

**Raymond Planning Board Minutes
May 20, 2010**

Approved 06/24/2010

Place: Raymond High School; Media Center

Call to Order: 7:00 p.m.

Members Present: Jonathan Wood, Chairman; Carolyn Matthews, Vice Chairman; Bill Hoitt, Selectmen's Ex officio; Gretchen Gott; Jim Kent; Bill Cantwell.

Staff Present: Ernest Cartier Creveling; Community Development Director.

Pledge of Allegiance

Approval of Minutes

The approval of minutes was tabled to a future meeting.

Public Hearing – Hearing for the Adoption of Excavation Regulations

Continued from 05/13/2010 - The purpose of this public hearing is for the adoption of a completely rewritten version of the Earth Excavation Regulations. The rewritten Regulations are available for review in the Community Development Department.

Members Sitting for this Hearing: Jonathan Wood; Carolyn Matthews; Bill Hoitt; Gretchen Gott; Bill Cantwell; Jim Kent.

Public in Attendance: Kevin Cole Sr. & Kevin Cole, Jr. of Raymond Sand & Gravel; John Galloway of Waldoborough, LLC; Arleigh Greene and Jim Watkins of Hard Rock Development, LLC.

The Planning Board used the Punch "List for Draft Regulations from PB Meeting of May 13, 2010" to guide its discussion:

1. Definitions, pg 4, need to add definition for "trip" and understand uses with regard to traffic study analyses	Recommended by Don Rhodes
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The definition was declared incomprehensible by Gretchen Gott. Carolyn Matthews agreed and made a motion to modify it by changing it to:

28. Trip: A single or one-direction vehicle movement with either the origin or the destination (exiting or entering) inside a study site. For trip generation purposes, the total trip ends for a land use over a given period of time are is the total of all trips entering plus all trips exiting a site during a designated time period.

The motion was seconded by Gretchen Gott. The motion carried.

2. Sections 4.100 and 4.200, pgs 4 & 5, delete reference to Articles VII, VIII, IX and X and refer to Express Operational Standards	Recommended by Laura Spector
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In Article IV, Sections 4.100 and 4.200, reference to Articles VII, VIII, IX and X were replaced with: "Minimum and Express Operational Standards set forth in RSA 155-E:4-a."

3. Article V(A)(7), pg 6, add Section X reference	Done
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4. Article VII(A)(1), pg 7, is 200' too restrictive? - revisit	PB must resolve
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Much discussion ensued about Article VII. Gretchen Gott asked Mr. Arleigh Greene what distance from abutters' property lines Hardrock, LLC would be looking to excavate (including blasting).

Mr. Greene noted they are proposing to be no closer than 100 feet from a boundary line.

Mr. Galloway, as well as expressing concern about the setbacks proposed by the Planning Board in Article VII also stated his dissatisfaction with having to do pre-blast surveys and notifications to people over 2,000 feet away from the site as abutters, as then he would be forced to notify people located on the opposite side of NH Route 101 (the 2,000 feet came from a requirement on a recent DES quarry Alteration of Terrain Permit added by DES in response to well contamination issues being experienced in the Town of Windham as a result of blasting for the I-93 widening project).

Jim Kent proposed changing the distance from a boundary line to 50 feet, and the distance from an existing dwelling or a site with a building permit to 300 feet.

Mr. Cantwell stated the Board needs to be reasonable with the distances it requires.

Ms. Matthews stated a buffer of 100 feet between heavy industry and residential uses is reasonable.

Ms. Gott stated she prefers a 150 foot minimum setback.

With regard to having a different setback from a disapproving abutter than from an approving abutter, John Galloway stated that it is not a good idea, because if you have 5 non-opposing why should the planning board not allow us to get our material? Now you've turned it around and taken away that choice.

Jonathan Wood – Is any distinction needed between an approving or disapproving abutter?

- JK - no
- GG – no
- BH – no
- BC – yes
- CM – no
- JW – yes

No. There should be a single distance to a boundary for excavation, regardless of whether or not an abutter approves or disapproves.

