

Raymond Planning Board Minutes

February 19, 2009

Approved 03/19/09

Place: Raymond High School; Media Center

Call to Order: 6:30 p.m.

Members Present: Bill Cantwell, Chairman; Peter Buckingham, Vice Chairman; Frank Bourque, Selectmen's Ex-Officio; Gretchen Gott, Jonathan Wood, Glenn Caron, Alternate; Jim Kent, Alternate.

Staff Present: Ernest Cartier-Creveling, Community Development Director; John Ratigan, Legal Counsel; Robert Price, Planning Technician.

Pledge of Allegiance

Chairman Cantwell announced Alternates Glenn Caron and Jim Kent will be seated for the duration of the meeting.

Public Hearing – Thibeault Sand & Gravel Quarry

Continued from 10/23/08; Application #2007-002: An application for an Amended Excavation Plan has been submitted by Thibeault Sand & Gravel, LLC, on land known as Nashua River Land Corporation, to amend their Excavation Permit to add a quarrying operation. The properties are shown on Raymond Tax Map 32, Lots 43 and 68; Map 37, Lot 2; and Map 38, Lots 12 and 13; accessed via NH State Route 27.

Members Sitting for this Hearing: Bill Cantwell, Peter Buckingham, Frank Bourque, Jonathan Wood, Gretchen Gott, Glenn Caron, Jim Kent.

Jonathan Wood stated that the firm for which he is an independent contractor has another independent contractor who has been doing appraisal work for Thibeault Sand & Gravel. He stated neither his, nor the other person's operations intersect. He stated for this reason, he feels he can still serve on the Board in an unbiased manner for this application.

Chairman Cantwell read a letter, dated February 18, 2009, from Attorney Sharon Cuddy Somers to Attorney John Bisson, regarding requested attorney's fees, into the record. A copy of this letter is attached to the original set of minutes on file at the Town Clerk's Office.

Chairman Cantwell announced tonight's meeting is to discuss only the following issues:

1. Property Value Analysis
2. Traffic Study
3. Bridge Engineering Review
4. Applicant's request regarding Hydrogeologic Study

Chairman Cantwell read another letter, dated February 18, 2009, from Attorney Sharon Somers to Attorney John Bisson, regarding the items being discussed at the February 19, 2009 Planning Board meeting. A copy of this letter is attached to the original set of minutes on file at the Town Clerk's Office.

PROPERTY VALUE ANALYSIS

Community Development Director Cartier-Creveling stated a proposal for a property value analysis has been received by the Town, and has been reviewed by the Town's Assessor, Norm Pelletier. He read an e-mail received from Mr. Pelletier regarding the proposal into the record. A copy of this e-mail is attached to the original set of minutes on file at the Town Clerk's Office.

Vincent Iacozzi of Thibeault Sand & Gravel, LLC stated the two quarries that would most similarly resemble the proposed Raymond quarry are a Thibeault-owned quarry located in Allenstown, and a Brox-owned quarry located in Hudson.

Jonathan Wood asked if any consideration has been given to the Aggregate Industries quarry located on NH Route 102, in Raymond. Mr. Iacozzi replied Aggregate Industries operates under a State permit, not a local permit. He also noted he already researched homes around Aggregate, and presented that information at the Technical Review Committee hearings in 2007, and also to the Planning Board once those hearings began. He stated this information was discounted by certain members of the Planning Board, certain members of the audience and the abutters.

Jonathan Wood stated the problem with the original analysis that was conducted was that it looked at an individual home, and whether or not the value of that home appreciated in value from year-to-year. Mr. Wood stated he specifically requested an analysis to take two homes of similar style (i.e. cape and cape). One home is to be located next to the quarry, and the other should be 2-3 miles away, not next to a quarry. The non-abutting home should be of a similar lot size, square footage, and similar age.

Mr. Iacozzi responded that is not the proper way to conduct an analysis. He added there will be a disparity in the value of property when you have areas abutting distinctive zoning districts. He also stated Thibeault owned the land before many of the abutters were there, adding Thibeault's land is zoned industrially, and this is an allowed use.

