

**CANDIA PLANNING BOARD
MINUTES of December 19, 2018
APPROVED**

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

Absent: Mike Santa, Alt.

Present: Dennis Lewis, Road Agent; Dave Murray, Building Inspector; 50+ residents attended including: Tracy Blevens of 39 Donovan Road; Matt Cobb of 472 Raymond Rd.; Jenny Tyler of Jane Drive, Holly Haas of High Street; Judith Szot, Vice Chair of ZBA; Gary York of 39 Hemlock Drive; D. Jaskolka of Old Mill Road; Jim Wilson of 283 High Street and many more.

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

Minutes December 5, 2018:

A. Hall made a **motion** to accept the minutes of December 5, 2018 as presented. J. Bedard **seconded**. **All were in favor**. M. Chalbeck and S. Komisarek **abstained**. **Motion passed (5-0-2)**.

Chair R. Cartier read a statement he had written:

As Chair of the Planning Board, I try to keep up with the work of other Town Boards and the opinions of the citizens by reading the minutes of the various boards as well as social media. This gives me an opportunity to not only keep up with what is going on, but allows me to see if there are any misconceptions as to what the Planning Board is or is not doing and bring these pros and cons back to the Board. While reading the minutes of several boards and social media, I noted a few, in my opinion, misconceptions as to the function of the Planning Board. I wanted to briefly touch on two items related to the Boards charge:

1. The Planning Board does not just review subdivision and related plans for development. We are, by law, responsible for the:

a. Implementation of the Master Plan

b. Update Zoning Laws and Land Use Regulation to comply with current State laws and with robust public input. In relation to the regulation, we have spent the better part of over a year going over each individual line in the current regulations to not only ensure compliance with the law, but to revise the regulations to remove ambiguity, minimize the negative impact on uncontrolled growth yet ensure property owner's rights are maintained.

2. The Planning Board is not the end all, cure all for developing Zoning Laws. The seven people on the Board will not know all the challenges Candia faces and certainly will not have all the answers. We depend on the other Boards and Town Departments in Candia to let us know of issues and, hopefully, offer suggestions. The Planning Board discusses the potential solutions and then seeks the public's input. The public input, to me, is the most critical part of our job as members of the Board. This is where the input provided by you, the public, gives us much more information on which to base any decisions we make. As I noted, we don't always know the full extent of the effect of proposed changes. That's where public hearings come into play. Tonight, you all have the opportunity to help us develop Proposed Zoning Laws that are based on finding solutions to real and/or perceived current issues in Candia. I can assure you, your comments will weigh heavily in our final discussions and determinations made on the proposed changes. Thank you in advance for your involvement and input.

18-013 Minor Subdivision Application: Applicant: Robert L. Johnston, 24 Currier Road, Candia, NH 03034; Owner: Same; Property Location: Currier Road; Map 402 Lot 85; Intent: To subdivide a 9.2 acre parcel to create two new lots for a total of 3 lots. Upon a finding by the Board that the application meets the

submission requirements of the Candia Minor Subdivision Regulations 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: Applicant Robert Johnston; Jim Franklin, surveyor.

Abutters present: William (Bill) Stergios of 290 Currier Rd., Sharon Larpenter of 86 Currier Rd., Melanie Gray of 214 Currier Rd., Dennis Van Dinter of 177 Currier Rd, Deerfield.

R. Cartier said Andrea went through the checklist and she noted missing items.

1. On the plans that the subdivision buildings within 200' of the parcel to be subdivided weren't on there.
2. Current use letter pending but it has since been received.
3. Individual Sewage Disposal Systems but they will be applied for.

MOTION:

M. Chalbeck motioned to accept the application as complete. A. Hall **seconded. All were in favor. Motion carried (7-0-0).**

J. Franklin said we're here to subdivide Map 402 Lot 85, North end of Currier Road near 90 degree bend and along the Deerfield town line. A boundary survey, topographic survey, test pits and wetlands; delineated and are all shown on the drawing.

- 1) Test pit log was submitted to the Board as part of the application tonight.
- 2) I read the letter the Road Agent prepared and basically no disagreements or conflicts with his letter. I have some concerns; the riding trails shown on the plan. He suggested they be removed and I think they should be on the subdivision plan that gets recorded.
- 3) These lots when approved will be assigned; they are for his family; estate planning. The final three lots, assigned to family members.
- 4) We have not received state subdivision approval yet.
- 5) Buildings within 200' that was an oversight; I will provide that information to the Board.

