

Raymond Planning Board Minutes
January 14, 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; Jim Kent, Secretary; 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

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

MOTION: Bill Cantwell made a motion to approve the minutes of December 03, 2010 as amended. Gretchen Gott seconded. The motion passed with a unanimous vote of 6-0-0.

Public Hearing – Fluvial Erosion Hazards Zoning Amendment

Amendment 1 – To amend Article III – Zones to add Section 3.100, Overlays, Zone FEH – Fluvial Erosion Hazard District; FURTHER to amend Article III, Section 3.300, Overlay Zones, Districts and Applications, by adding Section 3.330 through 3.332, Zone FEH – Fluvial Erosion Hazard District, which creates an overlay district, the boundaries of said district being delineated on plans kept on file with the Town of Raymond, the purpose of the ordinance includes the protection of public and private property within the zone and to prevent risk within the zone by limiting new development; FURTHER to amend Article IV, Uses and Standards, to add Section 4.900 through 4.912, Fluvial Erosion Hazard District to create a series of definitions of relevant terms including Fluvial Erosion Hazard, to regulate such new development by defining exempt uses, prohibited purposes, allowed uses, or, alternatively, to require a conditional use permit from the Planning Board where certain requirements are met; FURTHER to provide a system whereby the delineation of the zone can be reviewed by the Zoning Board of Adjustment; FURTHER to provide a system where variances can be requested from the Zoning Board of Adjustment; FURTHER to provide a system whereby applicants may appeal decisions of the Planning Board, on conditional use permits. Changes made to the draft ordinance following the December 17, 2009 public hearing include adding a further explanation regarding the process to delineate properties which fall within the overlay zone, a process to change the FEH under appropriate circumstances identified in the ordinance, a process for a property owner to challenge map delineation before the ZBA, adding certain definitions including certified plot plan, further information on the process to obtain a conditional use permit, further discussion on when applicants might

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be required to pay for professional studies, a further description of the variance requirements which operate under the statute.

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

The Planning Board made note of the changes that were made to the Amendment language since the December 17, 2009 Public Hearing.

PUBLIC COMMENT

Keith Smith of 80 Chester Road stated his lot is mostly ledge. He added that the river bends at his property because of the ledge. In 25 years, he has never seen any erosion take place. He stated if this amendment is adopted, he would not be allowed to construct the horse barn he has been planning on building for a while. Additionally, Mr. Smith asked how this amendment would impact the assessed value of his home. He stated he needs more than the 30 cubic yards of fill allowed by this amendment just to maintain his driveway.

Frank Hayes of 76 Chester Road stated his home also sits on a pile of ledge, adding that his home is located over 60 feet above the river. He stated it is obvious that soil samples were not taken when the overlay district area was laid out. He urged the Board not to place this Amendment on the Ballot.

Peter Buckingham of 75 Nottingham Road read a prepared letter from Frank Bourque, who was unable to attend the meeting. A copy of this letter is attached to the original set of minutes on file at the Town Clerk's Office.

Mr. Buckingham next spoke for himself. He asked if it is the hope and desire for the Fluvial Erosion Hazards Zoning Amendment to encompass the Lamprey River. He stated if so, then this bodes harshly on the economic future of Raymond. He stated he feels that property rights will be taken away, and that Raymond's business future will be harmed if this amendment passes. He requested that the Board not place this amendment on the ballot.

Lee Weldy of 110 Nottingham Road stated there are enough restrictions already in place. Mr. Weldy added that he is strongly against this proposal, and urged the Board not to place it on the ballot.

Carolyn Matthews stated there is a provision in the proposed Ordinance that would allow the Geological Survey to come to someone's property and review the FEH boundary line. She noted that the Ordinance would have to pass before they would go to anyone's property.

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Ms. Matthews next stated she spoke with Jennifer Gilbert, Floodplain Management Coordinator with the NH Office of Energy & Planning. Ms. Gilbert assured her that if someone was found to be in the FEH zone, it would not mean that they would be required to obtain flood insurance.

Ms. Matthews noted that the proposed ordinance does contain an appeal process for someone requiring more than 30 cubic yards of fill.

Jonathan Wood noted that filling of flood storage areas is restricted in general by the Zoning Ordinance.

Mr. Wood noted that FEH data is limited across the State. He added that Raymond has been a benefactor of the study that was conducted which produced what data now exists for FEH.

Carolyn Matthews stated Raymond has an opportunity to be the first Town in the State of New Hampshire to implement an FEH Ordinance. She added just because a Town is first has no bearing because FEH Ordinances will vary from place to place. She added that FEH is a higher standard recognized by the Federal Emergency Management Agency (FEMA). She noted if this amendment is passed, and if the Town joins in with the Community Rating System in the future, then the Town can get points for having an FEH Ordinance, and thus, flood insurance rates will decrease.

