

**CANDIA PLANNING BOARD  
PUBLIC HEARING  
MINUTES of January 9, 2009  
APPROVED**

**Present:** Mary Girard, Chair; Kim Byrd, Vice Chair; Joe Duarte, Selectmen's Rep; Sean James; Garrick Asselin, Amanda Soares, Alternate; Scott Komisarek, Alternate; Dennis Lewis, Road Agent; Tom Dimaggio; Richard Snow

**Absent:** Judi Lindsey

Chair Girard called the Public Hearing to order at 7:00 p.m.

**Zoning Amendments Public Hearing**

Chair Girard explained that she would read the following proposed 8 amendments, followed by a discussion, answer any questions, then the Board would vote to recommend or not recommend to place the amendments on the 2009 Ballot. There will be tracking of each vote.

**AMENDMENT #1 - Article V: Use Regulations, Section 5.02 A-3. Type of Land Use:** To Amend A-3 to allow 2 Family & Multi family in MX Zone (mixed use) by special exception.

S. James said that Amendment #1 works toward helping the Town comply with the Workforce Housing Law SB 342 that goes into effect July 1, 2009.

J. Duarte **motioned** to recommend Amendment #1 to be placed on the 2009 Ballot. S. James **seconded. All were in favor.**

**AMENDMENT #2 - Article XIII: Special Exception Uses, Section 13.04, E-3 Accessory Dwelling Units:** To amend by adding: "*heated living*", after 600 sq ft:

"There shall be a maximum of 600 sq ft of *heated living* space in the accessory unit."

This Amendment was to help clarify what qualified for 600 sq ft under Accessory Dwelling by adding the wording "*heating living*".

K. Byrd **motioned** to recommend Amendment #2 to be placed on the 2009 Ballot. A. Soares **seconded. All were in favor**

**AMENDMENT #3 - Article V: Use Regulations, Section 5.04 3. Conditional Use Permit:** to amend by changing "~~or~~ to *and* in the last sentence:

"The Planning Board shall act upon the application for a conditional Use Permit in accordance with the submission and the procedural requirements of the Board's Site Plan Regulations ~~or~~ *and* the Board's Subdivision Regulations, as applicable."

Chair Girard explained that all the other regulations require both the Site Plan Regulations and the Subdivision regulations and changing "~~or~~" to "*and*" makes the regulations consistent.

A. Soares **motioned** to recommend Amendment #3 to be placed on the 2009 Ballot. S. James **seconded. All were in favor.**

**AMENDMENT #4 - Article V: Use Regulations, Section 5.04- 6 Modification of Conditional Use Permits:** Delete existing paragraph and Replace with the following:

~~"When a Conditional Use Permit application has received final approval from the Planning Board, no modifications shall take place unless the modification of the plan has been approved by the Board. Requests to modify an approved plan shall be treated as a new application, which will require notification of abutting property owners, a public hearing, and formal Board action~~

*"All alterations or modifications of the plans shall be in accordance with 18.05 of the Subdivision Regulations."*

**(Subdivision Regulations 18.05 Modification of Design and Improvements:** All alterations or modifications of the plans not approved by the Town Engineer, Road Agent, or Fire Chief need approval by the Planning Board, and copies of the proposed changes must be given to the Road Agent and Town Engineer if necessary before the alterations are made. If at any time before or during the construction of the subdivision the Board determines that unforeseen conditions make it necessary or desirable to modify the location or design of any of the required improvements or installations, the Board may authorize such modification which shall be set forth in writing and signed by the Chairman of the Planning Board. No revision to approved plans shall be valid or binding until approved by the Planning Board.)

This proposed amendment is to make Regulations more consistent. Chair Girard said the original wording could delay a project. J. Duarte said originally the Town Attorney suggested changing this regulation. Chair Girard said the wording of Subdivision Regulation 18.05 should be added to give clarification to the amendment.

J. Duarte **motioned** to recommend Amendment #4 to be placed on the 2009 Ballot. S. James **seconded. All were in favor.**

AMENDMENT #5 – Article V: Use Regulations, Section 5.04 Conditional Use Permit: Amend to add a paragraph:

*“10. Waivers Compliance with the individual provisions of this ordinance shall constitute the conditions required for the issuance of a Conditional Use Permit. Any provision of this ordinance may be waived, when, upon the application by the applicant to the Planning Board, the Board shall determine in its sole discretion 1) that requiring compliance with the particular provision for the granting of a Conditional Use Permit would create an unreasonable hardship and 2) that the application would be consistent with the spirit and intent of this ordinance. Requests for waivers must be written and the Planning Board must vote on each waiver request at a properly noticed public hearing.”*

Chair Girard said this was sent to the Town Attorney and he had no objections or comments. This was to allow the Board the right to waive certain conditions.