J. Bedard commented there will need to be easements on those trails if the lots are transferred over to other family members. J. Franklin replied agreed, if they do they would have to be but at this time I don't see that as a problem. S. Komisarek asked if the trails are still being used regularly. B. Johnston replied no.

R. Cartier was concerned with having the trails on there. If the kids decide not to build and sell, and having the trails on there without having an easement could cause confusion. I agree with Dennis on that.

J. Franklin replied whatever the Board wants. I do not expect to get approval tonight because we have not received state subdivision approval and if they need additional information that may result in changes to the lot line; we'd like to hold off. Dennis Lewis had brought up that the house locations and driveways should be shown on each lot but I strongly disagree. If those locations are on the plan and someone decides to build in another location, they have to come back to the Board and get an amendment to the subdivision and we'd have to start over again. That's a ruling from the Town attorney. We're showing an area where the houses can go. There will have to be curb cuts permitted through the Town if they are ever built on; driveway permit applications through the Town and that's when they get reviewed.

R. Cartier mentioned Currier Road being the worst road in Candia and was concerned with not knowing the driveway locations in relationship to the drainage up there. Not good for us to not have a driveway location in there. Dennis said they should meet the site distance. D. Lewis said one lot, 85-2 doesn't meet the site distance requirement. J. Franklin said we have 213' of frontage on that. D. Lewis but the curve in the road; step back 10' and try to look both ways; right at the tip of that curve is where you have site distance. It would require cutting quite a few trees to get that site distance there.

R. Cartier said put the driveway locations on there. J. Franklin suggested a note be added to the plan but commented that it's part of the Town's regulations. You can't put in a driveway until Dennis has approved the location. *Board discussed driveways on or off plan.* D. Lewis said that driveway could be in Deerfield too. R. Cartier addressed D. Murray and said you won't issue a building permit until Dennis has the driveway location/permit. D. Murray agreed.

J. Franklin said **I can put a note on the plan** to that effect; ordinance section, so if someone buys a lot here to build on it, they would be put on notice and have that to refer too. D. Lewis said it only pertains to lot 85-2. S. Komisarek asked about lot 85; where home might be given wetlands setback, 75' well radius and septic. J. Franklin pointed out between the 4K area and the 75' well radius, anywhere in there; see setback lines there.

R. Cartier added contributions to maintaining the road and we did that with Mr. Johnston the last time. A. Bickum said it was about **\$1,000 per lot.**

J. Lindsey said the road can't handle the houses we have and it's a concern when we keep making lots available. We need to think about that. D. Lewis reiterated that we tried to upgrade Currier Road and it was voted down and we put more money into that road than we should. R. Cartier commented it's a Class V road so it's sub-dividable.

Abutter Bill Stergios commented 2 years ago Dennis put in a warrant article to pave the road and it was defeated. People want the road left the way it is. During mud season, you can go out on the Podunk Road side. Currier Road now is fine. It's just bad in mud season because the water table is up to the road. If it's paved you create Candia drag strip. You live on a dirt road get 4WD and expect inconvenience. Leave the road the way it is. R. Cartier said the Planning Board has no authority to require that road to be paved; it would have to be through the Board of Selectmen.

Abutter Dennis Van Dinter commented I look at the road as a safety issue. Mud season can be a month long. My concern is safety. *Looked at plans:* He states he owns land in Deerfield, has he paid taxes in Deerfield? J. Franklin said he didn't know that he had land in Deerfield. He didn't have his boundary surveyed until I did it. *Discussion ensued between Dennis Van Dinter and J. Franklin about boundary lines and Deerfield taxes.* D. Van Dinter said those monuments were approved by both Towns, an iron pipe here. Years ago, attorney Horn, he was always complaining that his paperwork said he owned 10' across the road and the old paperwork on my property stated the same thing. J. Franklin said I pulled the old paperwork and it's not there. D. Van Dinter replied it is there, I have copies at home. It's at the registry. J. Franklin said I have a disagreement with you and this is not an uncommon situation. R. Cartier said I would trust Jim's survey lines as being correct.

