

**Place:** Raymond High School; Media Center

**Call to Order:** 6:05 p.m.

**Members Present:** Bill Cantwell, Chairman; Peter Buckingham, Vice Chairman; Frank Bourque, Selectmen's Ex-Officio; Carolyn Matthews; Gretchen Gott, Jonathan Wood, Jim Kent, Alternate; Glenn Caron, Alternate; Steve Naoum, Secretary, arrived at 6:14 pm.

**Staff Present:** Ernest Cartier-Creveling, Community Development Director; Richard Mailhot, Code Enforcement Officer; Sharon Somers, Legal Counsel

### **Pledge of Allegiance**

Chairman Cantwell asked for Alternate Glen Caron to be seated in the place of Secretary Steve Naoum and opened the Public Hearing at approximately 6:05 p.m. The Chairman took up proposed Amendment #3 first.

### **Public Hearings**

#### **Zoning Amendment (Compensatory Storage)**

***Amendment #3-** To amend the Floodplain Development Ordinance, Item 1, to include a definition of compensatory flood storage, to renumber existing Item IX and to add a new Item number IX of the Floodplain Development Ordinance to require that development within the special flood hazard area shall require compensatory floodplain storage to equal the amount of the encroachment, and to indicate that development shall not result in a reduction in the net flood storage capacity of the floodplain, and to regulate the manner in which compensatory storage will be allowed to meet the "no net loss of flood storage" objective. This article is contingent on passage of Amendment #1. This proposed amendment was not discussed by the Planning Board at the December 18, 2008 meeting, therefore it is scheduled for public hearing and discussion at the meeting of January 8, 2009 (or snowdays).*

*Members Sitting for this Hearing: Bill Cantwell, Peter Buckingham, Frank Bourque, Carolyn Matthews, Jonathan Wood, Gretchen Gott, Alternate Glen Caron began the hearing seated, then relinquished his seat upon the arrival of Steve Naoum.*

Community Development Director Cartier-Creveling read the entire text of the proposed amendment into the record. Carolyn Matthews, sponsor of the proposed amendment, explained that the language was developed utilizing existing language from the City of Keene, NH and the Town of Salem, NH. The City of Keene's Ordinance language was recommended by Southern New Hampshire Planning Commission's Senior Planner, Jack Munn. She noted that the proposed language had been presented to the Technical Review Committee and vetted by Jennifer Gilbert, Principal Planner from the Office of Energy and Planning. Carolyn cited support for this kind of legislation within the Raymond 2002 Master Plan and the ongoing Master Plan update, within the State of New Hampshire Master Plan, and in the Town of Raymond Hazard Mitigation Plan. Carolyn stated that the purpose of the amendment is the prevention of loss of flood storage area and it is a compromise solution between those who wish to ban development in the flood

plain and those who would allow development with minimal regulations. Carolyn stated that this amendment is flexible enough to allow for innovative approaches, such as “banking” of compensatory storage for developers who create more than a 1:1 ratio, but it was clarified by Building Inspector/Code Enforcement Officer Richard Mailhot that “banking” is **not** a technique included in the amendment as proposed presently.

Gretchen Gott thanked Carolyn for all of her hard work on this amendment. Richard Mailhot had two questions regarding his role as administrator:

1. *How is compensatory storage to be preserved?* He went on to say that the language in the proposed amendment did not really address that issue. Through discussion, it was determined that Mr. Mailhot, for applications remaining within his purview, can note the requirement that the created compensatory fill areas must remain undisturbed as a condition of any permit he issues. This was suggested by Town Counsel Sharon Somers.
2. *Who will be responsible for future maintenance on these areas?* Carolyn Matthews replied that she had spoken with an official from the City of Keene and that, in his opinion, maintenance was not a problem. Jonathan Wood pointed out that floodplains and water bodies are dynamic and change with nature. Richard responded that it was his belief that these areas of compensatory storage, because they are created as a man-made mitigation area to compensate for development, should be subject to maintenance requirements. Town Counsel Sharon Somers pointed out that the Planning Board has the power to require maintenance as a condition of approval, notes on the plan, etc., but that for Richard, again, it may be a little trickier, but she thought that the amendment should be implemented and clarifications could be made next year, if needed. Jim Kent agreed, stating that the Board should follow up on these sorts of questions over the next year. Gretchen Gott asked about the ability to add language to the amendment regarding conditions of approval; Attorney Sharon Somers indicated that there was insufficient time.

