

TOWN OF RAYMOND

Zoning Board of Adjustment Agenda

December 20, 2023

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

6:30 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-

A. Application 2023-011 Brian Thompson – 12 Christina Road

Application for variance has been submitted by Brian Thompson, owner of 12 Christina Road at Map 31/Lot 90. The request is for relief from *Article 15, Section 1* of the *Town of Raymond Zoning Ordinance* which requires setbacks of 30 feet on the side, rear, and front; where 9.72 feet on the northeast side is requested to be provided in conjunction with the construction of an attached Accessory Dwelling Unit. The property is located within the Residential B Zoning District.

3. Approval of Minutes – 11-15-2023

4. Other Business

- Staff Updates
- Board Member Updates
- Any other business brought before the Board.

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
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
Zoning Board of Adjustment
Public Hearing Notice

You are hereby notified that the **Raymond Zoning Board of Adjustment at 6:30 p.m. on Wednesday, December 20, 2023**, at the Raymond High School, Room 109, 45 Harriman Hill Rd., will hold a public hearing to consider the following application:

Application 2023-011 Brian Thompson – 12 Christina Road

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You are invited to attend, or you may submit written comments to: Town of Raymond, Community Development Department, Office of Planning & Zoning, 4 Epping Street, Raymond, NH 03077. If you require audio or visual aids, please contact the Selectmen's Office at least 72 hours prior to the meeting. If for any reason this meeting is postponed, it will be held TBD.

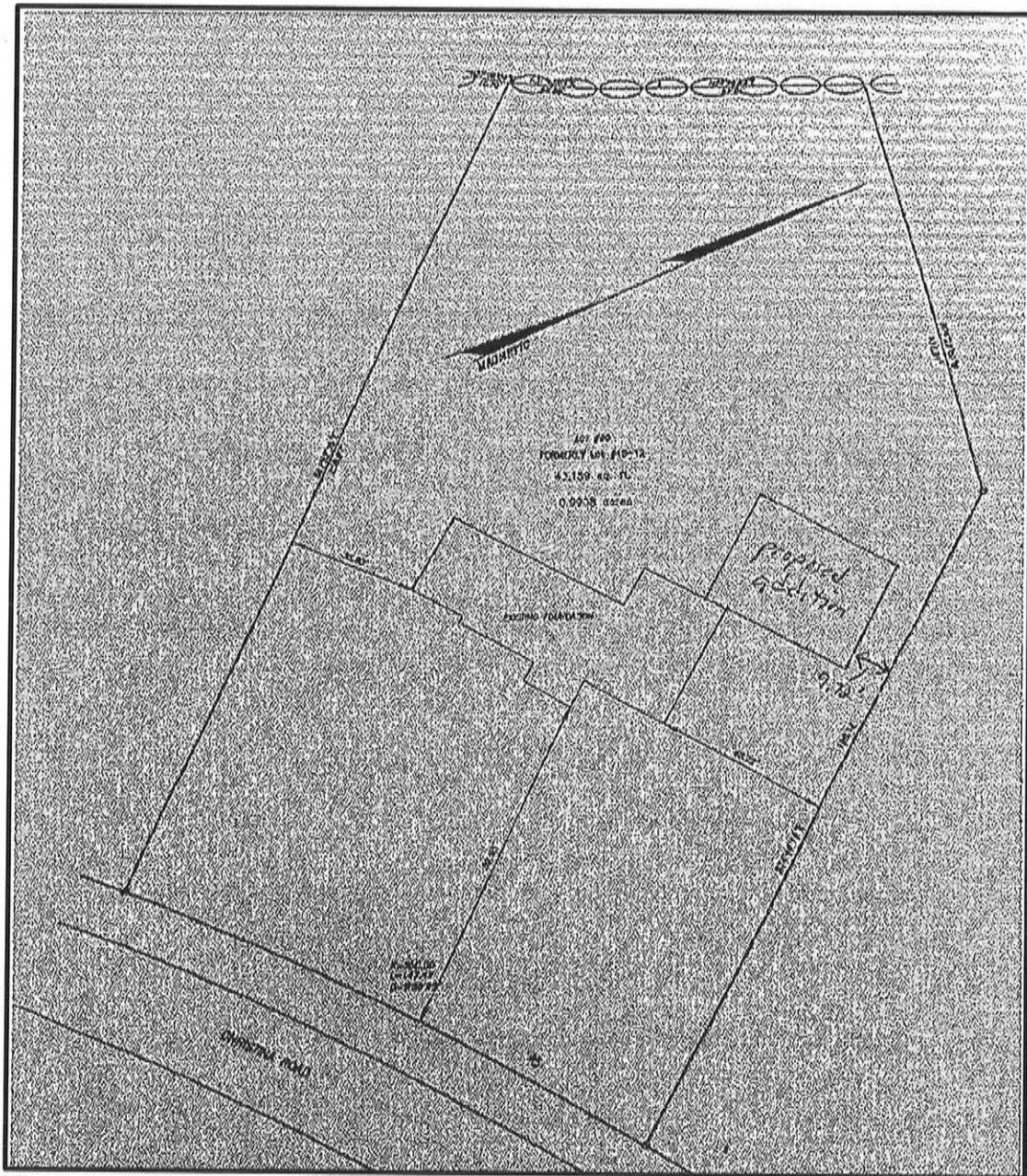
**Town of Raymond
Zoning Board of Adjustment
Abutters' Notice**

You are receiving this notice because you are an abutter to property subject to a variance request as noted below:

You are hereby notified that the **Raymond Zoning Board of Adjustment at 6:30 p.m. on Wednesday, December 20, 2023**, at the Raymond High School, Room 109, 45 Harriman Hill Rd., will hold a public hearing to consider the following application:

Application 2023-011 Brian Thompson – 12 Christina Road

Application for variance has been submitted by Brian Thompson, owner of 12 Christina Road at Map 31/Lot 90. The request is for relief from *Article 15, Section 1* of the *Town of Raymond Zoning Ordinance* which requires setbacks of 30 feet on the side, rear, and front; where 9.72 feet on the northeast side is requested to be provided in conjunction with the construction of an attached Accessory Dwelling Unit. The property is located within the Residential B Zoning District.