J. Duarte **motioned** to recommend Amendment #5 to be placed on the 2009 Ballot as written.

A. Soares **seconded. All were in favor**

AMENDMENT #6 – Article V: Use Regulations, Section 5.05-6. Conditional Use Permit Review Criteria: Amend to replace existing paragraph with the following:

~~“The proposed development is not located within an identified floodplain as provided on the FEMA flood insurance maps prepared for the Town of Candia.”~~

*“No portion of the proposed development that is altered, cleared or within 50 feet of the outside face of a building or edge of road shall be located within an identified floodplain or area designated as having a 1% annual chance of flooding as provided on the FEMA flood insurance maps prepared for the Town of Candia.”*

Chair Girard said this amendment was to rewrite what was there before to expand and clarify.

A. Soares **motioned** to recommend Amendment #6 to be placed on the 2009 Ballot. G. Asselin **seconded. All were in favor**

AMENDMENT #7 – Article V: Use Regulations: Section 5.06 Conditional Use Permit Standards, Elderly Housing: 7.b and 9.

7. b Maximum Density for Detached Single-Family and Attached Duplex Single-Family Dwellings. To amend by deleting the second sentence in paragraph 3 and delete paragraph 4:

~~“Buildable shall be defined in Article III, Definitions of this Zoning Ordinance. In no case shall any lot be less than 1 acre for a detached single family dwelling or 2 acres for an attached duplex dwelling.~~

~~Per Section 2.05: Buildings on One Lot of this Zoning Ordinance, there shall be only one residential building on a lot unless otherwise approved under Innovative Land Use Controls. See Section 13.04 E~~

9. Minimum Lot Frontage to amend by replacing the existing wording with the following:

~~“Minimum lot frontage shall be 100 feet.”~~ *“In the case of Elderly Housing not under a condominium form of ownership, minimum lot frontage shall be 100 feet.”*

Chair Girard explained that these changes were reviewed by the Town Attorney. The Board has gone over the changes and they are to clarify to make Elderly housing more consistent with the rest of the regulations.

M. Girard **motioned** to recommend Amendment #7 to be placed on the 2009 Ballot. A. Soares **seconded. All were in favor**

AMENDMENT #8: Article V: Use Regulations: Section 5.06: Conditional Use Permit Standards, Elderly Housing: - 13, 14 and 26:

13. Minimum Dwelling Size: To amend by deleting ~~twelve hundred (1,200)~~ and replacing with *eight hundred (800)*:

*“Each dwelling unit shall contain at least ~~twelve hundred (1,200)~~ eight hundred (800) square feet of living space.”*

14. Maximum Building Height: To amend by deleting entire paragraph and replacing with the following wording:

~~“All buildings shall be single story in height. All buildings shall be single story above grade (basement is considered a story).”~~ *“All buildings shall be a single story above grade in height.”*

26. Common Land/Open Space: To amend paragraph one by replacing the following percentage of the slopes from ~~20%~~ to 25%:

“In addition, no more than twenty (20%) of the open space, shall consist of very poorly drained soils, wetlands, water bodies, and slopes greater the ~~20%~~ 25%.”

To amend paragraph three by changing “~~subdivision~~” to “*development*”:

“Open space, common areas, common facilities, private roadways, and other features within the elderly housing development shall be protected by covenants running with the land and shall be conveyed by the property owner(s) to a homeowners association, or each owner within the ~~subdivision~~ *development* is to own an undivided interest in the common property so as to guarantee the following:”

Chair Girard explained that these changes were reviewed by the Town Attorney. The Board has gone over the changes and they are to clarify to make Elderly housing more consistent with the rest of the regulations.

J. Duarte **motioned** to recommend Amendment #8 to be placed on the 2009 Ballot as presented.

G. Asselin **seconded. All were in favor.**

Chair Girard said that voting was unanimous for all the Zoning amendments to be sent to the 2009 Ballot. Chair Girard closed the Public Hearing for Zoning Amendments for the 2009 Ballot and opened the Public Hearing for the Subdivision Regulations and Site Plan Regulation Amendments.