Jonathan Wood - Do we make a distinction between excavation only and excavation with blasting?

- JK – yes
- GG – yes
- BH – yes
- BC – yes
- CM – yes

JW – yes

Yes. There should be a distinction between excavation only and excavation with blasting.

Discussion ensued:

Carolyn Matthews – 100 feet from any property line for excavation 150 feet for excavation with blasting

Bill Cantwell – need reasonable numbers. One Item at a time.

Gretchen Gott – can use waivers.

Gretchen proposed 150' buffer for blasting excavations, but withdrew after discussion.

Jonathan Wood pointed out that RSA 155-E allows 10' for approving abutter and 50' for disapproving abutter.

Carolyn – if we can agree that a buffer is preserved at 100', then that's good for blasting, too.

Distance for buffer from boundary for excavation w/o blasting

Poll

100' 75'

JK – yes yes - with reluctance

GG – yes no

BH – no no

BC – no no

CM – yes no

JW – nono

Bill Cantwell suggested poll for each of the setbacks allowed by Statute, then negotiate a compromise on each number.

Carolyn Matthews – double state standards across the board. 10 to 20, 50 to 100, 150 to 300

John Galloway stated that he would be okay with these distances as long as the waiver provision remains intact.

CM - yes

BC - yes

BH - no

JK - no

GG - no

JW – yes

Poll failed for doubling of all distances.

Bill Hoitt – if it isn't broke, why fix it? Statute limits are good. Do not support changing.

Gretchen Gott – excavating affects abutters

Bill Cantwell stated that he is willing to compromise.

Jonathan Wood – Should we double what’s in the statute for distance from property boundaries of approving and disapproving abutters to 20 and 100’ from 10’ and 50’?

- JK – yes
- GG – yes
- BH – no
- BC – yes
- CM – yes
- JW – yes

YES

Jonathan Wood - State says existing dwelling or site with permit setback is 150’, should we require 150’? How about 200’?

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|------------|------|
| 150’ | 200’ |
| JK – no | yes |
| GG – noyes | |
| BH – yes | no |
| BC – yes | yes |
| CM – no | yes |
| JW – yes | yes |

No for 150’, but yes for 200’.

5. Article VII(A)(9), pg 7 add “...or within 25’ of any naturally occurring...”	Done
6. Article VIII(b), pg 8, deleted 1 st sentence and added after “maintaining vegetation...”, the following: “...and shall be planted with tree seedlings ans/or grass suitable to prevent erosion.”	Done
7. Article VIII(c), pg 8, start last sentence, “An amended reclamation plan...”	Done
8. Article VIII(d), pg 8, add “Topsoil shall remain on site.”	Done
9. Article VIII(e), pg 8, change “...natural response...” to “...natural repose...”	Done
10. Article VIII(e)(h), pg 9, “...from the NHDES Water Division...”	Done

11. Article X(B)(iv)pg 10, revisit ½ mile and using “may” and “up to” instead of “shall”	See following discussion/decisions.
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Gretchen Gott recused herself and sat with the public with regard to this question.

Article X(B)(iv)

Jonathan Wood – is 2640’ too much for pre-blast survey? Consensus was that 2,640’ is too much distance for a pre-blast survey.

Jonathan Wood – Is 2000’ acceptable?

JK – yes
 BH – no – will be able to treat applicants differently
 BC – abstain
 CM – yes
 JW – yes
 GG - recused

2,000 feet is acceptable. The opportunity for a waiver still exists.

Gretchen Gott returned to her seat at this time.

12. Article XI(A)(2), pg 11, need definition of “hardship”	Laura Spector will provide
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13. Article XIII(A)(2)(v), pg 13, revisit ½ mile and components to be shown	See below.
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Article XIII(A)(2)(v)
 ½ mile too much, and what components do we want?
 JK and GG would like locus map
 Within 500’ of property lines, take out septic systems, but add community wells

JK – yes
 BH – yes
 BG – yes
 CM – yes
 Jw – yes
 GG – recused

Ernest Creveling pointed out the paragraph iii of this Section should suffice for detailed information pertaining to zoning districts, intersections, rights-of-way, easements and other information that will help it to ascertain potential local issues, along with determining potential areas that will require bonding.

