

CANDIA PLANNING BOARD
MEETING MINUTES OF
March 2, 2022
APPROVED

PB Members Present: Rudy Cartier, Chair; Mark Chalbeck, V-Chair; Brien Brock, BOS Rep.; Josh Pouliot; Scott Komisarek; Robert Jones, Alt. (sitting in for J. Lindsey)

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

Audience Present: Todd Robinson (applicant), Tracy (applicant's sister), Joe Sobol (applicant-Candia 1st Stoppe), Tom Severino (1st Stoppe Rep) and other attendees associated with the Robinson applicant.

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

The Board presents Rob Jones with a certificate of appreciation for his years of service on the Planning Board as an alternate member and thanks him for his dedication to the Board and the process. He will be greatly missed, and we all wish him well in his future endeavors.

Informational:

Applicant: Todd Robinson, 261 Critchett Road, Candia, NH 03034; Owner(s): same; Property Location: same; Map 407 Lot 12.

Intent: *Major Subdivision.* Subdivide property into 2 lots and construct a private road for access to both lots.

R. Cartier starts by confirming that the applicant is present, and he is in person as well as his sister Tracy, her boyfriend, and her co-worker.

T. Robinson starts by introducing himself as the owner of the property and then explains to the Board that his intent is to subdivide 3 acres off his property to give to his sister. He notes he currently only has 60 feet of frontage on his 49 acres. He says he was grandfathered back in 2000/2001 when he bought the property to build his single family home. The intent is to have 2 homes on the 49 acres split with a shared driveway.

R. Cartier asks if there are any questions/comments from the Board and M. Chalbeck asks why this is considered a Major Subdivision and not a Minor. R. Cartier states that under Section 4.05 of the Subdivision Regulations, it states that a *Minor Subdivision is the subdivision of land into 3 or fewer lots with no potential for re-subdivision and requiring no new roads, utilities or other municipal improvements.* Because the applicant is asking to have a private road for this subdivision, this is the qualifying factor that brings it from a Minor to a Major. The problem that comes up with a shared driveway is that we are bound by the other regulations and the ordinances. We have approved shared driveways in the past, but the difference has been that both lots have had more than 200 feet of frontage and this one only has the 60 feet of frontage. This is similar to the Merrill Road case from last year that they wanted to develop but only had approx. 58 feet of frontage. T. Robinson states that his property has a bridge along the paved driveway that's approx. 14'-16' with 3' shoulders on each side for emergency vehicles can get over it. What they are looking to do is come over the bridge and up the hill to split the driveway for his house and then his sisters. R. Cartier asks how long the driveway is currently and the applicant says it's 1,300 feet. J. Pouliot asks where the bridge is, and the applicant shows him on the plan from when he built his home. R. Jones asks if there are actually 2 bridges and the applicant says no, there is only 1 bridge and 2 culverts. They are proposing to put the driveway above all the wetlands. He shows the Board on his plan where the potential split of the driveway and new home for his sister would be. The applicant says the width of the driveway is passable except for the bridge but you can see the incoming traffic from the hill. Tracy (applicant's sister) asks if they can do a shared driveway and R. Cartier says the way it is right now, no because it doesn't meet the criteria. She then asks about making it a private road and R. Cartier says the Board has the capabilities of authorizing a private road however, it's not that easy and there are a lot of hoops to go through in the process. T. Robinson asks what would make it a private road and R. Cartier states that the difference between a private vs. public road would be that public roads are town maintained and private are not, but the road would still have to be built to standards. It would be a minor road, but the requirements are still stringent. R. Cartier asks for the details of the driveway again and the applicant's sister Tracy states that the driveway is 20 feet wide and 14 feet of it is paved with 3 feet on each side. T. Robinson states that the bridge is the tightest spot because of the walls and then the pavement opens up and the shoulders are 3 feet. Tracy clarifies what her brother is saying by stating there is 20 feet of driveway,

