



**Raymond Planning Board
Minutes*
Wednesday, October 23, 2013**

Present: Chairman Robert O'Neill, Vice-Chair Bruce Sanford, Greg Foster, Steve Linne, and William Priest

Absent: None

Staff: Mary Costigan, Town Attorney; Jim Seymour, Contract Planner, Chris Hanson, Code Officer; and Danielle Loring, Recording Secretary.

Applicant: Mark Gray, Engineer; Wayne Fornier, FI Town Manager, Bill Eaton, Traffic Study; Rick Jones, Environmental Consultant; and Pat Cayer, LSI.

Other: Barbara Lovell and Charles Leavitt.

1. Call to order: Chairman Robert O'Neill called the meeting to order at 7:01 pm.

Regular Meeting Items:

2. Approval of September 11, 2013 Meeting Minutes GF/WP

MOTION: Greg Foster motioned to accept the minutes; seconded by William Priest.

DISCUSSION: Chairman O'Neill said that he had a marked up document with corrections.

VOTE: MOTION CARRIES (4/o/1 [ab BS])

3. Applications:

b) Unfinished Business

**Town of Frye Island
Cape Road & Quarry Road
Map/Lot: 002/011 & 070/006
Applicant is requesting a site plan review for a Park & Ride for ferry landing.**

Chairman O'Neill explained that there were a number of pieces of correspondence that had been received and asked if the Board felt comfortable with having enough time to review the materials, and they confirmed. Chairman O'Neill continued and stated that the Board had received several pieces of correspondence regarding the application, and most were in

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opposition, but they had to approve or deny the application in accordance with State law and Town Ordinances. He explained that there were some pieces of content that were qualitative or quantitative, and the Board could consider them only if they were found to be more credible than those of the professionals. He explained that the purpose of their meeting was to approve or deny a project brought forth by a property owner.

Chairman O'Neill explained that Mr. Linne was returning to the Board after a short appearance on the Budget-Finance Committee, but he had been there at the beginning of the project and had a signed affidavit stating that he had reviewed all the materials for the project and asked if the Board felt comfortable with Mr. Linne proceeding with the project, and they confirmed.

Mr. Seymour gave a history of the application and explained that there were three items on the Shoreland Zoning requirements that still needed to be met including those relating healthful standards, wading bird habitat and the requirement to meet all the SZ standards. He explained there had been additional materials submitted, which included that a draft DEP permit, traffic study and plans showing: an addition of curbing; traffic lights; post and chain detail; expanded the drop off area; as well as letters from their consultant for the knotting begonia (threatened species); and DEP's non-jurisdiction of vernal pools. He requested that the applicant be allowed to speak regarding the changes that had been made to their application.

Chairman O'Neill asked if the applicant agreed to the list of changes, and Mr. Gray affirmed. Chairman O'Neill then explained that the Board needed to make a motion determining if the materials were substantial or non-substantial and asked Mr. Seymour if there was a standard. Mr. Seymour responded that there were no standards and he felt that the changes were not substantial because the applicant was responding to the Board's requests.

MOTION: Greg Foster motioned that the submissions did not reflect any substantial changes; seconded by William Priest.

DISCUSSION: Chairman O'Neill explained that he asked because if there were substantial changes, they would reopen the public hearing.

VOTE: UNANIMOUS APPROVAL (5/0)

MOTION: Bruce Sanford motioned that the Board remove the item from the table to continue discussion; seconded by William Priest.

DISCUSSION: None.

VOTE: UNANIMOUS APPROVAL (5/0)

Mr. Gray reviewed the materials that were submitted and explained that the most important item was the traffic study regarding the development. He continued that the DEP Storm Water Permit was held up because the vernal pools needed to be investigated within a certain window and then the DEP had to review the comments that were submitted. He continued that Chris Woodard of the DEP had explained that there was one comment that changed the order regarding the ownership of the Whittemore Cove Road. He concluded that the results of

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the DEP investigation were that there were no significant vernal pools and no knotting begonias.

Mr. Gray continued through the materials submitted and explained that a post and chain barrier had been added to provide separation for pedestrians and a sign to provide warning of people crossing.