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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: 12 Christina Drive, Raymond, NH 03077

Map #: 031 Lot #: 90

Property Owner Information

Name: Brian Thompson Phone: 6035403002

Address: 12 Christina Drive

Address: Raymond, NH 03077

Applicant/Agent Information

Name: same as above Phone: _____

Address: _____

Address: _____

Complete the Following

A variance is being requested from Article 15, Section 1 of the Town of Raymond Zoning Ordinance in order to build an addition as an in-law type dwelling for my elderly mother to live.

Given the space requirements, this would put the building between 6 and 12 feet from the property line.

The reason for the range is that the plans for this are not finalized by the architect yet, and things like rooflines etc can and likely will alter the final design.

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: _____
It would not negatively impact the health, safety, economic or social well being of the community.
Further, it would not negatively impact any natural resources, create additional congestion,
or overcrowd any land.

2) Granting a variance would be consistent with the spirit of the ordinance because: _____
given the layout of the lot, and the location of surrounding houses, allowing the variance
would still allow more than sufficient buffer between buildings. The proposed variance

would simply allow the new construction to be closer to the neighboring driveway, which is not a place that would be buildable, thus not overcrowding in the spirit of the ordinance.

3) Granting a variance would do substantial justice because: _____
The layout of my lot prevents any addition to be built anywhere except the proposed location. The front of the house has the septic and leach field, in the back there is ledge that prevents any foundation from being established, and the other side is very close to the existing neighbors house. The proposed location would only allow building closer than normal setbacks to a neighboring driveway, not a house.

4) Granting a variance would not diminish the values of surrounding properties because: _____
given the layout of the lot, and the location of surrounding houses, allowing the variance would still allow more than sufficient buffer between buildings. The proposed variance would simply allow the new construction to be closer to the neighboring driveway, which is not a place that would be buildable, thus not overcrowding in the spirit of the ordinance.

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:

- b. The proposed use is a reasonable one because:

My lot is narrow, thus making it almost impossible to build on either side without going beyond the setback boundaries. The front of the house has the septic and leach field, thus making that un-buildable. The back of the house has ledge, making that not buildable. The side to the left would be too close to the existing neighbors house. The side to the right (proposed location) would only be closer to the neighboring driveway but would still have far more than normal setbacks from any houses or buildings.

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.

The layout of my lot prevents me from being able to build anywhere other than the proposed location.

If my lot were laid out differently I could add the desired building without any issue, as it would easily conform to all other zoning requirements. Further, this neighborhood meets all the same requirements of a lot in zone A with town water, with the only exception being we have a community water system rather than the supply coming from the town. Given that, I would think that it would be reasonable that we be subject to the same setbacks of 10 feet on the sides, which would put me very close to where I need to be.

Signature of Applicant*

*If the applicant is not the property owner, then a notarized letter of permission from the property owner authorizing the applicant to represent their interests shall be provided.



Applicant's Signature*

10/27/2023

Date



TOWN OF RAYMOND

Community Development
 Office of Code Enforcement
 4 Epping St Raymond, NH 03077
 Phone: 603.895.7020 • Fax: 603.895.7064
<http://www.raymondnh.gov>

MINOR BUILDING PERMIT APPLICATION

Today's Date 11/7/23

PROPERTY OWNER(S)	
NAME	<u>Brian Thompson</u>
ADDRESS	<u>12 Christina Drive Raymond, NH</u> MAP & LOT <u>031 90</u>
PHONE	<u>603 540 3002</u> EMAIL ADDRESS <u>bri.thompson@comcast.net</u>
JOB ADDRESS (IF DIFFERENT FROM ABOVE)	MAP & LOT
ZONING	<input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial
APPLICANT	
NAME	<u>Brian Thompson</u> [] Copy of License
COMPANY	<u>N/A</u>
ADDRESS	<u>12 Christina Drive</u>
CITY/STATE/ZIP	<u>Raymond, NH 03077</u>
PHONE	<u>603 540 3002</u> EMAIL ADDRESS <u>bri.thompson@comcast.net</u>
TYPE OF JOB	
Description of Project	<u>addition of in-law apartment</u> <u>200</u> Amp Service
Cost of Job	<u>\$200k +</u>
Design Details for Construction Provided?	Yes [] No [<input checked="" type="checkbox"/>] Electric Company <u>NHEC</u>
APPLICANT SIGNATURE	
All work must conform with the State of NH Building and Fire Codes (International Residential & Building Code [2009 editions]), 2014 NEC, and current local building and zoning regulations. Some inspections required.	
Applicant	<u>[Signature]</u> Date <u>11/7/2023</u>
** OFFICE USE ONLY**	
Application Received By	Date
Building Inspector	Date
[] Approved [] Denied	