J. Franklin said Currier Road was laid out as 3 rods wide in 1849. Deerfield Selectmen continued it along the Town line there. The difference between the Town boundary which is a political division between two Towns and private property is the difference between the Town line and the stone walls. Every 7 years they are to perambulate the line and make a report to the Secretary of State. D. Van Dinter asked about the driveway; is that done before...R. Cartier said no, it will be decided when they apply for a building permit. D. Van Dinter replied so they'll address that issue then. Ok.

MOTION:

J. Lindsey **motioned** to continue the hearing until Jim has a chance to address the issues we came up with. M. Chalbeck **seconded. All were in favor. Motion carried (7-0-0).**

Jim Franklin said at least 30 days before the state. R. Cartier suggested when you get it just check with the Land Use Office to schedule it.

R. Cartier said Andrea is leaving us on January 3, 2019. I would like to thank Andrea for the work she's done in the last 2.5 years. I think she's done a phenomenal job for us and has worked very very well. I wish to thank her again and wish her the best of luck in her new position. *Board thanked her.*

PUBLIC HEARING ZONING ORDINANCE DRAFT FOR WARRANT ARTICLES:

Notice is hereby given that the Candia Planning Board in accordance with RSA 675:7, will hold a Public Hearing on Wednesday, December 19th, 2018 at 7:00 PM in Candia Town Hall, 74 High Street, Candia NH 03034 to consider a draft of amendments to the Candia Zoning Ordinance for the 2019 ballot. A few are to clean up inconsistencies and discrepancies however there are proposed changes to the existing zoning ordinances for small and large scale agricultural operations and a new proposed zoning ordinance for home service contractors. The full text of all proposed Zoning Amendments are available for inspection and review at the Land Use Office during regular office hours.

R. Cartier opened the public hearing. R. Cartier read through the list of amendments and took public comments on each.

TOWN OF CANDIA LAND USE OFFICE
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 FOR
1ST PUBLIC HEARING 12-19-18
11-14-18**

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.

T. Blevens asked if that covers any that are grandfathered, will that change anyone's current status. R. Cartier said we can propose zoning ordinances but we can't do retroactive zoning ordinances. If it's being used it won't be retroactive that it would have to be changed. NO CHANGES.

Zoning Amendment #2: Article V, Section 5.01 D. Parking, Storage, or use of Major Recreational Equipment. Purpose: to ensure this restriction applies to all zoning districts not just the R district. Amend by adding in any district with the Town of Candia. To read: "No such equipment shall be parked or stored in the front yard area in the R district. ~~Nor and~~ shall ~~it not~~ be used for living, sleeping, or housekeeping purposes on the premises in any district within the Town of Candia.

R. Cartier said this article adds the fact that you can't use it for living, sleeping or housekeeping in any district not just the R district. M. Cobb commented this means that boat or horse trailer can't be parked in the front yard or is it only items that would be used as a sleeping area or domicile. There's a lot of people that park a boat, snowmobile or horse trailer and such in their front yards. Nor shall it be used and is redacted. If it said and shall be used, it's okay as long as no one's trying to live in it. If nor is in there, you can't put your canoe in your front yard. M. Chalbeck commented that this is already an ordinance in the R district, it's just adding in the commercial and industrial areas. R. Cartier read the definition major recreational equipment: boats and boat trailers, travel trailers, pickup campers or coaches, motorized dwellings, tent trailers and similar devices. S. Larpenster said we can't have a camper in our driveway or front yard; what if you have nowhere else to put it. Board and public discussed this for awhile; with suggestions to rewrite it. M. Cobb suggested changing it from nor back to and; apply it to all zoning, it would say you can't live in it but you can have it. A two word fix. **The Board decided to work on this one and revise it.**

Zoning Amendment #3: Article V, Section 5.02 Table of Use Regulations. Purpose: To correct the omission of A in the A through F series under Residential and include a previously omitted reference to Home Shop to ensure consistency with the table of uses and permit the use by special exception “S” in the R district and Mixed Use district and prohibited anywhere else “—”.

An A was omitted. Amend to add an A **to read: Section 5.02A Residential:**
ADD 13. Home Shop (5.02A-13) in 5.02A Residential. NO CHANGES

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.

