

**CANDIA ZONING BOARD OF ADJUSTMENT
MEETING MINUTES OF
March 26th, 2024
UNAPPROVED MINUTES**

PB Members Present: Judith Szot, Chair; Boyd Chivers, Vice-Chair; Ron Howe; Tony Steinmetz; Bill Keena, Alt. (sitting in for M. Raumikaitis); Gale Pellegrino

PB Members Absent:

*Judith Szot, Chair called the ZBA meeting to order at approximately 6:30PM, followed immediately by the Pledge of Allegiance

J. Szot: We have two things of new business, that if the Board is agreeable that we will hold until after this hearing.

New Business:

- Election of Chair and Vice-Chair.
- Request for appointment of a new member.

Old Business:

Case #24-001:

Applicant: Candia Tank Farm, LLC, 6 Hillside Avenue, Amherst, NH 03031; Owner(s): Candia Tank Farm, LLC, 6 Hillside Avenue, Amherst, NH 03031; Property Location: 5 High Street, Candia, NH 03034; Map 406 Lot 201.

Intent: *To request to expand the current facility to include the addition of three additional fuel oil storage tanks and three 30,000 Gallon Propane Tanks.*

J. Szot: Mr. Swiniarski, are you ready to present your case?

Christopher Swiniarski: Yes, Ma'am. Good evening, Board Members, my name is Chris Swiniarski, I am an attorney with Devine Millimet, representing Rick Wenzel Oil Company and the property owner, Candia Tank Farm, LLC. With me tonight are Jeff Wenzel, who is an owner of the company. Chad Branon, the project engineer and a principal at Fieldstone Land Consultants. Bob Coluccio, who is a professional

engineer, specializing in fuel oil safety and facility design. And Troy Phillips who is a project manager with Hall-Trask Equipment, that specializes in the design and installation of propane bulk plant facilities.

Bob is a licensed engineer in eight states and has been designing oil and propane storage facilities for 35 years. Troy is on the Board of Directors for the Propane Gas Association of New England. He also serves on the emergency response committee and the education committee for the association. He is a retired fire captain, training officer, and a State Fire Academy Instructor.

As the application material states, we are here tonight requesting a variance to allow the expansion of a non-conforming use at 5 High Street which is in a Commercial District.

J. Szot: It's actually mixed-use.

C. Swiniarski: Oh, is it mixed-use? My bad. Sorry about that, I thought it was commercial but now that you mention that you're right. The property currently hosts a bulk fuel oil facility which I am sure the Board is aware of. Has three aboveground storage tanks right now with fuel oil. It's operated since about 1993, so a little over 30 years now. We are proposing an expansion of the facility that will allow for three additional fuel oil tanks and three propane storage tanks, all of which will store fuel that basically fills the trucks for Wenzel Oil to deliver fuel to customers in the community.

J. Szot: Can I ask you a question? In your packet, that 95-page packet, that you sent on Thursday, there are three sheets that talk about propane, heating oil, and diesel fuel oil. You didn't mention diesel fuel. Is diesel fuel, are they going to have three separate things there or is it just heating oil and propane?

C. Swiniarski: Good question. Let me ask Jeff. I don't know if there is a significant difference in actually what the material is but there is a difference in terms of dyes that they put in it for taxation purposes.

J. Szot: Also, there are differences in safety standards and there were three different standards. One for fuel oil, one for the propane, and there was one for the fuel.

C. Swiniarski: Okay. Are we storing diesel Jeff?

J. Wenzel: Yes. Its heating oil and diesel fuel will be stored in any of the tanks at any given time. They are chemically identical, just sold differently and dyed differently. Heating oil is pink in color by nature because of the dye. On road diesel is clear and offroad is also pink but we have to store them separately for tax purposes. From a safety perspective, they are identical.

J. Szot: Okay, thank you.

C. Swiniarski: As the Board knows, our application was reviewed by your third-party consultant, Stantec Engineering on behalf of the town. They provided us comments in a letter dated February 25th, 2024. We were able to get a meeting with Bryan Ruoff of Stantec pretty recently and we delivered our responses to him pretty recently. As such, I wasn't completely expecting Bryan to be able to go over everything we submitted and respond. I understand that he has actually completed that, although we haven't seen it yet. I think he really just finished it. We don't expect that part will happen tonight and we'll have to wait until next meeting and we anticipate we can work through any remaining questions or comments that Stantec will have between now and the next meeting. What I would like to do is sort of break up our presentation into four components.

J. Szot: I think Mr. Ruoff is actually prepared tonight to discuss.

C. Swiniarski: That's fine. We would typically have some time to review that and respond rather than doing it on the fly.

