

**CANDIA PLANNING BOARD**  
**MINUTES of June 18, 2008**  
**APPROVED**

**Present:** Mary Girard, Chair; Kim Byrd, Vice Chair; Joe Duarte, Selectmen's Rep.; Judi Lindsey, Barry Margolin, Garrick Asselin, Sean James, Amanda Soares, Alternate; Dennis Lewis, Road Agent

**Absent:**

The Chair called the meeting to order at 7:00 p.m.

**Review of minutes**

J. Duarte **moved** to approve the minutes of June 4, 2008 as amended. J. Lindsey **seconded**. Mary Girard, Kim Byrd, Joe Duarte, Judi Lindsey, Garrick Asselin, Sean James **were in favor**, Barry Margolin **abstained**. The following amendments were made:

- Pages 1, 4th paragraph, change Jodi to Judi.
- Page 1, 6<sup>th</sup> line from the bottom change 1 ½ acres to 3 acres.
- Page 2, 2<sup>nd</sup> paragraph change fell to feel.
- Pages 2, 2nd paragraph 5th line from the bottom add "on the plan".
- Page 3, 1<sup>st</sup> paragraph, 5<sup>th</sup> line down change to changed.
- Page 3, 1<sup>st</sup> paragraph lose line to read as built plans and bonding by September 1, 2009.
- Page 3, 5<sup>th</sup> line from the bottom effects to affects.

**7:15 p.m. Continuance of Final Major Subdivision Application by: Harbor Street Limited Partnership, 123 Water Street, Exeter, NH 03833; Owner: Same; Agent: Same; Location: Crowley Road, Map 414 Lot 090; Intent: To subdivide Map 414 Lot 090 (consisting of 153 acres) into 10 frontage lots.** Atty. Malcolm McNeill, applicant Joe Falzone, Steve Michaud from Doucet Survey, and Adele F. Fiorillo, NHCS Inc. Environmental Consultant were present.

Chair Girard let the members that were not present at the last meeting know that the Board had received the Environmental Impact Assessment Study. This study was requested by the Board on May 21, 2008. Copies were passed out to those members. She said that the Board did not have time to read the study the night of the meeting and asked the Board to read the study at home. T. Timbrell gave an overview of the study at the last meeting.

Chair Girard asked T. Timbrell to go over his review of the Study. T. Timbrell explained that the study was summarized on page 5 with a checklist to use on how to view wetlands using standard procedures. In the summary and conclusions, the conclusion was that the land was not affected but recommendations were made. T. Timbrell said that they were relatively straight forward recommendations. 5 items were addressed in the summary. The applicant had prepared and addressed these items in the new submittal which was given to T. Timbrell and the Planning Board on June 13, 2008. T. Timbrell presented to the Board a letter that reviewed the applicant's submission on June 13, 2008. One item was clerical and corrected on submitted plans. The second item was about pesticides and fertilizer use and he recommended adding to or modifying the plans with these comments and any other comments that would protect the site. T. Timbrell said that the comment about fertilizers and pesticides was not responded to by the applicant and he also said that there wasn't a place for the applicant to put this on the

plan. He added that it can be addressed by having the applicant prepare language for the proposed deed restrictions on each of the lots, which would restrict the use of any fertilizers or pesticides with 125' of wetlands. Once this is done, have the wording be reviewed by the Town attorney. T. Timbrell wanted all wetland crossings detailed, designed and properly sized, and shown on the drawings. He said that this detail was shown on applicant's submitted plans. He also said that this information must be submitted to the NHDES. T. Timbrell pointed out that there is conflicting language on the fieldstone retaining walls between standard detail and call outs. In one place the stone wall is called mortar rubble and in another place fieldstone retaining wall. T. Timbrell said the Town requires RCP piping and the applicant is proposing HDPE pipe. The pipes are located in the driveways. T. Timbrell explained that Dennis Lewis has no requirements on pipe in private driveways but in regulations for other locations RCP pipe is required. T. Timbrell also requested a comprehensive erosion control plan for the 10-lot subdivision. This has been prepared by the applicant along with a proposed construction sequence, shown on the drawing. T. Timbrell said his letter presented to the Board tonight concludes that these changes when addressed should be made part of the final documents. T. Timbrell stated that all items previously listed in their April 30, 2008 review letter should be compiled and reviewed by Stantec and the Board and where applicable the Town attorney.