PERMIT NO. _____	Amt \$ _____ Ck _____ Date _____ Rec By _____
------------------	--



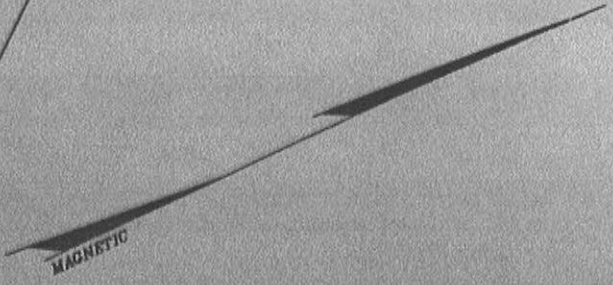
TOWN OF RAYMOND

Community Development
Office of Code Enforcement
4 Epping St Raymond, NH 03077
Phone: 603.895.7020 • Fax: 603.895.0903
<http://www.raymondnh.gov>

CODE OFFICIAL'S DENIAL BUILDING PERMIT OR USE

Property Owner			
Name of Appellant Brian Thompson			
Location	MAP LOT	ZONING	
12 Christina Rd	031/000/090	B	
Date Denied 11/7/2023			
Your application for a building permit/use has been denied due to a violation of the following:			
Raymond Zoning Ordinance:	Article	Section	Subsection
	15	1	Area Dimensional Table
Article 15: Based on the area dimensional table, your proposed addition does not meet the required side set back of 30'			
<i>Note: You may apply to the Zoning Board of Adjustment for: Appeal of An Administrative Decision, Variance, Special Exception and/or Equitable Waiver of Dimensional Requirements.</i>			
FOR OFFICE USE ONLY			
Signature – Code Enforcement Official			Date
			6 Nov 23
ZBA Decision: <input type="checkbox"/> Approved <input type="checkbox"/> Denied			
Signature – ZBA Chairman		Date	

SECTION 10.00' 101.00' 101.00' 101.00'



LOT #90
FORMERLY Lot #40-12
43,159 sq. ft.
0.9908 acres

341.20' ±
204.97'

115.11'
10.00'

35.82'

EXISTING FOUNDATION

Proposed addition

9.72'

106.12'

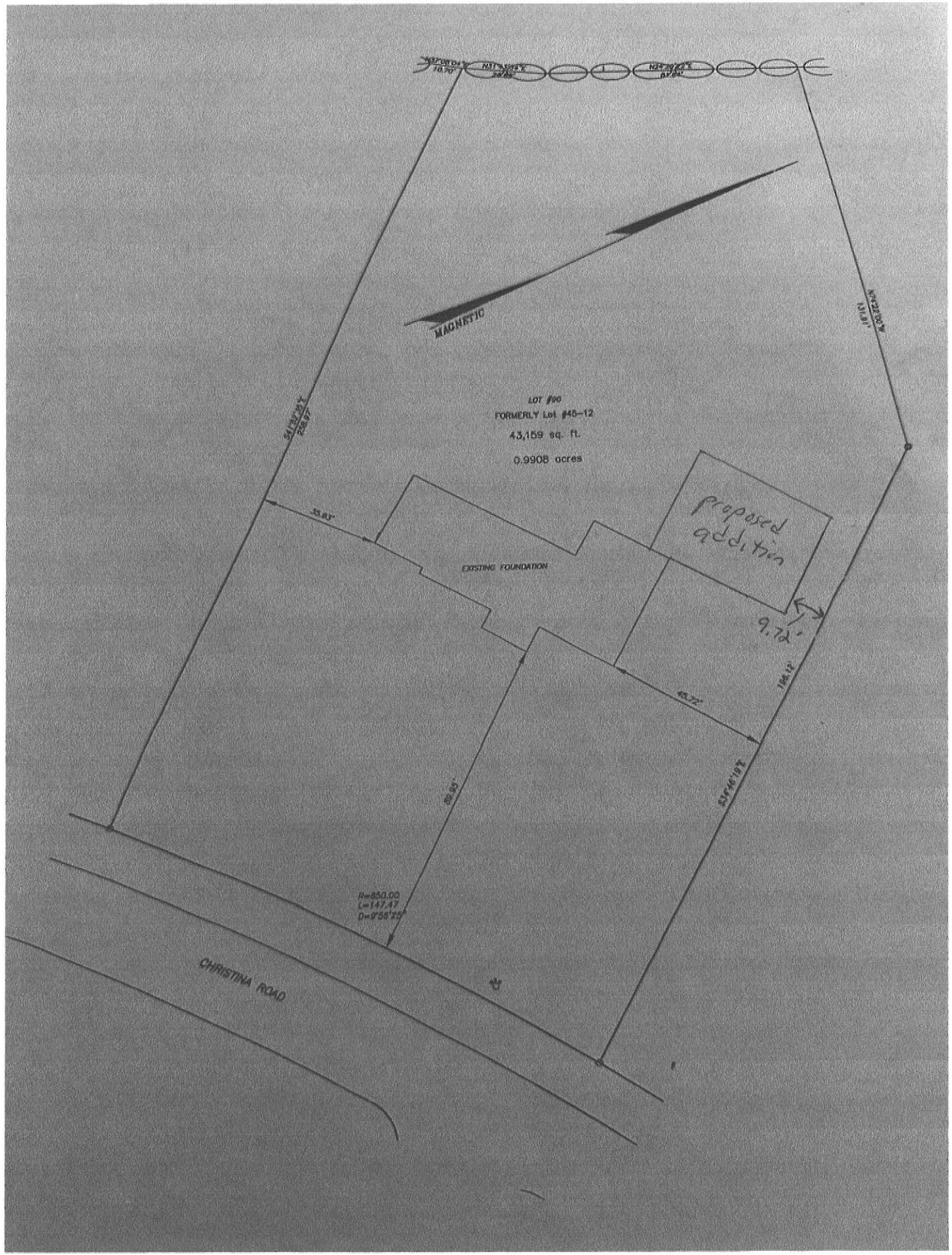
45.72'

