

**Candia Zoning Review & Revision Committee**  
**Minutes of August 16, 2017**  
**Approved Minutes**

Present: Tom Giffen; Al Hall; Carleton Robie; Joyce Bedard; Ken Kustra; Rudy Cartier.  
Dave Murray, Building Inspector; Dennis Lewis, Road Agent.

Absent: Judi Lindsey

The purpose of this volunteer committee is to review potential changes to the Town of Candia Zoning, Subdivision and Site Plan regulations and make recommendation for changes or additions to the Planning Board. This meeting is open to anyone that wants to participate.

The meeting started at around 7:27 pm following the Planning Board meeting.

Minutes from July 19th, 2017:

A. Hall **motioned** to accept the minutes of July 19th, 2017 as presented. R. Cartier **seconded**. It was the consensus of the committee present to accept the minutes. J. Bedard **abstained (5-0-1)**. **Motion carried.**

Guests Present: Bryan Ruoff from Stantec Engineering

Stantec Update on Their Review of Candia's Current Regulations; Earth Excavation, Major Site Plan and Major Subdivision Regulations:

T. Giffen said I'd like to convene the meeting of the ZRRC committee. Tonight we'll be discussing the Earth Excavation/Moving Regulations. I went through my binder and the track changes. It appears we've incorporated some new things that relate to the general procedures, having the \$1,500 down payment. B. Ruoff from Stantec replied for Earth Excavation Application, it would be easily worst case. It's more appropriate for site plan and subdivision reviews but makes sense to be consistent throughout all major applications. That was the thought process. T. Giffen said it might hit that level, however it's basically held in escrow so if less work is done the money comes back to the applicant. B. Ruoff agreed. T. Giffen said I read it, it appears professional.

The ZRRC committee reviewed the existing Earth Excavation Regulations with the track changes and discussed the proposed changes by Stantec that were in the binder supplied by B. Ruoff. Some of the items to adjust, correct, further explain or change are as follows:

Page 3, F. *APPLICATION* misspelled

Page 4, K. *COMPLIANCE INSPECTION* (under definitions) *means a mandatory inspection of site conditions, erosion and sedimentation control measures and construction sequencing as they relate to the approved plans, permit and Town of Candia Ordinances.* C. Robie said that was added. Who's going to do that? B. Ruoff said the discussion was that it would be the Town's engineer, from my understanding. T. Giffen said it's possible that our Code Enforcement Officer may be able to do it and we could delegate that on an individual case. D. Murray said it would be the Board's discretion on a case by case basis. B. Ruoff said that makes sense. Proposed change - it doesn't say who would be performing the inspection so include language to say inspections subject to Planning Board decision at the acceptance. At the discretion of the Planning Board. T. Giffen suggested under the direction of the Planning Board.

Page 4, R. *EXCAVATION FEE* - C. Robie said who's collecting that. Is that needed? B. Ruoff explained that this is an application fee based on the fee schedule, so the \$1,500 initial for compliance and technical review and then other fees, abutters, notifying etc. Page 20, B. *Compliance Inspections:*

*The Board or its designee shall make periodic inspections of all excavation sites....*R. Cartier said it's already in there so we don't need it in definitions.

Page 6, A. Question on word *contract*. B. Ruoff explained basically it covers the Town from having to apply for their own permit essentially or people working directly for the Town, the direction of the Town. Anyone Dennis would hire to work directly. The intent is to eliminate situations, emergency situations where you need to work immediately or work so that the Town's not permitting itself is the idea.

Page 8, A. *PROHIBITED PROJECTS – Excavations within 50 feet of the property boundary*. C. Robie had an issue with 50 feet from property boundary. B. Ruoff said it's an existing regulation, should that be revised? C. Robie said yes, you can cut right to the property line and change the grade. B. Ruoff so my change was adding property. C. Robie said if a developer wants to excavate to the property line and change the slope, he ought to be able to do that. If you have 50 feet then start your slope, the developer is 150 feet away and you lose a lot of material and a lot of land. More discussion ensued on whether to keep this regulation or how to revise it regarding property lines and buffers, waivers etc. It needs to be tweaked. If it's in an area where it's residential abutting commercial, need protection for the landowners. B. Ruoff suggested if the applicant can demonstrate no impacts to the abutting property or the required buffer, he can be allowed to excavate up to the property line. T. Giffen liked the 50 feet.