Frank Bourque referred to a statement Carolyn Matthews had made during her introduction and explanation of the amendment, in which she represented that adoption of this amendment as a “higher standard” would result in lower flood insurance premiums for policy holders in the Town of Raymond. He asked if this was purely speculation or was there a commitment from FEMA that this would actually happen. Carolyn responded that FEMA does indeed reward communities that adopt higher standards, but that we must engage in the community rating system program. Frank Bourque followed up by asking how the community joined that program. He rhetorically stated, “So, if the Town doesn’t join the program, it doesn’t get the credit.” He stressed that he does not want that representation to be made if it is not true. Carolyn replied by stating that joining the community rating system is a goal of the current Raymond Hazard Mitigation Plan and that the community could not be prevented from joining the program if it so desired. Jennifer Gilbert from OEP agreed.

Glenn Caron wanted clarification as to whether or not compensatory storage had to be provided on site. It does not, as indicated in paragraph C, which reads that, "Compensatory storage must be in close proximity to the area where flood storage capacity is being reduced." He requested that the planning staff provide a clear and concise explanation of the zoning amendments for the Raymond Voter's Guide.

**PUBLIC COMMENT**

There was no public comment.

- **A motion was made by Jonathan Wood and seconded by Gretchen Gott to move Amendment #3 to the Town Warrant as written. The motion passed with five members voting yes and two members, Frank Bourque and Steve Naoum, voting no.**

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**Zoning Amendment (Shoreland Protection)**

**Amendment #4** – To amend Article III, Section 3.320(02)(a) (Shoreland Protection Area) to revise the designated waters which shall be subject (solely) to Town zoning regulations. To renumber existing letters b and c of said section to letters c and d. To add a new section 3.320(02)(b), State Protected Waters, which identifies those waters that are subject to more stringent shoreland requirements pursuant to the provisions of the State statute entitled the Comprehensive Shoreland Protection Act. **This proposed amendment was not discussed by the Planning Board at the December 18, 2008 meeting, therefore it is scheduled for public hearing and discussion at the meeting of January 8, 2009 (or snowdays).**

*Members Sitting for this Hearing: Bill Cantwell, Peter Buckingham, Steve Naoum, Frank Bourque, Carolyn Matthews, Jonathan Wood, Gretchen Gott.*

Community Development Director Cartier-Creveling read the entire text of the proposed amendment into the record.

**PUBLIC COMMENT**

Kathy Hoelzel asked if this restricts anybody from doing anything within 75 feet of a river. Community Development Director Cartier-Creveling responded that the new language delineates which bodies of water already included in the Zoning Ordinance now have recently come under the jurisdiction of the State of New Hampshire.

Gretchen Gott explained that the restrictions within the 75 feet setback have been there, but now the State of New Hampshire is responsible for administering and enforcing the Shoreland Protection act on some of the waters in Raymond.

Kathy Hoelzel went on to say that it is extremely difficult to get any meaning from the legal advertisements that explain changes being proposed in the Zoning Ordinance. There was general discussion about providing a voter's guide to explain them more fully and in more understandable terms.

Frank Bourque then read the existing provision and explained how paragraph (b) merely delineates those waters under state charge.

Kathy Hoelzel asked who determines the high water mark. Frank Bourque explained that it is a visual observation made by a qualified professional, which is then confirmed by the the Town’s peer reviewer in the case of locally reviewed waters and by the State of New Hampshire in the case of bodies of water delineated in paragraph (b). Glenn Caron added that it is a pretty obvious observation because the coloration is different.

Code Enforcement Officer Richard Mailhot pointed to the last sentence of paragraph (b) being the most important, because the list is changing rapidly to include higher orders of streams. That sentence reads, “To the extent that the list of waters subject to jurisdiction under the CSPA is amended from time to time, then such amendment will apply with equal force to the provisions of this section.”