Jonathan Wood asked if the applicant agreed to conduct a property value analysis to begin with. Mr. Bisson stated he is hearing what the applicant originally agreed to do is not enough. Now, he is advising his client that he should not have agreed to conduct an analysis to begin with, and certainly not to agree to do more.

John Bisson, Counsel for Thibeault Sand & Gravel, LLC stated the analysis of value is considered by a Zoning Board of Adjustment, not a Planning Board. He added any analysis of value is inappropriate, and should not be before the Planning Board. Gretchen Gott responded her understanding is that Planning Boards not only have to consider all the Rules and Regulations, but also other factors, such as 'does this fit in the Community' are to be considered.

Frank Bourque stated long ago the applicant agreed to provide a study to the Planning Board. The purpose is to demonstrate to the public that their property rights will not be

significantly impacted as a result of the expansion of an allowed use. This isn't a question of abutters being impacted, but neighborhoods as well.

Mr. Iacozzi asked if a study shows a diminution in property value, where things go from there. Mr. Bisson asked does the Planning Board have the authority to deny a site plan application if an appraiser says a diminution in value will occur.

John Ratigan, Legal Counsel for the Town, stated it should be fine to allow the applicant to set the parameters of the study. Then, the Board can review the study, and have Mr. Pelletier review the study, and the Board can give it the weight it thinks it deserves under the Regulations. He added the Board has already been told by Mr. Pelletier that the provided scope was adequate for its purposes.

Jonathan Wood asked when a study will be completed and submitted to the Board. Mr. Iacozzi replied he will have to check with his appraisal company, and get back to the Board with an answer. He stated he will provide a date certain to Community Development Director Cartier-Creveling with an answer by February 23, 2009.

Chairman Cantwell polled the Board to see if they should or should not allow public input solely on the appraisal scope of work.

POLL RESULTS

Jim Kent – Yes
Gretchen Gott – Yes
Peter Buckingham – No
Jonathan Wood – Yes
Glenn Caron – Yes
Frank Bourque – No
Bill Cantwell – Yes

PUBLIC COMMENT

John Vetne, a resident of Clearwater Estates, suggested a present-future methodology, which he explained is a comparison of the current price of real estate to the future price, with or without the quarry in place.

Mr. Vetne added the conditions imposed by the Planning Board will have an impact on property values. He used the example of the hours of operation, stating the hours of activity will affect property values.

Mr. Vetne lastly requested that the Board inquire about the difference between a present-future methodology and the scope provided by the applicant.

TRAFFIC STUDY

Mr. Iacozzi stated the traffic study has been completed, and has been submitted to the Board tonight.

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Frank Bourque requested that the Board be polled to determine if the Traffic Study submitted tonight by the applicant should or should not be sent to Norway Plains Associates, Inc. for peer review.

POLL RESULTS

Jim Kent – Yes
Gretchen Gott – Yes
Peter Buckingham – Yes
Jonathan Wood – Yes
Glenn Caron – Yes
Frank Bourque – Yes
Bill Cantwell – Yes

ENGINEERING REVIEW OF EXISTING BRIDGE

Mr. Iacozzi stated the Alteration of Terrain Permit requires a number of modifications be made to the bridge. He asked the Board to determine if the items listed on the Alteration of Terrain Permit are acceptable to the Board. He noted a number of these modifications will add weight to the bridge, and may require that it is reinforced.

Frank Bourque requested that that the Planning Board be polled to determine if the Board should or should not agree with the stipulations on the Alteration of Terrain Permit on the bridge deck spanning from abutment to abutment. Additionally, once these improvements are made, a structural analysis should be conducted, and once received, sent to Altus Engineering for peer review.

