

Raymond Planning Board Minutes
January 21, 2010

Approved 01/28/2010

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; Bill Cantwell.

Staff Present: Ernest Cartier Creveling, Community Development Director; Robert Price, Planning Technician.

Pledge of Allegiance

Approval of Minutes

The Board agreed to table the Approval of Minutes to a point later in the meeting.

Public Hearing – Raymond Sand & Gravel, LLC

Continued from 10/15/2009 - The Raymond Planning Board will discuss a possible extension of the excavation permit for Raymond Sand & Gravel, LLC, issued for property located on Raymond Tax Map 37, Lot 10; NH Route 27.

Members Sitting for this Hearing: Jonathan Wood; Carolyn Matthews; Bill Hoitt; Gretchen Gott; Bill Cantwell (arrived partway through the hearing).

Community Development Director Cartier Creveling went through the Notice of Decision issued on October 22, 2009, specifically updating the Planning Board on the status of each condition within that Decision:

- a. Silt fencing is repaired along the perimeter of the site adjacent to wetlands and safety fencing along the top of the ledge face must be fastened securely by Tuesday, October 27, 2009, to be confirmed by the Raymond Community Development Director on an inspection with a representative from Raymond Sand & Gravel, LLC on same date.*

Mr. Cartier Creveling stated that the silt fencing, safety fencing and signage have all been installed.

- b. The need for a new alteration of terrain permit shall be determined by a qualified professional, as site specific/alteration of terrain permit #WPS-4901 is expired. Action shall be taken to the satisfaction of the Department of Environmental Services Alteration of Terrain Bureau, proof of such status to be submitted to the Raymond Community Development Department by January 15, 2010 and brought before the Planning Board during the hearing scheduled for January 21, 2010.*

Mr. Cartier Creveling stated the Alteration of Terrain Permit has been amended and updated by the State. He noted the new Permit number, WPS-4901B, which is dated January 20, 2010.

- c. A reclamation bond in the amount of \$10,000.00 shall be posted by October 27, 2009.*

Mr. Cartier Creveling explained that Raymond Sand & Gravel (RSG) is in the midst of a bankruptcy proceeding. As a result, RSG is unable to obtain a bond. He noted that RSG has offered several alternatives, each of which were deemed to be unacceptable to the Town's Legal Counsel. He added that recently, the legal counsel for RSG has submitted a payment schedule to the Town, to be held in escrow. He explained that the payment schedule being proposed is that \$1,000.00 be paid to the Town through November 2010, at which time the total of \$10,000.00 will have been reached. He stated the Town's Legal Counsel recommends accepting this proposal.

Upon seeing the documentation from RSG's attorney, Gretchen Gott disclosed that she knows the attorney, however she stated this will not bias her in any manner.

- d. Proof of compliance with Letter of Deficiency from NHDES Air Resources Division dated November 10, 2008 must be submitted to the Raymond Community Development Department by January 15, 2010 and brought before the Planning Board during the hearing scheduled for January 21, 2010.*

Mr. Cartier Creveling explained that the NH Department of Environmental Services (DES) now recognizes the fact that RSG is contracting with a portable crusher. He stated DES has explained to him, verbally, that RSG is not in non-compliance at the present time as there is nothing going on. However, at which time the portable crusher is brought back to the site, RSG will need to apply for the proper permitting, and the appropriate inspections will occur at that time. He noted that DES explained to him that they do not issue a letter of compliance. They will make a determination of compliance once an application is received for crushing to begin again.

- e. A Storm Water Pollution Prevention Plan shall be developed for the site by a qualified professional and registered with Region 1 Environmental Protection Agency by filing the requisite Notice of Intent, proof of such status to be submitted to the Raymond Community Development Department by January 15, 2010 and brought before the Planning Board during the hearing scheduled for January 21, 2010.*

Mr. Cartier Creveling noted that RSG has submitted a Notice of Intent. He noted that there are two categories for Stormwater Pollution Prevention Plans: general and industrial. Thelma Murphy, an employee with the Environmental Protection Agency said one thing to him about which category would be the correct category for which RSG has to apply. Another employee with the EPA in the same position as Ms. Murphy said another thing. In summary, he stated he has been given two different answers to the same question by two different individuals with the EPA. No one seems to know what is going on.

- f. All other applicable standards under the Raymond Excavation Regulations shall be adhered to and corrected as identified on October 15, 2009 and subsequently.*
- g. The Community Development Department shall be notified upon shutdown of operations and any subsequent startups, and the operator shall arrange to meet with a representative from the Town of Raymond on site for a compliance inspection prior to startup of any excavation activities.*

Upon reviewing photographs of the site taken in October 2009, Gretchen Gott noted gaps between silt fencing and a hay bale. Mr. Cartier Creveling stated the applicant can close the gaps in the spring.

