

Planning Board Minutes
August 4, 2016
7:00 pm
Media Center
Raymond High School

Planning Board Members Present:

- Carolyn Matthews (Chair)
- Don Hedman (Vice Chair)
- John Beauvilliers (Secretary)
- Greg Bemis (Board of Selectmen Ex-officio)
- Gretchen Gott
- Jim Kent Bernie Peer (Alternate)
- Robert Wentworth
- Alissa Del Tufo (Alternate)

Excused Planning Board Member: Don Hedman (Vice Chair)

Staff Present:

- Ernest Cartier-Creveling - Community development director

Public Present:

- Kathy McDonald

Meeting started at 7:00 pm

Pledge of Allegiance 7:01 pm

Approval of Minutes - July 28, 2016 – Tabled

Work Session:

Discussion of SB 146: AN ACT (Accessory Dwelling Units); comments regarding recently provided documentation from the NH Office of Energy and Planning.

Mr. Cartier-Creveling presented the board with a memo including the comments from Mr. Myrick Bunker, Raymond's Code Enforcement Officer. (See attached)

Mr. Cartier-Creveling read from the memo indicating that the word "attached" should be defined in the document.

6.10.4.3 Property owner - if the owner of the property is a trust the property owner shall mean the creator or beneficiary of the trust. Mr. Bunker asked the board "What if they are the creator and the trustee is deceased?"

If the owner of the property is a corporation the term property owner will mean the principal stockholders. Mr. Cartier-Creveling said the question could be sent to legal for review.

Under requirements - 6.10.5.2 Mr. Bunker asked "In addition to the house an ADU can be 1/3 of the existing dwelling." Mrs. Matthews said that is a question for legal as well.

6.10.6.3 Mr. Cartier- Creveling said Mr. Bunker had suggested editing the paragraph to read “ The minimum area for an accessory dwelling unit, whether within or attached, shall not be less than 500 square feet, ... max area is smaller than the 1/3 combined heated living area of both units or 1,000 square feet.”

Mr. Cartier-Creveling said from our standpoint it is enforceable. Mr. Cartier-Creveling said that our legal counsel had advised the board to create a document stating what the approval is that could be recorded at the registry, as opposed to changing the deed language.

Ms. Gott asked what the difference is.

Mr. Cartier-Creveling responded saying one is like a notice of decision, because the statute is the controlling document. The fact that one has to be owner-occupied, you don't actually have to put it in the deed if you put a notice on with the registry of deeds related to that tax map and lot number for that property. It will be on record. Mr. Cartier-Creveling added the process is also done with subdivisions, but not with site plans. Mr. Cartier-Creveling explained that because it is such a specific law and use they are allowing, these accessory dwelling units must be occupied by the owner. The board cannot dictate which unit to occupy, it just identifies it an issue. Mr. Cartier- Creveling said it can help when there are complaints about illegal dwelling units. Then the deed can be checked to see if it was registered as an accessory dwelling unit.

Mr. Wentworth suggested removing the 1/3 requirement from section 6.10.6.3.

Mrs. Matthews commented that Ben Frost has said the 1/3 is not legal and Mrs. Matthews said legal would have to look at the issue.

Mr. Wentworth and Ms. Gott discussed building ordinance 6.10.6.3.

Mr. Wentworth said part of the state law is that the second bedroom must be allowed. The law says that less than two (2) bedrooms cannot be mandated. Mrs. Matthews said one (1) bedroom cannot be mandated either.

Mr. Kent inquired about 6.10.4 regarding the “memorandum of adequate notice”. Mr. Kent asked if there was a template for said memorandum.

Mr. Cartier-Creveling said legal counsel would set up the template.

Mr. Kent asked for clarification regarding 6.10.7 Nonconforming Accessory Dwelling Units. The Board discussed the codicil and requested that legal respond.

Ms. Gott asked what the ramifications are for a building that “didn’t quite tell the truth.” What are the consequences?

Mr. Cartier-Creveling responded saying the building would be nonconforming. Mr. Cartier-Creveling said these items are statute now and to try and make them as compatible as possible.

Motion:

Mr. Beauvilliers made a motion that the board submit the latest changes to legal for evaluation. Mr. Wentworth seconds the motion. The motion carried 6 approved, 0 abstain, 1 opposed.