POLL RESULTS

Jim Kent – Yes
Gretchen Gott – Yes
Peter Buckingham – Yes
Jonathan Wood – Yes
Glenn Caron – Yes
Frank Bourque – Yes
Bill Cantwell – Yes

HYDROGEOLOGIC STUDY

Community Development Director Cartier-Creveling stated the Board needs to determine if they find the parameters listed on the Alteration of Terrain Permit, items 5a through 5d as acceptable in lieu of a hydrogeologic study, or if a study should be conducted in addition to these items.

Mr. Cartier-Creveling read an email from James Emery of Emery and Garret Groutwater, Inc. (EGGI) into the record. A copy of this email is attached to the original set of minutes on file at the Town Clerk's Office.

MOTION: Frank Bourque made a motion that the Planning Board still require a separate hydrogeologic study from the applicant. Gretchen Gott seconded. The motion passed with a unanimous vote of 7-0-0.

Mr. Iacozzi requested the opportunity to provide input, as this is the first time he has seen the email from Mr. Emery. Frank Bourque stated the Town's consultant has said he does not feel the Alteration of Terrain Permit conditions do not adequately address the water quality concerns he has. This is because the potential wells are down gradient and down stream. Mr. Iacozzi stated he rejected the original EGGI review in May of 2008, and he is rejecting it now.

Mr. Cartier-Creveling stated the proposal submitted by Continental Placer, Inc. (CPI) was the subject of EGGI's peer review from May of 2008. He added it might make sense to have a meeting with both EGGI and CPI to work out any miscommunication or other confusion.

Jonathan Wood summarized the argument as follows:

- The Planning Board requested a Hydrogeologic study
- Something was proposed by CPI
- The CPI proposal was peer reviewed and commented on by EGGI
- The comments were submitted to Thibeault
- Thibeault rejected EGGI's comments, which we are just hearing about tonight

Mr. Iacozzi stated he is of the opinion that EGGI did not peer review anything, they are merely offering a quote for a job that the Town will accept, adding he feels EGGI has a vested interest.

Mr. Bisson stated his interpretation is that EGGI is not satisfied with the Department of Environmental Services (DES) requirements on the Alteration of Terrain Permit. He stated his understanding is that DES is satisfied with the study conducted by Thibeault. He added DES is the authority which regulates in this field, and it has been their position all along, which was communicated to Attorney Sharon Somers, that if they establish the criteria required by DES, that is enough. He added the Planning Board has not regulated above and beyond what DES has required.

Frank Bourque responded the Town has a Groundwater Protection Ordinance. These activities are taking place within the area covered by this Ordinance. Therefore, the Town of Raymond has jurisdiction. Mr. Bisson requested the opportunity to sit down with EGGI and CPI and the Town to work things out.

MOTION: Glenn Caron made a motion to reconsider the previous motion that requires a hydrogeologic study be completed, allowing the applicant to work things out with the Town. Frank Bourque seconded. The motion passed with a unanimous vote of 7-0-0.

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Frank Bourque stated he wants to see both Thibeault and the Town sit down with a list of all the studies and outline which have been completed, and which have not. If there is a difference of opinion on something, bring that item to the Planning Board to work it out.

Jonathan Wood stated he would like to see the following brought to the Planning Board by staff:

- Review of all studies, outlining completions and deficiencies
- Outline all areas of dispute with particular studies
- TRC should attend a meeting with the Planning Board, as their consultants

MOTION: Jonathan Wood made a motion to have Town staff issue an update to the Planning Board on the status of all the studies on March 26, 2009. Gretchen Gott seconded. The motion passed with a unanimous vote of 7-0-0.

MOTION: Frank Bourque made a motion to continue this hearing to April 2, 2009 at 6:30 p.m. at Raymond High School. Glenn Caron seconded. The motion passed with a unanimous vote of 7-0-0.

Other Business

The Planning Board heard reports from its members serving on other various boards and committees.

Adjournment

MOTION: Glenn Caron made a motion to adjourn. Frank Bourque seconded. The motion passed with a unanimous vote of 7-0-0. The meeting adjourned at 8:08 p.m.

Respectfully Submitted,

Robert Price
Planning Technician