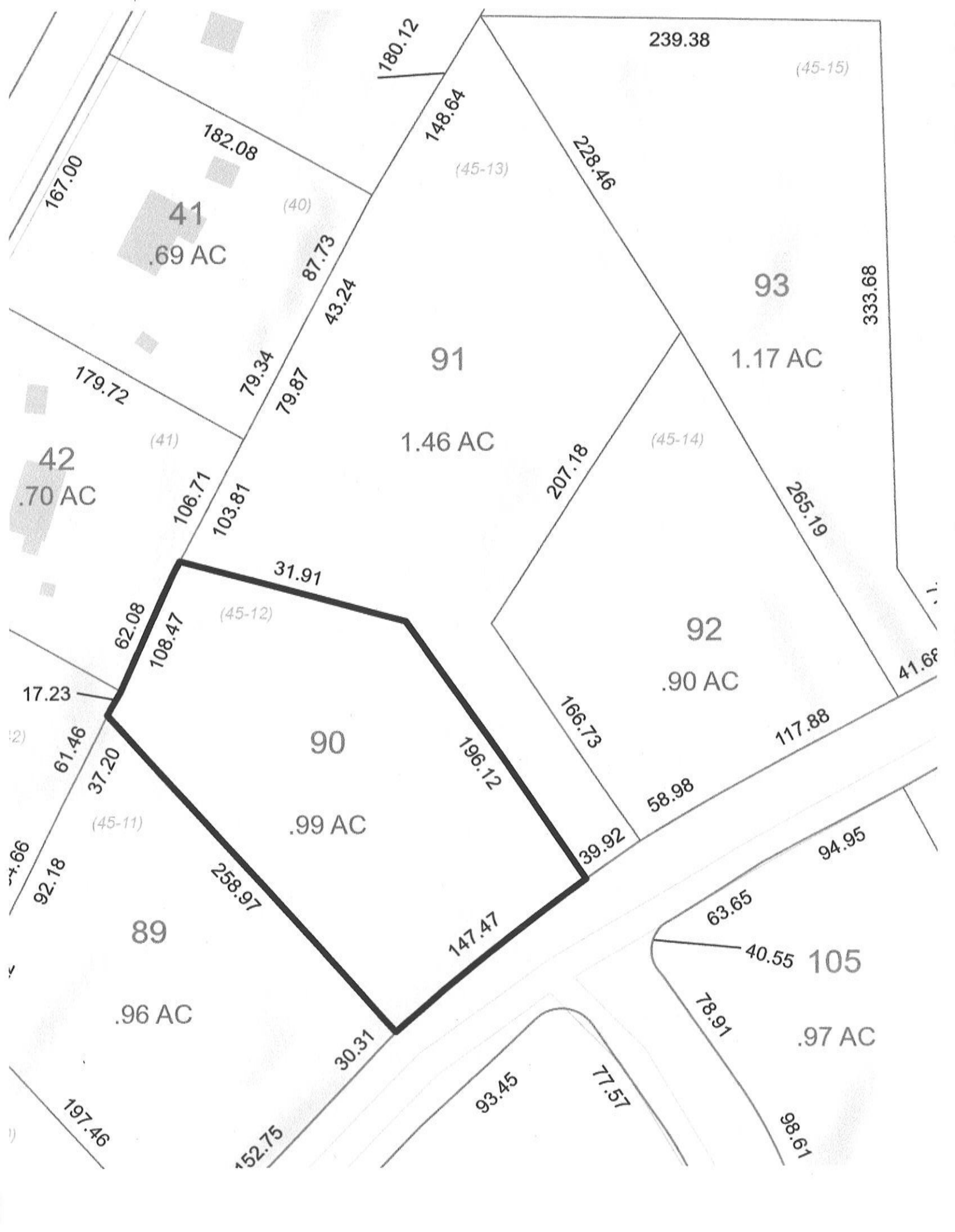
80.53'

537.40' ±

R=850.00
L=147.47
D=9°56'22"

CHRISTINA ROAD







*proposed addition would come off the corner and extend across driveway skid would be moved. shows how far neighbors house is from proposed location.

* Shows narrow driveway portion of neighbors lot where proposed addition would not meet setback requirements, since that area is not buildable, proposed addition would be more than 100 feet from any other building.





