

**CANDIA PLANNING BOARD  
MEETING MINUTES OF  
October 7, 2020  
APPROVED**

PB Members Present: Rudy Cartier, Chair; Brien Brock, BOS Rep.; Josh Pouliot; Robert Jones, Alt; Judi Lindsey; Scott Komisarek; Mark Chalbeck, V-Chair

PB Members Absent: Mike Santa, Alt.; Joyce Bedard

Audience Present: Kevin Gagne (BI), Mountain States, LLC (applicant), Ben Osgood (MS, LLC engineer), Kyle Thornton (applicant), Dan Muller (KT attorney), A-1 Ventures (applicant), Matt Cobb (Agric. Comm. Chair) and town residents.

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

**Informational:**

**Applicant:** Kyle Thornton, 23 Golden Gate Drive, Hooksett, NH 03106; Owner: same; Property Location: High Street, Candia, NH 03034; Map 404 Lot 37.

**Intent:** To discuss/present the conceptual plan for use on lot 404-037-single family residence.

R. Cartier starts by confirming that the applicants are present, and they are as well as his representative and attorney, Dan Muller via ZOOM.

R. Cartier states that the Board has the information that was provided by the applicant so if it needs to be referenced, they can follow along.

D. Muller starts by stating there is an old subdivision plan with a condition on it that to get a building permit, you have to build a road to Town requirements. His client is looking to build a private road to access his lot that is 1 deep from High St. The question that has come up because this is not straight forward and he is not applying for a subdivision, therefore the Town standards and the Subdivision Regs do not apply, it's also not a case to have the cl-VI road policy that deals with cl-VI roads in terms of the applicable standard for developing this road. Obviously from our perspective we do understand we are going to have to speak to people like the Fire Dept. and the Police Dept because under any standard, emergency vehicle access has got to be provided for. As we stand here tonight, we are looking for a little feedback in terms of where between the cl-6 and the full-on public road is going to be required for Mr. Thornton to build a house on that lot you see? The only other point I'll make is that to clarify, he does intend to do a hammerhead, but it would be solely on his property. The recorded subdivision plan shows a ROW, absent getting consent from other people, he won't be able to use anyone else's property for any of this. Fortunately, it is what it is in terms of what was approved back in the 1970's for a ROW to these properties back here. That is why we are here, trying to get a little clarification. Is a gravel road going to be ok, will you want paved, what type of drainage will you be looking for, is this going to be the equivalent of a full-on public highway or are we looking more in the nature of what would be required to build a cl-6 road? To be clear, because sometimes the question comes up, this would not be a case for RSA 674:41 would apply because there is a recorded site plan that shows a road that falls under one of the exemptions of that statute or to put it a different way, it can be built upon so long as you satisfy the one condition that is on the old site plan. This is why we are here tonight with a conceptual to get some feedback so that Mr. Thornton can figure out how much this may cost.

R. Cartier notes that the Board is taking a moment to review the documents.

B. Brock asks D. Muller what he is requesting? A town road ultimately or a driveway for 1 lot? What it is that you are really looking for? D. Muller says that right now the applicant is looking for a private road that would service as far back as the lot that he is going to build upon. He goes on to say, if you look at the old subdivision plan, there are lots beyond that, but to build on any of them under the old subdivision plan, it talks about building a road with Town requirements. We're just trying to do a private road. What are the requirements to do a private road? B. Brock states that the applicant would have to petition the BOS and then it would have to be laid out. B. Brock asks the attorney if the applicant is ultimately looking for it to be a public road but not worrying about that just yet? D. Muller says he does not think the applicant is looking for it to be public. This original subdivision is something that was in his family and most of the

properties are still owned by the family. The applicant is looking to just build a private road to service these and they would be responsible for the maintenance and no liability to the Town for the use of the road. As I stated, it has to be good enough for emergency vehicle access and that usually encompasses a wide variety of needs, such is the hammerhead sufficient, things of that nature. We are looking for some guidance in the form of a conceptual hearing.

R. Cartier states that part of the issue right now is that there is an approved subdivision plan for that property correct? D. Muller confirms this. B. Brock asks the date of the original subdivision plan? The original date was 3/3/71 with a revised date of 1/9/76 and a PB signature recording date of 3/23/76. R. Cartier says the problem is that there is a subdivision approval in place there and it would require a request to a modification to that original subdivision plan. I'm positive that the PB could not approve a private road as B. Brock said, a private road would have to be approved by the BOS. The PB can not do any kind of decisions on a private road. Everything that we do has to be based on accepted roads and the only way that we could do anything with this is if that ROW was turned into an accepted town road and then it could be easily be subdivided, according to the regs. of course.