14 feet of the driveway is paved, and he has 3 feet of gravel on each side. R. Cartier states that the designs for the minor road would be that the minimum paved surface would be 22 feet with 4 foot shoulders on either side. He says right now the driveway just ends at the applicant's house but if the plan were to be approved, there would have to be a cul de sac or something so it would have to go past the home and have some kind of turn around there. S. Komisarek states that there are some steep slopes in there too and it just seems that it would appear it was cost prohibited. If you look at the value of the lot you're creating relative to what it would cost to make the road improvements, it's all about the frontage. In the regulations there are also minimum slopes too and you have some real steep slopes there and you have to get into all the engineering and look at the cost of it to create a lot that's worth \$150k. The applicant says he went through all that in 2000 with his lot. T. Robinson asks if they could take the driveway and split it at the bridge and their driveway would go to the left and his would stay where it is. S. Komisarek says obviously the shorter they make that distance the better but needs to see what those costs would be. T. Robinson asks if they did all those numbers, would the Town accept the subdivision there? M. Chalbeck asks how far the private road will have to be if they take the driveway off before that road and B. Brock notes it was 300 feet. M. Chalbeck confirms that 300 feet would be all the applicants would have to improve of the road off the driveway so he would only have to improve up to the bridge. R. Cartier says the other part of it that comes in is that the lots must abut and have frontage on a regularly maintained public street or at the discretion of the Board on a street planned, built and maintained to town specs., so the Board does have some leeway that they can do. T. Robinson says, but I only have the 60 feet of frontage and R. Cartier says the nice part about it is that you have those 60 feet of frontage because that's what is required for a road. The last case we had that we mentioned above was only 58 feet and had to go before the ZBA because it's in the ordinances, it's not in the regulations. Cul de sacs are usually 1,000 feet or less. He says he's not sure if they would want to do it as a private road, though they can. They would still have to do it to the town specs so if they are doing that, wouldn't it be prudent for the town to accept the road. The BOS would have to accept the road and deed it to the town. That's a possibility and if you come up to a certain point that you would want to cut off another lot and you'd have the extra 200 feet of frontage around that cul de sac or on that road then you'd have that capability too. B. Brock states that it's their decision but if it came up for some future development then you'd probably want to put it in as a road (town road). If you don't and want to stick with a private road, that's fine, but it would have to be then at that point, if the BOS accepted and recorded it, that this would be a private road and never to become a town road. Even though you say now it's a private road, one generation down they may petition the Town to take it over and they try to stay away from that. R. Cartier says there is also one other possibility though he doesn't know how good it is or not, in the ordinance it states you can only build 1 house on a lot, but you can go before the ZBA for a variance for 2 houses on 1 lot. B. Brock says you'd have to define what's the hardship and you may have to dig pretty hard to find the hardship. J. Pouliot states that the hardship is that can't make a road logically with what Scott was saying with the prices. S. Komisarek says knowing the history of the ZBA, they're not going to want to set that precedent. R. Cartier says he wanted to put it on the table as an option and B. Brock says it's a lot cheaper option than putting a road in. T. Robinson says all they can say is no. R. Cartier says it wouldn't be any cost to the applicant then because they already got the driveway there and part of the hardship is only having the 60 feet with 35 acres. T. Robinson states that they did research all the back to the 1930's to find out how it got subdivided and make those 60 feet of frontage. The cape that abuts him took all the frontage but pre-zoning that was ok. The abutter on the other side of them, he's got 2 grandfathered ROW's and is putting a driveway in now and has huge frontage as well. B. Brock says they have 2 options: (1) The cheapest route is for the applicant to go before the ZBA and (2) For the Board to approve a private road and they would have to have some cul de sac there so the emergency vehicles could turn around. The applicant notes that he put in turn offs though they are not big enough for fire trucks right now, but they could cut in to make them bigger. B. Brock asks Tom Severino what 300 feet of road costs. T. Severino says you'd have to build 300 feet of road to get across that brook and then you'd have to build a cul de sac. The length of a cul de sac is 400 feet, so the minimum amount of road he'd build is 700 feet at \$500/foot would be \$350k to build a road and about \$50k in engineering so \$400k. When you get to the cul de sac, you're allowed 100 feet of frontage on the cul de sac per the regulations. So, the right thing to do would be to split up the right amount of lots, not that he has to sell them right away but just to get the value out of putting that piece of road in, that's the only legal way to do that. R. Cartier notes to the applicant that the reason they asked Mr. Severino about this as they are in the business and do this for a living and the applicant confirms he is aware of them and wanted them for his driveway in the past but was not able to acquire them at the time. R. Jones asks about the amount of road that would be required if they didn't go to the bridge and the applicant says they would need the 300 feet at least because they have to go over the brook and to the bridge at least and then split the driveway after that. The Board agrees that their suggestion is for the applicant to try the ZBA first for the variance to build 2 homes on 1 lot. T. Robinson said about 20 years ago a friend said the driveway was "incompliable" and so that's why they are here, to see if they could split the driveway. R. Cartier states that they can't do that because they would be creating a