- Carolyn Matthews (Chair) - approved
- John Beauvilliers (Secretary) - approved
- Greg Bemis (Board of Selectmen: Ex-officio) - approved
- Gretchen Gott - opposed
- Jim Kent - approved
- Bernie Peer (Alternate: seated) - approved
- Robert Wentworth - approved

Other Zoning Changes:

Mrs. Matthews introduced a list of recommendations that came from staff.

Mr. Cartier-Creveling explained the list has developed over the years and he can bring back any specific changes to staff. Mr. Cartier-Creveling further explained there are several definitions concerning Accessory Dwelling Units that are confusing and need clarification.

Areas that need clarification include:

- Accessory Dwelling Units
- Impact Fees - Mr. Cartier-Creveling recommended Bruce Mayberry from Maine to help with the impact fees, the methodology, and the CIP ordinances. Mr. Cartier-Creveling read from ordinance 7.1.2 (p.59 of 2016 Zoning Ordinance) listing the impact fees that can be assessed. Mr. Cartier-Creveling said it is important to have the board decide on which fees to explore and discuss with the Selectmen.
 - Ms. Gott said we are currently doing residential (impact fees).

The Board then discussed p.68 Article Nine (9) of the 2015 Zoning Ordinance.

Mr. Cartier-Creveling read:

- (9.2.2.2.) The proposed use will not adversely affect the property values, character, or public health, safety and welfare of the neighborhood.
- (9.2.2.3.) The proposed use will not create an undue nuisance or hazard to vehicles or pedestrians.
- (9.2.2.4.) Adequate and appropriate facilities and utilities will be provided for the proper operation of the proposed use.
- (9.2.2.5.) The proposed use will not result in unmitigated additional municipal expense.

Mr. Cartier-Creveling said the item that needs the most clarification is the one (ordinance) dealing with the property values.

Mrs. Matthews said that legally proving the effect on property values can't be done.

Ms. Gott commented if there are specific reasons that the board and community vote on that indicate a reduction in property values, specific areas that are affected by the change, that can't be negotiated.

Mr. Bemis also asked about the quality of life stating that changes in a neighborhood that now occur in the middle of the night don't change the property value but change a neighbor's quality of life.

Mr. Cartier-Creveling said that legal counsel will guide the changes to this ordinance.

Mr. Cartier-Creveling continued saying the problem really occurs when there are abutters with unlike uses. Mr. Cartier-Creveling added other towns solve this problem with graduated zoning in these areas.

Mr. Beauvilliers commented that a lot of these areas are subjective.

Mrs. Matthews suggested that legal look at case law with regard to variances.

The board discussed asking the people why they stay in Raymond, why they moved here, etc.

- Section 8.3.2 - Mr. Cartier-Creveling simply said to remove the IRC 2000 reference and reword the ordinance.

- Section 8.1.5 - Mr. Cartier-Creveling said to take out the line that says minimum of ten dollars (\$10). The fee schedule says twice the normal fee and that is all it needs to say.
- Mr. Cartier- Creveling said Myrick Bunker wanted an application fee to be paid for building permits only. He wants the fee to be non-refundable. The fee would be \$25 for residential, \$100 for commercial. Then the fee would be deducted from the permit fee.
- THE PROMOTIONAL TOOL - Mr. Cartier-Creveling said people are surprised when some of the ordinances are enforced. Mr. Cartier-Creveling asked the board for feedback on what types of promotional items and signage can be utilized by a business owner. He said it would be good to give examples. Mr. Cartier-Creveling said he added wording to the ordinance. (see attached).

Ms. Gott questioned over expansion of use. For example people having their lunch outside at a takeout restaurant that does not serve fresh food. It was take out go home. Ms. Gott said it would be an expansion of use and increase parking issues.

Mr. Bemis disagreed saying he sees it as encouraging to see a business trying to flourish in our community.

Mrs. Matthews said the ordinance needs to be flexible enough for Community Development Department and Code Enforcement to have the room they need to do reasonable things. Mrs. Matthew did not have any issue with the recommendations that Mr. Cartier-Creveling made.

Mr. Cartier-Creveling said the public safety part does need to be addressed.

The board continued the discussion of promotional tools including discussing the number of times a year promotional tools could be used. Perhaps allowing promotional tools to be used from June through November.