J. Szot: Do we have to wait another two months?

C. Swiniarski: Oh no, if you want to schedule a meeting sooner, I am happy to do that, but I don't think it's really fair for us to respond on the fly on our feet tonight.

B. Ruoff: That's reasonable. The letter was issued today. The response time is typically a week. So, we did that sooner, we responded sooner to the additional information in an effort to get it for the meeting today. We understand, obviously, that the applicant and applicant's agent getting that today, that it doesn't leave them much time to respond to it as part of this meeting.

C. Swiniarski: What I would still like to do tonight is sort of break up our presentation into four components. I think that is the best way for the public and the Board to probably digest the information that we have to present. First, Chad Branon will walk you through the physical improvements proposed at the site on the plan. Then Bob Coluccio would discuss the components of the fuel oil safety in our design and operations, those as governed by NFPA Section 30. And then Troy would discuss the components of propane safety in our design and operations, those as governed by NFPA 58. Following that, I would address the State Law Variance Criteria and then we could discuss any questions that anyone might have but of course we can also answer questions in the middle of anything if a question pops up.

Chad Branon – Licensed, Professional Engineer - Fieldstone Land Consultants: We are here tonight to present the plan and answer any questions that the Board may have. The subject property is Tax Map Parcel 406-201. It has a physical address of 5 High Street. It is situated on the Northside of High Street. Almost right at the intersection of Raymond Road and High Street. Just to the West of that intersection. The property consists of 4.777 acres of land. It does have some improvements on the site currently. Currently on the property, along the frontage, there is an existing residence and there are associated improvements with that structure. There is a parking area, septic system, utility connections and such.

J. Szot: How much of the property is taken up by the house and all of the outbuildings and the septic system. It's 4.77 acres but how much do you take out for that?

C. Brannon: There are no actual density calculations here. I would say that strictly this front portion is utilized by the residential component. All of the improvements associated with that are in proximity.

J. Szot: How much land are you using for the tank farm? I know that there are improvements, of that 4.77-acre lot, how much is left for the tank farm?

C. Brannon: We can give you some rough numbers associated with that. I would say, we are using probably about 40% of the land with the development. You have 4.77 acres, so we are probably around two acres. That's a ballpark estimate. This heavy black line here represents the perimeter of the property. Currently, the site does have a fair amount of existing improvements on it. We have an existing roadway along the western side of the site that extends to this back portion, which remains as a gravel parking area. There is a number of structures out there. There are a couple of trailers for storage and such and then there is the main building out there that currently houses 30,000 gallons of fuel storage, heating oil and fuel storage.

What we are proposing to do is essentially make improvements to the site. So currently the access road to the back of the property is a little bit narrow, so we are looking to widen that to meet NFPA Standards on the access design. As you come into the property, we would improve that road out in the back. And then as you travel, we are proposing a 2800 square-foot warehouse building on the right-hand side. There are a number of parking spots that we are looking to formally propose in that general location. You would have that existing red structure that would remain and then just to the left of that is the containment dyke structure, which is basically a large concrete structure that would house the tanks inside of it. There would be three tanks located inside that containment dyke structure. That would all be covered. There will be a canopy over the top of it. That would house the heating oil and diesel storage, and such in that location. So, there is a 40,000-gallon tank, a 15,000-gallon tank, and then another 15,000-gallon tank. So, 70,000 gallons in total in that structure. And then just behind that is where we have the proposed propane storage area. There would be three 30,000-gallon propane storage tanks. Everything has been laid out and designed to allow appropriate vehicular traffic through the site both for delivery vehicles, as well as the emergency response vehicles and such. All of the different components on the site meet all of the setback requirements to the perimeter boundary, to the in-between outfield storage facilities. This will be a state-of-the-art facility designed to meet and exceed any local and state criteria.

J. Szot: Will you be cutting trees right to the property line?

C. Branon: No. We are not proposing to cut trees right to the property line. In fact, if you look at the existing tree line, that exists kind of along the property line and the majority, if not all of the improvements actually lie within the existing cleared area. We are proposing all of this work within the existing impacted area. In fact, to that point, we are proposing additional mitigation of some wetland buffer areas. There is going to be stormwater mitigation. So, there will be improvements to this property as a result of this project. Obviously, we will have to meet all local and state design criteria for that. Conceptually speaking, we are anticipating a number of improvements to address stormwater, erosion, and sedimentation control features.

T. Steinmetz: What is the total fuel storage capacity? Total. Bottomline.

C. Branon: There would be about 100,000 gallons of heating oil and diesel storage combined. And then there would be 90,000 gallons of propane storage onsite. And that's actually a small site.