Chairman O'Neill reminded the Board of the three standards that they were going to be looking at and recommended looking at #4 regarding habitats and wildlife first. Mr. Seymour stated that there were no significant vernal pools, but he was not sure if there were none and the question he had was regarding whether the Army Core would need to be involved if these wetlands were disturbed. Rick Jones, Jones Associates, stated that there were 2 locations for egg masses. One being away from the construction and the other along a ditch in the turn. It contained 6 egg masses, which were below the 20 to make it significant and it was not considered vernal because it was man-made. He explained that the knotting begonia was difficult to see and felt that they were underestimated. He stated that they were primarily found along the south facing slope. Mr. Seymour asked what would happen if these species were found while construction was happening, and Mr. Jones responded that these were a State threatened species, they were not on a federal list and there was no requirement to report.

MOTION: Greg Foster moved that the applicants submission would not have an adverse impact on spawning grounds, fish, aquatic life, wading bird or other wildlife habitat; seconded by William Priest.

DISCUSSION: None

VOTE: UNANIMOUS APPROVAL (5/0)

Mr. Gray asked if there were going to be anymore questions for Mr. Jones, and Chairman O'Neill stated that the Board was all set and they allowed him to leave.

Chairman O'Neill moved to Requirement #9, and Mr. Seymour explained that there were six standards regarding issues such as parking areas, water quality, stormwater, and roads. He felt that items of parking items were met. Mr. Sanford felt that #15 was a follow up to #14, regarding permitted uses. He explained that if there was a lack of clarity that the Planning Board had the right to look at the context of the ordinance language and if the project was within the context of the project. He also found that there was language within other ordinances that showed that the application was not allowed use. He read the allowed uses for the different districts in Raymond then read the definition for a public facility and stated that public facilities were not a listed allowed use with the Shoreland Zoning Provisions. Mr. Linne stated that the issue he had was that the ordinance did not define what municipal meant because Section 15e allowed for municipal and parking uses, but did not define the user. Ms. Costigan explained that she could not explain why public facility was omitted but parking facility was allowed in the Shoreland Zone. Mr. Sanford felt that that public facilities was not allowed, and Ms. Costigan explained that he was looking at another ordinance, which was an independent document, and municipal use was allowed in the Shoreland Zoning Provisions, which included a public governmental body. Chairman O'Neill explained that this topic had come up before, but the Board had decided earlier that this was an allowed use and parking

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was an allowed use in the ordinance.

Mr. Sanford felt that the ordinance was vague and that the term municipal was intended for the use of Raymond, and not to allow other governmental bodies to erect a public facility within their borders. Ms. Costigan stated that the SZP was a stand alone ordinance, and she would not include any of the other Town Ordinances in her analysis if the Board chose to have her research the topic further. She did not find it vague because it allowed municipal uses and parking facilities, therefore making the application allowable. Mr. Sanford felt that the application was a creating slippery slope, and Ms. Costigan assured him that the other criteria helped to create the scope and impact of the project. Mr. Priest asked if there was a way to look at the history from 2000, when the term was adopted. Ms. Costigan felt that sort of history would not exist, and Chairman O'Neill explained that the Board had been going through the ordinance to define terms that were not defined.

MOTION: Mr. Sanford motioned that the application should be denied because public facility was not listed as an allowed in the Shoreland Zone as it was found in other ordinances. No second.

DISCUSSION: Chairman O'Neill explained that the Board could not make a negative motion.

MOTION WITHDRAWN

MOTION: Bruce Sanford motioned to have another motion to determine if the application was valid from the new information

DISCUSSION: Chairman O'Neill explained that the Board could also table the application. Mr. Hanson explained that Frye Island had a Planning Board storage lot approved in 2006, when this topic also came up, and it was determined by Chris Vaniotis that it was an allowed use.

Chairman O'Neill called for a second on the motion and there was none.

MOTION FAILED

Mr. Linne asked for clarification on Site Plan Review, because they were not covered in the nine Shoreland Zoning Standards, and Mr. Seymour explained that they would be covered after the application was found to be in compliance with the Standards, but they were quite similar. Ms. Costigan explained the layout of the ordinance.

G. Parking Areas

Mr. Seymour suggested moving forward through Section G for parking items 1-3. Mr. Linne stated that he did not feel that the stormwater criteria had been met, and Mr. Seymour explained that it had already been discussed and approved. Mr. Linne responded that he did not feel that it had been discussed thoroughly, and Mr. Seymour explained that the Board had approved the stormwater criteria with the State's standards because the Town's were subjective. Mr. Linne felt that #9 was a stricter standard and was in conflict with a previous vote, and Mr. Seymour reminded him that it had already been discussed with a previous vote.

