

**Raymond Planning Board Minutes  
February 18, 2010**

**Approved 02/25/2010**

**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; Doug Vogel.

**Staff Present:** Robert Price, Planning Technician.

**Pledge of Allegiance**

**Approval of Minutes**

*Carolyn Matthews stated she will recuse herself from the Approval of Minutes.*

*Members Sitting for Approval of Minutes:* Jonathan Wood; Jim Kent; Bill Hoitt; Gretchen Gott, Bill Cantwell; Doug Vogel.

**MOTION:** Doug Vogel made a motion to table the minutes of February 11, 2010 as until next week. Jim Kent seconded. The motion passed with a vote of 5-0-1 with Bill Cantwell abstaining.

**Public Hearing – “Clematis Court” Amended Subdivision**

*Continued from 01/28/2010; Application #2007-030* – An application for an amended subdivision known as “Clematis Court” has been submitted by Jones & Beach Engineers, Inc. on behalf of Blackbriar Woods, LLC. The applicant proposes to consolidate Map 29, Lots 58-5, 58-6, 58-7, 58-8, 58-10, 58-11 & 58-12 into one lot, and then re-subdivide, creating nine lots out of the original seven lots listed above. Additionally, the applicant is proposing to perform a lot line adjustment between Map 29, Lot 58 and Map 29, Lot 57 to resolve an existing fence and septic encroachment. Lastly, the applicant has noted that proposed newly created lots 58-11, 58-13 [previously referred to in error as 58-12] & 58-14 can support duplex units. This subdivision originally received conditional approval on July 23, 2009 and was amended September 24, 2009. The properties are shown on Raymond Tax Map 29, Lots 57, 58, 58-5, 58-6, 58-7, 58-8, 58-10, 58-11 & 58-12; Prescott Road & Clematis Court.

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

Planning Technician Price explained the previous notice for this project incorrectly referenced the lots capable of supporting duplexes as Lots 58-11, 58-12 and 58-14. In preparing for tonight's meeting, it was discovered that Lot 58-12 should have read Lot 58-13. The issue was discussed with Legal Counsel, who concluded that this error was not significant enough to require re-notification, as the intent of the original wording is clear, and would not change.

Mr. Price explained since the previous meeting, the plans were sent to Altus, the Town's peer review engineer, and comment was made. Jones & Beach, the applicant's engineer, responded to those comments. Altus replied back that they no longer have any concerns with the plans.

Mr. Price additionally noted that, in accordance with the Board's finding of Regional Impact at the January 28, 2010 meeting, notification was sent to the Town of Epping, Southern NH Planning Commission and Rockingham Planning Commission. He noted that only Rockingham Planning Commission responded, and they offered no comment on the plan.

Keith Martel of Blackbriar Woods, LLC, the applicant, and Joe Coronati of Jones & Beach Engineers, Inc., the applicant's engineer, were present. Mr. Martel explained that he attended the Board of Selectmen meeting of February 15, as the Planning Board had requested, in regards to the suggested donation of a portion of Lot 58-10 to the Town. He stated he learned that night that, in order for the Town to accept the land, it would require an RSA 41-14-a public hearing process.

Ms. Matthews stated she favors placing a restrictive easement on the 4.77 acre piece suggested for donation, rather than having the Town accept the land.

Mr. Kent stated he would also like to see a restrictive easement placed on the parcel, if the Town does not choose to accept the land.

Ms. Gott stated placement of a restrictive easement would take the Town out of a situation that it probably should not be involved in. She stated her preference, though, would be to place a restrictive easement on the entirety of Lot 58-10, rather than just the 4.77 acre parcel in question.

Mr. Kent stated changes in ownership result in less awareness of, and infringement into protected areas. He asked how it would be possible to preserve the restrictive use of the land.

Mr. Cantwell stated signs may be installed delineating the protected area, however if the signs fall down, are removed, etc, then over time, the protected area's limits become unclear. He added he is not sure there is a way to fully ensure protection of this area.

Mr. Kent asked if the applicant would be willing to install several boundary markers to help delineate the protected area on the ground. Mr. Martel stated he would be amenable to this.

Ms. Matthews stated if the parcel becomes Town-owned, then that would mean that anyone can use it as they so chose, and she is uncomfortable with this.

Mr. Wood noted the Planning Board has currently outlined two choices for the applicant:

1. Option 1 is to proceed with an RSA 41:14-a public hearing process for the donation of the 4.77 acre parcel in question to the Town.
2. Option 2 is to keep the 4.77 acre parcel in question as part of Lot 58-10, while placing a restrictive easement on the 4.77 acre parcel, which would limit future use of that area of the lot.

Mr. Wood polled the Board to determine which of the above options the applicant should pursue.