- **A motion was made by Gretchen Gott and seconded by Jonathan Wood to move Amendment #4 to the warrant. The vote was unanimous.**

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**Zoning Amendment (Sign Regulations)**

*Amendment #5 - To amend Article VI, Special Provisions, Section 6.100 (Sign Regulations) Section 6.101 (Definitions) by adding a new section, 6.101(04), to insert a definition of Electronic Reader Board, then renumbering the subsequent definitions. FURTHER, to amend Section 6.105 to prohibit usage of electronic reader boards. FURTHER, to amend Section 6.107 to add language concerning allowed forms of illuminated signs and to prohibit forms of building accent lighting. FURTHER, to amend Section 6.108, (Non Conforming Signs) by deleting Section 01 and replacing it with language which regulates the use of non conforming signs and their replacement in the event of damage or destruction. Additionally, a definition for “Non-electronic Changeable Letter Sign” is proposed in Section 6.101 and a statement of the requirements for usage of such signs is proposed in Section 6.105. Copies of this proposed text is on file in the Town Clerk’s Office, and is available for review during regular office hours. **This proposed amendment was not discussed by the Planning Board at the December 18, 2008 meeting, therefore it is scheduled for public hearing and discussion at the meeting of January 8, 2009 (or snowdays).***

Members Sitting for this Hearing: Bill Cantwell, Peter Buckingham, Steve Naoum, Frank Bourque, Carolyn Matthews, Jonathan Wood, Gretchen Gott.

Community Development Director Ernest Cartier-Creveling read only the sections containing proposed amendments within the Sign portion of the zoning ordinance: Sections 6.101(04) and (07), 6.105, 6.107 (05) and (06), and 6.108. Frank Bourque, the sponsor of these amendments, explained that the original sign ordinance was drafted in 1995 and, with the onset of new technology, the Town of Raymond is seeing more and

more electronic reader board type signs. This amendment will render the opportunity to decide on the use of electronic message boards. He stated that along the way it was discovered that there were questions about the legality of the section addressing pre-existing, non-conforming signs was unlawful, so that was amended as well.

**PUBLIC COMMENT**

There were neither comments nor questions from the public or the Planning Board.

- **A motion was made by Gretchen Gott and seconded by Carolyn Matthews to move Amendment #5 to the warrant. The vote was unanimous.**

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**Zoning Amendment (Conservation Development)**

**Amendment #6** – **Conservation Development** - Article IV, Section 4.301 ( Purpose) - To amend Section 4.301(a) by expanding upon the stated objectives to include the maintenance of rural character, farmland and various viewsapes. To amend Section 4.301(b) by clarifying that the purpose is to reduce the amount of pavement, sidewalks and stormwater management structures. To amend Section 4.301(c) by clarifying that the purpose includes the minimization of alteration of steep slopes. To amend Section 4.301(d) to clarify that, consistent with other provisions of the Conservation Development Ordinance, the purpose is to provide single family detached housing. To add a new Section 4.301(g) to indicate that the purpose of the ordinance includes the creation of contiguous “greenways,” to renumber existing Section 4.301(g-i) to now read Section 4.301(h-j). FURTHER, to amend Section 4.302(02) (Definitions) by altering the methodology by which the yield plan is analyzed. FURTHER, to amend Section 4.303 (Minimum Size and Setback Requirements) to add language to ensure that setbacks comply with the provisions of Article II, Section 2.200 (General Provisions) of the ordinance and to add a requirement for a vegetative buffer at all side and rear boundaries of the original parcel and to add a requirement for setbacks from abutting non-conservation subdivisional lots. FURTHER, to amend Section 4.305 (Density) to ensure that the methodology for determining a density bonus is consistent with the proposed amendment to Section 4.302(02). FURTHER, to amend Section 4.307(02) by limiting the amount of Zone G land which can be included in the open space calculations. FURTHER, to amend Section 4.307(03) to indicate that open space land is contiguous. FURTHER, to amend Section 4.309 (Zoning Exceptions) by indicating that the minimum building separation requirements of Article II, Section 2.200 (General Provisions) are applicable to a conservation development. FURTHER, to amend Section 4.309 to require that a minimum vegetative buffer be incorporated into the conservation development proposal. **This proposed amendment was not discussed by the Planning Board at the December 18, 2008 meeting, therefore it is scheduled for public hearing and discussion at the meeting of January 8, 2009 (or snowdays).**