Bill Cantwell arrived to the meeting at this time, and joined the Board at the table.

Carolyn Matthews stated during the last hearing, a number of abutters expressed concern that blast warnings were not being issued. Kevin Cole, Jr. of RSG stated they maintain a list of names and contact information. Anyone can be added to this list, if they so choose. He explained their procedure is to contact everyone on that list 24 hours before a blast takes place, and again 1 hour before a blast takes place. A horn is then sounded 5 minutes prior to a blast. Mr. Cole added that the abutters who spoke at the last hearing have not requested to be added to their notification list.

PUBLIC COMMENT

There was no public comment.

Jonathan Wood stated it appears as though the issues identified in October 2009 have been adequately addressed. Mr. Cartier Creveling stated the Board should require the applicant to provide proof of application for the crusher as well as acceptance of the application from the State.

POLL QUESTION

Jonathan Wood polled the Board to determine if the payment plan proposed by RSG's legal counsel is acceptable to the Board.

POLL RESULTS

Gretchen Gott – Yes
Bill Hoitt – Yes
Bill Cantwell – Yes

Carolyn Matthews – Yes
Jonathan Wood - Yes

MOTION: Carolyn Matthews made a motion to continue this hearing to April 01, 2010 at 7:00 p.m. at Raymond High School, allowing Raymond Sand & Gravel, LLC to continue operating under the Planning Board Notice of Decision issued October 22, 2009, until April 01, 2010, with the following conditions:

1. The applicant must provide proof of application for the crusher as well as acceptance of the application from the State prior to crushing beginning.
2. Any missed payments on the payment schedule accepted by the Planning Board will result in revocation of the excavation permit.
3. All other applicable standards under the Raymond Excavation Regulations shall be adhered to and corrected as identified on October 15, 2009 and subsequently. *This condition has been carried forward from the Notice of Decision issued October 22, 2009.*
4. The Community Development Department shall be notified upon shutdown of operations and any subsequent startups, and the operator shall arrange to meet with a representative from the Town of Raymond on site for a compliance inspection prior to startup of any excavation activities. *This condition has been carried forward from the Notice of Decision issued October 22, 2009.*

Bill Hoitt seconded. The motion passed with a vote of 3-1-1, with Gretchen Gott opposed and Bill Cantwell abstaining because he was not present for the entire discussion.

Public Hearing – Candia South Branch Brook, LLC

Continued from 10/15/2009 - The Raymond Planning Board will discuss a possible extension of the excavation permit for Candia South Branch Brook, LLC, issued for property located on Raymond Tax Map 38, Lot 34; NH Route 27.

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

Community Development Director Cartier Creveling went through the Notice of Decision issued on October 22, 2009, specifically updating the Planning Board on the status of each condition within that Decision:

- a. *Silt fencing is repaired along the perimeter of the site adjacent to wetlands and safety fencing along the top of the ledge face must be fastened securely by Tuesday, October 27, 2009, to be confirmed by the Raymond Community Development Director on*

an inspection with a representative from Candia South Branch Brook, LLC on same date.

Mr. Cartier Creveling noted that the applicant repaired the silt fencing around the perimeter of the site.

- b. The status of the site specific/alteration of terrain permit #WPS-5001 shall be updated to the satisfaction of the Department of Environmental Services Alteration of Terrain Bureau, proof of such status to be provided to the Raymond Community Development Department by January 15, 2010 and brought before the Planning Board at the hearing scheduled for January 21, 2010.*

Mr. Cartier Creveling noted that the applicant has not provided an update as to the status of the Alteration of Terrain Permit. Tom Severino of Candia South Branch Brook, LLC stated Alteration of Terrain Permits do not expire once an operation commences, and therefore it should still be valid. Mr. Cartier Creveling replied that may be, but in the case of Raymond Sand & Gravel, their permit did have an expiration date, which was removed earlier this week, and their permit was amended. He stated that the Town still needs to see something indicating that the permit is still valid.

- c. A Storm Water Pollution Prevention Plan shall be developed for the site by a qualified professional and registered with Region 1 Environmental Protection Agency by filing the requisite Notice of Intent, proof of such status to be submitted to the Raymond Community Development Department by January 15, 2010 and brought before the Planning Board during the hearing scheduled for January 21, 2010.*

Mr. Cartier Creveling noted the applicant provided a letter from Fraggie Rock Environmental Services, dated January 15, 2010, indicating that, since there is less than ½ acre of ground disturbance, a Notice of Intent is not required to be filed with the Environmental Protection Agency.

- d. All other applicable standards under the Raymond Excavation Regulations shall be adhered to and corrected as identified on October 15, 2009 and subsequently.*

Carolyn Matthews asked what the long range plans for this site are. Mr. Severino stated they use this site for small, local projects only. He noted eventually, this site will be a padded site perfect for future commercial use. Currently, however, the economy does not warrant hastily finishing up and restoring the site.