50 feet Abutters List Report

Raymond, NH
October 27, 2023

Subject Property:

Parcel Number: 031-000-090-000
CAMA Number: 031-000-090-000-000
Property Address: 12 CHRISTINA ROAD

Mailing Address: THOMPSON, BRIAN F.
12 CHRISTINA ROAD
RAYMOND, NH 03077

Abutters:

Parcel Number: 031-000-042-000
CAMA Number: 031-000-042-000-000
Property Address: 13 POWER STREET

Mailing Address: MERLINO, ALDO R. REVOCABLE TRUST
OF 2020 ALDO R. MERLINO / TRUSTEE
13 POWER STREET
RAYMOND, NH 03077

Parcel Number: 031-000-043-000
CAMA Number: 031-000-043-000-000
Property Address: 11 POWER STREET

Mailing Address: KAZMOUSKI, DAVID J. & CLAIRE A.
REVOCABLE TRUST DAVID J. & CLAIRE
A. KAZMOUSKI / TRUSTEES
11 POWER STREET
RAYMOND, NH 03077

Parcel Number: 031-000-089-000
CAMA Number: 031-000-089-000-000
Property Address: 10 CHRISTINA ROAD

Mailing Address: FINNEGAN, CHRISTOPHER J &
JENNIFER P
10 CHRISTINA ROAD
RAYMOND, NH 03077

Parcel Number: 031-000-091-000
CAMA Number: 031-000-091-000-000
Property Address: 14 CHRISTINA ROAD

Mailing Address: O'DONNELL, DEREK KATIE L. LAPOINTE
14 CHRISTINA ROAD
RAYMOND, NH 03077

Parcel Number: 031-000-092-000
CAMA Number: 031-000-092-000-000
Property Address: 16 CHRISTINA ROAD

Mailing Address: BROWN, DOUG L. TRIS J.A. BROWN
16 CHRISTINA ROAD
RAYMOND, NH 03077

Parcel Number: 031-000-106-000
CAMA Number: 031-000-106-000-000
Property Address: 4 SAMANTHA AVENUE

Mailing Address: CID, LISETTE & JOSE L.
4 SAMANTHA AVENUE
RAYMOND, NH 03077



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10/27/2023

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100 feet Abutters List Report

Raymond, NH
November 28, 2023

Subject Property:

Parcel Number: 031-000-090-000
CAMA Number: 031-000-090-000-000
Property Address: 12 CHRISTINA ROAD

Mailing Address: THOMPSON, BRIAN F.
12 CHRISTINA ROAD
RAYMOND, NH 03077

Abutters:

Parcel Number: 031-000-041-000
CAMA Number: 031-000-041-000-000
Property Address: 15 POWER STREET

Mailing Address: SMITH, WAYNE R. & JUDY E.
15 POWER STREET
RAYMOND, NH 03077

Parcel Number: 031-000-042-000
CAMA Number: 031-000-042-000-000
Property Address: 13 POWER STREET

Mailing Address: MERLINO, ALDO R. REVOCABLE TRUST
OF 2020 ALDO R. MERLINO / TRUSTEE
13 POWER STREET
RAYMOND, NH 03077

Parcel Number: 031-000-043-000
CAMA Number: 031-000-043-000-000
Property Address: 11 POWER STREET

Mailing Address: KAZMOUSKI, DAVID J. & CLAIRE A.
REVOCABLE TRUST DAVID J. & CLAIRE
A. KAZMOUSKI / TRUSTEES
11 POWER STREET
RAYMOND, NH 03077

Parcel Number: 031-000-089-000
CAMA Number: 031-000-089-000-000
Property Address: 10 CHRISTINA ROAD

Mailing Address: FINNEGAN, CHRISTOPHER J &
JENNIFER P
10 CHRISTINA ROAD
RAYMOND, NH 03077

Parcel Number: 031-000-091-000
CAMA Number: 031-000-091-000-000
Property Address: 14 CHRISTINA ROAD

Mailing Address: O'DONNELL, DEREK KATIE L. LAPOINTE
14 CHRISTINA ROAD
RAYMOND, NH 03077

Parcel Number: 031-000-092-000
CAMA Number: 031-000-092-000-000
Property Address: 16 CHRISTINA ROAD

Mailing Address: BROWN, DOUG L. TRIS J.A. BROWN
16 CHRISTINA ROAD
RAYMOND, NH 03077

Parcel Number: 031-000-105-000
CAMA Number: 031-000-105-000-000
Property Address: 9 SAMANTHA AVENUE

Mailing Address: CARSTENS, MICHAEL P. CAROLINE L.
CILLEY
9 SAMANTHA AVENUE
RAYMOND, NH 03077

Parcel Number: 031-000-106-000
CAMA Number: 031-000-106-000-000
Property Address: 4 SAMANTHA AVENUE

Mailing Address: CID, LISETTE & JOSE L.
4 SAMANTHA AVENUE
RAYMOND, NH 03077



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BROWN, DOUG L.
TRIS J.A. BROWN
16 CHRISTINA ROAD
RAYMOND, NH 03077

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RAYMOND, NH 03077

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RAYMOND, NH 03077

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FINNEGAN, CHRISTOPHER J &
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10 CHRISTINA ROAD
RAYMOND, NH 03077

KAZMOUSKI, DAVID J. & CLA
DAVID J. & CLAIRE A. KAZM
11 POWER STREET
RAYMOND, NH 03077

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DAVID J. & CLAIRE A. KAZM
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RAYMOND, NH 03077

MERLINO, ALDO R. REVOCABL
ALDO R. MERLINO / TRUSTEE
13 POWER STREET
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ALDO R. MERLINO / TRUSTEE
13 POWER STREET
RAYMOND, NH 03077