R. Cartier read the letter from Mr. Frank Reynolds:

From: Frank Reynolds December 7, 2018

296 High Street

Candia, NH 03034

To: Rudy Cartier, Chair, Candia Planning Board

Dear Mr. Cartier and Candia Planning Board, I regret that I will be out of state for the December 19, 2018 Public Hearing concerning Zoning

Amendment #4: Article V, Section 5.02 (A-5) Residential. Please accept this letter in my absence.

First, thank you for addressing this zoning issue. I am in favor of this amendment with minor changes.

Most of what I will offer is opinion, testimony of renters, and a few facts. With the proper requirements, this amendment has the potential to help many residents, especially those on fixed incomes and rising taxes/household utilities, benefiting the town while creating little to no negative impact.

There are two concerns I have concerning the amendment.

1. “short term rental accommodations not to exceed 14 consecutive days” While “two weeks” is appreciated, this limitation seems arbitrary and unnecessary. Airbnb has no minimum requirement. Individual renters using Airbnb can require a minimum or maximum stay. The State of New Hampshire allows 184 days or less for short-term rentals with no tax liability.

- The 14-day maximum will exclude some great renters. Testimony from traveling nurses indicate a short-term rental is ideal for their situation and Candia is a great location. Typically, a traveling nurse is seeking a 2-3 month stay, (options other than Airbnb - www.travelnurschousing.com. www.thcgypsynurse.com. etc.)
- Also, there are individuals and couples who have shared their desire to rent in New Hampshire for a season. A couple from California expressed their norm is to visit NH every summer and Candia was a great location for their needs. The husband was able to work from his laptop.

2. Safety In my opinion, a permit should be issued for short-term rentals after an inspection by the Candia Building Inspector based on safety, adequate rooms, egress, septic, etc. Inspection should be required every 5-10 years with a fee requirement.

This amendment provides several positives for the Town of Candia.

1. Financial benefit/help for Candia residents from an additional source of income.

2. Advantage for local businesses (Mobil, First Stoppe, Candia House of Pizza, Cellos, The Farmer’s Wife, Ace, Liquid Planet, D&M, etc.) Average short-term renters frequent local business more often, per year, than permanent residents. Personally, I am going to buy pizza, but not as often as short-term renters. I will occasionally buy local gas, but not as often as short-term renters. One couple was seeking housing in Candia for the purpose of going to the water park.

Thank you for your consideration of my input,

Frank Reynolds

J. Szot commented that this issue came before the ZBA and legal counsel determined that short term rentals are not dwelling units, they are hotel units; a commercial use in a residential area. If you allow this, you have nothing to go by. If someone comes in and wants to have a commercial use in a residential area, you cannot deny them. ADU allowed 674:72, last provision states ADU intended to fulfill a Town’s

requirement for workforce housing. Legal counsel advised us to turn this variance down for Mr. Reynolds and we did. He's never going to say you can't do that, because you can. But he will say this is a residential area and inconsistent with what is expected and people have the right to quiet use of their property and once you allow commercial uses in residential, you cannot deny someone else; prepare for the consequences.

The Board and public discussed and Board decided to work on this some more and re-work it and clarify this with legal.

Zoning Amendment #5: Article V, Section 5.02 F (f-1) Amend to add one acre per large domesticated animal and recognize small scale operations as being **a maximum of ~~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. ELIMINATED

Zoning Amendment #6: Article V, Section 5.02 (f-2) Amend to add best management practices and one acre per large animal. Add commercial stables. To read: Large scale full-time agricultural operations including animal husbandry subject to best management practices and the following conditions for large domesticated animals and/or commercial stables; The facility shall conform to the following:

1. One acre of contiguous non-wetland land per large domesticated animal required; i.e. horse, cow, llama and the like.
2. No barn, shelter, or building used for boarding said animals or the storage of feed or supplies shall be located closer than 60 feet from any property line.
3. Animal waste shall not be stored closer than two hundred (200) feet from any property line or surface waters.
4. The area used for grazing, exercising, or training shall be securely fenced to prevent the animals from straying or a suitable restraint shall be provided. ELIMINATED