Ms. Matthews stated the Lamprey River will be studied starting in the summer of 2010 and the process will take approximately 2 years. The State will invite everyone to the table to see what the study will do. She stated the study will identify projects that need to occur along the river in order to safeguard nearby properties. She stated this would give Raymond an economic competitive edge. She lastly added that all municipal buildings would be exempt from this ordinance.

Jonathan Wood asked if the FEH Ordinance does not pass, if the Planning Board would be able to utilize the FEH data in some way. Community Development Director Cartier Creveling replied he is unable to answer this question.

Bill Cantwell stated Ms. Matthews worked very hard on this amendment, and that is obvious. He stated the Ordinance itself is not the whole problem, adding that it is now quite fair, but to him, the flaw exists with the study itself. He stated the residents attending the meeting tonight are proof of this. He stated the only way to ensure accuracy is with core sampling.

MOTION: Gretchen Gott made a motion to forward the Fluvial Erosion Hazards zoning amendment to the ballot, as written. Jim Kent seconded. The motion passed with a vote of 4-2-0, with Bill Cantwell and Bill Hoitt opposed.

Public Hearing - Zone A/Emergency Water Line Zoning Amendment

Amendment 2 - To amend Article V, Section 5.100 to add a section which indicates that the potential installation of a water line to the area adjacent to the Mottolo Superfund Site will not result in the connected lots being subject to the less restrictive dimensional requirements of "Zone A with Town Water." The purpose of the amendment is to allow the Planning Board time to develop a plan for the orderly development of municipal services needed to accommodate the potential growth of such connected lots. The ordinance will terminate within eighteen months of enactment. Based upon comments received during the December 17, 2009 public hearing, language was added under subparagraph a to clarify that the lots will be subject to the more restrictive requirements for lot size, frontage and setbacks of the zones existing prior to the installation of the water line.

Members Sitting for this Hearing: Jonathan Wood; Carolyn Matthews; Jim Kent; Bill Hoitt; Gretchen Gott; Bill Cantwell*(recused himself in the midst of the hearing).

The Planning Board made note of the changes that were made to the Amendment language since the December 17, 2009 Public Hearing.

PUBLIC COMMENT

There was no public comment on this amendment.

Jonathan Wood noted that the Board of Selectmen voted, on January 11, 2010, to place the following warrant article on the ballot:

*To see if the Town will vote to raise and appropriate up to the sum of **Two Million Five Hundred Thousand dollars (\$2,500,000.00)** for the purpose of designing, installing and inspection of an extension of the Town's water system from where it ends at Batchelder Road to the Blueberry Hill Road area, including but not limited to Blackberry Lane, Huckleberry Lane, Jennifer Lane, Lemon Tree Court, Peach Tree Court, Randy Lane, Raspberry Lane, Strawberry Lane, Windmere Drive, Blake Road, and cul-de-sacs off of Blake Road; to address the needs of the residents of that area; **Two Million Five Hundred Thousand dollars (\$2,500,000.00)** of such sum to be raised through the issuance of bonds or notes under and in compliance with the Municipal Finance Act, RSA 33:1 et seq., as amended; to authorize the Selectmen to apply for, obtain and accept federal, state or other aid, if any, which may be available for said project and to comply with all laws applicable to said project; to authorize the Selectmen to issue, negotiate, sell and deliver said bonds and notes and*

to determine the rate of interest thereon and the maturity and other terms thereof; and to authorize the Selectmen to take any other action or to pass any other vote relative thereto.

After hearing the language acted upon by the Board of Selectmen, Bill Cantwell announced that he feels he needs to recuse himself from the remainder of this discussion, in light of the Selectmen's decision to extend the water line in close proximity to his neighborhood.

MOTION: Carolyn Matthews made a motion to forward the Zone A/Emergency Water Line amendment to the ballot as written. Gretchen Gott seconded. The motion passed with a vote of 4-1-0, with Bill Hoitt opposed.

At this time, Bill Cantwell returned to his seat.

Public Hearing - Impact Fee Zoning Amendment

Amendment 3 - *To amend Article VII, Section 7.504 (01) by adding a new section, 7.504(01)(a), which indicates the categories of development potentially subject to impact fees and which provides authority for the Planning Board to select which categories of development will be subject to the impact fee in accordance with the assessment methodology to be adopted by the Planning Board. Based upon comments received during the December 17, 2009 public hearing, language was added from the existing Section 7.504 (01) to provide context for better understanding by the public. In paragraph a, the second sentence was eliminated and the last sentence amended to read "...impact fee for each of these categories prior to making any assessments."*

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

The Planning Board made note of the changes that were made to the Amendment language since the December 17, 2009 Public Hearing.