O'DONNELL, DEREK
KATIE L. LAPOINTE
14 CHRISTINA ROAD
RAYMOND, NH 03077

O'DONNELL, DEREK
KATIE L. LAPOINTE
14 CHRISTINA ROAD
RAYMOND, NH 03077

SMITH, WAYNE R. & JUDY E.
15 POWER STREET
RAYMOND, NH 03077

SMITH, WAYNE R. & JUDY E.
15 POWER STREET
RAYMOND, NH 03077



Zoning Board Draft Minutes
November 15, 6:30 PM
Room 109 Raymond High School
45 Harriman Hill Road, Raymond, NH 03077

1 Zoning Board Members Present:

2 Keith Smith – Chairman

3 Tom Luszcz – Member

4 David Hall – Vice Chair

5 Paul McCoy - Member

6 Joyce Wood- Alternate (Seated)

7

8 Member Absent:

9 None

10

11 Staff Present:

12 Jason Cleghorn – Community Development Director

13

14 **Pledge of Allegiance:** recited by all in attendance.

15

16 **Roll Call:** David Hall, Vice Chair, Paul McCoy, Member, Keith Smith, Chair, Joyce Wood,
17 Alternate, Tom Luszcz, Member, Jason Cleghorn, Planning and Community Development
18 Director

19

20 **Public Hearing:**

21

22 Mr. Smith noted that they would be doing the hearing under RSA 673:15 asking to confirm
23 that they will tell the truth, the whole truth and nothing but the truth.

24

25 **Application 2023-006 Raymond and Francis Scanlon/Falzone/Hoefle, Phoenix, Gormley**
26 **and Roberts, PLLC**

27

28 This application was continued from October 25, 2023.

29 An application for Administrative Appeal has been submitted by Tim Phoenix and Joseph
30 Falzone, representing property owners Raymond and Frances Scanlon, owners of Tax Map
31 41 Lot 47 on Meindl Road. The Town of Raymond Zoning Ordinance Section 9.1.1 provides
32 for an applicant's review and decision on an alleged error in administrative finding or
33 decision. The applicant is appealing the decision of the Community Development Director's
34 decision related to Article 15, Section 15.1 Dimensions, Frontage and Article 13, Definition
35 13.1.31 of frontage. The property is located within the Residential B Zoning District with
36 associated Zone G lands.

37

38 Joseph Falzone, the applicant, and Tim Phoenix of Hoefle, Phoenix, Gormley and Roberts
39 introduced themselves and swore to tell the truth. Mr. Phoenix explained that Mr. Falzone
40 has contracted to purchase a little over 10 acres and wants to turn it into 3 compliant lots.
41 Meindl Road was considered by the Community Development Director to be a private road
42 and he has interpreted the ordinance to be saying that it needs to be on a Town approved
43 road. The applicant does not agree with that interpretation however they suggested that the



Zoning Board Draft Minutes
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44 Board consider the variance application first before discussion the administrative appeal, and
45 if the variance is granted, they would continue the administrative appeal for 30 days and if no
46 one appeals the variance, he would withdraw the administrative appeal.

47
48 Mr. McCoy had concerns that this should be before the Board of Selectmen to grant one lot,
49 so the town is no involved in any maintenance. This road is definitely a private road and in
50 Nottingham. It is considered an emergency lane and Nottingham is responsible for flow
51 plowing and general maintenance. The residents are responsible for the maintenance of the
52 road. Mr. McCoy feels that this should be referred back to the Selectmen and if they want to
53 put a 3-lot subdivision in they are going to have to petition the Selectmen.

54
55 Mr. Cleghorn explained at the time this application came in there was no building inspector
56 and no counsel available to staff. Mr. Cleghorn had reached out to New Hampshire Municipal
57 to weigh in but that was not to be considered legal advice. The application was originally
58 submitted to the Planning Board for the 3-lot subdivision. Tonight's decision does not have
59 anything to do with a release of liability. That will be covered in a note, the discussion of
60 liability will be discussed during the conditions of approval if this were approved by the
61 Planning Board. Tonight's decision will be either an appeal of his decision for frontage on a
62 public way or to hear their variance request. If we think it is a private way but they want relief
63 from that provision.

64
65 The Board agreed that they would consider the variance first.

66
67 **Application 2023-007 Raymond and Francis Scanlon/Falzone/Hoefle, Phoenix, Gormley**
68 **and Roberts, PLLC**

69
70 Also continued from October 25, 2023.

71 An application for Variance for property owned by Raymond and Francis Scanlon,
72 represented by Joseph Falzone and Tim Phoenix, described as Tax Map 41, Lot 47 on
73 Meindl Road. The two requested variances are related to the Town of Raymond Zoning
74 Ordinance Article 15, Section 15.1 specifying that two hundred (200) feet of frontage is
75 required and Article 13, Section 13.1.31 permits three (3) lots on a private road. The property
76 is located within the Residential B Zoning District with associated Zone G lands.

77
78 Tim Phoenix from Hoefle, Phoenix, Gormley and Roberts in Portsmouth, reintroduced
79 himself, Joseph Falzone, the applicant, and Alex Monastiero from the development team.
80 Tim Phoenix said they believe that Meindl Road is a public road but for purposes of the
81 variance they are going to assume that it is a private road. There are some documents that
82 say it is public access and others that say it is not. It is important to note that there are a
83 number of homes that are on the road and there are roughly 4 dozen lots in Nottingham that
84 you can't get to without going over Meindl Road. Mr. Phoenix's submission 11 is the Town of
85 Nottingham's Road Listing which lists Meindl Road as a Class 5 road. Mr. Phoenix said you
86 could not put any houses on any of these lots without a variance. They believe it is safe



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87 because Nottingham residents are accessing it. Police and Fire have access to the road, and
88 it is maintained by the Town of Nottingham.