Plans were passed out to the Board that had been submitted by the applicant on June 13, 2008 for the Board's review. S. Michaud explained that the 6 sheet set is the same set the applicant submitted with the original application but with minor revisions to address comments brought up at the last meeting. The separate 3 sheet plan set was the result of comments that came out of the environmental study specifically addressing driveway designs and erosion control measures. S. Michaud explained that the 3 sheet plan set will be used in conjunction with Dredge and Fill application that is sent to the DES. He explained further that there was too much information to put on the topographic sheets so a separate plan set was created for the driveways and to address the environmental issues. S. Michaud said that the applicant took no issue on the 5 comments brought up in environmental study and noted they were addressed and incorporated into one or both of the plan sets submitted on June 13, 2008. S. Michaud stated that the applicant will not ask for a waiver and will use RCP pipe per the Town's regulations.

S. Michaud introduced Adel Fiorillo from NHSC Inc Environmental Consultants. She spoke in behalf of the applicant on the pesticide and fertilizer issue. She felt that the recommendations of 125' were very restrictive and explained that the State of NH has comprehensive shore land protection standards developed for much more sensitive areas than forested wetlands such as open water bodies, lakes, rivers, streams and ponds. The State requires a 25' set back from the reference line which is to the edge of the open portion body of water, bank of a river, lake. No fertilizers are allowed in the first 25' except limestone. Beyond 25' low phosphate slow release nitrogen fertilizer or limestone may be used. A. Fiorillo asked to have the deed restriction adhere to the NH regulations of 25' set back established by the state. J. Duarte felt that it was a drastic change from 125' to 25'. Chair Girard commented that the Town would have to rely on the honor system to have this work. She told the board that a decision has to be made in 65 days of accepting the application and that last day falls on July 10, 2008. There was discussion on the configurations of lots particularly lot #2 to be more regular. K. Byrd said that lot #8 has to maintain a minimum lot frontage 100' back into the property. Atty. Malcolm McNeill said that the applicant has reduced the plan from 12 lots to 10 lots. He said that if they could change the lot configurations they would. He explained that the language of the Ordinances state that you cannot use less the 50' width to satisfy the minimum lot and

that the applicant has taken all precautions and has adhered to this rule. He explained all the lots are large and have no public safety issues, public health and public welfare issues. He said he has had various conversations with all the town officials with regards to infrastructure upgrades, road agent, fire dept and consultations with building Inspector for lot location. The applicant has done everything that Stantec has asked for.