PUBLIC COMMENT

There was no public comment on this zoning amendment.

MOTION: Carolyn Matthews made a motion to forward the impact fee zoning amendment to the ballot as written. Jim Kent seconded. The motion passed with a unanimous vote of 6-0-0.

Public Hearing - Sprinkler System Zoning Amendment

Amendment 4 - *To amend Article VIII, Section 8.110, Paragraph 2, to require sprinkler systems be installed in all newly constructed and substantially renovated commercial and institutional buildings, and all forms of residential dwellings. Based upon comments*

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received during the December 17, 2009 public hearing, the first sentence was amended to: "Pursuant to RSA 674:51, all commercial and industrial buildings,..."

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

The Planning Board made note of the changes that were made to the Amendment language since the December 17, 2009 Public Hearing.

PUBLIC COMMENT

Peter Buckingham of 75 Nottingham Road asked if the Planning Board could offer any update as to what is currently taking place at the State legislature, as they have been debating the residential sprinkler issue for some time. Bill Hoitt noted he, Gretchen Gott and Fire Chief Kevin Pratt went to Concord on January 12, 2010 for a public hearing on house bills regarding residential sprinklers. He stated it appears as though the issue will be sent to subcommittee for additional study and review. Mr. Buckingham stated this amendment is a great amendment to place on the ballot as there is such a divergent opinion on both sides of the issue.

Bill Cantwell stated he feels the State has not implemented a requirement for residential sprinklers yet because there are some areas within the State that may not have companies established to install the systems. He added he agreed that this is a perfect issue for the voters to decide.

Jim Kent stated he is concerned with the ongoing maintenance requirements that sprinkler systems will require, however the life safety benefit outweighs this concern for him.

MOTION: Bill Hoitt made a motion to forward the residential sprinkler zoning amendment to the ballot as written. Carolyn Matthews seconded. The motion passed with a unanimous vote of 6-0-0.

Public Hearing - ADA Structures Zoning Amendment

Amendment 5 - To amend Article VIII, Section 8.100 to clarify that wheelchair ramps and similar disability access structures shall be considered nonpermanent, for the purpose of providing a certified plot plan only, when applying for the required building permit; FURTHER to amend Article VI, Special Provisions, to add Section 6.900 entitled Disability Access Structures, which enables the Code Enforcement Officer to grant building permits for Disability Access Structures as referenced in Article VIII, Section 8.100 (03)(d) notwithstanding that such Disability Access Structures may not comply with area dimension or setback requirements, provided that the applicant meets the specific criteria set forth in the ordinance. The building permit is valid only during the

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time when there is a need for the use of disability access structures by disabled persons as referenced in the ordinance. Based upon comments received during the continued public hearing held on December 22, 2009, the "Structures" as presented in the initial draft was changed to "Disability Access Structures."

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

The Planning Board made note of the changes that were made to the Amendment language since the December 22, 2009 Public Hearing.

PUBLIC COMMENT

Lee Weldy of 110 Nottingham Road stated he likes what this zoning amendment aims to accomplish.

MOTION: Bill Cantwell made a motion to forward the disability access structures zoning amendment to the ballot as written. Gretchen Gott seconded. The motion passed with a unanimous vote of 6-0-0.

Public Hearing - Time Limitations on ZBA Relief Zoning Amendment

Amendment 6 - *To amend Article IX by adding a new Section, Section 9.500 to place reasonable time limitations on relief granted by the Zoning Board of Adjustment, and to provide a provision allowing applicants to seek extension of approvals which would otherwise lapse.*

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

The Planning Board made note of the changes that were made to the Amendment language since the December 22, 2009 Public Hearing.

PUBLIC COMMENT

There was no public comment on this zoning amendment.

MOTION: Gretchen Gott made a motion to forward the time limitations on ZBA relief zoning amendment to the ballot as written. Bill Cantwell seconded. The motion passed with a unanimous vote of 6-0-0.