89

90 **The Variance Requests:**

91

92 **Criteria responses for variances:**

93

94 There are two variances that are being requested for the purposes of this consideration.
95 They have 200 feet of frontage but for this argument the frontage is not on a public approved
96 street. Mr. Phoenix said the variances are not contrary to the public interest and the spirit of
97 the ordinance is observed. Mr. Phoenix cited Malachy Glen Associates, Inc. v. Town of
98 Chichester, 155 N.H. 102 (2007) that decided that those are related and are often considered
99 together. "Mere conflict with the zoning ordinance is not enough". It's their position that
100 allowing variances for three lots that meet all the dimensional requirements, and have
101 frontage, but on a private road does not violate the essential character of the locality. It fits in
102 with the character of the locality because there are already several lots on Meindl Road that
103 exist even though the road is private. Similarly, the public health, safety, or welfare will not be
104 harmed because it is maintained, and it is a Class 5 road maintained by Nottingham including
105 the culvert. The fact that it is private is not going to threaten the public health, safety, or
106 welfare. The third requirement for variances is that granting the variance will not diminish
107 surrounding property values. The Town of Raymond has established the uses permissible on
108 Meindl Road, by the existence of homes with frontage only on Meindl by giving a variance
109 back in 2006. The question is whether the fact that the that the road is a private road is going
110 to diminish property values, and everyone on Meindl Road is on a private road. This is a
111 classic hardship/special condition situation. They cannot build or develop on this lot if they
112 cannot access it. There are houses on this road, which leads to dozens of house slots in
113 Nottingham. There's two-way traffic on it. Nottingham is maintaining it. It is quiet and is built
114 to proper standards. Nottingham considers it as exhibit 11 shows, as a Class 5 road.
115 Emergency services can get to it if necessary. It will all be vetted by the planning board. So,
116 there's no reason to disallow this subdivision and development on a private road simply
117 because it's private under these circumstances. These are all going to be residential lots, so
118 they are all going to be reasonable. Their position is even if it's technically private, it's been
119 used by the public, including people in Nottingham, for decades. A denial would result in
120 harm to the existing owners of the sale of the property to Mr. Falzone. It could also potentially
121 cause harm to families that might want to buy one of these lots because they would be
122 unable to do it under circumstances where it would make the land nearly valueless other than
123 for recreation or hunting or whatever.



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124 Mr. McCoy said that Meindl Road was considered an emergency land and never viewed by
125 the Town of Raymond as anything. However, they do not have a hardship because the
126 Selectmen has a rule to allow one house on a Class 6 or a private road after signing a waiver
127 of liability for that lot. In Mr. McCoy's opinion, they do not have a hardship because they can
128 go in and get a permit for one building on that lot.

129 Tim Phoenix explained that he has worked with the Selectmen on numerous occasions and
130 that it's usually through the Planning Board process that the waiver of liability comes up.

131 Mr. Falzone said the fire department has been up there and there is no issue servicing the
132 lots.

133 Mr. Smith read a letter from Nottingham about the status of the Road. (See attached).
134 Nottingham's letter said that there is no formal agreement between the towns.

135 Mr. Cleghorn said that he has reached out to the Town Administrator of Nottingham and
136 requested to make this a more formal agreement but for the time being it is what it is.

137 **Public Comment:**

138 Chris Evans said he owns a property on Meindl Road in Raymond, Lot 48, and has an
139 interest as an abutter. Mr. Evans said he has a great deal of history about Meindl Road, and
140 he does live in Nottingham at the end of the road. Mr. Evans said that there are a variety of
141 vehicles going up and down that road every day and would like to know if it is not public then
142 who is not included to be able to drive down this road. So, the question about public is
143 publicly owned, publicly used, publicly maintained. There's a lot of different questions that
144 might be there. It is really a public used road. There is no one that is restricted from going
145 down the road. Mr. Evans said he would love the road to be paved but his neighbors
146 disagree. Mr. Evans gave a history of the emergency lane situation and said that he got a
147 variance from the Town of Raymond in 2020. Mr. Evans said that he is for the application,
148 and this is a public road. Mr. Evans does agree there is a hardship and a benefit to the
149 public.

150 Mr. Cleghorn said that they need to limit the testimony to what is germane to this application.
151 It needs to be tailored toward specific characteristics or expectations of how this variance
152 affects his property as an abutter.

153

154



155 **Deliberative:**

156 **Motion:**

157 **Ms. Wood made a motion to close the public and enter deliberative; Mr. Hall**
158 **seconded the motion.**

159

160 **A vote was taken by show of hands and the motion passed unanimously.**

161

162 Mr. Hall said that they have heard testimony that the applicant is saying that it is a private
163 road. They have certainly heard testimony that is a private road and that is privately owned
164 by each lot that's on there. The ordinance requires them to come to the Board for a three-lot
165 subdivision or to create additional lots on a private road. They presented their argument well
166 for the criteria. Mr. Hall said he would be inclined to approve it.

