

TOWN OF RAYMOND

Zoning Board of Adjustment Agenda

March 22, 2023

Raymond High School, Room 109, 45 Harriman Hill Rd.

7:30 pm

Public Announcement

*If this meeting is canceled or postponed for any reason the information can be found on our website, posted at Town Hall, Facebook Notification, and RCTV. **

1. Pledge of Allegiance

2. Public Hearing-

Application 2023-001- Application 2023-001: An application for a variance has been submitted to the Raymond Zoning Board of Adjustment by Cronin, Bisson & Zalinsky on behalf of Cynthia C Nye Revocable Trust, Cynthia C Nye, TTEE. The intent of the application is to request a variance from Article 15, Section 15.1 minimum frontage in Zone B (200'). The property is identified as Raymond Tax Map 19, Lots 3 & 5 ,197 Lane Road and both in Zone B.

3. Approval of Minutes

- 11/16/2022

4. Other Business

- Staff Updates –
- Board Member Updates
- Any other business brought before the board-

TOWN OF RAYMOND

Zoning Board of Adjustment Agenda

March 22, 2023

Raymond High School, Room 109, 45 Harriman Hill Rd.

7:30 pm

5. Adjournment of Public Meeting (NO LATER THAN 10:00 P.M.)

2023 PUBLIC HEARING DATES AND APPLICATION DEADLINES

BOARD OF ADJUSTMENT (Public Hearing- 4 th Wednesday)	
Public Hearing Date	Application Deadline
March 22, 2023	February 22, 2023
April 26, 2023	March 22, 2023
May 24, 2023	April 26, 2023
June 28, 2023	May 24, 2023
July 26, 2023	June 28, 2023
August 23, 2023	July 26, 2023
September 27, 2023	August 23, 2023
October 25, 2023	September 27, 2023
November 15, 2023**	October 25, 2023
December 27, 2023	November 15, 2023
January 24, 2024	December 27, 2023

NOTICE MEETING DATE CHANGE DUE TO NIGHT BEFORE HOLIDAY

Note: If you require audio or visual aids, please contact the Selectmen's Office at least 72 hours prior to the meeting. If this meeting is postponed for any reason, it will be held on a date TBD.



TOWN OF RAYMOND

Community Development Department
Office of Planning & Zoning
4 Epping Street
Raymond, NH 03077

Tel: (603) 895-4735
Fax: (603) 895-0903
<http://www.raymondnh.gov>

Application for a Variance

Site Information

Property Address: 197 Lane Road, Raymond, NH

Map #: 019 Lot #: 003 and 005

Property Owner Information

Name: Nye, Cynthia C. Revocable Trust Cynthia C. Nye Phone: c/o Council 603-624-4333

Address: 112 Lane Road

Address: Candia, NH 03034

Applicant/Agent Information

Name: Cronin Bisson & Zalinsky Phone: 603-624-4333

Address: 722 Chestnut Street

Address: Manchester, NH 03104

Complete the Following

197-15-1-B Area and Dimensional Tables

A variance is being requested from Article _____, Section _____ of the Town of Raymond Zoning

Ordinance in order to See attached

Facts in Support of Granting the Variance (if more space is needed, attach additional sheets)

1) Granting a variance would not be contrary to the public interest because: See attached

2) Granting a variance would be consistent with the spirit of the ordinance because: See Attached

3) Granting a variance would do substantial justice because: See attached

4) Granting a variance would not diminish the values of surrounding properties because: See attached

5) Owing to the special conditions of the property that distinguish it from other properties in the area, literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because...

a. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

See attached

b. The proposed use is a reasonable one because:

See attached

6) If you cannot provide a response establishing the criteria in 5(a) and 5(b) above, explain how an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of the property.

**ZONING BOARD OF ADJUSTMENT
Town of Raymond
Variance Application**

**Owner/Applicant: Nye, Cynthia C. Revocable Trust, Cynthia C. Nye, Trustee
Property: 197 Lane Road, Raymond, NH 03077; Map 19 Lot 3 and Lot 5**

BACKGROUND

The Applicant is the owner of 2 parcels of land located at 197 Lane Road in Raymond, New Hampshire, Tax map 19, Lot 3 and Lot 5. The Applicant seeks to create four building lots of proper size and construction that arguably lack frontage resulting from a conveyance to an electric power utility company for the purpose of maintaining utility lines. The conveyance was made by a deed, dated, September 18, 1968, that is attached hereto and incorporated by reference.

The conveyance has all the earmarks of a typical utility easement but the title to the document, and the granting language are similar to a transfer of fee simple proper rights. Regardless of the legal nature of the conveyance, the intent is the same being to provide the utility with rights to install, maintain and repair the utility lines while preserving the use of the land for the benefit of the applicants. The Applicant could seek a Declaratory Judgment or file a Petition to Quiet Title. However, the Applicant contends that pursuing litigation is a waste of time and money as there is no desire or intent to disturb the rights of the utility. A factor weighing heavily in favor of an easement is that the land was never subdivided to create an independent lot that could be conveyed in fee simple.

In any case, the right of access is reserved to the Applicant. The purpose of frontage in any zoning ordinance is to provide distance between properties for aesthetic reasons and fire safety. Also, frontage is a factor to maintain proper distance between driveways to provide safe motoring movements. In this case, the frontage will have the same benefits regardless of the ownership interest. The relief is to allow four, otherwise conforming, lots for the development of single-family residences. The driveways, two servicing four lots, will provide adequate sight distance and safe maneuvering distances.

RELIEF REQUESTED

The Applicant requests variances from Section 197-15-1-B, Area and Dimensional Tables, to relax the frontage requirements to allow four single family residential lots.

VARIANCE CRITERIA

1. Granting the variance would not be contrary to the public interest because:

The land use proposed is residential and residential uses are allowed in the Zoning District B, Residential/Agricultural. The public interest and spirit of the ordinance prongs can be satisfied by showing that the essential character of the neighborhood is not changed in a substantial way. Here, the residential use is compatible with the neighborhood. The use also advances the public interest by the use of the property to its highest and best use and the generation of additional tax base.

2. If the variance were granted, the spirit of the ordinance would be observed because:

The spirit of the ordinance calls for single family residential development. The proposed use is residential. The objectives of the frontage requirements will be satisfied as the lots are of proper size, the setbacks will be honored to meet the aesthetic and safety goals of the ordinance and the driveways will meet all applicable standards and safeguards for safe use.

3. Granting the variance would do substantial justice because:

The balancing test falls in favor of the Applicant. If the variances are not granted, the Applicant will be harmed by the loss of the productive use of the property. The general public will gain nothing from a denial of the variance. Denial of the variance will also result in condemnation for which the taxpayers must pay just compensation.

4. Granting the variance will not diminish the value of surrounding properties.

The residential uses will be new and provide much needed housing to the community and market. The grant of the variances will not diminish the market value of surrounding properties. If anything, new housing will provide a lift in market value for other properties in the area.

5. Literal enforcement of the provisions of the Ordinance would result in unnecessary hardship.

The property has special conditions in that rights were granted to the utility for public purposes and the technical rights to frontage are hazy. As the frontage goals will be satisfied in this project, there is no fair and substantial relationship between the zoning requirement

for frontage and this project, and denial of a variance will result in an unnecessary burden on the applicant.

A. Owing to the special conditions of the property, set forth above, that distinguish it from other properties in the area:

- (i) **No fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property because:**

The public purposes of safety and aesthetic continuity with the surrounding neighborhood will not be hindered in any way by the grant of this variance. The area is zoned for single family residential development, which is consistent with the planned development. The proposed lots exceed the minimum size requirements, the setbacks will be observed to meet the aesthetic and safety goals of the ordinance, and the driveways will meet all applicable standards and safeguards for safe use.

- (ii) **The proposed use is a reasonable one because:**

The intended use is a reasonable one because the applicant proposes to build single family homes in an area zoned for single family residences and such use will not be possible without a variance from the strict regulation. If allowed, the proposed use is reasonable because it preserves the essential character of the neighborhood and meets the public safety concerns of the ordinance.

B. In the alternative, owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:

Without a variance, strict adherence to the zoning regulations will deprive the owner of the economically viable use of their property, which meets the hardship standard and may constitute an unconstitutional taking. As such, a variance is therefore necessary to enable the owner to utilize the property and a denial of the variance would result in an unreasonable and unnecessary burden on the applicant.