B. Chivers: What is the straight-line distance between those tanks and The Moore School? The front door of The Moore School.

C. Branon: I don't have that dimension on here because we don't detail where the school is, but we meet all setback requirements.

B. Chivers: How about the straight-line distance between those tanks and the fire department?

C. Branon: The fire department is relatively close. But again, I don't have the exact distance between, I mean I don't have those buildings located on this plan so I can't give you an exact distance but those are easily obtained.

T. Steinmetz: I did it with Google, if you want them. 330 yards to the Moore School, 272 yards plus or minus to the Candia Fire Department.

J. Szot: I read on one of your documents that it was 400 feet from the fire station and 700 feet from the school.

C. Branon: And that was probably in the Fire Safety Analysis, so another one of our professionals can probably better address that question.

J. Szot: Is there some reason that you didn't put the important buildings in our town on these maps? You have shown that one little building, but you don't have Goff on there. You don't have the Gosselins on the corner, you don't have the school, you don't have the library, you don't have the town hall...our whole town infrastructure is very close to all of this, and this looks like its sitting in the middle of the woods but the house on the corner is not there. The apartment on the corner is not there.

C. Swiniarski: It's not typical though for a zoning plan to have all of the surrounding buildings on it.

C. Brannon: This plan meets your site plan checklist requirements. So, when we generate a survey, we typically generate that scope based on what your local requirements are and this plan meets and exceeds those requirements. We are happy to give you or produce additional information if that is stuff that you would need but we do meet setback requirements to the perimeter property which means we would ultimately meet it to perimeter structures as well.

J. Szot: I understand that but because of the nature of the products that you are storing on this property, it would seem prudent to include buildings that could be affected if something went wrong. If you get us the data, that will be fine.

C. Brannon: Again, there may be other professionals that can address that here this evening. The other thing that I want to point out is that we have made improvements that I haven't gotten to yet on the site relative to the emergency response and making sure there is adequate water supply. We are proposing a cistern at the entrance to the site. We are also proposing a monitor nozzle to be installed on site, so there will be water supplied to that at all times when people arrive. The site itself is within 1600 feet of the fire pond that exists just about right across the road here, which has a large capacity. So there is plenty of water available in the area. We have had an opportunity to meet with the Fire Chief and kind of address, make sure we kind of addressed any concerns relative to that. But I feel like a lot of your other questions might be pertinent to the next people.

C. Swiniarski: Just to clarify, we did meet with the Fire Chief to discuss what would be appropriate in terms of fire protection for the site. And we do have his concurrence generally on that as I mentioned in the submittal. I think he gave us a letter just recently which I'll submit as well. So we have looked into that but yeah if there are specific questions again that we don't have the date for, we are happy to provide it and I think when we come out of here at the end of the night, we'll be kind of looking to come up with a list with the Board as to what else you are looking for.

B. Chivers: Those numbers I just asked you for are critical because the emergency response guide prescribes certain minimum distances between your site and the vulnerable properties that could possibly surround this.

C. Branon: And again Sir, I think those questions are best addressed to the next presenter. I'm not the one that prepared that document so I can't speak directly to that information.

B. Chivers: But you'll get us those distances?

C. Branon: I think that one of our next presenters might be able to address that.

T. Steinmetz: Who would we ask about a response to a worst-case scenario? Overall fire department, evacuation. Would that be you or one of these other gentlemen.

C. Swiniarski: Troy from our team would be best but your fire chief is also here. So, those are the qualified experts.

J. Szot: Are you ready to proceed? How close are you to those houses?

C. Branon: The closest structures would be the ones up front here.

J. Szot: I am talking about the people across from the school.

C. Branon: They are all situated on the road which is a fair distance away. That's why I would say the closest structures are the ones shown on the plan. But again, if there is an address of that structure, a tax map parcel that you would like us to, we are happy to add structures on this plan, but it would be at your request. There is no regulation that specifically requires that so...

J. Szot: To me, I think it's important to have that four corners area and to have the structures within that four corners area on the map. In addition, I don't know if you are aware but the parcel that is next to the Candia House of Pizza is proposed to have 29 townhouses on it.

C. Swiniarski: Yeah, well, we can't get you distances to proposed houses.

J. Szot: I think it's important to know that if in the future if something happens, there is a liability issue. If these parcels are damaged, if something happens, who pays for that? If there is something catastrophic that happens here.

C. Swiniarski: So, you are talking about a negligence lawsuit?

J. Szot: No, I am talking about if something...things happen and I know we've talked about it, you're doing everything possible. But if something catastrophic happened, that was an accident, and you have damage to our fire department, to our school, to our town hall, to our library, to houses...who pays for that damage? Who makes us whole?