Chair Girard asked if any abutters present and there were none. She asked if the Board had any questions or concerns. K. Byrd said that lot # 2 has 96 acres that could potentially be subdivided into 20 more lots in the future. He asked if the applicant could show the Board what they plan to do with the 96 acres. It was explained that the Board has to approve or disapprove the plan that is before them and would have to come before the Board if the applicant wants to subdivide the 96 acre lot. S. James noted that there is already a 20 acre deed restriction. A. Soares asked if the lots were being sold as lots or with houses built on them. Chair Girard noted that the DES may not approve the wetland crossing permits. It was clarified that it is taking 90 days for wetland permits. There are 10 wetland crossings. J. Lindsey said her original concerns still stand and feels the overlay of wetlands is a highly impractical area to build 10 houses, perhaps one or two houses. She also said that this is a focus area of concern by the State. This land is the headwaters of the Ford way Brook. J. Lindsey also has major concerns about the shared driveways and long driveways and hardships that arise from these. M. McNeil stated that the applicant is not violating any regulations and will comply with Town and State. J. Lindsey said that they could meet all the requirements but some areas should not be built in. For example, Katrina destroyed areas met requirements but it wasn't wise to build in these areas even if they meet regulations. J. Duarte asked Dennis Lewis if he had any safety issues and he answered that he had concerns with the shared driveways. He also said the upgrades to the road were addressed. Chair Girard had concerns on the length of the driveways and said the Fire Department had requested a turnaround. The applicant said these driveways were to minimize wetland impact. The language subject to shared driveways is on the deed and on the plan. K. Byrd had concerns specifically with lot 5 where is crossed lot 4, whether they would need a variance or not under Zoning Ordinance Regulations Article II 2:04 Driveways. S. Michaud pointed out that Lot 5 accesses its own lot and K. Byrd said it crosses its boundary to get to lot 4. K. Byrd said that wetland crossings are not a safety concern to be allowed as shared driveway. J. Duarte said that the Ordinances could be read either way. S. James asked if there were a running total of issues addressed. Chair Girard said that Sean James was welcome to read the letters from police dept that were in the file.

S. Michaud said the applicant had filed for a state subdivision and their only issue is that they need the dredge and fill application. The 3 sheet plan reviewed by the Board tonight is what the applicant is submitting for the Dredge and Fill application. K. Byrd asked that the Board sit down and compile a list of all conditions and to continue the hearing. Chair Girard said she had started a list that is a page long but does not know if it is complete. D. Lewis said the money for road improvements would be collected right away and held in escrow. T. Timbrell said he wanted to see the easements for the driveways before a building permit is issued. K. Byrd asked to hold off on voting until the conditions are complete. J. Lindsey was in agreement. K. Byrd stated that if the Board closes the public hearing then the Board cannot take anymore public comments. K. Byrd suggesting taking Mary Girard's list as a starting point, email it out to the members have everyone go through their notes and minutes and see if there are any other concerns. T. Timbrell said he could not recall all comments. B. Margolin said he had no problem making a list tonight and voting on it tonight. G. Asselin agreed. Chair Girard said Stantec needs to review and complete the list with theirs, then send out a letter

Notice of Decision. Chair Girard said she has a lot of concerns and does not like the plan but the applicant meets all the requirements. B. Margolin said he was not crazy about parts of the plans but it met regulations.

K. Byrd **made motion** to continue the hearing to the July 16<sup>th</sup> meeting at which time the Board will grant conditional approval and set conditions.

J. Lindsey **seconded** for discussion

Chair Girard was not in favor of continuing the hearing. K. Byrd said not to rush this and do it correctly the first time. Chair Girard said the 65 day deadline is up on July 10, 2008. J. Duarte pointed out that there is probably not going to be any major changes. J. Lindsey asked what would happen if the Board went over the 65 days and Chair Girard said the applicant could bring this to court. K. Byrd felt the applicant would not do this as it would delay the approval.

Chair Girard asked for vote on the motion made by K. Byrd.

**In Favor:** K. Byrd, J. Lindsey.

**Opposed:** S. James, G. Asselin, B. Margolin, J. Duarte, M. Girard .

2 in favor, 5 opposed. Motion did not pass.

B. Margolin **made motion** to approve the plan with appropriate conditions listed out.

G. Asselin **seconded** for discussion.

Chair Girard asked the Board how long the applicant should have to meet the conditions. M. McNeil asked to have enough time for the permit to come back from the state. The State is taking 180 days. S. James said that 6 months is normal. B. Margolin added to the motion, “to allow 6 months to fulfill the conditions”. Chair Girard said the State subdivisions and wetland crossing approvals are two large issues. The applicant could come back to the Board for an extension if they needed more time.