non-conforming lot and by state law the PB can not create them. He says it kind of goes back to the hardship thing, this is not something that comes up everyday and is probably a once in a lifetime thing and doesn't know other places that would have this issue with not having frontage but he's sure the ZBA will listen to him. M. Chalbeck notes that if there was a shared driveway, the Board would require a document (driveway maintenance agreement) to be drawn up and recorded at the Registry of Deeds to help deter any future issues. The applicant asks where he can find the road regulations and is told under Article 14 of the Major Subdivision Regulations.

Public Minutes -February 2, 2022:

J. Pouliot made a **motion** to approve the minutes as presented. S. Komisarek **seconded**. **Motion passed**.

Non-Public Minutes -February 2, 2022:

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

Application/Case Status Update(s):

- **PB case # 17-002 (Candia 1st Stoppe):**

- R. Cartier starts by noting that there was a meeting on 2/24/22 with T. Severino, himself, the Building Inspector and the Land Use Office Coordinator to review the updates to the plans of the site. T. Severino begins by explaining that these updates have been an ongoing thing since 2017 and has evolved over time with needs and demands. He notes that this plan comes at the request of the Board to get an updated site plan from 2018 until now. He starts to go over the changes of the trucking areas and how they have expanded into the building areas that were approved by the Board. They have graded the areas and have assisted the applicants to remove the materials and are now at the approved layout grade from the original plan. There also was an issue with the ice cream shack location and Craig not liking that location. It was a bad spot to have that with children and other people and was an extremely busy area and not a good space. This was the change and approval that happened in February, 2018 based on Preliminary plans. (The PB had requested final plans from the applicant, but none have been provided). T. Severino notes that they cannot go back and are here to show how things have evolved to this point. He says he knows an as built was requested but they never really knew what was being done but now they have put the gravel down and fine graded it and wanted to get this process to the final layout. He turns to the 2nd page of the plans and says there has been debate as to whether they had to go back before the PB for modification approval or have the Town Engineer review the plans, he just wants to know what they need to do. He notes that what the Board is seeing in red on the plans is what was approved in 2017. They are over and under in some areas but overall, as he drew the plan, the confines are the same, the slope, the grading of the lot was kept with the same concept and the principle was the same. The biggest thing that he tried to do was to make sure, because he knows about impervious areas and didn't want to exceed that, the old, approved plan (2017) was 135,764 sq ft and the new plan today is at 136,176 sq ft so roughly 300+ sq ft difference, essentially the same.

They are here tonight to say is it the same or that was a plan with buildings, and this is a plan with pavement? T. Severino notes that R. Cartier asked Lisa to bring it to Town Counsel and it came back that the Town Engineer should be involved but a full application/public hearing would not be required before the Board, just a review of the plans. He notes that the Town Engineer part is what they did not want to have to do because it's a financial issue and the minute they make that step, they will need to hand the plans off to the Dubay Group (their own engineer firm). He says he believes if the Town Engineer is going to review it, they will need to go into drainage calcs and \$20-30k for a set of plans and it's a major piece of work, and to him it's not like it's not going to be approved. It's sitting in the same footprint and it's going to be approved but it's a whole bunch of money and time.

Joe Sobol starts and says, "not only that" and T. Severino says to him "I thought you said you wouldn't talk?" Joe continues to say not only that, but they have achieved a bunch of building permits and were never really asked to provide this level of detail until September. He says, "go ahead Tom" and turns it back over to Tom Severino.

T. Severino says regardless of that, he's not into the building permits thing and he thinks there were steps that shouldn't have been taken and again he can't undo, but now he can report what got built and show the Board, who is really the only one who can make the decision of yes, you built where you

said you would build. He says he explained to Rudy that if they dug up 2 acres in a different spot and want to add a parking area, they would go back and get a new design with the engineers and look at where does this drain to, etc., he would agree. He said he has stayed in the footprint and designed it over 18 times all staying within that stone ditch as the limit and has preached that to Joe and Craig over 100 times. After all that painstaking to stay within that footprint limit and to now have to go back and have to re-engineer it, doesn't make sense to him. He says he's trying to be as biased as he can, and things are black and white. He says he has stayed within the footprint in the permitted area that was approved to excavate and doesn't see it but that's what he's here for.