D. Muller asks if it would make it easier for the Board if he contacted the Town Attorney (Mike Courtney) directly before there is too much substantive discussion on this issue of private roads and what needs to be done? Obviously, you have other things to do tonight and I don't want to waste the PB's time if you think I need the BOS. My notion is, that if I were building on a private road that was not shown on an approved subdivision plan or on a plat approved by the Board, I would have to go to the BOS under 674:41, but I would be happy to get a hold of Town Attorney and see if we can work out that process of the private road. Would it be more helpful and beneficial from the Boards perspective if we perhaps sat down with your Road Agent and your FD about the design?

R. Cartier states that there is a notation on that approved plan that any road that was going to be built there was going to be built to Town standards. Town standards would have to be what is currently in place. It does not say at the time of when the subdivision was done, and the Town standards are pretty straight forward in what has to be done to have a road in there and based on the fact that it does say in the subdivision plan it will be built to Town standards. That is going to include bringing it up to a paved road, so it's going to be at least a cl-5 road. So that would be a requirement that has already been recorded and in there. If you decided that you didn't want to do that but wanted to go to a private road, it's not really Attorney Courtney's decision to make. We've been advised, and as B. Brock had said, something such as that would have to go to the BOS to see if they'll accept it. They have the ultimate responsibility in determining being able to build on cl-6 and private roads. B. Brock notes that this is uncharted ground and in his history on the Board, they have never approved a subdivision on a private road. Cl-6 is straight forward, you can not subdivide on it and the roads are pretty much the same as it would be for a private road. You need to get emergency vehicles up there and the FD input on a lot of that is they don't like or approve of hammerheads; it has to be a cul-de-sac. That is just some of the obstacles and have never dealt with something to create a private road to allow future subdivision.

The Land Use Secretary notes to the Board that when Edward Thornton went to the ZBA in Jan, 2004 to ask to build on this property, he was denied as was his appeal. Then in April, 2004 he went to the PB and asked for an installation of a private road to create frontage to be able to build on this and the Road Agent stated to the Board at the meeting (according to meeting minutes), in his opinion, "there is little difference cost wise between a gravel and a paved road and if the road is left at a gravel stage it's integrity will not last very long. If the road ever reverts to a Town road, the Town would incur the costs of keeping the gravel road in good repair or paving it. He recommends the Board should require any road they approve to be a Town road built to Town specifications."

R. Cartier states the other concern would be from the State. There has been an approved DOT driveway permit, but they may have a different viewpoint if that was being turned into an access road or a regular roadway from Rte. 27. I don't know if they would have the site distance in that area necessary for a road cut as opposed to a driveway cut. D. Muller says he will double check with Mr. Thornton on this, but he believes he has looked at the site distance issue. He notes that he is getting the message from the Board that the road will have to be brought up to Town standards, though technically those standards are for subdivisions. The basic notion is that the applicant would have to do that. A concern he has is with the cul-de-sac so they would have to look more at that, because the set up of the subdivision is not one that was made to accommodate a cul-de-sac. He says he will sit down and look at this more and come back before

the Board with possible future waivers because something simply: A) is not going to fit; or B) just won't work because it was designed back in the day.

B. Brock asks D. Muller if what the applicant is looking for is to start out with a private road that allows Kyle to build a house out there and potentially, down the road, develop the other lots that were approved in 76'? D. Muller says well, mostly correct. Mr. Thornton is looking to just build right now correct. He's just looking to get as far as his lot, which is 1 back. In terms of the other lots, he does not currently own those so he can't do much of anything with those lots at this point in time. He says he will assume that at some point in time, some people will want to come back and build on those lots back there and be faced with the same conditions as we are faced with now, which are the road conditions. The other avenue is that they can try to come back to the Board to try and modify that to allow for this particular lot to be built off with a private driveway, with the understanding that nothing else could. We are not sure that's something the Board would be amenable to, that it would not change the overall condition if you're going to do any of the other lots, but only if you wanted to do this lot? That's really the only other way of dealing with it because it is a condition of approval and only the PB has the ability to modify that.

R. Cartier states that if the applicant went with the private driveway and there was only the 1 house that he's building, that's not the problem because it's permitted. The problem that would come into play is that the fact that there is a subdivision approval in there that says the roadway is going to have to be to Town specifications. You would have to build that driveway to Town specification if that subdivision was still going to stay on the books because the Board would know when any decision is being made, that there is a subdivision approval in place, and you're just trying to get access to that 1 area for now. Doing a phased approach would be acceptable to build that road up as far as you needed to do just to get to that driveway and not do a cul-de-sac or have to do a hammerhead or anything, and at this point in time be a dead end road, which is not going to be a dead end road based on the subdivision plan. If people wanted to do some stuff in the back, then they would have to go through the design phase for the rest of it. That is an option that may be available. D. Muller notes that is a very helpful idea. R. Cartier notes that the PB doesn't want to stop people from building on their property but they must do their diligence and pay attention to what is being approved. B. Brock says that would be the 1<sup>st</sup> phase of the project. It would still have to be built up to Town standards to Kyle's house/property. Now whether the Fire Chief would still want some capability of turning around there without going into Kyle's property, we can't answer that. We suspect he probably would. D. Muller says that is a very logical approach to go back to the people we need to speak to before coming back before this Board. The applicant is looking to get this going so he can build on this property.