Ms Gott pointed out there are septic issues in certain areas downtown and to be careful about the issue.

Mrs. Matthew said there is a recent court case and asked Mr. Cartier-Creveling if he could look at the case to make sure the board is compliant.

Note: Bullets #2 and #3 are added items (see attached) and the words special permit was also added to the document.

Mrs. Matthews ask if there was any objection to Mr. Cartier-Creveling proceeding with the proposed changes.

Ms. Gott objected to the changes being proposed, because the board does not have information from historic district..

Mr. Kent said the final draft should be reviewed.

Mrs. Matthews then asked Mr. Cartier-Creveling to discuss the Town of Raymond Earth Excavation Regulations.

Mr. Cartier- Creveling said the Amended Earth Excavation Regulations have been in place for five (5) years and during that whole period the board has required compliance hearings every year. Mr. Cartier- Creveling is proposing keeping the same mandatory compliance inspections, but with a specific report provided to the

Planning Board during the same time period. That time period being the months of June through September. Mr. Cartier-Creveling said the inspection could be performed anytime during that time period and they (the excavators) wouldn't necessarily know it was coming. Mr. Cartier-Creveling suggested the permit expiration would be every five (5) years and the inspection would be once a year. This is not a zoning change but a regulation change.

The Schedule:

The Board and Mr. Cartier-Creveling discussed the upcoming schedule. (see attached)

The Board discussed the amount of times a conceptual plan could come before the board and concluded the number is determined by the board. Mr. Cartier-Creveling said the Planning Board decide when the design review process ends.

Mr. Cartier-Creveling said he was looking into a demographic update, and the demographic part of the Master Plan. The material is outdated by six (6) years.

Mrs. Matthews asked about a joint meeting with TRC perhaps in November.

Mrs. Matthew also asked about a joint meeting with other towns regarding zoning issues.

Mr. Cartier-Creveling said there is opportunity to have a joint multi-town meeting on October 6, 2016 or September 15, 2016.

August 18 there will **not** be a meeting.

Motion:

Mr. Bemis made a motion to not meet on August 18, 2016. Mr. Wentworth seconded the motion. The vote was unanimous.

Other Business:

Staff Update -

Mr. Cartier- Creveling updated the board on the status of the eco-trail signs.

Mrs. Matthews reported the canoe launch is now open and the individual she spoke to was very happy.

Mr. Bemis said the canoe launch should be open whenever the school is closed.

Essentially from 5pm to 8pm daily.

Reports from Board Members -

Ms. Gott asked about the Ethics Training. Mr. Cartier- Creveling said he would try and schedule the meeting for September 15, 2016.

Public Comment:

Ms. Kathy McDonald asked the board to consider changing some of the wording in the new C3 zoning district, article two (2) 2012, which says duplex and multifamily housing are permitted uses. Ms. McDonald wanted to know the process for changing the article.

Mrs. Matthews said the first step would be to have the Planning Board put it on the agenda for discussion.

Mr. Cartier-Creveling suggested putting the discussion on the agenda for September 15th.

Mr. Peer said he learned at OEP training any ordinance changes are grandfathered in from what is already there.

Mr. Cartier-Creveling said that any project that has been the subject of a public notice is protected for a one (1) year period from the end of the conceptual design. That's why it is imported to declare the design review process "done". From that point they have one (1) year to submit a full plan before any type of zoning change could impact them. Mr. Cartier-Creveling explained that November 9th may be the earliest date to receive petition warrant articles. November 9th maybe the earliest date that any kind of amendment can be introduced that would then trigger a halt on building permits being issued. "Basically from early November to the second (2nd) Tuesday in March you wouldn't know what would happen with that." They would have protection for twelve (12) months.

Ms. Gott asked if there was a difference between a petition warrant article and a Planning Board decision.

Mr. Cartier-Creveling said there is no difference in the timing and clarified the procedure.

Mr. Cartier-Creveling added he would work with Ms. McDonald regarding the issue.

Any other discussions as may come before the Planning Board - None

Adjournment-

Motion:

Mr. Peer made a motion to adjourn. Mr. Wentworth seconded the motion. The vote was unanimous.

The meeting adjourned at 8:30 pm.

Respectfully submitted,

Jill A. Vadeboncoeur