C. Swiniarski: So, under the law, the people who cause damage, pay for damage.

J. Szot: So how much insurance then, is Mr. Wenzel going to carry? Because if you think of, there's got to be \$5,000,000 of equipment in the fire department.

C. Swiniarski: But you are making sort of an argument that there is a risk for the fire department to be destroyed. The evidence in the record will not suggest that. This is where we will go with the proceedings, but your findings have to be based on evidence, not just circumspect sort of ideas that hey this could happen. There has to be some evidence of why that is a potential risk somehow.

J. Szot: Alright, well you present your case and then we will call our people.

B. Chivers: What's the scale on that map?

C. Brannon: One-inch equals fifty feet.

B. Chivers: Can you tell me how a tractor pulling a 53-foot trailer can safely enter and exit that site right there without causing...disrupting the traffic on Raymond Road or High Street? It's a pretty tight intersection right there.

C. Brannon: This is actually a pretty wide entrance here. I believe that a fuel delivery truck, which actually frequents this site because this site exists as a bulk storage plant which occupies the site. I believe a fuel delivery truck could come in here and we have made improvements to the configuration internally so they wouldn't have to turn around per say on site but they would be able to come through and exit the property. This entrance is not a lot different than other commercial and industrial entrances throughout Candia.

B. Chivers: I'm sure a retail delivery truck can make it nicely but what about when you bring in a trailer truck.

J. Wenzel: Tractor trailers come into the property every single day.

J. Szot: So how do they...do they get off at exit 3 or do they come from Raymond?

J. Wenzel: Short of me sitting in their truck, I wouldn't know. We have a third-party company that brings our fuel in but I would say they come in from exit 3.

C. Swiniarski: Have you had any reports in the last 30 years of these trucks causing problems?

J. Szot: We don't have the kinds of trucks that you are talking about.

C. Branon: We can produce a turning template on the entrance. All of these other intersections you are talking about are DOT jurisdiction roads. Typically, they are designed with the capacity to handle tractor trailer traffic. It's State Highways.

G. Pellegrino: The property, the residential property in the front, is that owned...does the owner live there or is it rental property?

Collective: Rental

J. Wenzel: But it is owned by the property owner.

G. Pellegrino: Is there any other insurance that's allowed to the rental people because of the property in the back being commercial?

C. Branon: Well, they have the choice to live there being a rental property, but I believe the gentleman has been there for quite a long time.

C. Swiniarski: People are allowed to get whatever insurance they want to get.

G. Pellegrino: It's just a question. I was just curious who was living on the property and if there was any certain insurance means, anything.

S. Swiniarski: It's a regular house.

B. Chivers: I am looking at your driveway permit from DOT, dated June, 23rd, 1992. One of the requirements is any further development or change in driveway usage would require a new permit. Do you have a new permit?

C. Branon: No, we have to get through the Zoning Board before we submit for state permits, but part of the approval process would consist of securing a DOT Permit.

B. Chivers: Then DOT, normally in a case like this would send a traffic safety engineer out here to determine whether that's an appropriate place for your intended use. It would be helpful for this Board to see the results of that traffic safety engineer's findings, before we consider this application.

C. Branon: Okay, that would be first time that's been requested.

C. Swiniarski: Really, we are getting into the jurisdiction of the planning board now and that typically happens as part of the site plan review process and it's not...I can see how you can say it has maybe some bearing on a variance but it's very odd to do that sort of permitting before. The ZBA is generally the first stop and that's a more detailed permit that comes as a condition often to many of the other permits. I don't think I have ever seen a driveway permit being something that's pulled at the ZBA Level. That's just much farther down the road. There are a lot of permits involved and they can't all be gotten first before the ZBA. Typically the ZBA is the first one.

B. Chivers: But that could, one of the five criteria that we have to determine and apply it in this case, that driveway permit could be critical to that.

C. Branon: You know, a decision from this Board can be conditioned on securing that driveway permit. We are certainly not here saying we don't want to provide that. Frankly, as a design engineer who's been doing this in the area for 25 years, I don't anticipate any issues with that curb cut or with securing the driveway permit but it's typically not done at this stage.

J. Szot: And you did mention that you were going to improve that driveway.

C. Branon: We are improving the width as you go back into the site for sure. And certainly, we are working on our second review letter from Stantec this evening. They do the reviews for the planning board and they are more thorough than most people want to deal with but they do a good job and that I am sure is going to be something that Bryan will ultimately review as part of that process as well.