POLL RESULTS

Mr. Kent – Option 2, with placement of boundary markers

Ms. Gott – Option 2

Mr. Hoitt – Abstain

Mr. Cantwell – Abstain

Mr. Vogel – Option 1, but with modifications

Ms. Matthews – Option 2

Mr. Wood – Option 1

As a result of the poll, the Board agreed that the best option would be for the 4.77 acre parcel in question to remain as a part of Lot 58-10, and that the parcel in question should bear a restrictive easement.

Mr. Wood stated for the record in terms of logging, a restrictive easement does not mean that the owner can not use the restrictive area as a personal wood lot. It only means that the restrictive area can not be clear-cut.

Mr. Vogel asked the size of Lot 58-10 with the restricted area included. Mr. Coronati stated Lot 58-10 is approximately 5 acres.

Mr. Vogel asked who will enforce this restriction on a private property owner. He also asked if the future owner of Lot 58-10 would get a tax reduction as a result of having a large portion of the lot carrying a deed restriction. Mr. Wood stated the property owner would face a reduced tax rate on the restricted area. Mr. Hoitt stated if you can't use the land, you shouldn't have to pay any taxes on it.

Mr. Vogel stated assuming the Town does take ownership of the land, by present Town rules, anyone can use the lot, and the lot could conceivably be sold, etc. He asked if there was any way to conserve the parcel under Town ownership.

Ms. Matthews stated to her, there is considerable value in having four acres of undeveloped land in your back yard. There is value in being able to do things on that land, provided that you abide by the restrictions.

Mr. Martel stated he would be happy to install boundary markers on the ground to delineate the restricted area, placing a marker every 30 feet along the bottom-most portions of the easement line shown on the plan.

**PUBLIC COMMENT**

There was no public comment.

**MOTION:** Carolyn Matthews made a motion to approve amended Application #2007-030 for a lot consolidation of Lots 58-5, 58-6, 58-7, 58-8, 58-10, 58-11 & 58-12 of Tax Map 29 and re-subdivision, creating two additional lots, for a total of nine instead of the original seven as comprised above. Additionally, the applicant is proposing to perform a lot line adjustment between current Map 29, Lots 58 and 57 to resolve an existing fence and septic encroachment. Lastly, the applicant has noted that proposed newly created lots 58-11, 58-13 & 58-14 can support duplex units. This plan has been presented by Jones & Beach Engineers, Inc. on behalf of Blackbriar Woods, LLC, for property shown on Raymond Tax Map 29, Lots 57, 58, 58-5, 58-6, 58-7, 58-8, 58-10, 58-11 & 58-12; Prescott Road & Clematis Court (see approved, recorded subdivision D-36151 at Rockingham County Registry of Deeds, recorded 11/03/2009).

**The following conditions shall apply:**

1. The conditions of approval designated as conditions precedent must be completed within six (6) months, unless otherwise specified, or this approval shall become null and void.

**The following are conditions precedent:**

- a. The Applicant must obtain all required local, State and Federal permitting for the project, and provide copies of same to the Community Development Department;
- b. All fees authorized to be charged to the Applicant pursuant to the Town of Raymond Subdivision Regulations including, but not limited to application fees, costs of special studies, and legal and engineering review, shall be paid by the Applicant;
- c. Deeds, easements, conservation easements, condominium documents, maintenance agreements, and any other legal documentation pertinent to this project shall be reviewed and approved by Town Counsel, and where applicable, the Board of Selectmen pursuant to RSA 41:14-a;

- d. The Applicant shall address, to the satisfaction of the Town's Review Engineer, any remaining engineering issues identified during peer review. Written concurrence, from the Town's Review Engineer and the Raymond Community Development Director, with the design corrections of any identified engineering issues, shall be required prior to final plan approval.
  - e. Final lot numbering and E-911 addressing shall be assigned and finalized prior to the recording of the mylar, with written confirmation from the Community Development Director and the Fire Chief or his designee.
  - f. An amended Performance Agreement shall be executed between the Town of Raymond and the Applicant within thirty (30) days of the plan's conditional approval date of February 18, 2010. **Failure to execute the required agreement will result in plan approval revocation.**
  - g. The applicant shall complete and submit a Lot Consolidation Form to the Town.
2. The project is approved for construction in two (2) phases:
    - a. Phase I – Shall include extension of municipal water service to, and the build-out of all lots with access from Prescott Road
    - b. Phase II – Shall include construction of the remainder of the subdivision as conditionally approved, subject to the time frames specified in Item #3 of these Conditions of Approval.
  3. The following items must be completed within twelve (12) months of the completion of conditions precedent, to constitute "active and substantial development or building" pursuant to (RSA 674:39):
    - a. Installation of utilities infrastructure, and construction of the proposed subdivision roadway to binder grade of pavement as confirmed and approved by the Raymond Public Works Director or his designee.
  4. The following items must be completed for this project to constitute "substantial completion of the improvements" pursuant to RSA 674:39:
    - a. Completion of proposed subdivision roadway to final grade of pavement as confirmed and approved by the Raymond Public Works Director or his designee.
  5. Estimates for all improvements shall be provided by the Applicant for review and approval by the Raymond Public Works Director or his designee. These estimates will be utilized to establish an inspection escrow account (equal to 4% of the estimated cost of improvements), which must be in place with the Town of Raymond prior to the start of any site work. Additionally, these estimates will