Gretchen Gott stated it seems like there is much more than ½ acre of ground disturbance on the site. Mr. Severino replied that with the winter conditions, he can understand why it would appear this way, however if you view the site when the snow has melted, you can clearly see most of the area has vegetation growing.

PUBLIC COMMENT

There was no public comment.

MOTION: Carolyn Matthews made a motion to continue this hearing to April 01, 2010 at 7:00 p.m. at Raymond High School, allowing Candia South Branch Brook, LLC to continue operating under the Planning Board Notice of Decision issued October 22, 2009, until April 01, 2010, with the following conditions:

1. The applicant must provide a letter to the Community Development Department from the New Hampshire Department of Environmental Services outlining the status of the Alteration of Terrain Permit WPS-5001 no later than February 05, 2010.
2. The Community Development Department shall be notified upon shutdown of operations and any subsequent startups, and the operator shall arrange to meet with a representative from the Town of Raymond on site for a compliance inspection prior to startup of any excavation activities.
3. All other applicable standards under the Raymond Excavation Regulations shall be adhered to and corrected as identified on October 15, 2009 and subsequently. *This condition has been carried forward from the Notice of Decision issued October 22, 2009.*

Bill Hoitt seconded. The motion passed with a vote of 4-1-0, with Gretchen Gott opposed.

Public Hearing – Waldoborough, LLC

Continued from 10/15/2009 - *The Raymond Planning Board will discuss a possible extension of the excavation permit for Waldoborough, LLC, issued for property located on Raymond Tax Map 22, Lot 15; Scribner & Gile Roads.*

Members Sitting for this Hearing: *Jonathan Wood; Carolyn Matthews; Gretchen Gott; Bill Cantwell. (Bill Hoitt was not sitting for this Hearing as he had to leave to take part in Board of Selectmen business which was occurring concurrent to the Planning Board meeting).*

Community Development Director Cartier Creveling went through the Notice of Decision issued on October 22, 2009, specifically updating the Planning Board on the status of each condition within that Decision:

- a. *Silt fencing is repaired along the perimeter of the site adjacent to wetlands by Tuesday, October 27, 2009, to be confirmed by the*

Raymond Community Development Director by an inspection with a representative from Waldoborough, LLC on same date.

Mr. Cartier Creveling noted that silt fencing was installed and photographs were taken by staff.

- b. The size of the wetlands adjacent to the excavation site must be ascertained by a qualified professional and, if the area of wetlands is 5 acres or greater, then excavation activities within 75 feet of the wetland must cease and a plan be submitted by Waldoborough, LLC, to the Planning Board for reclamation of already disturbed areas. Proof of the size of the wetland and said reclamation plan must be submitted to the Community Development Department by January 15, 2010 and brought before the Planning Board during the hearing scheduled for January 21, 2010.*

Mr. Cartier Creveling noted that the size of the wetland was qualified to be 11 acres, as noted on a letter from Civil Construction Management, Inc. dated January 07, 2010. He also noted that the applicant has provided a plan clearly delineating the edge of the wetland, and the 75-foot wetland setback.

- c. The status of the site specific/alteration of terrain permit #WPW-3732 shall be updated to the satisfaction of the Department of Environmental Services Alteration of Terrain Bureau, proof of such status to be provided to the Raymond Community Development Department by January 15, 2010 and brought before the Planning Board at the hearing scheduled for January 21, 2010.*

Mr. Cartier Creveling stated the letter from Civil Construction Management, Inc. dated January 07, 2010 indicates that plans have been submitted to the Alteration of Terrain Bureau to update the Alteration of Terrain Permit WPW-3732.

- d. A Storm Water Pollution Prevention Plan shall be developed for the site by a qualified professional and registered with Region 1 Environmental Protection Agency by filing the requisite Notice of Intent, proof of such status to be submitted to the Raymond Community Development Department by January 15, 2010 and brought before the Planning Board during the hearing scheduled for January 21, 2010.*

Mr. Cartier Creveling stated the letter from Civil Construction Management, Inc. dated January 07, 2010 indicates a Notice of Intent has been filed with the Environmental Protection Agency.

- e. The miscellaneous debris contained within the fill currently stockpiled on the site must be removed prior to the fill being used as loam on site.*

Mr. Cartier Creveling stated the letter from Civil Construction Management, Inc. dated January 07, 2010 indicates that the fill stockpiled on-site will be cleaned of debris prior to it being used as part of reclamation.

- f. All other applicable standards under the Raymond Excavation Regulations shall be adhered to and corrected as identified on October 15, 2009 and subsequently.*

Carolyn Matthews stated we now have confirmation that a 75-foot wetland setback is required on this site. She noted previously, the applicant was only maintaining a 25-foot setback. She asked if the area in between has been reclaimed. Mr. Cartier Creveling stated nothing has occurred as it is now winter.