B. Brock confirms with D. Muller that all 4 of the lots were created together as a part of that 71'/76' original subdivision.

R. Cartier confirms with D. Muller that lots 39 & 40 are not owned by Kyle Thornton.

B. Brock asks K. Thornton if the dirt road stops at the end of his property and K. Thornton says no, it continues all the way down where lots 39 & 40 are in the back.

The Land Use Secretary notes to the Board that the Land Use Office has received other calls of interest to purchase and develop on the lots of this subdivision in question. B. Brock states that is why the Board is saying to have the road up to Town standards to at least Kyle's property and not go the private road option at all. If down the road there is a petition for the Town to take it over and it's not up to Town specs., it just creates a problem.

D. Muller says he will go with his client and speak to the Fire Chief and others necessary and be back before the Board based on our discussion tonight with the phased approach.

**Informational:**

**Applicant:** A-1 Ventures Group, LLC, 59 Forest Street, Londonderry, NH 03053; Owner: same; Property Location: 274 Old Candia Road, Candia, NH 03034; Map 410 Lot 160.

**Intent:** Proposed commercial building approx. 15,000 square feet -sales & service of heavy equipment vehicles.

R. Cartier starts by confirming that the applicants are present, and they are in person.

A-1 Ventures (partners Craig St. Peter and Joe Sobel) start by stating that they are the current owners of the property in question and have come before the Board to get some feedback. They have been approached by an entity that is interested in constructing a building to do sales and service of trucks and other equipment as allowed in the current zoning ordinance Section 5.02 (B-11), Table of Use Regulations that states establishments for the sales and services of auto and trucks for other things that can be done

under that ordinance. They want to construct a building up to 20k sq ft, adequate parking areas, ground sales for the trucks and equipment to be sold on the property and the other general infrastructure required by the Town. The property will be well landscaped, and the business will create between 8-25 new jobs. The developer is sick and unable to attend tonight or he would be here to propose the project. This is a very similar use to the property that's adjacent to Candia 1<sup>st</sup> Stoppe, where the old car dealership was where they did sales and service on trucks, equipment and cars and it's zoned identical. Before they spend funds on engineering and permitting, they wanted to make sure the Board had no issues.

R. Cartier states that the biggest issue right now in the definition with the reference that you did under B-11, Section 5.02, is it excludes the repair of heavy motorized equipment, which is the area that the Board is stuck on. It does say trucks but does not define truck and it does say heavy motorized equipment but does not define heavy motorized equipment. It could be looked at as if the trucks could be pick-up trucks and heavy motorized equipment could be larger dump trucks, tractor trailers and things like that. That's where the Board is having the issue on here to try and figure out what that is. Even if there are places that are doing it, they may not be doing it in conformance with the zoning ordinances if the definition comes back. The applicant states that there does not appear to be any place in Candia where repairs of heavy motorized equipment can occur. R. Cartier agrees with the applicant. The applicant goes on to define the word service as "repair". The Town currently has entities repairing equipment, vehicles trucks, etc. We think the LI-2 is perfectly suited for that type of use and with the type of business they are proposing, we think it would be a good location entering the Town, it's away from residential property, it abuts the trail system, it's quiet and already has a curb cut. We are asking that this entity be able to get the definition if necessary, from the PB through Town legal counsel. Knowing that this type of use has been on existing properties now that are adjacent to this property. We are trying to guide this entity, so they don't go to far without some information. They are currently operating this successful business in Pelham currently and are very excited about this potential location. There are challenges for developing this area because of water usage but this business can function on a lower water use. Again, we think this business would be a good fit for this location.

B. Brock states that the only issue he has is the difference between a 40ft motorhome and heavy motorized equipment. The motorhome is huge and allowed but heavy equipment isn't? So, I don't know what the difference is. The applicant says they don't want to speak to much on behalf of the developer but it's their understanding is that a lot of their sales & service relates to lift trucks, bucket trucks and get them to a point where they can be sold. B. Brock says that his idea of heavy equipment is skidders and very large things like that. R. Cartier follows up on B. Brock's comment and says he is thinking of large cranes, industrial equipment or larger trucks like bucket trucks. That could change things dramatically. The applicant says the majority of the potential buyers' business is mostly bucket trucks but could be other industrial types of equipment that is motorized such as cranes. The land is zoned light industrial and in his mind that makes good sense for a business like this instead of somewhere closer to the residential areas. What the intent was when it was written is pretty hard to determine when it was written but maybe the Town attorney can assist with this definition and see if it meets the criteria that we are explaining.