**In Favor:** S. James, G. Asselin, B. Margolin, J. Duarte, M. Girard.

**Opposed:** K. Byrd, J. Lindsey.

5 in favor, 2 opposed. Motion passed.

J. Lindsey asked for one of the conditions to be the 125’ setback for fertilizers. T. Timbrel suggested the conditions should match the State of NH’s requirements with wording that could be understood on what type of fertilizer to use. T. Timbrel said that 125’ is not unreasonable and has seen it before. Chair Girard said she would get together with Tony Timbrel and come up with the list. Then the list would be sent to all the members for review. If there are issues the applicant can come back. Chair Girard noted that new plans must be done including a mylar.

M. McNeil asked if the applicant leaves tonight do they have a conditional approval and Chair Girard replied yes but with conditions that the applicant will be able to review and agree to. If the applicant does not agree to the conditions they can come back to the Board. T. Timbrel noted to the applicant that more money is need for the escrow account.

## **Other Business**

### **Roundtable Discussion 6/23/08**

Chair Girard asked if anyone had any items or ideas for the round table that is on June 23, 2008. J. Duarte said he had talked to Fred Kelley about safety training for the departments and about liability situations and rules but did not have any items to discuss for the Planning Board. Chair Girard noted that the round table meeting is open to the public.

Impact Fees

K. Byrd asked to follow up and find out where the Board stands with Southern NH Regional Planning site impact fees schedule. Chair Girard said she had not heard anything. J. Duarte said he was trying to get information and the last information Southern NH Regional Planning was waiting for was from the Fire Chief on the fire truck and he believes that all the information is now in from all the departments. The Board is just waiting for Southern NH Regional Planning to finalize everything. J. Duarte also added that when he went to the C-Tap meeting and noticed everyone else was completed but Candia and that he would follow up and contact Southern NH Regional Planning on where the Board stood.

Subcommittee for Zoning Review and Revision

Chair Girard said that Amanda had asked about an alternate being Chair for the subcommittee and wanted the Board's thoughts about having an alternate Chair. J. Duarte said he had no problem. Chair Girard said the chairman of the subcommittee would have to decide when the meetings are going to be held and be in charge of recruitment for the subcommittee. J. Lindsey said we need to send out a general recruitment notice to see if anyone wants to be on it for example the new selectmen. Chair Girard said the Board had no money available for the subcommittee and then added the subcommittee could have some meetings with the Planning Board so the Board would know what is happening with the subcommittee. J. Duarte said that R. Carlton who is a builder/developer would like to be on the subcommittee as well as Jim Franklin. S. James and J. Lindsey said they would be interested in being on the subcommittee and S. James said he had no problem with A. Soares being Chairman. Chair Girard said that they could decide amongst themselves on who would be the Chairman. She also pointed out that there is supposed to be free help available from Southern NH Planning Committee.

Electronic Filing

T. Timbrell presented to the Board copies of electronic submission procedures that other towns are using. S. James said that Bedford has a simple procedure using a PDF format with CD. S. James suggests adding a line at the end to each application with language about electronic submission.

Planning Board Rules of Procedures

J. Lindsey talked about voting procedures, under meetings, page 3. She wasn't sure if the Chair only voted to break a tie. Chair Girard answered that she always votes with the other members. J. Lindsey noted that on page 4, 6.06, about minutes of meetings where votes are taken, that votes note who is for and who is against. Chair Girard said that they have talked about this and it will be done. A. Soares asked if under notice of absence if there is a time frame. Chair Girard said when you find out tell someone on the Board or the secretary right away. A new contact list was passed out. Chair Girard told K. Byrd to bring his recommendations to the next meeting. S. James suggested using a calendar and set dates and if not submitted by these dates they will not be discussed.

It was the consensus of the Board to cancel July 2, 2008 Planning Board meeting.

Joe Duarte **moved** to adjourn at 8:30pm. Kim Byrd **seconded**. **All were in favor.**

Respectfully submitted,  
Sharon Carrier