M. Chalbeck says to T. Severino that he wants to just clarify in his mind that they had a 2017 plan, they have stayed within that engineering and the only thing they didn't do was build buildings and T. Severino says correct, and Joe Sobol says right.

T. Severino says if it were the other way and this was a parking lot design and then he came and said he would like to add this 4,000 sq ft building and this 3,000 and add 14k sq ft, he would be back in front of the PB if he wanted to add to his plan but to pull the buildings off the plan and put a parking lot through there, never done it in his 40 years back and forth in front of Boards. R. Jones says he knows he left the buildings on in the red plan design but just for reference and Tom confirms this. He switches over to the grey scale plan and shows this is the current plan. He says if the Board looks at the chart on the grey plan, the building and pavement comparisons are available.

J. Sobol says those buildings were a car wash and were approved, maybe a truck wash or another type of building up top were not feasible. A car wash on septic and town water just economically doesn't work. The truck wash, we have well water we have septic, it could've been a medical building someday but just didn't pan out as Tommy said.

R. Cartier states that according to the advice we got from the Town Attorney, it's recommended that the Town Engineer review it, so obviously that's the way the Board would go because that's the recommendation from our legal counsel. Having said that, Bryan from Stantec did take a look at the information already, we had it sent to him, and his suggestion is 'there isn't much benefit in doing a plan review and that it makes more sense to do a compliance inspection to identify any short comings in the field with what was installed instead of reviewing plans and as part of that compliance inspection, confirm that the as built plans are accurate within reason.' He says this goes back to what they talked about in the meeting with Tom and is why he asked the Lisa to send a request over to Town Counsel to make sure they are on good solid ground, and everybody is covered.

R. Cartier states that he doesn't have a problem with taking the buildings out but the other things is that the impervious surface that's on here with the approved 2017 plan and the 2021 plan as Tom said, is only about 300 sq ft difference. He would be concerned if all of a sudden there was going to be new parking in here that was going to be all impervious surface, because we went over that with the Deer Run property and that's something we have to look at from a plan revision review and Tom says they did exceed the 2,000 sq ft additional.

S. Komisarek says the drainage calls are going to change very very little so why engineer the whole project.

R. Cartier says that Tom also does have the original site plan so he can take this new layout and put it over the approved site plan. One of the questions that came up was where the leach fields were finally put in for that from way back and want to make sure those are shown, things like that, so we do have an accurate site plan. It's a compliance inspection so there will be deficiencies shown but it's an as built and it's going to be the end of it.

T. Severino says that the best idea he's heard and J. Sobol asks so Bryan (Stantec) would walk the site with Tom? R. Cartier says yes, he'd do a compliance inspection based on the plans. The plans would need to be sent prior to the walk to Stantec. T. Severino says that's a great way to do it because he can't explain for example about the basin on the other plan in the corner and now it's not there and it was there because there was a building but now there is no building so he didn't put the basin in, so it's going to come up that it isn't on there but if he walks it with Bryan, that's what's explainable.

R. Jones asks if the applicant received this letter yet from the Town Engineer and J. Pouliot says no, because it states they are unofficial. R. Jones says based on what they have gone through tonight, 3-4 of the concerns from Stantec were all about the building piece. The building piece we've already addressed right now, because the buildings are no longer there. He thinks the only thing that is outstanding is the septic within the well radius. T. Severino says he left it off this plan but has it on

the interim (2018 Preliminary plan that was approved by the PB) and will drop this new info. over that so Stantec will get the more complete plan. He says this was an easier and cleaner way to show the Board rather than have all that all over it. He will do that update and walk through it with Bryan and answer his questions.

R. Cartier states that way it will clean it up, cover the applicant, cover us from the Town and PB standpoint and tells the applicant “Don’t do any more building.”

T. Severino says he apologizes for all the stuff that’s happened before.

J. Sobol says we apologize for certain things, but we also had a changing of the Building Inspector and there were some things that were unclear to us and some things we did wrong.

T. Severino says they want to put that stuff in the past and give the applicants clear direction in the future to take the right steps because yeah, it wasn’t fair to Lisa, it wasn’t fair to the Building Inspector, and it just didn’t go off the right way. He says he can’t undo all that and is just trying to take where we are and move forward and that all he’s trying to do and not revisit all that.