be used as the basis for computing the Surety/Performance Bond to be provided by the Applicant in favor of the Town of Raymond prior to the issuance of a building permit by the Raymond Code Enforcement Officer. Surety/Performance Bond values shall be based upon the value of unfinished work at the time of the issuance of a Certificate of Occupancy, plus a 10% contingency.

6. **In the case of 17 single-family dwellings and 0 two-family dwellings:** The Planning Board, in accordance with Table 3 of the Impact Fee Process and Methodology, adopted January 13, 2005, hereby assesses impact fees for the project as follows: The project, as a whole, is comprised of seventeen (17) new units consisting of single-family dwelling type. The school impact fee for each single-family dwelling unit is \$3,550.00, and the road impact fee for each single-family dwelling unit is \$772.00. The total impact fee for each single-family dwelling unit is \$4,322.00. The total impact fee assessed for the project is \$73,474.00. If impact fees are not collected for any lot prior to the adoption of any amendments to the 2005 impact fee schedule, then the lots which have not paid impact fees will be subject to the amended fee amount, if they are not eligible for the four year vesting status under RSA 674:39. Additionally, once the four year period under RSA 674:39 elapses, then the amount under the amended impact fee schedule can be imposed.

**In the case of 16 single-family dwellings and 1 two-family dwelling:** The Planning Board, in accordance with Table 3 of the Impact Fee Process and Methodology, adopted January 13, 2005, hereby assesses impact fees for the project as follows: The project, as a whole, is comprised of sixteen (16) new units consisting of single-family dwelling type, and one (1) new unit consisting of two-family dwelling type. The school impact fee for each single-family dwelling unit is \$3,550.00, and the road impact fee for each single-family dwelling unit is \$772.00. The school impact fee for each unit within the two-family dwelling is \$2,666.00, and the road impact fee for each unit within the two-family dwelling is \$443.00. The total impact fee for each single-family dwelling unit is \$4,322.00. The total impact fee for the two-family dwelling is \$6,218.00. The total impact fee assessed for the project is \$75,370.00. If impact fees are not collected for any lot prior to the adoption of any amendments to the 2005 impact fee schedule, then the lots which have not paid impact fees will be subject to the amended fee amount, if they are not eligible for the four year vesting status under RSA 674:39. Additionally, once the four year period under RSA 674:39 elapses, then the amount under the amended impact fee schedule can be imposed.

**In the case of 15 single-family dwellings and 2 two-family dwellings:** The Planning Board, in accordance with Table 3 of the Impact Fee Process and Methodology, adopted January 13, 2005, hereby assesses impact fees for the project as follows: The project, as a whole, is comprised of fifteen (15) new units

consisting of single-family dwelling type, and two (2) new units consisting of two-family dwelling type. The school impact fee for each single-family dwelling unit is \$3,550.00, and the road impact fee for each single-family dwelling unit is \$772.00. The school impact fee for each unit within each two-family dwelling is \$2,666.00, and the road impact fee for each unit within each two-family dwelling is \$443.00. The total impact fee for each single-family dwelling unit is \$4,322.00. The total impact fee for each two-family dwelling is \$6,218.00. The total impact fee assessed for the project is \$77,266.00. If impact fees are not collected for any lot prior to the adoption of any amendments to the 2005 impact fee schedule, then the lots which have not paid impact fees will be subject to the amended fee amount, if they are not eligible for the four year vesting status under RSA 674:39. Additionally, once the four year period under RSA 674:39 elapses, then the amount under the amended impact fee schedule can be imposed.

**In the case of 14 single-family dwellings and 3 two-family dwellings:** The Planning Board, in accordance with Table 3 of the Impact Fee Process and Methodology, adopted January 13, 2005, hereby assesses impact fees for the project as follows: The project, as a whole, is comprised of fourteen (14) new units consisting of single-family dwelling type, and three (3) new units consisting of two-family dwelling type. The school impact fee for each single-family dwelling unit is \$3,550.00, and the road impact fee for each single-family dwelling unit is \$772.00. The school impact fee for each unit within each two-family dwelling is \$2,666.00, and the road impact fee for each unit within each two-family dwelling is \$443.00. The total impact fee for each single-family dwelling unit is \$4,322.00. The total impact fee for each two-family dwelling is \$6,218.00. The total impact fee assessed for the project is \$79,162.00. If impact fees are not collected for any lot prior to the adoption of any amendments to the 2005 impact fee schedule, then the lots which have not paid impact fees will be subject to the amended fee amount, if they are not eligible for the four year vesting status under RSA 674:39. Additionally, once the four year period under RSA 674:39 elapses, then the amount under the amended impact fee schedule can be imposed.