Mr. Linne referred to a document that indicated that the number of proposed parking spaces

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were going to be adequate and wanted to know where the data to support this estimate was, and Mr. Gray responded that it was speculative because the applicant did not know how the lot was going to be used once it was built. Mr. Linne was concerned that the spots were going to fill up quickly. Chairman O'Neill stated that the traffic study recommended 35 spots. Mr. Sanford agreed with Mr. Linne because he did not think that the data was collected during the peak uses. Mr. Gray explained that his traffic engineer had based his report on historical usage of the ferry and the demand. He explained that the uses would change over time based on the choices that people make. Mr. Linne felt that there was no design data.

Bill Eaton explained that the data was based on the number of parked cars found along the road during the summer of 2012. He continued that the queue analysis was based on the trips made during the peak weekends. He added that they could not anticipate the behavior of people in the future. Mr. Sanford stated that he was troubled with traffic study because there were only a couple weekends a year that parking and queuing were an issue within a few months of year. He added that the size should be appropriate for the usage and character of the need, and he felt that this parking lot was excessive for the queuing issue. He asked why Frye Island was not creating a parking lot on their side. Pat Cayer explained that the traffic issue was on the Raymond side.

Mr. Seymour asked the applicant about the parking management plan involving long term parking and lot management of who was allowed to park there and how long. He explained that the application was to alleviate queuing but the usage will change as people become aware of it and was concerned that the same situation would occur once the parking lot filled up. Mr. Seymour disagreed with the suggestion that Frye Island should build a parking lot on their side because the terminal would need to be expanded, which was not allowed in Shoreland Zone.

Mr. Gray reminded the Board that they were not suppose to redesign the project but to review the application before them. Mr. Sanford explained that they were supposed to review context when language was vague.

Mr. Seymour continued that enforcement would fall upon Frye Island if the parking lot filled and, therefore, a management plan was necessary.

Mr. Linne wanted to know if the Frye Island residents had been polled to see if they would use a parking facility if one was built in Raymond. He was concerned that there was one only space for every eleven (11) homes and that the lot may be undersized. Mr. Gray felt that the number of spaces had been covered with the traffic study that used historical information, and that it was designed to their best estimate of need.

Mr. Sanford explained that there was a submission from another traffic engineer who suggested that there was a better design, but he did not know which set of information was more credible.

Chairman O'Neill ask Barb Lovell (77 Wild Acres) to answer some questions about a traffic count that she had conducted and was submitted to the Board. He asked how many times there were cars stacked out of the terminal into the roadway, and she responded that there was not once in the 50 hours of counting that involved cars bleeding out into traffic on Cape Road. He asked if she rarely found parked cars and she said that there were times when there

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were cars parked but it was not often.

Chairman O'Neill explained that the struggle has been to determine if the lot was adequate for the use and if there would need to be future expansion. He did not find that the data submitted by Ms. Lovell was subjective. Mr. Gray concluded that Ms. Lovell's data was inferring that that the existing parking was adequate, but he disagreed that they did not have a basis for creating the lot because they had presented historical data that indicated a need and that they had done a reasonable job showing that.

Mr. Sanford asked if Mr. Seymour had discussed alternatives, and Mr. Seymour responded that he had but the applicant had expressed concerns with the traffic flow. He then reminded the Board that they were evaluating the applicant's design and pointed out that parking along Cape Road would be eliminated with the creation of the lot. He explained that, in terms of parking, the applicant had provided an engineering estimate and that was all required and expected by the ordinance.

MOTION: Greg Foster made a motion that the applicant is in conformance with #15.

DISCUSSION: Mr. Seymour explained that they were still going through the standards and were only on one out of six.

WITHDRAWN

Chairman O'Neill explained if they were not going to pass the standard then they needed to give guidance about what was needed from the applicant. He felt that the biggest hang up for him was the size of the lot and if it was necessary for the use.

MOTION: Greg Foster made a motion that the applicant was in conformance with the requirements of item 15.G; seconded by William Priest.

DISCUSSION: Bruce Sanford explained that, based on the testimonies from the public and the traffic engineer, he could not determine who was right. Chairman O'Neill asked if there was a qualifier for him, and Mr. Sanford was not sure there was information that could help unless it was built. Mr. Seymour reminded them that the information submitted by Ms. Lovell had not been reviewed by the applicant and the submissions were not made by qualified individual. Mr. Linne stated that he was an engineer and felt there needed to be more data than one weekend count and hearsay. He suggested a survey of the residents to determine potential use, and Mr. Seymour responded that usage could change over time and that would be managed and enforced by Frye Island because they could choose to eliminate long term parking. Chairman O'Neill reminded Mr. Seymour that the Board had also asked the applicant for comparable data from existing facilities. Mr. Priest stated that there were no management plans for parking and felt that they should define how the spots were going to be used.