J. Sobol says Tommy’s reference to the economic realities, the need to do certain things and Covid...we have an outdoor bar there not an ice cream shack because Covid drove a lot of that decision making.

R. Cartier says that’s fine, and he can see that, but they have to make sure from their standpoint is that the t’s are crossed, the I’s are dotted, stuff like that.

R. Cartier says the only other concern that he can see is that when Tom was presenting the plans, 1 part of the Barnyard (the Event Center building) encroaches in the setback and another corner on the other side as well, so it’s not an issue, but it will come up as a deficiency. T. Severino says Craig did tell him about that and that someone knew, and it did show on the other plan but he’s not sure how you deal with that now. He says that’s why they went back over there and taped and measured with an enshot those corners just because when they saw it was over, they micro shot that whole thing, so it is exact just to be completely accurate regardless if it was over or not.

J. Sobol says some of these things are driven, ya know, the state food group says hey, you have to have a bathroom out there and we weren’t intending to have bathrooms out there. We worked with Dave Murray and came up with something and I guess it went a few feet over the line. This stuff kinda just...we have so many requirements to meet, we have the Town requirements, we have State, we have Federal, we have contractors we work with that need to do things quickly and ya know.

T. Severino asks the Board how they would normally address that if something were over, and S. Komisarek says Tear it Down Joe! Joe says they will if they have to, and everyone laughs.

R. Jones asks if it is actually the building and Tom confirms it is. T. Severino says they made sure they separated where the building was from the overhangs were. T. Severino says at least it will get noted in the inspection.

J. Sobol says there is so much right of way between the building and the pavement of Rte. 43. T. Severino says luckily, it’s a State setback, if it was an abutter, there might be a real issue. R. Cartier says that’s not what we really care about and though we joke about cutting it, you can always request an exemption or a waiver for it and when you’re talking 2 feet and it was a legitimate error, that’s definitely an option.

T. Severino says we should cross that bridge when he (Bryan Ruoff -Stantec) makes his list because there may be something else that gets on that list from the inspection and cross that as a separate issue because there isn’t anything they can do about it now, it’s built.

R. Cartier thinks there is precedent for that but can’t think of it off hand.

S. Komisarek notes that there is a structure on Chester turnpike just into Hooksett that is over the State right of way, out of Candia on the left hand side, they built this structure and how did they get away with leaving that there.

R. Cartier notes that the most reasonable thing to do is take the plan he just showed the Board and T. Severino says he will drape the other stuff over it and make it more complete for Bryan Ruoff and forward it to Lisa to send to Stantec, so he has a copy and then set up a time to do a site walk with Bryan when there’s not snow on the ground.

R. Cartier states that as Bryan suggested, we’ll consider it to be a compliance inspection not a plan review, which is obviously going to be a lot better. R. Cartier says the Board wants to work with them on this and asks about the timeframe for this. T. Severino says he doesn’t want snow on the ground, he is leaving tomorrow morning to go to Florida for 2 weeks (until 3/20/22), then he’s buried the week

he gets back. He will get the plan ready at the end of March and get the plan to Bryan by the 1st week of April and set up the site walk sometime in April.

R. Cartier says that they will set it up for Tom to submit the documentation to the Town and Stantec by 4/15/22, which gives them almost 45 days and then the site walk can be set up by the end of April.

- PB case #21-012 (Tanglewood)
 - R. Cartier asks the Land Use Office Coordinator if there have been any documents submitted for the case, any extension requests and to confirm the deadline date for the Final application submittal. It is noted that nothing has been received or requested at this time and the deadline date is 3/18/22 for the final submittal.

- PB case # 22-001 (Todd Goodman):
 - PB signs final plans & mylar

Other Business:

- Tom Severino will be submitting plans for a subdivision by the 3/18/22 deadline submittal date and wants to set up a tentative checklist date for 9am on 3/25/22.
- T. Severino will be joining via zoom on 3/16/22 for the Lot Merger to go before the Board for approval.
- S. Komisarek asks about the State's 10 year construction plan and notes that Candia is supposed to be next on the list for this. R. Cartier is going to check with SNHPC and get back to the Board with updates.

MOTION:

J. Pouliot **motioned** to adjourn the PB meeting at approximately 8:12pm. R. Jones **seconded**. **All were in favor.**
Motion passed.

Respectfully submitted,
Lisa Galica
Land Use Office Coordinator
cc: file