### **Public Hearing**

#### **Subdivision Regulation Amendments**

AMENDMENT #1 Amend Article 18.05 by changing the wording on line 5 from “~~Board~~” to *Applicant*”: Subdivision Regulations 18.05 Modification of Design and Improvements: All alterations or modifications of the plans not approved by the Town Engineer, Road Agent, or Fire Chief need approval by the Planning Board, and copies of the proposed changes must be given to the Road Agent and Town Engineer if necessary before the alterations are made. If at any time before or during the construction of the subdivision the ~~Board~~ *Applicant* determines that unforeseen conditions make it necessary or desirable to modify the location or design of any of the required improvements or installations, the Board may authorize such modification which shall be set forth in writing and signed by the Chairman of the Planning Board. No revision to approved plans shall be valid or binding until approved by the Planning Board.

Chair Girard said this is to clarify the Applicant asks for a waiver not the Board.

A. Soares **motioned** to approve Subdivision Regulation Amendment #1 as written. S. James **seconded. All were in favor.**

AMENDMENT #2 Add to Subdivision submission requirements: *“All plans must also be submitted electronically via e-mail or approved storage media in the portable document format (PDF) with a maximum file size of 10 M.B.”*

Chair Girard said this will also have to be added to the submission requirements on the application. S. James explained that 10 M.B. was used so files could be sent easily. He said this does not limit the amount of files an applicant can send as long as each file does not exceed 10 M.B. D. Snow said that this could be confusing as the applicant may question that 10 M.B. may be too small and may not know they can send multiple files. S. James said that at the time of submission the Board can clarify this to the applicant. Chair Girard said that if this gets to confusing for applicants then the Board can make changes then.

K. Byrd pointed out that in Subdivision Amendment #2 and Site Plan Regulation Amendment #1 that the word median should be media .

S. James **motioned** to accept Subdivision Regulation Amendment #2 as corrected. K. Byrd **seconded. All were in favor.**

#### **Site Plan Regulation Amendments**

AMENDMENT #1 Add to Site Plan submission requirements: *“All plans must also be submitted electronically via e-mail or approved storage media in the portable document format (PDF) with a maximum file size of 10 M.B.”*

T. Dimaggio asked if the files were going to be checked in the office before they are distributed. Chair Girard said the secretary would receive the files and open the files either zipped or not and check them before they are forwarded to the Board for review.

S. James **motioned** to accept Site Plan Regulation Amendment #1 as corrected. A. Soares **seconded. All were in favor.**

Chair Girard closed the Public Hearing for Subdivision and Site Plan Regulations Amendments.

### **Bond Reduction Halls Mill Road Map 402 Lot 07**

Chair Girard said the Board received a letter requesting a reduction from Severino and a letter from Stantec saying they did not have a problem with the reduction. D. Lewis said that Stantec had received asbuilts but the Town has not.

Stantec's letter dated 12/30/09, recommends reducing the bond down to 10% to \$51,214.05. R. Labranche said when the contractors were paving the overlay; it rained the last 500 feet and instead of stopping and creating joints that could potentially compromise the integrity of the overlay the paving was finished. Continental Paving provided a letter insuring the overlay for an additional 3 years beyond the 2 year bond from Severino for a total of 5 years. R. LaBranche said unfortunately the road cannot be changed without completely removing the asphalt but felt comfortable with the additional warrantee from Continental Paving. The warranty is for complete removal and replacement not patching.

R. LaBranche said after talking with D. Lewis, he provided the Board with a list of items changed from the original approved plans. He recommended putting the list of changes with the original approved plans for documentation to be able to be accessed in the future. J. Duarte felt good documentation was a great idea.

R. LaBranche and D. Lewis identified that the crown was to shallow and should be 2% grade and was discussed with the contractor. The contractor said they were going to adjust by making it thicker with pavement in the center to create the crown. R. Labranche said this is not correct. D. Lewis wanted this noted he asked for the correct crown. Currently the crown is 1 ½% on a portion of the road. R. Labranche said that if they try to correct the crown it would create joints that over time create more maintenance problems than a low crown would. D. Lewis said there was no excuse for the contractor he had 3 chances to make the crown.

M. Girard **motioned** to recommend to the Board of Selectmen that the bond from Ron Severino for Halls Mill Road Subdivision Map 402 lot 7 be reduced to \$51,214.05 as per the letter from Stantec and discussion with our Road Agent. G. Asselin **seconded. All were in favor**

### **Harbor Street, Crowley Road Major Subdivision Map 414 Lot 90 Mylars**

S. Michaud was present from Doucet Survey. Chair Girard went over each condition on the NOD to see if each had been met. Plans and copy of the conditions were passed out to the Board members.