Mr. Eaton stated that he had been a traffic engineer for 40 years and done several traffic studies on one day counts because they rely on people behaving in a consistent way. Mr. Seymour asked Mr. Eaton if it would be unreasonable to compare the proposed use to another existing facility, and he responded that would be appropriate if they could find a comparable community that involved a population of seasonal residents. Chairman O'Neill asked if it would be possible to quantify results for other areas based on trips made by seasonal and year

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round residents for areas that we not strictly seasonal like Frye Island. Mr. Eaton explained that would have to happen in order to make the data work. Mr. Seymour agreed that a comparable area would have to be seasonal population with a car ferry and felt Cushing's Island may work.

Mr. Gray stated that the proposed parking lot was reasonable based on the current use and historical data. He ensured that they would use management techniques to control usage.

VOTE: MOTION FAILED (2/3 [WP SL BS])

Chairman O'Neill asked what the Board wanted to see in order to satisfy their concerns.

- Mr. Linne wanted a survey of the residents and to see data from Cushing's Island.
- Mr. Priest did not feel that the applicant had justified the size.
- Mr. Sanford also wanted to have a survey sent to all the Frye Island residents and have the results in a report.
- Mr. Priest wanted a management plan of the spaces.

Mr. Seymour asked the Board what should be included in the survey. Mr. Linne suggested that the residents be asked: if residents had access to a parking lot, would they use it, how would they use it and when would they use. Mr. Seymour cautioned about comparing to another area that was similar because they were past the peak season. Mr. Linne stated that he to see a correlation between the number of queued cars waiting for ferry rides to spots in the proposed lot. Mr. Seymour wanted to see a management plan that also addressed where the people go when the lot was full, and Chairman O'Neill added to the suggestion that the management plan that would be recorded at the Registry to give the Town of Raymond more power over reacting to usage and wanted to see language about a monitor. Mr. Seymour added that he also wanted there to be a one year contingency to monitor how the lot was working out, including use of the drop off area, but the question would be what was the consequence if it was not working out.

Chairman O'Neill suggested moving through the remaining standards.

H. Roads and Driveways

Mr. Sanford agreed that the design met the standards. Chairman O'Neill had some concerns about #7 regarding drainage. Mr. Seymour reminded the Board that the motion was that they acknowledged the Stormwater Permit as created by the DEP. Chairman O'Neill asked if the Board had to accept the standard if related criteria had been approved previously. Ms. Costigan read the previous motion that determined that the design was sufficient in this criteria, even if there minute details that conflicted. Mr. Seymour reminded them that there was not specific standard regarding the criteria but it had met DEP's standard and had even added a couple additional buffers.

MOTION: Bruce Sanford motioned to combine requirements H, J, S, R &T, because they had been previously been met (Shoreland Zoning Standard#3); seconded by Greg Foster.

DISCUSSION: None.

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VOTE: UNANIMOUS APPROVAL (5/0)

The Board returned to Shoreland Zoning Standard #1- “Will maintain safe and healthful conditions”

Mr. Seymour summarized the changes to the proposal including: blinking lights to warn drivers of pedestrians crossing; added curbing for separation; adding chain and post because of drainage impacts; the pedestrian crossing was been made perpendicular; drop off area had been lengthened. Mr. Seymour was also recommending the condition that there be a one year trial for monitoring. He also suggested a bond to ensure that the drop off was sufficient and wanted there to be prevention from someone parking on the paved shoulder before the drop off. He also was considering lighting at the entrance. Mr. Sanford suggested that the lot be restricted to seasonal, and Mr. Seymour agreed except felt that there should be a street light installed at the convergence of the 3 roads. Mr. Cayer disagreed because he felt that it was a Town issue, and Mr. Seymour clarified that it was not unreasonable to ask an applicant to make improvements especially when their project impacted the safety and usage of the area.

Mr. Gray clarified where the street lights were suggested and felt that light pollution had been raised as a concern and the proposed lighting was for illumination of lot but remove the potential for light pollution of the residential areas. He continued that he felt that the times that when the lot was in use there would be sufficient sunlight and street lights would not be necessary. Mr. Gray also suggested removable bollards that would not impact seasonal plowing, and Mr. Seymour felt that the radius could also be increased to improve safety.