1955 076

EDWARD G. HOVNIANIAN, unmarried

of West Roxbury, County of Suffolk
 in The ~~State of Massachusetts~~ Commonwealth of Massachusetts
 (hereinafter called the Grantor(s), which term includes the heirs, successors, and assigns of the Grantor(s)) for consideration paid, grant(s) to Public Service Company of New Hampshire, a corporation having its principal place of business at 1087 Elm Street, Manchester, in the County of Hillsborough, in The State of New Hampshire (hereinafter called the Grantee, which term includes the successors and assigns of the Grantee), with Quitclaim covenants, a parcel of land in the town ~~of~~ Raymond & Candia, County of Rockingham in The State of New Hampshire. bounded and described as follows:

Beginning at a corner of stone walls in the easterly line of Lane Road, so-called, in the town of Raymond at land of Doyle; thence,
 North 20°-West along the easterly line of said Lane Road, so-called, 383 feet to a concrete bound; thence,
 North 15° East along land of Grantor crossing the Town line between Raymond and Candia into Candia, a total distance of 2410 feet, more or less, to an iron pin in a stone wall at land of Vetromile; thence,
 Southeasterly by said stone wall and land of Vetromile, 280 feet, more or less, to an iron pin; thence,
 South 15° West along land of Grantor again crossing the town line between Candia and Raymond into Raymond, a total distance of 2605 feet, more or less, to an iron pin in a stone wall at land of said Doyle; thence,
 South 61°-30' West along said stone wall and land of Doyle, 73 feet, more or less, to said corner of stone walls at point of beginning.

Land as shown on Plan # 345-118 entitled "Land purchased from E. G. Hovnianian in the Town of Raymond & Candia, N. H.," dated September 11, 1968, to be recorded herewith.

Being a part of the premises of the Grantor(s) described in deed of Gladya S. Smith, et ux. to Edward G. Hovnianian, dated June 18, 1964 and recorded in the Rockingham County Registry of Deeds, Book 1721, Page 447

Excepting and reserving to the Grantor(s) the right to cross and recross said land on foot and with vehicles in a manner and in locations which will not interfere with any use that the Grantee may hereafter make of the land in carrying on its business as a public utility.

Also excepting and reserving to the Grantor(s) the right to use said land for agricultural purposes at the sole risk of the Grantor(s), but this reservation shall not include the right to grow trees or to erect or maintain buildings or other structures on the land. The right hereby reserved is subject to the Grantee's right to use the land as it may desire at all times, including the right to clear and keep clear the land of all trees and underbrush by such means as the Grantee may select and to remove all structures or obstructions found on the land.

The Grantor(s) hereby release(s) the Grantee from any and all claims, present and future, of the Grantor(s) against the Grantee arising out of the use of the land by the Grantor(s). The Grantee, however, will pay for any damage to crops during construction or maintenance of its transmission lines.

There is reserved to the Grantor(s) for a period ~~of~~ until 11-1-68 from the date hereof the right to enter at any time or times to cut and remove all standing wood and timber located upon the land hereby conveyed but at the termination of said period, all right, title and interest of the Grantor(s) in and to the standing wood and timber and the Grantor's right to enter to cut and remove shall terminate.

FORM 6038 7/68



N.N
 Tax
 Stamp
 \$5.20

MAR 11 11 30 AM '69

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1955 077

~~release to said Grantee an rights of dower, curtesy and homestead and other interest therein.~~

WITNESS my hand and seal this 18th day of Sept, 1968

In the presence of

James E. Taylor

Edward G. Hovnanian

Commonwealth of Massachusetts

~~The State of New Hampshire~~

Suffolk SS.
Sept 18, 1968

Before me, the undersigned officer, personally appeared Edward G. Hovnanian, unmarried

and acknowledged the foregoing instrument to be his voluntary act and deed.

James E. Taylor
Notary Public

Justice of the Peace

My Commission Expires DEC. 23, 1970

Before me, the undersigned officer, personally appeared

~~SS.~~

~~19~~

~~and acknowledged the foregoing instrument to be voluntary act and deed.~~

~~Notary Public
My Commission Expires:~~

~~Justice of the Peace~~

PARTIAL RELEASE OF MORTGAGE

For value received, Amoskeag Savings Bank of Manchester, N. H. mortgagee under and holder of a certain mortgage from Edward G. Hovnanian dated June 18, 1964 and recorded in the Rockingham County Registry of Deeds, Book 1721, Page 448, does hereby release and discharge from said mortgage the lands herein described. Said mortgage shall remain in full force and effect as to the remainder of the premises described therein.

Dated this 21st day of October, 1968

Witness: Philip B. Holmeap

Louis C. Cheehey

The State of New Hampshire
Hillsborough SS.
Oct 21 1968

Before me, the undersigned officer, personally appeared Louis C. Cheehey, Vice President of Amoskeag Savings Bank

and acknowledged the foregoing instrument to be his voluntary act and deed.

Philip B. Holmeap
Notary Public

Justice of the Peace

My Commission Expires:

15909

1936 338

TOWN OF CANDIA

New Hampshire 03034

OFFICE OF THE SELECTMEN

PLANNING BOARD APPROVAL

UNDER REVISED STATUTES ANNOTATED 36:19-29

OCT 23 10 37 AM '68

The undersigned Planning Board of the Town (City) of Candia County of Rockingham, State of New Hampshire, having been delegated the power of subdivision regulation under R.S.A. 36:19-29, and having reviewed the proposed purchases, by Public Service Company of New Hampshire, of lands in said Town (City) for the construction of its new 345 K V transmission lines crossing said State, with particular attention to said Company's survey plan copies proposed to be recorded with the deeds for such purchases, do hereby accept said Company's representations that only existing public highways are intended to be approximated on such plans for the sole purpose of locating the survey limits as they abut or cross such highways, that courses and distances shown on such plans are intended only to circumscribe the particular parcel conveyed, and that it is not intended by any such data to assert any subdivision qualifications of street, or lots, such as said statute is intended to control.

WHEREFORE, to abate any real or assumed obstacle to the recording of such plans under said statute, and to absolve any cognizant register of deeds from any penalties otherwise provided under Section 28 thereof, we do hereby grant our general approval of such plans for recording, provided that such lands are used only for the construction and maintenance of said transmission lines.

PLANNING BOARD

By

Paul E. Sargeant
Paul Sargeant Chairman

June 11 1968

LETTER OF AUTHORITY/PERMISSION

The undersigned, being the owner of the property known as 197 Lane Road, Raymond, Reference Number 019-000-005-000, hereby grants authority and consent to my attorneys, Cronin, Bisson & Zalinsky, P.C., to sign and file a variance application and any related materials on my behalf and deliver the same to the Town of Raymond, represent me at any hearing(s) concerning these applications, and perform all other necessary actions in connection with such application.

Witness its hand this 1st day of FEBRUARY, 2023

By: Cynthia C. Nye, trustee
Cynthia C. Nye, Trustee, Cynthia C. Nye Revocable Tr

STATE OF NEW HAMPSHIRE

COUNTY OF HILLSBOROUGH

On this 1st day of FEB, 2023 personally appeared, Cynthia C. Nye who acknowledged the foregoing to be his voluntary act and deed.

[Signature]

Notary Public / Justice of the Peace

My Commission Expires: 12/21/2027





100 feet Abutters List Report

Raymond, NH
January 30, 2023

Subject Property:

Parcel Number: 019-000-005-000
CAMA Number: 019-000-005-000-000
Property Address: 197 LANE ROAD

Mailing Address: NYE, CYNTHIA C. REVOCABLE TRUST
CYNTHIA C. NYE / TRUSTEE
112 LANE ROAD
CANDIA, NH 03034

Abutters:

Parcel Number: 013-000-001-000
CAMA Number: 013-000-001-000-000
Property Address: 180 LANE ROAD

Mailing Address: CASTLE, ASHLEY E.
180 LANE ROAD
RAYMOND, NH 03077

Parcel Number: 013-000-003-000
CAMA Number: 013-000-003-000-000
Property Address: TRANSMISSION LINES

Mailing Address: PUBLIC SERVICE CO OF N H DBA/
EVERSOURCE ENERGY
PO BOX 270
HARTFORD, CT 06141-0270

Parcel Number: 013-000-005-000
CAMA Number: 013-000-005-000-000
Property Address: 185 LANE ROAD

Mailing Address: COOK, ANDREW T.
185 LANE ROAD
RAYMOND, NH 03077

Parcel Number: 014-001-005-000
CAMA Number: 014-001-005-000-000
Property Address: 181 LANE ROAD

Mailing Address: BOUCHER, RONALD J ELIZABETH ANN
BOUCHER
181 LANE ROAD
RAYMOND, NH 03077

Parcel Number: 014-001-006-000
CAMA Number: 014-001-006-000-000
Property Address: 179 LANE ROAD

Mailing Address: KOONTZ, STEVEN & MERRILL
179 LANE ROAD
RAYMOND, NH 03077

Parcel Number: 014-001-007-000
CAMA Number: 014-001-007-000-000
Property Address: 175 LANE ROAD