*Members Sitting for this Hearing: Bill Cantwell, Peter Buckingham, Steve Naoum, Frank Bourque, Carolyn Matthews, Jonathan Wood, Gretchen Gott.*

Frank Bourque read the amended text, then was asked by Chairman Bill Cantwell to explain the changes. Mr. Bourque explained that the Yield Plan process had become problematic because developers were coming in to the Planning Board with designs that already included bonus lots. Developers approached the process with the assumption that they were entitled to bonus lots that were, in fact, optional, at the pleasure of the Planning Board once it was determined that the developer had included a series of features outlined in the zoning ordinance. This process was cumbersome and would result in preliminary and erroneous calculations. That assumption frequently placed the Planning Board in a defensive position. Another problem was that the Yield Plan process created extraneous expenses to an applicant. The Planning Board agreed that it would like to see a simpler approach to a determination of the number of lots eligible under the Conservation Subdivision portion of the ordinance. The formulaic approach offered under this amendment achieves that.

Mr. Bourque went on to say that there were a number of other changes proposed that would improve the quality of green space, increase buffers and provide better contiguous open space corridors throughout the community. He pointed out that the Conservation Subdivision has been a work in progress for years. Both Frank Bourque and Jonathan Wood stated that the ordinance is a living document and could require additional changes.

#### **PUBLIC COMMENT**

Kathy Hoelzel asked who defines a viewscape. Mr. Bourque responded by explaining that the Planning Board works with developers on a case-by-case basis, as every project is unique. It is the Planning Board's responsibility to make these determinations. Ms. Hoelzel commented that the entire process seemed very subjective.

Ms. Hoelzel asked, for example, what the Planning Board does with regard to stone walls a developer may want to move. Gretchen Gott stated that the Planning Board's preference would be to minimize disturbance, but when it was necessary, in the past they have asked developers to use dislocated stones to rebuild in a different location.

Ms. Hoelzel pointed to page 5 and asked for clarification on the different ways to preserve the open space. It was explained that there are basically three ways to preserve and manage open space in a conservation subdivision: (1) developer retains ownership and abides by and enforces deed restrictions (2) open space is maintained by a homeowners association in accordance with condominium documents and open space area restrictions (3) conservation easement is deeded to a qualified conservation management organization like Rockingham County Conservation District.

Gretchen Gott asked Code Enforcement Officer Richard Mailhot for a definition of Zones A and B, which he did. Carolyn Mathews asked how Section 5.104 of the Zoning Ordinance is applied to proposed 4.309 of the proposed Conservation Subdivision amendments. Frank Bourque stated that Section 5.104 is unrelated to a Conservation Subdivision.

Ms. Hoelzel asked if duplexes were allowed in Conservation Developments. Frank Bourque responded that for years now, only detached single family homes have been allowed.

Gretchen Gott stated that she has great difficulty with the yield calculation because it allows Zone G land to be utilized in the calculation. Carolyn Matthews stated that the use of Zone G land within the formula is not a deal breaker for her, but that she believes the calculation values are too high. Gretchen Gott stated that it is a deal breaker for her.

- **A motion was made by Frank Bourque and seconded by Steve Naoum to move Amendment #6 to the warrant. The vote was 6 in favor, with Gretchen Gott voting against. She asked that the record reflect that she voted against the motion because the amendment now allows Zone G land area to be included in the Yield Calculation.**

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**Zoning Amendment (No Net Loss of Wetlands)**

Amendment #7 – No Net Loss of Wetlands – To add a new section to Article II – General Provisions Section 2.200 (11) to state that, for all development which requires Planning Board approval or re-approval, no net loss of area, function of wetlands within the watershed area of the proposed development area shall occur, and to set forth the requirements for achieving no net loss, and to add a definition for the terms “Wetlands” and “No Net Loss,” and to provide that, in the event of a conflict between the provisions of the section and the Expandable Pooled Mitigation Plan (EPMP), that the EPMP shall prevail.