John Galloway of Waldoborough, LLC stated there is a loam pile within the 75-foot setback that was placed there many years ago. He stated he intends to use this pile during the reclamation process.

Gretchen Gott stated she seems to recall that, years ago, there was a significant banking of pine tree vegetation along the edge of the wetland, which has since been taken down. She stated there has been regular intrusion into the wetland area since Mr. Galloway took ownership of the property.

Mr. Galloway stated the loam was pushed up to the trees adjacent to the wetland. Behind this, there were many boulders that were pushed in this area many years ago. He stated he's worked very hard, for a long time, to clean this area.

Gretchen Gott questioned if it would be better to cease reclamation in the wetland area altogether, or if reclaiming this area is the proper course of action.

Mr. Galloway stated he does not understand how it was misconstrued that this property was not a quarry. He stated it has always been a quarry. Since he's owned the property, everything that has been removed has been removed via drilling and blasting.

Gretchen Gott noted that a letter from Civil Construction Management, Inc. dated January 20, 2010 indicates that the property is not believed to be in an aquifer protection zone. She requested that the Board get confirmation on this statement.

Gretchen Gott added in regards to the vehicular barrier (gate), she believes the gate is left open on a regular basis, but added she is unsure if this is the result of vandalism.

Mr. Cartier Creveling stated once it is received, the Town will need to see the response given by the Alteration of Terrain Bureau in regards to the Alteration of Terrain Permit.

Mr. Galloway noted he intends to continue reclaiming the property when the snow melts in the spring. Mr. Cartier Creveling requested that he be notified prior to work commencing.

In regards to the wetland setback area, the Board discussed what should take place here. It was agreed by the Board and the applicant that Mr. Galloway should keep away from this area until the Board is able to walk the site.

PUBLIC COMMENT

There was no public comment.

MOTION: Bill Cantwell made a motion to hold a site walk on Tax Map 22, Lot 15 on Saturday April 10, 2010 at 8:30 a.m. Carolyn Matthews seconded. The motion passed with a unanimous vote of 4-0-0.

MOTION: Bill Cantwell made a motion to continue this hearing to April 01, 2010 at 7:00 p.m. at Raymond High School, allowing Waldoborough, LLC to continue operating under the Planning Board Notice of Decision issued October 22, 2009, until April 01, 2010, with the following conditions:

1. The applicant must provide an update to the Community Development Department, in writing, regarding the status of the Stormwater Prevention Plan, by March 26, 2010.
2. The applicant must provide an update to the Community Development Department, in writing, regarding the status of Alteration of Terrain Permit WPW-3732, by March 26, 2010.
3. No work shall occur within the 75-foot wetland setback area until after the Planning Board walks the site.
4. The applicant shall notify the Community Development Director prior to any reclamation work commencing on site.
5. The Community Development Department shall be notified upon shutdown of operations and any subsequent startups, and the operator shall arrange to meet with a representative from the Town of Raymond on site for a compliance inspection prior to startup of any excavation activities.
6. All other applicable standards under the Raymond Excavation Regulations shall be adhered to and corrected as identified on October 15, 2009 and subsequently. *This condition has been carried forward from the Notice of Decision issued October 22, 2009.*

Carolyn Matthews seconded. The motion passed with a vote of 3-1-0, with Gretchen Gott opposed.

Ms. Gott stated she would like it noted that she voted against all of the motions tonight because she is in disagreement with the process taking place. She stated she feels the operators should either have a permit, or not be allowed to work. They should not be allowed to be left in this state of "limbo."

Bill Hoitt returned to the meeting at this time.

Approval of Minutes

Members Sitting for Approval of Minutes: *Jonathan Wood; Carolyn Matthews; Bill Hoitt; Gretchen Gott; Bill Cantwell.*

MOTION: Bill Cantwell made a motion to approve the minutes of January 07, 2010 as drafted. Bill Hoitt seconded. The motion passed with a vote of 4-0-1, with Carolyn Matthews abstaining.

Work Session – Excavation Regulations

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

The Planning Board continued their work on the Excavation Regulations. Community Development Director Cartier Creveling reviewed several proposed changes to the Regulations with the Board. The Board analyzed the proposed changes and in some cases, made revisions to the proposed language.

Other Business

Carolyn Matthews presented the Planning Board with a script for a Planning Board appearance on "All Around Raymond." This appearance will focus on Fluvial Erosion Hazards. Ms. Matthews stated she would take up this topic herself. The Board agreed that the other amendments should be featured on another episode.

Adjournment

MOTION: Bill Cantwell made a motion to adjourn. Bill Hoitt seconded. The motion passed with a unanimous vote of 5-0-0. The meeting adjourned at 9:56 p.m.

Respectfully submitted,

Robert Price
Planning Technician