Paragraph iii was changed to read: “Lot lines, public streets, driveways, intersections, rights-of-way, and all easements within 200 feet of the excavation site property lines.” ~~if not included in the information required under Article XII(A)(2)(v) below.~~

Paragraph v was changed to read: “If there will be blasting as part of the proposed project, utilizing publicly available information, Applicant will show the location of property lines, public streets, driveways, intersections, rights-of-way, easements, dimensions and bearings of existing buildings, structures, and ~~septic systems~~ community wells/water systems within 500 feet of the property lines of the parcels upon which excavation will take place.”

14. Article XIII(A)(6) Sheet 6, pg 15, add language to effect that all studies and plans will conform/comply with applicable BMPs	Done
15. Article XIII(B)(9), pg 17, alternative language requiring that logs be	Done

maintained for 30 days and submitted monthly to the Town.	
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Article XV(B)(7) Hours of Operation

6:30 am to 7:00 am warm-up only, no movement

JK – yes
GG – no
BH – yes
BC – yes
CM – no
JW – yes

Passed.

Jimmy Watkins – Walmart trucks around the clock. Kevin is on 27 and Hardrock is on 101. There is more noise from the highways that we will make. The Planning Board is discriminating against us.

The Planning Board will allow normal operations on Saturday 7:00 to noon, instead of what is presently a prohibition of work on Saturday.

The Planning Board, other than Gretchen, agreed to this change.

Bill Hoitt – hauling should be allowed to continue until later in the day. Doesn't make sense to stop hauling and keep processing.

Kevin Cole, Arleigh Greene and John Galloway agreed – should reverse these and allow hauling until 6:00 with processing shut down at 4:30 pm

The Board agreed that the hours of operation should be altered to reflect discussion that occurred during the meeting centered around the fact that processing makes more noise than hauling, and the times for each activity to cease should be reversed.

Operators – stop processing at 4:30 p.m. and allow hauling until 6:00 p.m.

JK – yes
GG – yes
BH – yes
BC – yes
CM – yes
JW – yes

Holidays

Vets day

JK – yes
GG – yes
BH – no
BC – no
CM – no
JW – no vote

Strike the term "Town Holidays" Entirely

- CM – yes
- BC – yes
- BH – yes
- GG – no
- JK – yes
- JW – no vote

16. Article XIV(3), "Permit expiration dates shall be 2 years." Nothing follows.	Done
Article XV(A)(2), pg 21, change paragraph form to bullets	Done

17. Article XV(B)(3), pg 22, differentiate between true start-ups and existing projects and determine how it will be decided when the consulting engineer must be utilized at the expense of the applicant.	See below
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As written is good, but change A(1) from "three time a year" to "at any time"

1. The Planning Board or its duly authorized agent is responsible for the enforcement of these regulations, as provided by RSA 155-E:10. The Board shall visit the site once a year to inspect the site and its condition. The Code Enforcement Officer or other qualified inspection agents appointed by the Planning Board may visit the site for compliance inspections at any time. The Board or its agents may visit the site at any time and without limitation in response to complaints or to respond to any health, safety or public welfare concerns.

Regarding the difference in inspection requirements for start-ups vs existing operations, Article XV(B)(3) has been amended to read:

3. Inspections: Inspections will be performed for the purpose of confirming that operations are being conducted as specified in these Regulations and that any conditions imposed by the Planning Board during permit approval and/or subsequent compliance reviews are being met. New or start-up operations shall require compliance inspections by the Town's authorized Inspector at least twice a year, during active operations, for the first year, after which the number of inspections annually may be reduced at the sole discretion of the Planning Board, if the applicant has demonstrated good faith in complying with all of the requirements of the permit. For existing operations, the Planning Board reserves the right to send its authorized inspector at any time to observe the site and report back on the status of compliance with an existing permit. These inspections shall be at the cost of the applicant.