Mr. Sanford wanted to know when there would be monitoring in place; how are they going to assert monitoring; what would be the required training of the monitor; and if there was going to be monitoring, then Frye Island agrees that the Raymond would not be liable for anything that resulted from the design. Ms. Costigan explained that the Town was protected by the Maine Torte Law making the Town immune. Mr. Gray explained that they proposed monitoring every weekend, but Mr. Linne pointed out that they would need to adjust that as they see fit. Mr. Gray felt that was reasonable language to include because Frye Island did not want to create an unsafe situation, and the person who would be there would be a trained individual from a third party traffic control organization every weekend from Memorial Day to Labor Day. He continued that the individual would divert traffic through the parking loop as traffic backed up. In addition, Mr. Gray stated that they would call upon or relieve the individual as the need, or lack of, presented itself. Mr. Seymour stated that it had been discussed before agrees that the revised improvements should be collected and put on the plans as requirements to remain in the record.

Chairman O'Neill wanted to know why the applicant needed the whole loop because it had been pointed out that there was not adequate site distance, and Mr. Seymour reminded them that that concern had been addressed during the site walk. Chairman O'Neill felt that cars could take a left into the lot and then cross the Cape Road on to the Ferry Road, and Mr. Gray felt that was not feasible because an individual would not know if there were cars backed up until they past Ferry Road. He also suggested that it would be difficult knowing which cars were going through and those going to ferry and felt confident that the monitor would control who would need to complete the loop . Mr. Seymour added that the site distance heading toward the ferry was not enough for cars to stop and turn left without the risk of being rear-ended by another oncoming car. Mr. Sanford suggested that there be a sensor installed

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that would indicate that the queue was full and traffic would have to divert.

Mr. Linne reiterated that the safety standard was that the applicant had to create a design that was safe or safer than the existing, and, by their own admission, they stated there had been no major accidents in 50 years. He felt that is more prudent to approve the project in phases where the intersection would come later. Mr. Priest stated that he was concerned with the design.

Mr. Gray stated that he was concerned with the Board redesigning the project. Chairman O'Neill stated that the Board did not like the design and it would fail as it currently stood. They were trying to recommend modifications that may improve the likelihood of the project getting approved.

Mr. Cayer wanted to know if the project met the ordinance requirements, and Chairman O'Neill stated that the safety requirements were of concern. Mr. Cayer felt that the Board was just making subjective requirements and want specifics, and Chairman O'Neill explained that there were items of concern that kept being brought up but the same came design kept being presented. Mr. Gray explained the methods that they had employed to address the concerns that had been raised, including conducting another traffic study and engineered to meet safety requirements. He felt that their concept was not being evaluated appropriately. He felt they were trying to remove the parking lot, and Mr. Linne reiterated that he felt that the intersection was the primary concern and the other Board members agreed. Mr. Gray stated that he did not understand why the Board did not trust a traffic engineer, and Mr. Linne explained that the known data was that there were no accidents for that area versus an intersection that may create a hazardous situation.

Chairman O'Neill stated that he was going to survey the Board regarding lighting. He felt that there should be no lighting at the intersection of the three roads because it would be intrusive to the residents. Mr. Linne said that he wanted to defer to Public Works regarding the street lighting. Mr. Foster said that that it should be left alone. Chairman O'Neill concluded that the Board agreed that the lighting should be left alone.

Mr. Linne asked the applicant what would happen if the parking lot was full, and Mr. Gray suggested that someone would find a space within the lot along the edge where the double queue lane was because it would not be used that often. Mr. Sanford asked why the feature was there if it was not necessary, and Mr. Gray explained that it was to added to address a previous Board concern.

Mr. Gray clarified the Board's requirements. Mr. Seymour wanted to know if they were trying to remove a factor from the intersection, and the Board agreed because they did not want to see the combination of queuing/crossing cars and crossing pedestrians.

MOTION: William Priest moved to table the application; seconded by Steve Linne.

DISCUSSION: None.

VOTE: UNANIMOUS APPROVAL (5/0)

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4. Planner Communications

Mr. Seymour reminded the Board about the Ordinance Workshop the following week that would address parking standards.

5. Adjournment

MOTION: Steve Linne motioned to adjourn; seconded by Greg Foster.

VOTE: UNANIMOUS APPROVAL (5/0)

Chairman Robert O'Neill adjourned the meeting at 9:57pm.

Danielle Loring
Recording Secretary