Mailing Address: BREWITT, MIGUEL J & DENISE A
175 LANE ROAD
RAYMOND, NH 03077

Parcel Number: 019-000-004-000
CAMA Number: 019-000-004-000-000
Property Address: TRANSMISSION LINES

Mailing Address: PUBLIC SERVICE CO OF N H DBA/
EVERSOURCE ENERGY
PO BOX 270
HARTFORD, CT 06141-0270

Parcel Number: 020-000-019-000
CAMA Number: 020-000-019-000-000
Property Address: GREEN ROAD

Mailing Address: G&D REVOCABLE TRUST GREGG
ADJUTANT & DEBORAH PARK / CO-
TRUSTEES
4 KELLIE LANE
RAYMOND, NH 03077

Parcel Number: 020-000-020-000
CAMA Number: 020-000-020-000-000
Property Address: 126 GREEN ROAD

Mailing Address: RICHARDSON, JAMES K.
126 GREEN ROAD
RAYMOND, NH 03077

Parcel Number: 020-000-021-000
CAMA Number: 020-000-021-000-000
Property Address: 128 GREEN ROAD

Mailing Address: JOHNSON REVOCABLE TRUST ERIC &
LAURIE JOHNSON / TRUSTEES
128 GREEN ROAD
RAYMOND, NH 03077



www.cai-tech.com

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100 feet Abutters List Report

Raymond, NH
January 30, 2023

Parcel Number: 020-000-022-000
CAMA Number: 020-000-022-000-000
Property Address: 132 GREEN ROAD

Mailing Address: SHINER, PAUL H. & PATRICIA A.
LYNETTE & JEFFREY COTE
132 GREEN ROAD
RAYMOND, NH 03077

Parcel Number: 020-000-024-000
CAMA Number: 020-000-024-000-000
Property Address: GREEN ROAD

Mailing Address: 34 LANE ROAD, LLC
63 LANE ROAD
CANDIA, NH 03034

Parcel Number: 20-14-1-28
Property Address:

Mailing Address: River Valley Development Corp.
9 Patriot Drive
Dover, NH 03802

Parcel Number: 414-146
Property Address: 34 Lane Road

Mailing Address: 34 Lane Road, LLC
63 Lane Road
Candia, NH 03034

Parcel Number: 19-3
Property Address:

Mailing Address: Cynthia C. Nye Revocable Trust
Cynthia C. Nye, Trustee
112 Lane Road
Candia, NH 03034

Parcel Number: 19-2
Property Address:

Mailing Address: Town of Raymond
4 Epping Street
Raymond, NH 03077

Parcel Number: 19-1
Property Address: 184 Lane Road

Mailing Address: Ryan Cronan
184 Lane Road
Raymond, NH 03077

Parcel Number: 414-151
Property Address: Crowley Road

Mailing Address: Town of Candia
74 High Street
Candia, NH 03034

Parcel Number: 414-147-141
Property Address: Lane Road, OFF

Mailing Address: Lorraine A. Dufresne, Trustee
Lorraine A. Dufresne Revocable Trust
BOX 35
Bath, NH 03740

Parcel Number: 414-147
Property Address:

Mailing Address: Liberty Woods, LLC
724 East Industrial Park Drive
Manchester, NH 03109

Parcel Number: 414-148

Mailing Address: Cynthia C. Nye Revocable Trust
112 Lane Road
Candia, NH 03034

Cronin Bisson & Zalinsky
722 Chestnut Street
Manchester, NH 03104

Jones and Beach Engineers, Inc.
85 Portsmouth Ave.
PO BOX 219
Stratham, NH 03885



www.cai-tech.com

1/30/2023

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34 LANE ROAD, LLC
63 LANE ROAD
CANDIA, NH 03034

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63 LANE ROAD
CANDIA, NH 03034

34 LANE ROAD, LLC
63 LANE ROAD
CANDIA, NH 03034

BOUCHER, RONALD J
ELIZABETH ANN BOUCHER
181 LANE ROAD
RAYMOND, NH 03077

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ELIZABETH ANN BOUCHER
181 LANE ROAD
RAYMOND, NH 03077

BOUCHER, RONALD J
ELIZABETH ANN BOUCHER
181 LANE ROAD
RAYMOND, NH 03077

BREWITT, MIGUEL J & DENIS
175 LANE ROAD
RAYMOND, NH, 03077

BREWITT, MIGUEL J & DENIS
175 LANE ROAD
RAYMOND, NH, 03077

BREWITT, MIGUEL J & DENIS
175 LANE ROAD
RAYMOND, NH, 03077

CASTLE, ASHLEY E.
180 LANE ROAD
RAYMOND, NH 03077

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180 LANE ROAD
RAYMOND, NH 03077

CASTLE, ASHLEY E.
180 LANE ROAD
RAYMOND, NH 03077

COOK, ANDREW T.
185 LANE ROAD
RAYMOND, NH 03077

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RAYMOND, NH 03077

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RAYMOND, NH 03077

G&D REVOCABLE TRUST
GREGG ADJUTANT &
DEBORAH PARK, TEES
4 KELLIE LANE
RAYMOND, NH 03077

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GREGG ADJUTANT &
DEBORAH PARK, TEES
4 KELLIE LANE
RAYMOND, NH 03077

JOHNSON REVOCABLE TRUST
ERIC AND LAURIE JOHNSON / T
128 GREEN ROAD
RAYMOND, NH 03077

JOHNSON REVOCABLE TRUST
ERIC AND LAURIE JOHNSON / T
128 GREEN ROAD
RAYMOND, NH 03077

JOHNSON REVOCABLE TRUST
ERIC AND LAURIE JOHNSON / T
128 GREEN ROAD
RAYMOND, NH 03077

KOONTZ, STEVEN & MERRILL
179 LANE ROAD
RAYMOND, NH 03077

KOONTZ, STEVEN & MERRILL
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RAYMOND, NH 03077

KOONTZ, STEVEN & MERRILL
179 LANE ROAD
RAYMOND, NH 03077

PUBLIC SERVICE CO OF NH
DBA/EVERSOURCE ENERGY
PO BOX 270
HARTFORD, CT 06141-0270

PUBLIC SERVICE CO OF NH
DBA/EVERSOURCE ENERGY
PO BOX 270
HARTFORD, CT 06141-0270

PUBLIC SERVICE CO OF NH
DBA/EVERSOURCE ENERGY
PO BOX 270
HARTFORD, CT 06141-0270

RICHARDSON, JAMES K.
126 GREEN ROAD
RAYMOND, NH 03077

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126 GREEN ROAD
RAYMOND, NH 03077

RICHARDSON, JAMES K.
126 GREEN ROAD
RAYMOND, NH 03077

SHINER, PAUL H. & PATRICIA
LYNETTE & JEFFREY COTE
132 GREEN ROAD
RAYMOND, NH 03077

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LYNETTE & JEFFREY COTE
132 GREEN ROAD
RAYMOND, NH 03077

RIVER VALLEY
DEVELOPMENT CORP
9 PATRIOT DRIVE
DOVER, NH 03802

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9 PATRIOT DRIVE
DOVER, NH 03802

RIVER VALLEY
DEVELOPMENT CORP
9 PATRIOT DRIVE
DOVER, NH 03802

LORRAINE A DUFRESNE, TEE
LORRAINE A DUFRESNE
REVOCABLE TRUST
PO BOX 35
BATH, NH 03740
JONES & BEACH ENGINEERS
PO BOX 219
STRATHAM, NH 03885

LORRAINE A DUFRESNE, TEE
LORRAINE A DUFRESNE
REVOCABLE TRUST
PO BOX 35
BATH, NH 03740
JONES & BEACH ENGINEERS
PO BOX 219
STRATHAM, NH 03885

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PO BOX 35
BATH, NH 03740
JONES & BEACH ENGINEERS
PO BOX 219
STRATHAM, NH 03885

CRONIN BISSON & ZALINSKY
722 CHESTNUT STREET
MANCHESTER, NH 03104

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MANCHESTER, NH 03104

CRONIN BISSON & ZALINSKY
722 CHESTNUT STREET
MANCHESTER, NH 03104

NYE, CYNTHIA C. REV TRUST
CYNTHIA C. NYE / TRUSTEE
112 LANE ROAD
CANDIA, NH 03034

NYE, CYNTHIA C. REV TRUST
CYNTHIA C. NYE / TRUSTEE
112 LANE ROAD
CANDIA, NH 03034

NYE, CYNTHIA C. REV TRUST
CYNTHIA C. NYE / TRUSTEE
112 LANE ROAD
CANDIA, NH 03034

RYAN CRONAN
184 LANE ROAD
RAYMOND, NY 03077

RYAN CRONAN
184 LANE ROAD
RAYMOND, NY 03077

RYAN CRONAN
184 LANE ROAD
RAYMOND, NY 03077

TOWN OF CANDIA
74 HIGH STREET
CANDIA, NH 03034

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CANDIA, NH 03034

TOWN OF CANDIA
74 HIGH STREET
CANDIA, NH 03034

LIBERTY WOODS, LLC
724 EAST INDUSTRIAL PARK
DRIVE
MANCHESTER, NH 03109

LIBERTY WOODS, LLC
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DRIVE
MANCHESTER, NH 03109