Public Hearing - Zone G Consistency Zoning Amendment

Amendment 8 - *To amend Article II, Section 2.100, Definitions, #80 - Use, Residential Low Density by adding "(in accordance with Article V, Section 5.104)" to the end of the existing text; FURTHER to amend Article IV, Section 4.302, Definitions, subparagraph 02, Yield Calculation, by deleting the entire section and replacing it with language clarifying that the maximum number of single-family lots permitted within a*

Conservation Development is to be determined by the underlying zoning as outlined in Article V; FURTHER to amend Article IV, Section 4.305, Density, by deleting this section in its entirety; FURTHER to amend Article IV, Section 4.500, Manufactured Home Parks, by deleting subsection 05 in its entirety and renumbering the subsequent subparagraphs within this section; FURTHER to amend Article IV, Section 4.600, Multi-family Housing, subparagraph 03 by clarifying that in no case shall density exceed eight (8) bedrooms per non-Zone G acre; FURTHER to amend Article IV, Section 4.700, Dwelling Two-family Unit, subparagraph 02 to clarify that Zone G land shall not be used to satisfy lot size requirements; FURTHER to amend Article V, to add Note 9 clarifying that Zones A, B & E, including all residential overlay zones, shall not include the use of Zone G land in determining the maximum number of units or lots being developed; FURTHER to amend Article V, Section 5.104, Special Requirements in Zone G, subparagraph 01 by changing the existing wording that reads "all lots in Zone G..." to read "All lots containing Zone G..." and to delete the dimensional requirements table within this subparagraph; FURTHER to amend Article V, Section 5.104, Special Requirements in Zone G, subparagraph 02 to clarify that minimum usable area calculations shall require a minimum of 20,000 contiguous square feet of non-Zone G land in Zone A, and a minimum of 40,000 contiguous square feet of non-Zone G land in Zone B, and to clarify that frontage and setback requirements under Article V, Sections 5.102 and 5.103 shall remain in effect and that a minimum wetland setback shall remain in effect, and to delete the table labeled "Minimum Lot Requirements for Zone B" within this subparagraph; FURTHER to amend Article V, Section 5.104, Special Requirements in Zone G, subparagraph 03, "Minimum Lot Requirements for Zone A" by deleting this subparagraph and also deleting subsection (a) within this same subparagraph, in their entirety.

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

Jonathan Wood read an e-mail from Sharon Somers, the Board's legal counsel, which made note of one area that was accidentally left unchanged within this zoning amendment. She explained in her letter that she feels the Board could make this change at this hearing, as the change clearly fits the obvious intent of the Board to eliminate Zone G land from the density calculations for any developments on Zones A, B & E, including all residential overlay zones. A copy of this e-mail is attached to the original set of minutes on file at the Town Clerk's Office.

MOTION: Carolyn Matthews made a motion to concur with the e-mail written by Sharon Somers, and to delete the language as described in her e-mail. Bill Cantwell seconded. The motion passed with a vote of 5-1-0, with Bill Cantwell opposed.

PUBLIC COMMENT

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Peter Buckingham of 75 Nottingham Road read a prepared letter from Frank Bourque, who was unable to attend the meeting. A copy of this letter is attached to the original set of minutes on file at the Town Clerk's Office.

Carolyn Matthews stated she is concerned that the voting public will not understand this zoning amendment. Community Development Director Cartier Creveling stated the public has to be notified, via legal notice in the newspaper, and copies of all zoning amendments must be available for public review. He added it is not possible to have the entire Zoning Ordinance on the ballot, so it behooves the public to do their homework before voting.

Bill Cantwell stated we need to develop workforce housing first and foremost. This zoning amendment flies in the face of workforce housing.

Carolyn Matthews stated previous Board members constantly and consistently took a stance that workforce housing is in plentiful supply in Raymond.

Jonathan Wood stated the affordability of workforce housing is not affected by this zoning amendment. He stated the key component of market value is the number of square feet. If you build a smaller house, then it will be more affordable.

Bill Cantwell stated the developer needs to recover the cost of the infrastructure they construct. With a lessened number of housing units, the cost will have to be recovered with a larger, pricier home.

Carolyn Matthews noted this zoning amendment is in tune with the Innovative Land Use Handbook.

MOTION: Gretchen Gott made a motion to forward the Zone G consistency zoning amendment to the ballot as revised. Bill Cantwell seconded. The motion passed with a vote of 4-2-0, with Bill Cantwell and Bill Hoitt opposed.

Other Business

The Planning Board discussed ways to educate the voters about the Board's zoning amendment proposals.

Community Development Director Cartier Creveling noted he has been working on the Excavation Regulations, and distributed a draft for the Board to review and discuss at a later meeting. Jonathan Wood stated he would like to add Excavation Regulations to the agenda for the January 21 meeting, as the excavation site owners will be in attendance.

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Adjournment

MOTION: Bill Cantwell made a motion to adjourn. Bill Hoitt seconded. The motion passed with a unanimous vote of 6-0-0. The meeting adjourned at 9:55 p.m.

Respectfully submitted,

Robert Price
Planning Technician