*Members Sitting for this Hearing: Bill Cantwell, Peter Buckingham, Steve Naoum, Frank Bourque, Carolyn Matthews, Jonathan Wood, Gretchen Gott.*

Jonathan Wood read the entire text of the proposed amendment, then asked where paragraph c came from. Town Counsel Sharon Somers stated that once the Planning Board tasked staff to prepare the language of the No Net Loss of Wetlands amendment for tonight’s hearing, it had come forth as a concern. The issue had been raised earlier and there appeared to be a concern about potential conflict with the existing Expandable Pooled Mitigation Plan (EPMP), dated December 2007, upon which some Exit 4 negotiations have been based. Frank Bourque indicated that Section C reflects the existence of the pooled mitigation plan. Jonathan Wood was concerned that the Town has an ordinance giving way to a policy. Jim Kent voiced the same concern and asked if this would be valid language. Town Counsel Sharon Somers stated that with Paragraph C in the provision, any conflict would cede to the EPMP.

Debate ensued about whether or Paragraph C should remain. Jonathan Wood expressed concern that this language would give a developer a way to bypass the Planning Board via the Board of Selectmen. Carolyn Matthews pointed out that Exit 4 would still have to come before the Planning Board. Jonathan Wood reiterated his concern that this

language provides a way around the Planning Board through the Board of Selectmen, but then conceded that both NHDES and Army Corps of Engineers would have the ultimate trump card on any town ordinances or policies. Chairman Cantwell stated that he really didn't see an issue with the language as both the EPMP and the ordinance language state the same goal: no net loss of wetlands.

Richard Mailhot suggested that the Planning Board change "ordinance" to "section" in the first line of Paragraph C.

**PUBLIC COMMENT**

There was no public comment.

- **A motion was made by Peter Buckingham and seconded by Frank Bourque, to send Amendment #7 to the warrant with language in Paragraph C which references the date of the EPMP of December 2007 and the minor clarification of changing the word "ordinance" in the first line of Paragraph C to "section." The vote was 6 in favor, with Gretchen Gott voting against. She voted against it because of the inclusion of Paragraph C.**

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**Zoning Amendment (Floodplain Development Ordinance)**

Amendment #1 – To amend the Floodplain Development Ordinance generally in order to comply with the requirements of the National Flood Insurance Program, to amend the purpose section of the ordinance by adding language which clarifies the purpose and statutory authority for the ordinance, to amend Item I, the definition section, to clarify and add certain definitions, to amend Items III and IV to use the term "Special Flood Hazard Area," to amend Item V to use the term Zone A and AE and to require that certain records regarding as-built elevations and flood proofing be kept on file for public inspection, and to amend Item VII to regulate development within the regulatory floodway and to ensure that Zone A development complies with floodway requirements, and to amend Item VIII to reference Zone A and AE. **This proposed amendment was discussed at the December 18, 2008 Public Hearing and no proposed changes were made to the text, however, a clarification is made to the legal notice (in bold) for the text.**

*Members Sitting for this Hearing: Bill Cantwell, Peter Buckingham, Steve Naoum, Frank Bourque, Carolyn Matthews, Jonathan Wood, Gretchen Gott.*

As the text in the amendment was unchanged from its first reading at the public hearing on December 18, 2008, the reading was waived. Community Development Director Ernest Cartier-Creveling explained that the Legal Notice was clarified and that was why Zoning Amendment #1 was moved forward to tonight's public hearing.

**PUBLIC COMMENT**

Kathy Hoelzel, a member of the public, asked if there were further restrictions as a result of this language. Planner Jennifer Gilbert, from the New Hampshire Office of Energy and Planning, answered that there were no greater restrictions than the minimum required to stay in compliance with the Flood Insurance Program. Carolyn Matthews pointed out that the Planning Board is adding missing language consisting of sections D and E on page 7, which were left out of the earlier version passed by the Town.