LIBERTY WOODS, LLC
724 EAST INDUSTRIAL PARK
DRIVE
MANCHESTER, NH 03109

TOWN OF RAYMOND
4 EPPING STREET
RAYMOND, NH 03077

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RAYMOND, NH 03077

TOWN OF RAYMOND
4 EPPING STREET
RAYMOND, NH 03077

39
40 Tim Cahill 4:07
41 Tim Cahill Vice Chair,
42
43 Keith Smith 4:08
44 Keith Smith chair.
45
46 Alissa Welch 4:09
47 Alissa Welch Selectmen
48
49 Joyce Wood 4:12
50 Joyce Wood Alternate
51
52 Christina McCarthy 4:14
53 Christina McCarthy, staff,
54
55 Joe Driscoll 4:17
56 Joe Driscoll counsel for the zoning board.
57
58 Keith Smith 4:20
59 Okay, does anybody have to make any disclaimers?
60
61 Paul McCoy 4:24
62 I just want to disclose that I use Jones and Beach for my own properties. I feel there's no should
63 be no issue as far as recusing on this particular case. I'll leave it up to the board. They think it's
64 an issue.
65
66 Keith Smith 4:47
67 No issue here.
68
69 Brad Reed 4:49
70 My company also uses Jones and Beach for professional assistance. I don't believe it'll be any
71 kind of an issue.
72
73 Tim Cahill 4:58
74 I also wanted to say that I live pretty close to this project, but I'm not an abutter.
75
76 Keith Smith 5:04

77 Okay, anybody have any problems with any of that? Not? Okay. Basically, how we're going to do
78 it, we're going to read the agenda as far as what the applicant has submitted and then we're
79 going to do the ordinance then we're going to swear in the applicants and have you affirmed and
80 introduce yourself. Same thing with the public or any anybody that's participating tonight in the
81 meeting will be sworn in and during their introduction. Okay, so let's start off with what we're
82 here for. We are here for application 2022-004 an application for a variance has been submitted
83 to the Raymond Zoning Board of adjustment by Wayne Morrill, of Jones and Beach engineers
84 on behalf of Onyx Partners Ltd. The intent of the application is to request a variance from Article
85 2 section 2.7 to allow a building height of 44 with 40 feet is maximum allowed. The property is
86 identified as Raymond tax map 22 Lots 44, 45, 46, and 47. Also map 28 lot 120-1 industrial drive
87 and at this time Brad is going to read what the ordinance says just so everybody's clear.

88
89 Brad Reed 6:30

90 Okay, reading from our zoning ordinance. Article 2.7 building height the maximum building
91 height for all new construction within the town of Raymond shall be three stories, (four stories for
92 sprinklered buildings) in the commercial C1 commercial/ residential C2, industrial D,
93 manufactured housing E, residential A, and residential agricultural B zoning districts. Except six
94 stories shall be permitted in the commercial residential C2 zoning district where town water and
95 town sewer are provided within the sewer overlay district. But we had our last town meeting we
96 voted to remove that from our ordinance. It's still in there. I just thought I'd mention that doesn't
97 apply but I thought I mentioned. 2.7.1 A story is considered to be a maximum of 10
98 feet in height. 2.7.2 building height shall be measured. And this is important to
99 understand this this is how our zoning ordinance defines that building height shall be measured
100 on two thirds of the building perimeter from the adjoining ground level by utilizing an average
101 between the highest and lowest points and key to the uppermost ceiling.
102 2.7.3 for any building exceeding 30 feet in height. The minimum building setbacks from the
103 property line shall equal the height of the building. This requirements shall not supersede the
104 minimum dimensional requirements of article 15 of the zoning ordinance, entitled area and
105 dimensional requirements and associated notes.
106 2.7.4. These height restrictions do not apply to necessary appurtenant structures, such as
107 church spires, Belfries couplers smokestacks flagpoles antenna and unenclosed mechanical
108 equipment. That's the entire article, sir.

109
110 Keith Smith 8:19

111 Okay, thank you, Brad. Okay, now, I'll ask the applicants to please raise their hand and just
112 affirm that you swear to tell the truth, and nothing but the truth?

113
114 Wayne Morrill 8:35
115 I do.

116
117 Doug Richardson 8:35
118 Okay.
119
120 Derek Durbin, Esq. 8:37
121 I mean, I'm a lawyer, okay.
122
123 Keith Smith 8:47
124 Okay, now introduce yourselves, please.
125
126 Wayne Morrill 8:53
127 My name is Wayne Morill. I am the president of Jones Beach Engineers the civil engineer for this
128 project.
129
130 Derek Durbin, Esq. 8:58
131 I'm Derek Durbin. I am the lawyer and applicant, their attorneys. That's Onyx partners Ltd.
132
133 Doug Richardson 9:07
134 I'm Doug Richardson. I'm Vice President development for Onyx partners Ltd.
135
136 Keith Smith 9:12
137 Okay, you want to start your presentation?
138
139 Derek Durbin, Esq. 9:15
140 Yeah, absolutely. So, I actually do as one preliminary matter, just have a just a letter I'd like to
141 pass around from David Garvey from Keller Williams commercial real estate, their coastal land
142 and commercial group just speaks to property value. So how many copies is important? And
143 which way do you want us to start them? How many copies is the board need?
144
145 Keith Smith 10:01
146 We have one more disclosure really quick. Okay.
147
148 Alissa Welch 10:04
149 Just that Keller Williams coastal also holds my real estate license. So that will not have any
150 impact.
151
152 Derek Durbin, Esq. 10:14
153 Yeah, well, that's been passed around I believe you also would have received today is an
154 additional or a supplement to our submission, a building cross section as well, just an updated

155 one that shows a little more detail than what was submitted with the original application. If you
156 didn't get that, please let me know. I get it. So as pointed out in the public notice the that was
157 read the property does can since the five parcels of land are also shown on the tax map that was
158 submitted with your application, I'm just going to refer to them as the property for this case,
159 otherwise it gets too confusing. The property that we're talking about is just over 123 acres in
160 size. It contains a former quarry that was used for the extraction removal storage of raw
161 materials. The properties have been added to the north by conservation land. To the south it's
162 abutted. By route one, a one as you'll see on the plans. Jackson lumber owns the property
163 directly the West, the East consists of a large swath of undeveloped land at the moment. The
164 applicants proposing 550,025 square foot warehouse distribution building for the property that
165 use is permitted within zone D, the zoning district that's applicable here. The building will comply
166 with all the dimensional requirements in the ordinance except for building high, which is the
167 reason we're before you tonight. granting a four-foot variance or granting a building that's 44 feet
168 in height in this particular instance, would allow the applicant the clear space that it needs within
169 the building to meet current industry standards. Since the ordinance was originally adopted
170 industry standards have changed for facilities such as this. This is the norm This is what the
171 market for this type of use calls for is a building with 40 feet of clear height so that 44 feet would
172 allow for that. So overall, we feel that the request is fairly minimal. When you look at the property
173 and the project as a whole and the circumstances surrounding this property. The applicants
174 plans have already undergone technical review with the town of Raman still would need if the
175 variance were granted tonight, Planning Board site plan approval. So, there are some additional
176 steps that would have to be taken in order for this to come to fruition. That obviously will deal
177 with some of the traffic safety and other issues that are naturally implicated with any type of
178 commercial use such as this. Unless there any questions at this stage, I would just simply turn to
179 addressing the individual variance criteria. So happy to answer any questions the board might
180 have at this time.