R. Jones notes that maybe everyone is hung up on what is going to be done there and the potential buyer can't be there, but what is the business in Pelham? This is just going to be an extension of that business so for the reasons that were stated by the applicants including access to 101, easy on and off the highways. Maybe if the Board had a better idea of exactly what they are doing in Pelham, the definition becomes moot because it seems really applicable to where they are, and maybe there should be something reviewed and re-written in the ordinances for clarification. Two different topics: 1) if the business is something the Board feels comfortable with it regardless of the vagueness of the definition; and 2) approach re-writing some of those definitions as we go through the next warrant revision.

S. Komisarek notes the "Mad Max" issue and that was a residential area and a pretty big deal while trying to change the ordinances. If you think about all the heavy equipment in the town, do we want businesses in areas such as this or to keep having problems in residential areas when individuals are working on their own equipment.

The applicant offered to get some information for the potential buyers' business and what they work on for equipment and provide pictures to the Board for review and they are agreeable to this and will send the information to the Land Use Secretary to provide to the Board. They are also agreeable to take a site walk if the applicant and buyer are available.

R. Cartier notes that the definition still has to be addressed and will need review and possible updating. B. Brock says at this point for the applicant, the Board needs to determine what they are doing, and can the Board approve it so they can move forward. R. Cartier says this will be a question that we will bring up with Town Counsel.

R. Jones says the other aspect is that will put the Board in a better aspect with more education when working on the ordinance and write good language and approve things that we do feel are beneficial to the Town.

The applicants will get some more information together for the Board and come back at a later date.

### **Case #20-002:**

**Applicant:** Mountain States, LLC, P.O. Box 502, Weare, NH 03281; Owner: same; Property Location: 291 Raymond Road, Candia, NH 03034; Map 409 Lots 131.

**Intent:** *MAJOR Site Plan*. To construct three 7,500 square foot contractor garages.

R. Cartier starts by confirming that the applicants are present, and they are as well as their representative and engineer, Ben Osgood via ZOOM.

There has been a delay with the AOT application that now must include a wildlife report because endangered species were spotted on the property. The Board will have to review this information before determining any further action with the application. The applicant would like to continue out the case until the next scheduled meeting of 10/21/20, in hopes the report and updated plans from Stantec's review can be completed and the PB agrees to the continued date.

### **CIP -Draft Review:**

The PB received an updated Draft of the CIP from Stantec to review but is still waiting for specific financial details that are currently being worked on. The short delay has pushed back the timeline. These updates will be submitted back to Stantec to produce a final draft for the 11/4/20 PB meeting. If the report is approved by the Board at that time, it will then go before the BOS for review and back to the PB for a tentatively scheduled final hearing on 11/18/20.

### **Minutes -September 16, 2020:**

B. Brock made a **motion** to approve the minutes as presented. R. Jones **seconded**. J. Lindsey & S. Komisarek **abstained**. **Motion passed**.

### **Other Business:**

- The Board discusses the issue with the BOS removing the \$10k from the PB budget and how that will negatively impact the Board's work throughout the year. R. Cartier and B. Brock have agreed to go before the Budget Committee on the next scheduled meeting and to the deliberative session as well to advocate for the funds to be returned.

### **MOTION:**

R. Jones **motioned** to adjourn the PB meeting at approximately 8:37pm. J. Pouliot **seconded**. **All were in favor**. **Motion passed**.

\*\*Land Use Secretary reminded the Board that there was no ZRRC meeting until the 21<sup>st</sup>, therefore the Board voted to rescind the Motion to Adjourn and re-open/continue the PB meeting.

### **MOTION:**

S. Komisarek **motioned** to rescind the Motion to Adjourn and to re-open/continue the PB meeting at approximately 8:38pm. B. Brock **seconded**. **All were in favor**. **Motion passed**.

\*R. Cartier, Chair re-opens/continues the PB meeting.

### **Proposed Zoning Amendments:**

- R. Cartier reviews the working draft of the 2020 amendments that the Board discussed last meeting and added a small explanation as to why each has been changed. M. Cobb discusses with the Board that as Chair of the Agricultural Commission, he feels more comfortable with the BMP's in place and the Board

feels that the Code Enforcement Officer also has something to work with in any situation that may arise. The agricultural warrant(s) from last year that did not pass will be added to the ballot this coming year in hopes that with more explanation to the residents, it will be a more favorable vote. The Board will continue to review and have a scheduled a tentative public hearing for 11/18/20.

**MOTION:**

R. Jones **motioned** to adjourn the PB meeting at approximately 8:58pm. J. Lindsey **seconded**. **All were in favor.**  
**Motion passed.**

Respectfully submitted,  
Lisa Galica  
Land Use Secretary  
cc: file