Bob Coluccio: I have worked for Web Engineering since 1989. My boss has been doing it since the 70's. I came to work with him in 89 and we continue to be providing these design services and permitting services and plan writing, etc... I have been with him for 35 years now. In my fire safety analysis, I did look at all of those distances and showed them, I used Google Earth to establish distances and most of those distances are outside of any of the hazard distances that is required by NFPA be evaluated. Anyway, so I am here to talk about oil.

B. Keena: Most of the distances are outside of the hazard zone?

B. Coluccio: Well, I should say that all of the structures. Obviously, there is property line that is within those distances given in the fire safety analysis are very conservative because they are based on TNT and not propane. Propane, the reality is they are coming out with new models on this. It actually doesn't, it's not ignitable actually at the hazard distances given in the fire safety analysis. But because The National Propane Gas Association hasn't come out with those yet, we still use the hazard distances provided in the, by the NFPA in the fire safety analysis.

B. Keena: Which ones were not outside? Which ones were inside?

B. Coluccio: I know all of the structures are outside. And I think that is in my Stantec letter clarified also in my addendums to the Stantec letter.

B. Keena: I am not following your statement, what is not outside?

B. Coluccio: The structures on site.

B. Keena: So, there are no buildings, I assume the house is inside but outside.

B. Coluccio: Well outside. The nearest structures are the garages associated with the two Deerfield properties.

B. Keena: So, there are no buildings outside of that property that are in a fire hazard zone?

B. Coluccio: In the hazard through the standard use of the fire safety analysis.

B. Keena: I don't understand what standard use means. What does that mean?

B. Coluccio: Meaning that, we don't have any four-inch pipe or four-inch hose, so I don't use those distances. Where we have small hoses that are the most vulnerable, if anything is vulnerable, it's the most vulnerable and so that's what I use for the fire safety for my hazard distances. The oil facility is going to be designed in accordance with all of the state fire codes, state environmental codes. It will be completely vetted by the NH Department of Environmental Services who reviews the plans on behalf of the State Fire Marshall. They communicate regularly. Once we are cleared to, at this juncture, we would start that process of designing the oil storage facility because the DES can take a while because of their vetting process. In order to answer a question that was stated earlier, there is going to be No. 2 Fuel Oil and Diesel fuel stored there. They are both Class 2 liquids which means that they don't ignite at atmospheric temperatures. They either have to be heated up or atomized in order to support combustion. In a quiet tank, the NFPA doesn't consider that Class 2 liquids to be a significant threat. Not like when compared to some of the other things, like gasoline. And so, you would see if you read through NFPA, fire suppression is not required. Hazard Analysis is not required even though we did kind of do one for this. The tanks will be inside of a steel-reinforced concrete containment dyke. The walls are going to be ten inches thick. We do crack control using the reinforcements so that we can caulk our cracks. These are all to maintain, if there are any spills, we caulk, everything is caulked.

B. Keena: When you say a dyke, is it sitting inside a concrete square?

B. Coluccio: Yes, with six-foot high walls.

B. Keena: And that's higher than the tanks?

B. Coluccio: No. Like I said, we didn't start on the details of this but what we typically do is we recess the dyke below grade. We are going to have a canopy structure over it and so we, we have to meet building code requirements for the foundation of that building. And so, rather than put our footings to frost, we build the whole containment dyke to frost. That gives us two things. Transport trucks and the bobtail trucks, when they pull onto our concrete pads, our concrete pads pitch into the dyke, so if there are any spills, they stay in our system. What's going to protect the soil underneath it would be our caulking of proper control joints and caulking of those control joints. In fact, that concrete is considered sufficiently impervious by the EPA.

R. Howe: Is there a membrane or anything as well as the concrete or is it just concrete?

B. Coluccio: Well, we would only be proposing concrete because that is the standard in the industry. There are people who line them, but these facilities really don't produce leaks. I know that sounds like a bold statement, but we are using welded pipe, flange pipe. Not only have I designed numerous of these oil facilities throughout New England, I also do inspections on them. This may not mean anything to you but I am an SP001 Certified Inspector. That's a steel tank institute. It means that I am qualified to do these tank inspections. And you just don't walk into a containment dyke on a facility that's build properly and slosh around in oil. It just doesn't happen. Everything is designed properly; DES makes sure it is all designed properly....

Other Business:

- Review of Minutes
- Any other matter to come before the Board.

B. Keena: **Motion** to accept the meeting minutes of 2.27.24 as amended. G. Pellegrino: **Second**. All in favor. **Motion passed**.

Motion to adjourn: B. Keena. **Second**: G. Pellegrino. All were in favor. **Motion passed**.

Meeting Adjourned at 9:00PM

Respectfully submitted,

Amy M. Spencer

Land Use Coordinator

cc: file