181
182 David Hall 13:34

183 Just for clarification. You're going to merge those five properties into one correct Thank you.

184
185 Paul McCoy 13:41

186 You see industrial standards? Do you have something to show us? The 44 foot where that
187 came from?

188
189 Doug Richardson 14:08

190 No, you just mentioned there are many speculative warehouses are being constructed across
191 the country. And 40 foot clear is the new standard because they're trying to maximize the height
192 and width the super flat floors and the special forklifts, they could store also in working with the
193 planning board and technical review committee, 40 feet's the maximum that they can store

194 normal boxes of cardboard and plastics. They can't go any higher than that. But in order to
195 market to these large distribution companies, those are being done. I didn't bring any examples
196 but certainly if you get on to the like the Costco websites, all of these proposals are emphasizing
197 the 40-foot clear as being the requirement. Great, thank you okay.
198

199 Derek Durbin, Esq. 14:59

200 So, I simply turned the variance criteria at this stage. That's okay with the Mr. Chairman
201 numbers and Okay, Grant variances will not be contrary the public interest will observe the spirit
202 of the ordinance. The property is zoned for industrial uses. And this particular use is also
203 encouraged by the zone D zoning in the town of Raymond. The project will include on site water
204 storage tank for fire suppression of the building, it also contains an onsite septic system and
205 connection to the municipal water system for domestic water. So obviously, this would impose a
206 minimal burden on the municipality, allowing a four-foot height variance for the proposed
207 warehouse building would have no negative impact upon the light air and space of abutting
208 properties, I already sort of gave you a general overview of what the property is abutted by but
209 again, to the south, we have route 101. To the east, we have a large tract of undeveloped land
210 or tracks. To the north, we have conservation land to the west, we have Jackson lumber, and
211 obviously industrial drive. So naturally other industrial uses. It's also important to point out to the
212 east, right behind where the proposed building would be situated, there is a very large ledge, I
213 believe is how many feet 38 feet above the proposed building.
214

215 Wayne Morrill 16:30

216 So, this building is shown here, this is the proposed building, you can see that the quarry
217 operation that's going on right now, you see how that fits inside. So, as we develop this, this
218 back wall here will be a one-to-one slope coming down in this building will be completely blocked
219 by that that ledge. This elevation right here is 30 feet above the top of the building. And it goes
220 down to the entire back here will block the entire building from the side of the law.
221

222 Paul McCoy 17:04

223 So total is 74 feet.
224

225 Wayne Morrill 17:07

226 Yeah, so the finish floor, if you can add the, the 44 feet, there's another 30 feet from that. So,
227 there's going to be Yep, so we're talking the finish floor of elevation 240. And the current floor
228 behind that building would be 319. So, so that, so from the main street side, looking through the
229 woods, you would not see this building at all, because it would be lower than the existing route,
230 oh, my God. A couple of appearances ever pointed out. So, this piece of property is owned by
231 the town, this is the old Tannery site. This is the rail trail, we are putting 12 acres of conservation
232 land on here, so that won't be disturbed. And then you have the town parcel. And then the entire

233 Raven Pond will be put into conservation. And that's basically 18 acres of land, conserved on
234 that on the property.

235
236 Keith Smith 18:07

237 Yeah, and I would submit to the board that the granting of a variance of this magnitude, which is
238 fairly minor. I think he's really, if you think about it, aside from the fact that you have these
239 unique conditions associated with the property that really buffer it well, from any potential
240 residential uses that can be located nearby. I think also when you're talking about four feet and
241 talking about elevation change in the property and everything, I really mean it's essentially a
242 noticeable to anyone in the public from a 40-foot building. So, you know, for these reasons, we
243 believe that public interests will be served. By granting the variances spirit of the ordinance will
244 be observed. We do estimate that the proposed building would bring in approximately \$916,000
245 in annual tax revenue the town of Raymond as a place of employment for the town of Raymond
246 and surrounding communities, estimated 300 new jobs. So, I think those figures are important
247 when you really look at what the end result would be here with this. Substantial justice will be
248 done by granting the variances should indicate this board has heard about the case of Malik
249 Glenn in the past associates Supreme Court case decided many years ago. But the court
250 ultimately in that case concluded that any loss of the individual that's not outweighed by gain to
251 the general public is an injustice. In the present case, there would be tangible loss to the
252 landowner if the variances were denied. Aside from the fact that it is become industry standard
253 to have that 40-foot clear clearance height within the building. The property is also very
254 challenging, expensive to develop Given its current and past historical use as a quarry, we
255 believe that the highest and best use of the property moving forward is what is proposed. So, for
256 these reasons, I'd submit to the board that the loss of the applicant in this particular case is not
257 outweighed by any perceived gain to the public and denying that requested for you. Finally, I
258 believe there would be no diminution in surrounding property values, I did submit the letter to the
259 board, apologize if you're still reading it, I know it came in kind of late. I didn't, unfortunately
260 receive it until this afternoon, I think the person writing it had forgotten, because he has been
261 he's been away on vacation to send it to me a little bit earlier. But Dave is a very, very long
262 history. As a commercial broker, I'm focused on land development in the area. And, in particular,
263 in this area of the state, right here, and has come to the conclusion or determination that there
264 would be no diminution in surrounding property values. I think also, the fact that this is going to
265 be well buffered, from surrounding properties that could be potentially used for residential uses, I
266 think also is a factor to consider the uses permitted. And, you know, again, a 40 foot versus a
267 44-foot building in this instance, doesn't have any impact on property values. Law enforcement,
268 the provisions, the ordinance would result in unnecessary hardship. I have already detailed the
269 unique characteristics of the property. So, I'm not going to go back into those some of you also
270 may be familiar with the property itself. But ultimately, its size, topography location. Current
271 former uses a quarry are special conditions that distinguish it from surrounding properties. The

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272 variance request is driven by the fact that the ordinance really hasn't caught up to this emerging
273 industry standard of the 40-foot clearance. In this case, the that four-foot variance is really going
274 to have no impact on the public or abutting property owners. Accordingly, I would submit to the
275 board that there is no fair and substantial relationship between the general purposes of the
276 ordinance provision in this instance, and its application in the property. Finally, the proposed use
277 is reasonable. It's a permitted use, it's an encourage use within the zone D zoning district. So,
278 for these reasons, I hope that the board will reach the conclusion that this does meet the five
279 fairings criteria, and certainly are asking for your approval tonight. So, thank you. And we're all
280 three here and happy to answer any questions that you have.

281
282 Keith Smith 23:11

283 Bob, come on up. We'll have you have a seat. Raise your hand and affirm that you swear to tell
284 the truth and nothing but the truth and introduce yourself and address for the record.

285
286 Bob MacDonald 24:18

287 My name is Robert McDonald. I live at one Park Place Raymond, New Hampshire. And the
288 reason I'm here is I've attended and watched these proceedings and I've attended Planning
289 Board proceedings over the past number of months now. And I have noticed information being
290 presented to the board that should have been caught before it gets to the board. And I have a
291 package that I'd like to just address some issues I have with the information that's been
292 presented tonight. And I had provided everybody my letter to the chair Everybody should have a
293 copy of it.

294
295 Keith Smith 25:13

296 Yeah, it was sent email to everybody.

297
298 Bob MacDonald 25:25

299 For it, the first couple of points in my letter are addressing what I saw, should have been part of
300 the package, or the public's packages, I say. In the applicants letter, they mentioned that they
301 had provided the board a deed or copies of deeds. And when I looked at these five properties, I
302 noticed that it just wasn't one ownership transfer, they were at least two. And there were four
303 different or three different booking page references. So, I just list that in that box. The next that I
304 think it's important to just list the abutters in the public package, just so we have it out in the
305 public. And the third is the tax map. I think that was very important to be shown to the public, of
306 what these five parcels consist of their locations and where the building is going to be located.
307 So, my first question is, why is the applicant requesting a height variance? Are all fives possible,
308 since it's only going to be one possible, but I heard through one of the gentlemen tonight that the
309 properties are going to be consolidated well, then I think they should have been consolidated
310 before they came to you. Because if they think it's more valuable as a whole, as opposed to

311 individual, then they professionals, I just find that to be just problematic, that you don't have the
312 plan that's actually going to be presented to the planning board with the consolidation. Next is if
313 they weren't going to consolidate, that was my question three, wherever the plans for the other
314 parcels if they wanted a height variance. Then on the point four on the second page, obviously
315 what they're here tonight to ask for a four-foot variance. And in just looking at the material
316 presented to both the public and the board, it was confusing. And when Brad was reading the
317 ordinance is I IN interpret the height ordinance, it's to the top of the building, it's not a clear
318 height. Because I've been in where I'm a commercial real estate appraiser. And I appraise all
319 over the country in the world. And the clear height could depend on some couldn't be totally
320 different than the roof. And then you have the mechanicals on the roof. So, in my interpretation
321 of the ordinance, it's to the roof, it's not to the clear height. So, I have a problem with that. I wrote
322 one definition, because it's not clear. It doesn't say clear height. It says top of the floor to ceiling.
323 And so, you think about a residential house ceiling. And then you have the peak of the roof. It
324 just one of those points I want to bring up. And then the attorney from Durbin law mentions the
325 property of abutter to the north is conservation land. Now, is it their own property that's
326 conservation land? Or is it the property of the north which is the town of Raymond which was the
327 former tannery site? I think that should be in the public record that was a tannery site and is still
328 dealing with it and I've lived in Raymond for how many years? Too many? About 35 years. And
329 when I, when I looked at the EPA is 100-page report on this site, it's amazing. And I think the
330 board should have a copy, there's a planning board, I've got to make sure that the planning
331 board gets a copy of this. It's amazing. So, what I'd like to have been the record showing that
332 that's not conservation land, it's owned by the town of Raymond. And it's a Brownfield for the
333 public record. And then, and I just show, you know, the book and page reference of when it was
334 owned by the RX Tannery site, and the parcel that the building is going on 120-1 was at 1.1
335 parcel, and that's mentioned in the EPA report was 71 acres at a time. Now, obviously, the town
336 purchased that portion from hard rock. So, I just think the public record should be clear on that.
337 And then the, from the standpoint, the don't have to worry, you know, the other four parcels and
338 consolidated, I don't have to talk about number six, and then Denine would constitute an
339 economic hardship. And I have a problem with that term hardship. I spent almost three years on
340 another project, and they throw it hardship. And why doesn't it need to be proven. And in this
341 situation, to prove it would be if the industry standard now was 44 feet, there is a rent assigned
342 to that. And then there are comps now at 4040 feet. So, you could have a rental difference and
343 annualize that. And then there's a cost to build the additional four feet, this is your hat. And I just
344 think it should be proven. It's not complicated. They do this, they're professionals. Then, a
345 statement that was made \$916,000 in property taxes. To let everyone, know, before I moved to
346 Raymond, I was the director of valuation for the city of Boston assessing apartment and I was on
347 two major evaluations. I then became a partner at PricewaterhouseCoopers and started the
348 evaluation practice. And that, so I have a little bit of experience in that. So, what I did was simply
349 back into what the assessment would be using our tax rate of \$18 and change. So, the