B. Ruoff said everywhere we identify that something needs to be changed but we can't decide tonight I can work up new language and instead of resubmitting the whole package I'll just submit the updated sections in a memo.

Page 10, 1. C. Robie asked for clarification. *No excavation shall be permitted closer than 150 feet to an existing building or structure that requires a building permit*. B. Ruoff said this came up with First Stoppe essentially. It wasn't really clear to the applicant what that prohibited. This makes it more cut and dry. Dwelling was the existing language, gray area. C. Robie said I think this is for abutters, not where the excavation is taking place. If you want to excavate 10 feet off your building, you have to start somewhere. That's protecting the neighbor. T. Giffen so we need to tie this to abutters. B. Ruoff so *150 feet to an existing building or structure that requires a building permit (ADD) on an abutting property*.

Page 11, #16 and #19 – are the same. Delete #19 and renumber or Delete #16 and renumber.

Page 11, #10 *Seasonal High Water Table* - It was decided to DELETE #10 after the discussion below: D. Murray read *No excavation shall be permitted within six feet of the seasonal high water table*. Discussion ensued about NHDES requirements, retention, ex-filtration, overburden, ledge etc. B. Ruoff said 2 feet seems reasonable, variability in ground water. T. Giffen suggested tying the language to current DES regulations. 6 feet above the seasonal high water table, big separation. B. Ruoff said you wouldn't be able to dig based on this regulation. D. Lewis said this is referring to a sand and gravel operation. It would apply on Brown Road or New Boston Road by the old recycling center. B. Ruoff said its written eluding to the fact that most people are going to request and be granted a waiver. *A waiver to such prohibition shall be granted if the applicant demonstrates that such excavation will not adversely affect water quality*. You're saying in your regulation to grant a waiver. R. Cartier said Page 13, C. i talks about the protection of groundwater. B. Ruoff said I think you've got a leg to stand on to delete this because flipping through this you have other locations where it says permit or *application won't be approved if it can't be demonstrated that there's no impact to the ground water*. It's in multiple locations. This is not required. T. Giffen stated #10 can go away.

Page 11, #15 – *All excavation operators shall report the amount of material removed to the Town Engineer/Building Inspector*. This was DELETED per the discussion; D. Murray said that is not my forte. B. Ruoff replied this is not one I came up with on my own. Some of the revisions we have incorporated in here we had a draft from Sean James. C. Robie said that needs to go. The person removing the material needs to file that application with the Town and they know it. At the end of the

year they file a report and pay the tax. That's the law. The taxes have to be paid. The permit needs to be filed and signed by the Selectmen. T. Giffen said we can get rid of that.

Page 15, *C Performance Guarantee*: C. Robie said on an excavation site, it's no one's business other than the owner's of what they do and how they perform, to a point. *The performance guarantee may be reduced by the Board of Selectmen, in conjunction with the Road Agent and the Town's Engineer, during the course of construction....*that makes no sense for the projects that I see coming through here. B. Ruoff said as it stands right now in the regulations, the Board requires some sort of surety to be posted for an excavation permit and it basically covers if the contractor was to walk off the job, the cost to restore the site. It's nominal in comparison to other surety's for site plans, subdivisions, and roads. C. Robie said subdivision is a whole different story. B. Ruoff continued this is more the language for releasing that, so it's not held up for the contractor, essentially. It's a minor surety, more of giving latitude back to the developer so he can get that released. R. Cartier said I see this as a response to Cole's pit. C. Robie said if we opened a quarry in Candia and had a mining operation, I'd say yes. T. Giffen said I'd like to leave it in place. Road Agent only needs to be involved if there's a road. C. Robie said this is an excavation, not a road. D. Lewis said maybe it's in there if their using a Town road for access, that would be my guess. We don't bond the road going to and from a pit. For instance 25 years ago they were running that pit in Deerfield and using Currier Road. That's just an example where there could have been damage done to the road. This way the money wouldn't be released without a conversation. C. Robie said good point. D. Lewis said I wouldn't go into the pit to inspect it. B. Ruoff said what we could say *the performance guarantee may be reduced by the Board of Selectmen*, or their designated agent. A. Hall said let's leave it as is.