There was a very large resident turn out to discuss and voice numerous concerns against the suggested changes in red to the existing small and large scale agricultural operations ordinances. Many were against the changes and wanted to know why it was being changed. There's no differentiation between small and large scale; phone calls to land use office wanting 15 horses on 2 acres for example; nothing in the zoning about it. There was over an hour of public input regarding this. Ultimately the Board tabled this, eliminated the proposed amendments for the warrant articles for 2019. The Board asked for help to develop these in the future. An agricultural committee was suggested and a warrant article for such will be submitted. Anyone interested in being on the agricultural committee should contact the land use office and leave their contact information. In summary, articles #5 and #6 were eliminated and will not be on the ballot.

Zoning Amendment #7: Article XIV, Section 14:06. Purpose: to ensure consistency with RSA 674:33, I-a, which provides for a 2 year period. Strike one (1) year and ADD two (2) years

To read: "Variances and special exceptions shall expire unless used within a period of ~~one year~~ two (2) years from the date granted. The Board may for good cause shown extend such period by as much as one year." NO CHANGES

Zoning Amendment #8: 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. NO CHANGES

Zoning Amendment #9: Article X, Section 10.2 Definitions Problem: The Zoning Ordinance references High Intensity Soil Maps while subdivision and site plan regulations & applications reference Site Specific Soils. Amend to make Zoning Ordinance consistent with the regulations and applications.

A. ~~High Intensity Soil Maps~~ NHDES Site Specific Soils Maps for New Hampshire, Standards and Origins. The most recent document prepared by the Society of Soil Scientists of Northern New England detailing the standards for making ~~High Intensity Soil Maps~~ NHDES Site Specific Soils Maps on file with the Rockingham County Conservation District.

B. Poorly Drained Soil: as defined by the National Cooperative Soil Survey or further defined by ~~High Intensity Soil Maps~~ NHDES Site Specific Soils Maps for New Hampshire. On file with the Rockingham County Conservation District.

C. Qualified Soil Scientist: a person qualified in soil classification and mapping who is recognized by the State Board for Licensure.

D. Very Poorly Drained Soil as defined by the National Cooperative Soil Survey or further defined by ~~High Intensity Soil Maps~~ NHDES Site Specific Soils Maps for New Hampshire. NO CHANGES

Zoning Amendment #10: Article X, Section 10.03: District Boundaries Amend to clarify poorly drained soils, correct typo and add new #4 regarding the criteria.

A. Establishment of a District

2. areas of poorly drained soils ~~½ acre or more in size~~ and;

3. areas of poorly drained soils of any size if contiguous to ~~S~~ surface waters such as lakes, ponds and streams subjected to high water tables for extended periods of time.

ADD 4. Identified as a wetland meeting Army Corps of Engineers criteria, by a wetlands scientist in conjunction with a subdivision or site plan application. NO CHANGES

Zoning Amendment #11: Article X, Section 10.03: District Boundaries

B. Location of the District

The District as herein defined is shown on a map designated as the “Town of Candia Wetlands Conservation District Map” and is part of the Official Zoning Map for the Town of Candia. This map is considered as a guide only. The precise location of a wetland boundary in any particular case must be determined by on-site inspection of soil types and vegetation. This data will be prepared by a qualified soil scientist using the standards of ~~High Intensity Soil Maps~~ NHDES Site Specific Soils Maps for New Hampshire. NO CHANGES

Zoning Amendment #12: Article X, Section 10.05: Permitted Uses

C. Lot size determination - Amend to add buildable acres.

Areas designated as having poorly drained soils may be used to fulfill up to 50% of the minimum lot size required by this Ordinance and Subdivision Regulations, provided the non-wetland area is at least one and one-half (1 ½) contiguous buildable acres, and shall accommodate primary structures and required utilities such as sewage disposal and water supply, including primary and auxiliary leach field locations. NO CHANGES

Zoning Amendment #13: 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 said this section was suggested to recognize independent contractors in Candia that are single person operations or maybe they have one other person; it's not meant for manufacturing in the residential area. Carpenter, plumber, electrician...you might have a van and operate out of your house. At the current time that's not allowed in Candia, that's not considered a Home Shop. It wouldn't fall under that use. These 3 levels were suggested by special exception in the Residential area and would have to be approved by the ZBA.