350 assessment would be \$52 million rounded. That would end up being about \$95 a square foot.
351 And then I said alright, they paid 2.9 million for the subject property on possible 120. So you
352 have a remainder of \$49 million in their building and site improvements, there's going to be 1.7
353 million square feet of impervious surface, that's \$27 a square foot, I would love to see a building
354 of this structure being built with the with all the site work and the infrastructure at \$28 a square
355 foot below that is a national cost service that a lot of appraisers and assessors use across the
356 contrary, it can be modified down to a particular area. And I just simply use that and the base
357 building cost before site improvements would be \$72 a square foot. So, I think the 916 is
358 understating the potential property taxes here. And so, what my point here is to things that in the
359 future, I'd like to see more information put into the public that we can all see. The assessors map
360 which I tried to draw in where the apostle is and so from the standpoint that would be helpful as
361 well. So, I don't have any problem with the additional four feet. It's how I just Fine, a lot of
362 information need to be misleading. I don't like that. Because when I testify in court, I can't
363 mislead. I think clear height needs to be defined more clearly in our zoning. And I think hardship
364 needs to have some consequences to it. Prove it. They just don't throw out the word hardship.
365 This isn't for anyone have any questions, one?
366

367 Tom Luszcz 35:29

368 So, your commercial real estate appraiser? Yes. So, the gentleman talked about the industry
369 standard being 44 feet now. Have you seen this just out there?
370

371 Bob MacDonald 35:40

372 Yes. That has become a new thing. And again, you have to be it's clearly that's inside the
373 building at the top of the building.
374

375 Tom Luszcz 35:52

376 So, you've seen that
377

378 Bob MacDonald 35:54

379 I've seen like LL Bean, I've appraised LL Beans, , if you've ever been able to go in there. It's
380 amazing. Robert was so flattered, and they're able to move product so quickly. And I think
381 they're at 100 foot. Because you and I couldn't operate a forklift at that height, as safely back
382 quickly and move that much product. Thank you.
383

384 Derek Durbin, Esq. 36:39

385 I think this idea that there is misinformation is inaccurate.
386

387 Derek Durbin, Esq. 36:56

388 I, we're not defining our variance by clear height. We're just simply stating we're asking for
389 variance. Exactly. So, I just want to be clear on that because I don't want the board to be
390 confused, sometimes misinterpreted the ordinance in that respect. We applied the standard and
391 that doesn't count for the average elevation essentially. So, we are dealing with proper
392 measurements with respect to hardship and needing to hardship, hardship, I think there's maybe
393 a maybe misconstruing exactly when we say hardship, hardship, and this particular one is
394 unnecessary hardship. That's this property unique in its environment? Really? I mean, that's the
395 applicable standard. Is it? Is it different than surrounding property such there is no fair and
396 substantial relationship to the general purpose, the ordinance provisions their application to the
397 property. And in this instance, I think we've laid out exactly why that is, the combination of
398 topography of the property and surroundings. And, and really, its current, and historical uses a
399 quarry, I think are all very unique circumstances here, very challenging property to develop. But
400 yet, it's also very conducive property for this use, because of the fact that you do have this
401 significant high ledge behind where the proposed building would be. It's going to provide an
402 amazing natural buffer for surrounding properties. So, I think that's really the hardship we're
403 talking about now when we talk about economic hardship. But that's not something specifically,
404 that applies directly to criteria. Substantial justice. Yeah. Is there any loss to the applicant? Is out
405 not outweighed by gain public here. And yeah, there really is no gain in the public and denying
406 the variances but there is a loss by denying them and I think that can be anything from a one
407 cent loss to a \$10 loss to \$1 million loss. Here, it's the loss of the highest and best use of this
408 property moving forward and really to transform it transform this particular area of the industrial
409 district.

410
411 Unknown Speaker 39:35

412 Spillover effects are impacted by the production. And the revenue estimates are the best that
413 these guys have been doing this. This isn't like a first project. I mean, this is these guys do this.
414 And they have numbers that support representative. So just wanted to put that out there.
415 consolidation, the properties, of course, we don't want to consolidate them until we know what
416 we're going to do. Naturally, we want to leave the options. However, it is representing these
417 properties, different properties, parcels will be consolidated in that is an application. That's not
418 obviously something, we'll be. So happy to answer. I know, Doug may or may have something to
419 add. And I'm happy to answer any questions board housing.

420
421 Doug Richardson 40:35

422 Yeah, just to clarification, coming up with the calculation of the tax benefit property tax benefit,
423 we did carry a \$75 square foot building, roughly, the average right now is 70. To \$80. To
424 construct in the country right now, single story warehouse, I think there's a little math there we
425 use at 1.7 million square feet of impervious, there's only about a million is 550,000 of building
426 and then 500,000 of truck loading, parking that type of area. And dividing it into that is what's

427 creating the lower number that was stated. We figured 75, we also wanted to present a
428 conservative number. We didn't want to overstate what the tax revenue is more. That's a benefit.

429
430 Keith Smith 41:23

431 Okay, at this time, I'm going to open it up.

432
433 Keith Smith 43:11

434 Right now, I want to open it up to the board members, the alternates. And to the members of the
435 board. We'll start with Tom; do you have questions for the applicant?

436
437 Tom Luszcz 43:22

438 Yes. The hardship about developing the property. So, it was a quality. They took the rock out flat
439 now. What is the hardship in developing this type of property versus another property?

440
441 Derek Durbin, Esq. 43:41

442 Oh, there's two ways to answer that. And, again, as I stated in the forum, unnecessary hardship
443 criteria aren't related to specifically to that the hardship is it a unique property in its environment,
444 such as there is no fair and substantial relationship to the general purpose, the ordinance in their
445 application the property? I think that but so it can be answered that way, which I think we've
446 provided what those factors are, but I also believe it can be answered and that there are
447 challenges associated with actually developing this property. And I don't want to speak to the
448 site work that would have to be done to accommodate this. I'll turn that to Doug and or Wayne,
449 but there are there is that as well, that plays into that and

450
451 Paul McCoy 44:34

452 How much more ledge you're going to have to pull out of their quarry, they're going to be going
453 back in there. You've got what tons and tons of materials can be taken out of that before you can
454 build this building. Right?

455
456 Wayne Morrill 44:46

457 We're basically only halfway back. Right? So, I mean, the site is the site is definitely an issue.
458 I'm very familiar with the site.

459
460 Doug Richardson 45:20

461 But the second half to that answer is, we have designed this to be a cotton field that is
462 completely maintained on site, there will be no off trucking of material to construct this facility.