Chair Girard went through each condition. #1 was satisfied. #2 was satisfied, #3 was satisfied, #4 E67 & E68 final drawing did not have lines that correspond, so the labels were removed, #5 3 Sheet Plan set shows proposed clearing limits and location of silt fence for Lot 1, #6 Voluntary Deed Restriction was provided, #7 Note #25 was added on Sheet 3 of 6 indicating that there would be a stop sign, #8 The Voluntary Deed Restriction contained fertilizer/pesticide language requested and was incorporated in with number six Voluntary Deed Restriction, #9 3 sheet mislabeling on one of the details and revised on Erosion Control Details- E1, #10 Note number 17 revised on final plans, #11 Sheet 1 & 2 for the long driveways show the fire turnouts, #12 D. Lewis said he could not provide driveway permits as it is all one lot and have submitted a letter explaining this., #13 A letter was provided outlining the money for the upgrade to the road but not an actual bond. The Board and Road Agent were in agreement that a bond is required and should be put in place before the plans can be signed., #14 Chair Girard said the Town of Candia Capital Reserve Fund fee for each lot was addressed in 2 lines on the same letter that addressed #13. It is understood that a building permit cannot be issued unless the \$2,000 fee is paid, #15 Chair Girard said that the Board does not know if they complied with all state and local laws, #16 Noted there are for sale signs, #17 R. Labranche to check to see if all their fees have been paid., #18 Sign off by the Town Engineer, Fire Chief, Police Chief, Road Agent and Board Attorney is required and must be done. A set of plans with a letter from Doucet Survey were given to R. Labranche to review, #19 This is complied with., #20 Chair Girard noted that applicant did submit by the deadline. She said that the Board

is not ready to sign the Plans until all the conditions are satisfied, including #17, #13. Chair Girard said that she wanted to have the fire Department, Police Department and Stantec sign off, regarding their concerns if they have been met. S. Michaud asked for clarification on condition #13. D. Lewis and the Board agreed that the bond should be in an escrow account before construction starts.

Chair Girard said that the Mylar and Plans could not be signed tonight as the applicant needs additional time to complete all the conditions to the Board's satisfaction.

M. Girard **motioned** to give Harbor Street, Crowley Road Subdivision 60 days to complete conditions on Revised NOD dated August 6, 2008. J. Duarte **seconded**. S. James, G. Asselin, A. Soares, M. Girard **were in favor**. K. Byrd **abstained**.

#### **Review of minute 12/03/08**

A. Soares **motioned** to accept minutes of December 3, 2008 as amended. K. Byrd **seconded**. **All were in favor**.

The following amendments were made:

- Page 3 – Under Other Business first sentence insert “had some” before information. 2<sup>nd</sup> sentence change “2008” to “2009”

#### **Other Business**

A. Soares **motioned** to cancel the Planning Board meeting on January 21, 2009 due to lack of applications received. S. James **seconded**. **All were in favor**.

R. Labranche informed the Board that Stantec is going to have someone new named Aaron Lachance overseeing Candia's projects and would like to bring him in to introduce him to the Board. R. Labranche also said that he wanted to follow up with Planning Board and Board of Selectmen about sitting down together to discuss their scope of services and rates. Chair Girard said that either meeting in February the Board would have time to talk with Stantec. R. Labranche suggested getting together beforehand with the Chair Girard and one or two Selectmen and then make a presentation to the entire Board. S. James requested a resume from Aaron Lachance be sent to the Board.

Chair Girard informed the Board that SNHPC will be attending the February 4, 2009 Planning Board meeting to discuss the Solid Waste and Traffic Impact Fee studies. She said that at this time the Board can decide if they want a Public Hearing to implement the Impact Fees.

The Planning Board meeting, February 18, 2009 will be a joint CTAP Road Map Planning Workshop with SNHPC, Board of Selectmen, ZBA, Conservation Committee and any other committee interested to discuss what the Town would like to do for projects and work together to put a plan in place. An invitation with agenda will be provided by the SNHPC and will be sent to everyone. Chair Girard said SNHPC will also explain grants that are available.

S. James **motioned** to adjourn at 8:30 pm. J. Duarte **seconded**. All were in favor.

Respectfully submitted,  
Sharon Carrier  
Land Use Secretary