- **A motion was made by Frank Bourque and seconded by Jonathan Wood to move Amendment #1 to the warrant. The vote was unanimous.**

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**Zoning Amendment (Freeboard)**

Amendment #2 – To amend the Floodplain Development Ordinance, Item VIII: 2 to include the requirement that, for new construction of residential, non-residential construction and manufactured homes, the lowest floor (including basement) be elevated to at least 1.5’ above the 100-year flood level. Further, to recommend that substantial improvements to existing residential structures and manufactured homes have the lowest floor (including basement) elevated to at least 1.5’ above the 100-year flood level. This Amendment is contingent on the passage of Amendment 1. **This Amendment was discussed at the December 18, 2008 Public Hearing and the Planning Board voted to include revised language to indicate that, for existing residential structures and manufactured homes, the elevation levels of the structures are recommended, rather than mandatory.**

Members Sitting for this Hearing: Bill Cantwell, Peter Buckingham, Steve Naoum, Frank Bourque, Carolyn Matthews, Jonathan Wood, Gretchen Gott.

Bill Cantwell read the text for amendment #2. Frank Bourque asked if the changes had been made as requested. Cartier-Creveling read the pertinent sections, stressing that for substantially damaged existing residential structures, even though raising the structure to 1.5 feet above the base flood elevation (BFE) is merely a recommendation, there would still exist a requirement to elevate to the BFE.

Carolyn Matthews noted that, according to Jennifer Gilbert, even with the provision making the 1.5 feet above the base flood elevation a recommendation only for existing residential structures, the ordinance would be in compliance with FEMA requirements. However, Carolyn also stated that her preference would have been to leave the recommendation portion out, pointing out that she believes that the Planning Board is doing a disservice to those that are less affluent. She stated that there has always been the opportunity to appeal to the Zoning Board of Adjustment for hardship. She asked Town Council Sharon Cuddy Somers if it was alright to single out less affluent citizens as a reason for this kind of amendment. Attorney Somers indicated that an amendment like

this, a policy which provides a less stringent standard for pre-existing residential structures, is within the Planning Board's purview.

## **PUBLIC COMMENT**

Kathy Hoelzel asked if it is FEMA who determines the base flood elevation. Some areas are defined on maps from FEMA, available in the Town Office. Code Enforcement Officer Richard Mailhot stated that the State and Federal Government agencies are working on new maps, but he did not have any idea where Raymond was in line for that process.

Jack Barnes responded to the previous discussion regarding hardship stating that we are in an area of the country with proud Yankees, who would not necessarily come forward and ask for relief and that the recommendation language addresses that problem. Discussion regarding whether or not providing a means of relief by exempting existing residential structures from the requirement to elevate to the higher standard if substantially damaged continued and whether requiring the applicant to seek a variance would be appropriate.

- **A motion was made by Jonathan Wood and seconded by Steve Naoum to move Amendment #2 to the warrant. The vote was unanimous.**

## **Other Business**

- **A motion was made by Frank Bourque and seconded by Jonathan Wood to forego a meeting on Thursday, January 15, 2009. The vote was 6 in favor, with Gretchen Gott abstaining.**

## **Reports from Boards and Committees**

**Frank Bourque, Selectmen's Representative:** It was reported that the main business before the Board of Selectmen is completing the warrant. Frank reported that Jonathan Wood will fill Dick Woods' vacated position at Southern New Hampshire Planning Commission for the rest of the term.

**Jonathan Wood:** The Conservation Commission did not meet.

**Peter Buckingham:** Mr. Buckingham stated that the Planning Board needs to get the Master Plan wrapped up. RBEDC is meeting on Saturday, January 10<sup>th</sup> at the media center with the abutters to Flint Hill to try to develop a warrant article acceptable to all parties to the discussion.

**Gretchen Gott:** Gretchen reported on Southern New Hampshire Planning Commission business. On January 13<sup>th</sup> there is a legislative meeting about the federal stimulus package and the types of projects that may be funded. Gretchen discussed several other projects she learned about through SNHPC.

**Carolyn Matthews:** Recounted her attendance at a fluvial erosion hazard planning group.

**Any other discussion as may come before the Planning Board**



Congratulations and applause went out to Planning Technician Robert Price and his wife, Megan, regarding the birth of their first child, Lea Aaryn Price, 6 pounds – 9 ounces, 19-1/2 inches long (and very



loud).

**Adjournment**

MOTION: Frank Bourque made a motion to adjourn. Peter Buckingham seconded. The motion passed with a unanimous vote of 7-0-0. The meeting adjourned at 10:07 p.m.

Respectfully Submitted,

Ernest M. Cartier-Creveling