G. York commented has the Board got the opinion from Town Counsel on the wording for these and he's okay with it. R. Cartier agreed, yes. Town Counsel said we can put it in but to be careful because it's a change to the residential area.

J. Szot read the legal comments: 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; this amendment allows trades to be outside and allows for outside storage as long as it's not in the front yard. This would seem to be against the purpose of the residential district. It would also allow a detached structure for the commercial use.

R. Cartier said we looked at the fact that we wanted to give it to the Town voters to see how they felt about it. We have approximately 65 contractors in Town that would be affected if this doesn't go through. The code enforcement officer would have to start bringing code enforcement actions against 65 people in Town.

G. York asked if SNHPC has asked for an opinion on these. R. Cartier replied no. G. York continued how many other Towns in NH have similar rulings like this, have you compared what you're proposing to what other Towns have and have found successful. R. Cartier said no. G. York asked how would this affect property values. I do support the trades and small business but the ZBA had a case this summer that is driving this. There was testimony offered about tractor trailers, tri-axle dump trucks etc., coming in at different hours of the day/night. Working on the trucks at night with loud noises etc. Those surrounding property values have probably declined because of that particular operation. It's been over a year and a half now. It's gone far beyond the half ton van of an electrician or a plumber. I'm in full support of that but whether an operation, if you can afford that type of class of equipment, then you can build in the commercial district or rent space in a commercial district to have those vehicles. I caution you, not so much on the 1st or 2nd part but on the 3rd part; I find it troubling. The states classify those vehicles as commercial vehicles; you need a CDL or a commercial driver's license to operate those vehicles. I don't think that type of vehicle needs to be in a residential area to support declining property values that will affect the entire Town. Guess whose taxes go up because the budgets don't go down. And the 5 acres; you could have 4 acres of wetland that's not addressed in here. Does he have 1 half ton van, 10 half ton vans? R. Cartier summarized you're biggest concern is level 3 allowing class 8 vehicles.

D. Jaskolka was concerned with #3. Vans and pickups are fine. Trucks at 4 am, diesel, 53' trailers etc. Not for a residential area. Commercial vehicles should be in a commercial district; this will ruin the residential areas in Town. I think it will drive people out if this starts happening. J. Szot said when this issue became before the ZBA and we got legal opinion on it; this is a commercial use in a residential area, if you allow these things you have no control; you cannot deny the next person. J. Szot said those trucks are buses, class 7, tractor trailers, tri-axle dump trucks, these are class 8 vehicles. The plumber and electrician are not driving these; they don't belong in a residential area. I have some problems with the first two but #3 does not belong in here. I would hope you would think about what your attorney said here. You need to address the issues that he said before it goes on the ballot. It's not ready yet and it's hard to go back once you change it. It needs more work. Residential area; expect quiet enjoyment of their land. It's a commercial business in residential, that's the issue.

The Board and residents continued to discuss concerns with section #3 of the proposed home service contractor zoning ordinance.

R. Cartier said we need to revisit the hours of operation for example, the vehicles; tractor trailers etc. should be addressed.

D. Lewis said 35 years I have 2 trucks, graders, backhoe. But what about the people drive tractor trailers for someone else and just bring them home and leave in the morning.

B. Chivers said last summer when we had the hearing on Mr. Nicosia's trucking company and the ZBA turned him down, he promptly sued the Town of Candia. One of his allegations in there, he supported it with fact, is the Town doesn't enforce the zoning ordinance uniformly with respect to everybody in a similar situation and he cited 4 examples of people in trucking business that are operating active businesses

that have no variance and there is no enforcement. His lawyer said unless you uniformly apply a zoning ordinance, you can't apply it to anyone. We in the Land Use Office, Dave and Andrea and we looked at the results of this lawsuit and said there are a lot of people in Town whose livelihoods are jeopardized by this lawsuit Mr. Nicosia's brought against the Town. We looked at home occupation, home office and home shop statues and we couldn't find any place where a home service contractor fit in that. Plumbing, electrical etc.; all commercial uses in a residential district. Let's draft an ordinance that accommodates the three levels and recognize the variety of occupations in Town. Mark Hetzel, he's probably in violation but when the lights go out, who do we call. Let's make the zoning ordinance of Candia reflective of what we have in Town with some restrictions and some conditions that are appropriate for the scale of the business. These uses are occurring right now; we can't prosecute 85 people in Town. One guy with one employee is unlikely to have 10 trucks, there's a limit on outside employees.

