around. What if you're that neighbor and you have the right to quiet enjoyment but now you have the trucks being started in the morning? What do we want our residential district to look like? But historically, we have a lot of people that work with heavy equipment. The more I drive around, I see stuff.

R. Cartier said I think these are good points but should be in the public hearing. Because they'll look at it and someone might say we don't want Class 8 vehicles in there and we'll eliminate that section so we'll go to one truck and it's an electrician. Let the public tell us what they would like to see. I very much like this, that it's been submitted by people other than the Planning Board because that's what I'm looking for is having the people and citizens involved with what we're doing and helping us because I don't want to be here with just us making decisions for the whole Town without getting input from them. Someone took the time to do this and suggest this. I think it's worthwhile that we do have a public hearing on it and let them have their say and we'll go from there.

A. Bickum commented I know I'm not on the Planning Board technically but if you guys are supposed to be writing these then why would it go to public hearing, it sounds like there are still issues with this one so it sounds like it's not ready to go to public hearing yet. R. Cartier said I think it's ready to go, the issues that he brought up are things we need have to address in the public hearing. He's not saying we're changing everything; it seems to be against the general purpose of the residential district, seems to be against it. But if you look at it that we have home occupations that goes against the residential district too. But that's what we want to have the public tell us. He's not saying we can't do it. A. Bickum replied I think he's strongly saying we shouldn't. I think it implies that this is not a good idea. J. Szot said home occupations are hairdressers. R. Carter said I don't want to be here all night debating the pros and cons of this thing because it's not for us to do. What I think he's doing is saying tread carefully. We can propose we do anything and if the Town folks say yes we think that's a good idea and the majority say yes it's a good idea *granted or grant it (unintelligible)* I'll bring it up in the public hearing that this is what the Town Attorney has said and the comments we've asked for; legal interpretation. He didn't say we can't do it, he said tread lightly. That's a valid concern.

J. Pouliot said one more thing, when we're presenting this to the Town, we want it to go smoothly, we don't want to hand them a piece of paper and say this is what we're thinking of what we're doing even though some of these are very questionable. R. Cartier said we're not going to say whether we think they're questionable or not. J. Pouliot said I'm just trying to make a point. We want to give them something that we all think is really good, close and then we get their input and we can whittle it to what it needs to be but it's far enough away. I'm agreeing with Andrea, I think we should tailor it a little bit better before we get public input because we know Class 8 may be way too far in the extreme and those are the comments we're going to get from the public. R. Cartier disagreed, that's what I don't want to do. I don't want to assume that someone is going to support this or be against this. These were zoning ordinances that were given to the Board for our consideration. We think that they need to be heard by the public because there are issues in Town that these address but we have to get their input and how do you want to do this. I agree that the enjoyment of peace and quiet is a paramount but I'd like to see what the trades-people have to say too. I know a lot of carpenters, electricians, truckers that are here. No one wants to circumvent the rules and regulations but everyone would like to make a living so how does that balance out? Here's something that was presented to us that someone felt might be pretty good, whether I'm in support of these or not is really immaterial because I would like to hear Judith's comments we just heard because that will start me thinking so if we get more input and we can then say hmmm that's a good point, I don't know if this is a good idea or hmmm this is a really good idea to do based on the input from people coming in here.

D. Snow commented remember if you make changes after the public hearing, you'll have to have another one so I suggest you do this as quickly as possible and publicize it. R. Cartier agreed. Said I think we were thinking December 5th meeting. M. Chalbeck said should we have this written better? If we're the ones that are supposed to be writing this, I don't mind suggestions but it shouldn't already be written in a

form and handed to us because I was under the assumption, I apologize Judith, that it came from the ZBA. J. Szot said it came to the ZBA but it was not a consensus from the ZBA, especially on this last section on trucking. Letting plumbers and electricians have their trucks is one thing but a specific section on allowing trucking in residential was not something that was agreed upon and at one point it was to be taken out and then it was back in. My expectation was that it was not going to be in there. Think about trucking in a residential area. M. Chalbeck continued if we're supposed to be writing this then we should be doing it not having it presented to us. Suggestions presented to us yes but then from there we need to do it as a Board. R. Cartier replied we did this as a Board the way they're written now, the way it's structured and it's in the legal format that we need to have it as a zoning amendment. We've done what we should do but we need to do the next step and are there any pitfalls that we haven't seen, let's hear what people say. After public hearing, maybe we say we're not going to do it this year or we cut some out. Some of these we need to do because they clarified some things. The biggest concern is the last one and let's hear what people have to say about it. After hearing enough comments, maybe this needs more work. We've done that with amendment #5. The lawyer said it didn't think it should be done. The other one, his comments to me are tread lightly. S. Komisarek said we may find we don't have enough time this year. We should have the discussion, we want the input but we are the Planning Board and we are the ones who should be having the lively debate as well. It's already November so we can take more time if needed. Board discussed public hearing dates. R. Cartier decided December 19th; we can do the revisions to this and make it available on the website under documents and we can contact people or on the FaceBook Candia Community page. A. Bickum confirmed with R. Cartier that the draft layout without the comments is sufficient for the public hearing.

Completeness Review November 14th 6 pm

Holt Preliminary Major Subdivision is scheduled for December 5th. R. Cartier said we're doing a completeness review on Wednesday, November 14th at 6pm prior to the budget committee meeting at 7pm with surveyor Joe Wichert. *R. Cartier and S. Komisarek to attend.*

Public Hearing

A public hearing for the proposed zoning amendments will be scheduled for December 19th at 7 pm. J. Pouliot may not be able to attend but R. Cartier welcomes written comments.

MOTION:

J. Pouliot **motioned** to have this (*draft*) come before the public on December 19th while removing zoning amendment #5 and changing zoning amendment #4. J. Lindsey **seconded**. **All were in favor of presenting this at public hearing. Motion carried (6-0-0).**

R. Cartier said we'll hold off on the Class VI road. Has anyone gone down Donovan Road? That road is bad.

A. Bickum mentioned the letter from Steven Keach from Keach-Nordstrom, introducing himself as a possible alternative to Stantec for municipal reviews. We spoke on the phone and he sent in this letter.

MOTION:

J. Pouliot **motioned** to adjourn at approximately 9:00 pm. J. Lindsey **seconded**. **All were in favor. Motion carried (6-0-0).**

Respectfully submitted,
Andrea Bickum
Land Use Secretary cc file