7. The approval is subject to the applicant receiving re-approval from the Raymond Board of Selectmen for a water main extension to service the development with Town Water.
8. Other Conditions imposed by the Planning Board:
  - a. The Applicant shall submit a maintenance plan for drainage swales and the detention pond, and provide a maintenance bond upon completion of the project.

- b. A note shall be added to the plan to clarify the utility easement interior boundary is also the building setback for Lots 58-10, 58-11 58-12 and 58-13. This condition of approval is based upon a plan revision dated February 02, 2010.
  - c. A note shall be added to the plan outlining that the project has been phased as follows:
    - i. Phase I: Shall include extension of municipal water service to, and the build-out of, all lots with access from Prescott Road.
    - ii. Phase II: Shall include construction of the remainder of the subdivision as conditionally approved, subject to the time frames specified in Item 3 of these conditions of approval
  - d. A 4.7711 acre portion of Lot 58-10 delineated on Sheet A2, with a revision date of February 02, 2010, shall bear a restrictive easement identifying that this portion of the lot is non-buildable, and shall also carry a logging prohibition. Applicant will file an amendment to the recorded plan, along with a deed containing the aforementioned restrictions, for said parcel.
  - e. The applicant shall install boundary markers on the ground delineating the southerly boundary of the restricted easement area, at 30-foot intervals.
9. Off site improvement fees for specific deficiencies found to have a rational nexus to this project are as follows: *(describe in detail and amount)*
- a. (N/A)

The motion was seconded by Bill Cantwell. The motion passed with a vote of 6-1-0, with Doug Vogel opposed.

The Board expressed that in the future, perhaps a less cumbersome Impact Fee note/condition could be used, specifically requesting something in table-form.

#### **Work Session – Excavation Regulations**

The Planning Board continued work on its Excavation Regulations. Mr. Wood invited Dennis Lydon of Aggregate Industries to speak with the Board about blasting.

Mr. Lydon made the following points during his presentation:

- Aggregate Industries has the only quarry in the State permitted under RSA 12:e. The Department of Resources and Economic Development is the governing body of their permit.
- Aggregate Industries conducted a pre-blast survey within a 2,000 foot radius of the quarry.

- Building Department records are reviewed each year to see if any new homes are constructed within this 2,000 foot radius, and if so, a certified letter is sent to the property owner offering a pre-blast survey. Mr. Lydon noted that a pre-blast survey is only offered once.
- Aggregate Industries has had issues in the past that have been resolved, but Mr. Lydon believes they were not the fault of blasting. He added they've never experience ground vibration problems.
- Aggregate Industries monitors two to three seismographs on every blast. Mr. Lydon noted this is not a requirement, but rather their own initiative. He added all data from their blasts is available at the Fire Department.
- Aggregate Industries has had noise issues on blasts, with one or two complaints in the last 20 years, but water issues and vibration issues have not occurred.
- Mr. Lydon noted Aggregate Industries does a typical drinking water sampling, per NH standards. He also noted Aggregate Industries tests for nitrates and nitrites, and heavy metals on five test wells in their expansion area, per a request from the NH Department of Environmental Services.
- Mr. Lydon feels it is critical to keep a drilling log so the blaster has accurate information as to what the driller ran into underground. In his opinion, sloppy drilling leads to sloppy blasts. He added that hitting an unknown void too fast is a major safety hazard. The blaster and the operator must monitor a hole, and must have qualified individuals involved.
- Mr. Lydon feels it is very difficult to regulate drilling and blasting practices. He added it might be helpful if the Town sent a Town Official to blast design school. He felt this would be a must less costly solution than to have third-party oversight.
- Aggregate Industries is limited to a noise level of 29-33 decibels at abutting property lines.
- Aggregate Industries is at its minimum point, 200 feet from the closest abutting property line.
- Aggregate Industries prepared a blasting plan in the last 1980s, but it has not been updated, though it is annually reviewed.

The Board thanked Mr. Lydon for his time and his presentation.

Mr. Wood stated he would like to invite Fire Chief Kevin Pratt to a future meeting for additional blasting information. The Board agreed this would be helpful.

#### **Other Business**

No other business was discussed.

#### **Adjournment**

MOTION: Doug Vogel made a motion to adjourn. Carolyn Matthews seconded. The motion passed with a unanimous vote of 7-0-0. The meeting adjourned at 9:57 p.m.

**Raymond Planning Board Minutes  
February 18, 2010**

**Approved 02/25/2010**

Respectfully submitted,

Robert Price  
Planning Technician