G. York said I support the effort but again one 1/2 ton or ten 1/2 ton vehicles; where does that stop and start. How is the building department going to enforce one employee, that's my brother, he's not an employee, that's my wife, she's not an employee etc. I support this effort but review it more closely and define it.

J. Wilson of 283 High Street said I own a trucking company and an electrician makes more than I do an hour. My trucks are 115K vs. 45K pickup truck. If you allow a pickup truck, how can you not allow a commercial truck because I need a commercial license to drive it? I don't need commercial licenses to drive my trucks; they're below the CDL rate. Dennis needs commercial license to drive his truck.

J. Szot said it's not about the amount of money; a plumber, electrician, a carpenter, their business is their skill and their knowledge, the work they do. A trucker makes his money with his trucks. If you don't have your truck, you can't make money. You start out with one truck, you do well, you get another one and another one. You're a victim of your success; you need to find a place in the commercial area. Mr. Nicosia has 5 trucks on a 2 acre lot; 2/3rds of his lot is trucks. The first 2 sections need tweaking; think about what the Town attorney said but still allow the small business people but then you have to think about a business that is solely trucking; it's not allowed anyplace in Candia. Mr. Nicosia is suing us because he is saying he didn't get the help from the Building Department. We do not allow trucking. Our zoning ordinance is exclusionary; if it's not specifically allowed then it's explicitly denied. There was no place to put Mr. Nicosia because trucking isn't allowed in our ordinances. When we put the trucking on the list, maybe we would find someplace in the commercial areas and suddenly this came up and it allows trucking in residential. We talked to Mr. Nicosia and suggested he rent some space to store his trucks and it wasn't acceptable to him.

Board discussed. R. Cartier said maybe class 8 isn't what it should be. J. Szot was adamant about Class 8 vehicles, of that size, don't belong in residential areas. D. Lewis said we've had 2 companies in Town that abuse this, Diamond Hill and Chester Turnpike. Most of the time contractors are conscientious of the neighbors. A trucking company, there's one on Brown Road, he leaves at 6 in the morning and comes home at night. It's not trucks coming and going all day long. The school bus is louder than either one of my trucks. S. Komisarek said I don't think we want to open the door and encourage trucking in residential. It's complicated. Where they are and what they're doing, it depends. I would be reluctant to encourage level 3 in a residential because once you grant that special exception, you set that precedent.

R. Cartier suggested we table this one (entire proposed home service contractor ordinance) for this year but we do the same thing we did for the agricultural; we get people together that can give us a lot more information. If we watch the things that Bart said and get the concerns about trailers in the yard, maybe we'll have something good we can work with. J. Szot said the problem is people move here and don't call the Building Inspector to see if a paving company out of my barn is allowed. No one says anything. Then it comes out and they've been doing it illegally for 5 years in a residential area. R. Cartier said this will require more detailed work. I'd like to close the Public Hearing. We will have another public hearing to finalize it; January 16th. We want to have the input from people affected by this. J. Szot said don't you have a zoning sub-committee and we worked on ordinances.

MOTION:

J. Bedard **motioned** to close the public hearing. J. Lindsey **seconded**. **All were in favor. Motion carried (7-0-0).**

Summary:

- Zoning amendment #1 is okay. #3, #7, 8, 9, 10, 11, 12 all okay.
- Revise #2 (recreational)
- Amend #4 (short term rentals)
- #5 and #6 are out (small and large scale additions out).
- #13 eliminate this year (Home Service Contractor is out).

MOTION:

J. Bedard **motioned** to accept what we just stated above as being what we'll be proposing for zoning amendments. A. Hall **seconded**. **All were in favor. M. Chalbeck was opposed. Motion carried (6-1-0).**

MOTION:

J. Lindsey **motioned** to adjourn at approximately 10:06 pm. J. Pouliot **seconded**. **All were in favor. Motion carried (7-0-0).**

Respectfully submitted,

Andrea Bickum
Land Use Secretary

cc file