463
464 Tim Cahill 45:35

465 So, you're going to take material to fill the other side.

466
467 Doug Richardson 45:37
468 High point goes to lowest point.
469
470 Tom Luszcz 45:40
471 What is there is a ledge still there? Oh, yeah, you have the wall? Well, I've never seen it. You
472 got to go back on this, like 100 feet or something?
473
474 Wayne Morrill 45:56
475 Like 300 feet more. Okay, we're going to take that rock, we're going to crush it and put it on the
476 floor that you currently see right now to the floor, the actual pit right now will be raised 20 feet
477 with crushed stone. That will be where all the detention for the entire job will be in that class. So
478 that it balances from front to back.
479
480 David Hall 46:17
481 Okay. So, as when I'm looking at the elevations, and I'm just trying to understand the interior
482 height. We're looking for the 40 feet, I believe that we're looking for the industry average,
483 understand? Yes, thank you, Mr. McDonald for your information. So, if this was a flat roof, we
484 wouldn't need a variance. Is that a fair statement?
485
486 Doug Richardson 46:43
487 That's correct. Here's a requirement of a quarter of an inch per foot for a rubber roof or a
488 membrane route. Okay. And so, the pitch from the highest point to the edge is in excess of five.
489 Thank you so far, for here.
490
491 Paul McCoy 47:31
492 So, the 44 feet. So, you know that nothing is going to be 48 feet.
493
494 Doug Richardson 47:37
495 The highest peak on the end is 48. But for the definition of building eight is the highest and
496 lowest average. So why is the most average for further definition?
497
498 Brad Reed 47:50
499 It really goes back to our definition, Paul, and I've had a problem with it. Anybody will probably
500 have a problem with it. Honestly, it's because it's measured inside to the uppermost ceiling.
501 That's I would say extremely unusual.
502
503 Keith Smith 48:08
504 Yeah, it is a different definition.

505
506 Brad Reed 48:14
507 And when you look at when you first look at current, you assume that 48 That's what I did. Yeah.
508 I did till I read the ordinance.
509
510 Keith Smith 48:22
511 The ordinance kind of clears up that. And then this other thing you submitted tonight shows the
512 ceiling.
513
514 David Hall 51:08
515 David. Just want to clarify also, and we read the ordinance. Any mechanics going on top of this
516 roof? mechanicals will be mechanical, that those are excluded. Yes. Two point 7.46 being
517 closed. On enclosed mechanical equipment, excluded, excluded.
518
519 Keith Smith 53:18
520 Okay, at this point, everybody's no other questions. What we'll do is we'll close the public.
521 Everybody's all set. And we'll go into deliberative, and the five seated members would be Brad
522 Paul, Tim, myself. And Alyssa, our staff, do you have any questions or comments are alright?
523 You're all set? Your answer? You're okay. Okay, so why don't we get into the variance
524 worksheet and see what it does with that. So, question one, granting this variance will not be
525 contrary to the public interest. Brad, you want to start.
526
527 Brad Reed 54:19
528 I see no reason why a four-foot taller building and an industrial site that is almost totally blocked
529 from our view.
530
531 Paul McCoy 54:35
532 I agree with Brad.
533
534 Tim Cahill 54:40
535 I agree with Paul.
536
537 Keith Smith 54:42
538 And I agree too given the topography and what, where it's going to be over there in the zone that
539 it's in an allowed use too
540
541 Joe Driscoll 54:53

542 really quick because of the law change you guys have to make making. Finding the facts. Yep.
543 You just did. You know you cited specific factual things right made by the app. Good. That was
544 good. Just if you guys can keep that in mind as you're going through.

545
546 Alissa Welch 55:18
547 I do not believe it'd be contrary to public interest because of the zoning of the area.

548
549 Keith Smith 55:24
550 Okay. Number two, granting this variance will be consistent with the spirit of the ordinance. You
551 want to start Alyssa?

552
553 Alissa Welch 55:34
554 Could you circle back to me?

555
556 Keith Smith 55:36
557 Okay, let's go. Brad. Let's start at the other end. Number two,

558
559 Brad Reed 55:45
560 I don't see how this would in any way threaten the public health, safety, and welfare. So, I'm
561 going to say that it's a four-foot height in the building is not going to affect any of those things.

562
563 Paul McCoy 56:06
564 And the reason I believe we have the footage was a concern of Fire Department more than
565 anything, and that the town has a ladder truck. That just to take care of these buildings that
566 happened, it was actually put in by Walmart. And that this site, knowing this site, this is this part,
567 this building would become a probably one of the few things that would go there. As far as the
568 site goes, so I have between the site and with a 40-foot 44-foot extension would be no wouldn't
569 be too wouldn't hurt the public interest. And nor would it be detrimental to the neighborhood.

570
571 Tim Cahill 56:51
572 I think the acquisition of the ladder truck kind of doesn't know and void our ordinance. We're kind
573 of protected there. And Paul is right about the ladder trucks. My concern was just making sure
574 that the fire truck had access to get all the way around that.

575
576 Keith Smith 57:15
577 I agree with the fire truck analogy. And I also want to put in that the building is sprinkled, you will
578 have your own water tank there. It's not going to depend on town water, just for fire suppression.
579 So, I don't think safety would be of any concern.

580

581 Tim Cahill 57:31
582 So, I'm just going to add this. Sometimes the ladder trucks aren't there just for fire. Engineers,
583 and I've worked on big buildings sometimes guys need rescuing off from work injury on top of
584 the building.
585
586 Keith Smith 57:43
587 Yeah, I was agreeing with that. But as an addendum to your statement. Alyssa back to you.
588
589 Alissa Welch 57:55
590 . It is consistent with the spirit of the ordinance because it doesn't threaten the health or safety of
591 the public.
592
593 Keith Smith 58:06
594 Okay, number three, granting this variance we'll do substantial justice. Again, start with Brad.
595
596 Brad Reed 58:15
597 Well, I was saving this for the last one here. Previously, if we had the sewer overlay district and
598 if we had sewer available, we would have allowed a six-story building on this site. And since
599 they're only using 5000 gallons of water a day, they're going to have a New Hampshire DES
600 approved septic system. I believe that this four feet certainly does not in any way further cause a
601 problem on this site.
602
603 Tim Cahill 58:59
604 I mean, they're right based on mean 5000 gallons of water a day is less than the average house
605 in town.
606
607 Keith Smith 59:06
608 Yeah, I think it's a fair and good use of that property over there myself. Alyssa,
609
610 Alissa Welch 59:11
611 I agree it's a fair and good use of the property
612
613 Keith Smith 59:14
614 okay. Now, before granting this variance will not diminish the value of surrounding properties.
615
616 Brad Reed 59:33
617 Today, we were handed a short evaluation by kW commercial, which supports the fact that this
618 is in an industrial site that this is well known for this type of property, it is very close to the Route
619 101 exit and so forth and so forth. And it will not in any way because the minimization and value

620 to any of the surrounding properties as I quoted from a lot as long as they are the experts in that
621 I am not.

622
623 Keith Smith 1:00:06

624 Mr. McCoy,

625
626 Paul McCoy 1:00:07

627 I agree with what Brad said.

628
629 Tim Cahill 1:00:14

630 I agree with Paul.

631
632 Keith Smith 1:00:15

633 I agree with Brad, and he said it very well. Alissa?

634
635 Alissa Welch 1:00:21

636 I agree for industrial use an industrial zone.

637
638 Keith Smith 1:00:25

639 Okay, number five, owing to the special conditions of the property that distinguish it from other
640 properties in the area, literal enforcement of the provisions of the ordinance would result in
641 unnecessary hardship. Because a no fair and substantial relationship exists between the general
642 public purpose of the ordinance provision and the specific application of that provision to the
643 property. And then it stops be the proposed use is a reasonable one. Alissa gives Brad a break.

644
645 Alissa Welch 1:01:08

646 The proposed use is reasonable one, again, it's an industrial use and industrial zone. As far as
647 special conditions, we've heard that the industry standard is at 44 feet and our ordinances do not
648 meet that right now. And I don't see a problem with it.

649
650 Keith Smith 1:01:26

651 I agree it's a very reasonable use, it's in the area that zoned for it.

652
653 Tim Cahill 1:01:36

654 This is an industrial project and in industrial zone.

655
656 Paul McCoy 1:01:42

657 Its industrial zone, the standard of the 40-foot clear is because of operations that more and more
658 people are going to distribution centers, instead of regional centers. And there is a big

659 difference between that four feet to make physically feasible to build a building like this. And the
660 location and the site that it's at the location in the site where it's at will not interfere with anything.
661 Any other abutters or any of the health and safety of any of anyone in the community.
662

663 Brad Reed 1:02:22

664 I agree with what everyone has said before me, and this is a good use for this industrial zone,
665 piece of property.
666

667 Keith Smith 1:02:31

668 Okay, so that that we're close that. Now, I guess what we'd be looking for is a motion. Does
669 anybody have a motion?
670

671 Paul McCoy 1:02:53

672 I'll make a motion that we approve the variance with the stipulation that they either they be only
673 on this lot, or that they would have to combine the lots.
674

675 Joe Driscoll 1:03:36

676 So, you're just trying to make your motion contingent on their merger? Yeah,
677

678 Paul McCoy 1:03:41

679 either merge it or we only do it on the one lot. Because the building is going to be it's only on one
680 lot.
681

682 Joe Driscoll 1:03:52

683 Easiest contingent on the merger that's what they've already represented to you guys. Yeah.
684 Okay. I'll
685

686 Paul McCoy 1:04:04

687 Yeah. Okay, I'll make a motion that we approve the variance of the four foot a 44-foot height,
688 with the stipulation that they merged the five lots into one lot as proposed by the applicant. Brad
689 Reed seconded the motion.