18. Article XV(H), pg 23, Need waiver standards	Laura Spector provided.
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The Board stressed that waivers can be applied for, but are not guaranteed to be granted.

19. "When permit expires in 2 years, applicant shall be subject to the regulations in place at the time"	Laura Spector provided. See Article XIV(8) below
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8. If at the end of the permit term, the project is not completed, the applicant may submit a new permit application in accordance with the requirements of Article XIII of these Regulations. Such application will conform to the regulations in place at the time of the new permit application, except that excavations in existence as of May 20, 2010, need not fully comply with current Regulations unless and until they submit a new permit application in 2012. The Board or its designee may waive applicable portions of the submission requirements if the Planning Board determines that application materials submitted for any prior permit(s), or produced for the record during the course of any prior hearing(s), reflect current and accurate information.

MOTION: Ms. Matthews made a motion, seconded by Mr. Cantwell, to adopt the revised Town of Raymond Earth Excavation Regulations, as amended. The motion carried with a vote of 6-0-1, with Mr. Hoitt abstaining.

The Board determined that each of the excavation site operators are to submit new applications under the old (2001) Regulations.

Work Session – Lamprey River Nomination Discussion

Members Sitting for this Discussion: Jonathan Wood; Carolyn Matthews; Bill Hoitt; Gretchen Gott; Bill Cantwell; Jim Kent.

MOTION: Ms. Matthews made a motion, seconded by Ms. Gott, to send a letter of recommendation stating that the Lamprey River be nominated for designation. DISCUSSION: It was asked why it should be necessary for an additional Board to review permits located within 1,320 feet of the river. The response was that this will not lengthen the usual permit process because the advisory committee must adhere to DES deadlines. It was also asked if designation will affect the Town's well application. The response was that it will not affect the application; the Town will need to deal with the State's in-stream flow rules regardless of designation. Mr. Cantwell noted his biggest concern is water withdrawal. He stated the potential could be there that wells could be installed in a certain location, and down the road the Town will be told it can not draw the water. Ms. Matthews stated that will happen regardless of designation, adding that designation gives the Town more say. It was noted that only Durham and Lee are designated along the Lamprey. Another concern was raised that designation would hurt Raymond's economic development. The response was that Alteration of Terrain Permits would only be commented on. Ms. Matthews, on the topic of these the above concerns, offered the following:

1. Why have one more board looking at permits?

A river advisory board is a unique group of people skilled in river management who have a different perspective; they add knowledge that our town boards can't get elsewhere. Their look and advisory comments will not hold up a developer's approval process because the advisory committee must meet the DES deadline for offering an opinion.

2. Joining the protection program may make it difficult for us to permit our new water wells.

No rationale has been offered for this assertion. In fact, the permit process for the wells is independent from the designation. Raymond will have to jump through those hoops whether we designate or not. And if we do not designate, according to Laura Weit Markham, we will be at the bottom of the priority list for DES attention.

3. Regulation along the river will be extended.

This is true in only one small area of town; the North Branch River tributary, which runs through the Thibeault property, will come under the current shoreland protection regulation; the Lamprey mainstem is already regulated by the Comprehensive Shoreland Protection Act which helps to ensure that the drinking water we withdraw from the Lamprey watershed is clean in both private and town wells.

4. Designation of the river may hurt economic development in Raymond.

Again, absolutely no rationale has been given for this assertion. Of all the towns in the river protection program, none have suffered adverse economic reactions from designation, many have profited by gaining funding for projects, and town planners I have spoken to report that the advice that comes out of the advisory committee is invaluable. Should Raymond decide later that designation is not working, we can always withdraw.

VOTE ON THE MOTION: The motion carried with a vote of 4-0-2, with Bill Hoitt and Bill Cantwell abstaining.

Work Session – Goals and Objectives

This topic was tabled to a future meeting.

Adjournment

MOTION: Mr. Cantwell made a motion, seconded by Mr. Hoitt, to adjourn. The motion carried with a unanimous vote of 6-0-0. The meeting adjourned at 10:03 p.m.

Respectfully submitted,

Ernest M. Cartier Creveling
Community Development Director