Page 16, *Fee Schedules – Abutters change to \$7.56\**, Legal notice changed from \$50 to \$100\*

A. Bickum commented on the Mylar recording fees; I'm not necessarily sure that site plan and earth excavations have to be recorded. I got some legal counsel on that the other day as we have not been recording site plans since 2014. There is an RSA which basically says unless it's a change to the boundary line you don't have to record. With site plans you're not changing anything with the boundary line. It's more subdivisions, lot line adjustments, lot mergers; that gets recorded. T. Giffen replied you'd have to record those but something that is purely internal to the lot without changing any property lines wouldn't necessarily affect the deed so what's the point in recording it if it doesn't affect the deed, none. B. Ruoff suggested leaving it in. A. Bickum a lot of people that are doing the site plans, are not giving me final plans and Mylar's because they know they don't have to do it. K. Kustra asked who records and pays for it. A. Bickum replied the applicants pay for everything and I take it to the registry. There is a \$20 delivery fee. That \$45 Mylar fee might include the \$20 delivery fee and the L-Chip fee of \$25. We can leave it in there. T. Giffen suggested we leave it in case there is an occasion to use it. K. Kustra asked about *Compliance Inspection Fee (as determined)* B. Ruoff replied on excavation permits I don't see it being a large cost, it's checking erosion controls at the beginning and checking at the end of the project, no routine inspections. That might not even be necessary. As determined could be zero based on your discretion.

Page 16, H. R. Cartier said if you have schedules item *H. Permit Fee*, then you can eliminate item 3 at the bottom. Page 16 #3, it's already there under H. C. Robie said update the application page.

Page 16, A. Application Fee is \$200 but on page 23, the application fee says \$75.00. Let's make it \$200.

Page 19, #28 *Location of three (3) ground water monitoring wells* D. Murray suggested ADD if applicable.

Page 20, #5 *The Board will establish a schedule by which all permitted sites are inspected on an annual basis. The gravel pit committee will conduct an annual inspection except in the year of application.* C. Robie asked who is the gravel pit committee. T. Giffen said that's been in there for 36 years. C. Robie said in other towns, the Planning Board goes out and renews the gravel permits yearly. They do a yearly walk. Most gravel pits have an annual permit subject to review annually by the Planning Board or their designee. R. Cartier suggested maybe just cross off the second line. In section

B, the first paragraph under B covers the second line on 5 above it. Take out the second line and leave *The Board will establish a schedule by which all permitted sites are inspected on an annual basis.*

Page 20 B. 1. J. Bedard pointed out a typo – *A site inspection review letter will be sent to the owner citing and deficiencies...Change and to any.*

Page 30, ADD \$50 permit fee on the permit itself with asterisk that it can change. An \* with a note *subject to change* or similar.

T. Giffen said so I'm reluctant to move to approve these, to recommend to the Planning Board that the Planning Board approve this until the revisions come back. B. Ruoff agreed. I can get all the revisions done by the end of the week. We could vote on it next meeting.

To discuss *Procedural Instructions* next time, 2<sup>nd</sup> draft. B. Ruoff said essentially that's been written into the regulations and so everything we discussed in the last meeting, got incorporated into the revised regulations.

Next ZRRC meeting to be scheduled for September 20<sup>th</sup>, 2017 to discuss *Tab B, Major Site Plan Regulations*.

SNHPC 51<sup>st</sup> Annual Meeting Dinner:

T. Giffen said SNHPC is having their 51<sup>st</sup> annual meeting on September 8<sup>th</sup> at Fratello's. Keynote speaker will be John Broderick, the former NH Supreme Court Justice, Dean UNH School of Law. It might be interesting. It's at 6:30 pm at Fratello's at 155 Dow Street, Friday September 8<sup>th</sup>. A \$30 donation per person is requested, if anybody's interested. A. Hall said I'll be going as a member of the commission.

Conservation Commission Receives Wetland Permits:

A. Bickum noted that last time regarding the Conservation Commission and communication, I verified with the Town Clerk that all the wetlands permit applications actually go to the Conservation Commission first and we get a copy as well. So a lot of times, they might know what's going on before we do.

MOTION:

It was the consensus of the entire committee present to close the ZRRC meeting. Meeting was **adjourned** at approximately **8:30 pm**. The next ZRRC meeting is scheduled for September 20<sup>th</sup>.

Respectfully submitted,  
Andrea Bickum  
Land Use Secretary