690 Paul McCoy- Yes

691 Brad Reed- Yes

692 Tim Cahill- Yes

693 Keith Smith- Yes

694 Alissa Welch- Yes
695

696 Joe Driscoll 1:04:22

697 Guy, you got to hit all the five criteria now in your motion.

698
699 Paul McCoy 1:04:32
700 I guess I won't do that again.

701
702 Paul McCoy 1:04:49
703 It's not contrary to the public interests, because the property that because of the property is
704 industrial, and the site has its issues. to develop and, and the standards today a 40-foot interior,
705 and that the fourth floor for relief is reasonable. Granted, invariants will be consistent with the
706 spirit of the ordinance. The ordinance is set up for 40 feet with the idea that that was mainly for
707 residential. And I and we went into when you go into the commercial properties, we have 40, the
708 40 feet, but then we also have a ladder truck that would protect us protect the building and
709 human safety for if there should be a fire or a natural disaster there. So, I don't think it would be
710 anything to do with the spirit of the ordinance. Granting the variance will do substantial justice,
711 this site, in particular when it comes off when no one comes in, and it would be an ideal spot for
712 what they're asking for. Because of the work that's going to be done on the site, work on this
713 property. The only thing reason they're doing it is because its location, it will not affect the
714 townspeople as far as trucks in and out. There'll be right off the street. So, I think granting is
715 doing substantial justice for the building. And for this site. Granting the variance will not diminish
716 surrounding values, and properties. The area's industrial, we have Jackson lumber, we have a
717 repossession company right there. And we also have a trucking company. So, it will not diminish
718 values in any way. And we have a letter here from Keller Williams commercial, that states that
719 owning the special conditions of the property distinguish from other properties in the area, little
720 enforcement of the ordinance results in unnecessary hardship again, there's no other fair and
721 substantial justice to go with this other than the fact that it's the location, the site that needs to be
722 worked on. And that we find that the 40-foot interior clear span is a standard today, that the extra
723 four feet makes sense. And that would be definitely a hardship to try to redo these buildings to
724 make it four foot shorter. And it is a reasonable use because it's industrial. And it's a great
725 location for something like this.

726
727 Keith Smith 1:07:25
728 I have a second for that.

729
730 Brad Reed 1:07:27
731 I'll second that.

732
733 Keith Smith 1:07:31
734 We got the right guy. I thought well said. Discussion.. Thank you. Congratulations, Bob. Your
735 points are well taken.

736

737 Keith Smith 1:07:59
738 I wish Hey, so when a story is not the case. Next, we're going to go to our minutes. These last
739 minutes. I want to go through the minutes. Okay. Does anyone have anything on the minutes?
740 Mr. Chair? Yep. That was assuming. Yeah, go. Thank you. Appreciate you.
741
742 Paul McCoy 1:08:33
743 Thank you. I make a motion. We accept the minutes as written. Tim Cahill Second, the motion.
744 Alissa Welch- Abstain
745 Keith Smith- Yes
746 Tim Cahill- Yes
747 Brad Reed- Yes
748 Paul McCoy- Yes
749
750 Keith Smith 1:08:39
751 Discussion.
752
753 Keith Smith 1:08:50
754 Okay.
755
756 Tim Cahill 1:08:59
757 I'd like to make a motion that we adjourn the meeting. No,
758
759 Keith Smith 1:09:02
760 we're not there yet. We're getting there. Okay, staff updates.
761
762 Brad Reed 1:09:09
763 Just have a question. Before Joe actually walks out the door. Yes. Should we have handled that
764 last item any differently? You're here? So
765
766 Tim Cahill 1:09:22
767 that's a great question. Is that really how you want our motions to be made?
768
769 Tim Cahill 1:09:28
770 For is that really what the state is expected from a motion?
771
772 Keith Smith 1:09:31
773 Weren't you doing a worksheet with Maddie?
774
775 Joe Driscoll 1:09:34

776 Well, that's more planning geared. But honestly, yes, there's obligations on use boards. Now.
777 The specific findings of fact, which you guys did a good job of highlighting. There was a letter
778 that addresses diminution of value there. You know, prior zoning regulations would have allowed
779 a taller building in this area. You know, you're tying it to actual things there. I mean, did you get a
780 little far afield in a couple of things? Sure. But you know, I mean, I, you guys hit it with the idea of
781 being like there's an aggrieved party by a decision, that it is very clear from the motion, the
782 action of this board, what the decision was based on, and that they can appeal if they so choose,
783 or court can evaluate, etc. And the real tripping hazard, you don't have it here, because you just
784 granted it. But if there's a denial, and there are no findings of fact, in your motion, and your
785 decision bouncing automatic back to you, before, it used to be just the denial that we had to put
786 now it's both approval and denial.

787
788 Joe Driscoll 1:10:45

789 I wouldn't say it that way, I'd say that the way it was reviewed was that the record is a whole
790 became part of the we've moved to approve variants, you know, whatever. And then you voted
791 on it. And you guys had done that prior to you would hit everybody for every element. So, the
792 record would really reflect that. Now, the way the statute reads, it's about the decision of the
793 board. So, if you're making that motion, and you're not putting those pieces in there,

794
795 Keith Smith 1:11:11
796 would there be an easier way to compile it. So, when we get to the end,

797
798 Joe Driscoll 1:11:14
799 not for variants,

800
801 Christina McCarthy 1:11:24
802 And I think the more we do it, the more versed we'll get.

803
804 Paul McCoy 1:11:35
805 I probably missed something. But I thought, what we used to do is we used to go, and we used
806 to vote on each one of them on a on the sheet. And what they did is he came back and said they
807 didn't want us to do they wanted us to be a little more.

808
809 Joe Driscoll 1:11:52
810 that because you could it then becomes unclear how your question ends result in variances
811 because it has to meet all five criteria. Again, it's a no until it's a yes is the thing about a
812 variance. So, all of the five criteria have to be met in order to do that. So, if you have disparate
813 votes, you know, Brad votes, no on one element, key votes no on a different element, then you
814 don't know what the final vote was on the actual thing. That is why your decision is required to

815 have the findings of fact. And yeah, when you have that, frankly, much easier in a variety of
816 other circumstance, if you had an administrative appeal in front of you where, you know, the
817 building inspector said something and instead appealed to say we're not in violation. And you
818 say, well, they're not you know, they are in violation because they're using the property and XYZ
819 way, much easier than five criteria. Right. Back to each one. So, it does end up being that
820 motion, which you did very well. Good for you.

821

822 Keith Smith 1:15:03

823 No was still not there. Everybody was still on staff updates.

824

825 Christina McCarthy 1:15:14

826 The only thing I have that I did on your agendas is a 2023. meeting dates. I mean, third,
827 Wednesday, is the night before Thanksgiving for 2023. So, the new schedule for us and again,
828 Thanksgiving week, so I moved it forward a week, just like I did this year. And I will get that on to
829 the website, or I have Kevin yet and on the website for me. Since he's been nice enough to be
830 posting.

831

832 Paul McCoy 1:15:52

833 Do we have a meeting in December?

834

835 Christina McCarthy 1:15:55

836 I have no cases for you. So, I will have to, you know, that will be up to your chair.

837

838 Keith Smith 1:16:05

839 We will get to that. Okay, that it? Yeah. Member updates. Anybody have anything?

840

841 Keith Smith 1:16:18

842 Okay. Does anybody have anything they want to address in December? I don't.

843

844 Christina McCarthy 1:16:30

845 I would like to say congratulations to Tim.

846

847 Tim Cahill 1:16:38

848 I would like to say I'm not going to let any you guys down.

849

850 Keith Smith 1:16:42

851 All right. Okay, any other business? Motion to adjourn?

852

853 Brad Reed 1:16:48

854 I would just since we have a moment. Okay. Do we couldn't can we cancel our December
855 meeting? Do we have that authorization?

856

857 Keith Smith 1:16:56

858 Where's the window of somebody and we passed the deadline?

859

860 Christina McCarthy 1:17:00

861 Well, once they pass the submittal date from projects.

862

863 Brad Reed 1:17:10

864 So, people can plan vacations accordingly.

865

866 Tim Cahill 1:17:18

867 Did anything come in the mail postmarked is it postmark, or does it have to be?

868

869 Keith Smith 1:17:22

870 Do we actually have to make a motion to cancel where you don't have to make a motion just
871 cancel.

872

873 Keith Smith 1:17:31

874 in case people want to hit the road. Okay, motion to adjourn now.

875

876 Paul McCoy 1:17:37

877 Make a motion to adjourn.

878

879 Keith Smith 1:17:38

880 Second. All those in favor say aye. Thank you

881

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884