167 Mr. McCoy said that he has no issue as far as the lots go but has concern for the Town as far
168 as the road is concerned. The road is an emergency lane not a town road. They can pull that
169 emergency lane at any time. They can stop plowing that road if the people don't maintain it.
170 As far as the Town of Raymond goes, it is the Selectmen's job as far as private and Class 6
171 roads are concerned.

172 Mr. Luszcz commented that the variance is granted based on their presentation that it is a
173 private road.

174 Mr. Hall said that they were asked to make a decision about allowing (3) lots on Meindl Road.

175 **Motion:**

176 **Ms. Wood made a motion to grant relief from the ordinance requirement that**
177 **lots have frontage on a public road.**

178

179 **No second was made, and the motion did not go forward.**

180

181 **Findings of Fact:**

182

183 *Did the applicant provide proof that granting a variance would not be contrary to the public*
184 *interest because:*

185

- 186 • Mr. Hall said the applicant gave them a detailed summary in their presentation that
187 there are already lots of houses on that road in the town agreeing to continue that is
188 not detrimental.

189



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- 190 • Mr. McCoy said he agreed with that.
191
192 • Mr. Smith said that yes that he agrees and for the same reason it is not contrary to
193 public interest because there are houses up and down that road.
194
195 • Ms. Wood said, "Since I live on a private road, in order to get a mortgage, the
196 homeowner has to show that there's adequate maintenance of the road". Ms. Wood
197 indicated that yes it would not be contrary to the public interest.
198
199 • Mr. Luszcz said, "Yes."

200
201 *Did the applicant provide proof that granting a variance would be consistent with the spirit of*
202 *the ordinance because:*

- 203
204 • Mr. Hall commented that the spirit of the ordinances is in fact supported in that we are
205 authorized to grant the variance for a lot on a private road. I agree.
206
207 • Mr. McCoy said he agreed.
208
209 • Mr. Smith said he agreed.
210
211 • Ms. Wood said "I don't see anything here that is contrary to the spirit of the ordinance.
212 The ordinance purpose of the ordinance is to prevent overcrowding and to provide
213 adequate light fare in space. Yes, so there's nothing in this question variance that is
214 contrary to the spirit of the ordinance."
215
216 • Mr. Luszcz said "Yes"

217
218 *Did the applicant provide proof that granting a variance would do substantial justice because:*

- 219
220 • Ms. Luszcz said "Yes"
221
222 • Ms. Wood said "Yes"
223
224 • Mr. Hall said that substantial justice has provided the fact again, that there are already
225 houses on the road. We've already established that the road is maintained to some
226 level. Substantial justice is granted based on that reason.
227
228 • Mr. McCoy said he would have to say no the hardship is not proven because they can
229 get one house without any of this one house on a private road without any issue.
230



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- 231 • Mr. Smith said he was going to agree with David.
232

233 *Did the applicant provide proof that demonstrated that granting a variance would not diminish*
234 *the values of surrounding properties because*
235

- 236 • Mr. Hall said, "We heard from an abutter who is a real estate broker who stated that
237 he felt that this would help the area and will not diminish the value of the houses
238 around their site".
239

- 240 • Mr. McCoy said he agreed.
241

- 242 • Mr. Smith said that he agrees, and it will not diminish the value of the properties.
243

- 244 • Ms. Wood said she agrees that there's no diminution of surrounding property values.
245

- 246 • Mr. Luszcz said "Yes."
247

248 *The applicant was to provide proof that literal enforcement of the provision of the ordinance*
249 *would result in a non-necessary hardship. Did the applicant demonstrate that special*
250 *conditions of the property exist that distinguish it from other properties in the area?*
251

- 252 • Mr. Hall said, "The applicant did discuss his hardship that if this variance was not
253 granted, that would limit the use of his property. It could be seen as "taking" a cut. I am
254 not sure that I agree with that, but I understand how you're phrasing it that way. So, I
255 think the hardship is granted and the fact that he's looking for three lots that all meet
256 our dimensional requirements".
257

- 258 • Mr. McCoy said again, "I disagree. Same reason before that they can build one house
259 without subdivision."
260

- 261 • Mr. Smith said, "I'm gonna agree that they did prove that it would be a hardship if it
262 wasn't granted. So, I'm gonna say yes."
263

- 264 • Ms. Wood said yes because this is the only existing access to that land.
265

- 266 • Mr. Luszcz said as David has stated.
267



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268 *B. Did the applicant demonstrate that no fair and substantial relationship exists between the*
269 *general-purpose public purpose of the ordinance provision and the special application of that*
270 *provision to the property yes and no.*

- 271
- 272 • Ms. Wood said, “Yes because I don't see how a requirement that a lot have frontage
273 on a public road serves the purpose of the ordinance.”
 - 274
 - 275 • Mr. Smith said, “Yes because there have been existing homes down there.”
 - 276
 - 277 • Mr. Luszcz said “Yes”
 - 278
 - 279 • Mr. McCoy said he already did that.
 - 280
 - 281 • Mr. Hall said, “I agree. But I'm going to lift their testimony here that the minimum
282 requirements for the lots on public roads are still being met. They have adequate
283 provisions and municipal services to get to those houses, or to those lots.”
 - 284

285 *C. Did the applicant demonstrate the proposed use and is a reasonable one?*

- 286
- 287 • Mr. Smith said, “I'll say yes. Because the frontage of the lots is allowed, and they are
288 all over 200 feet.”
 - 289
 - 290 • Mr. Hall said that single family homes are allowed in that zoning district. Then again
291 these are for the lots only.
 - 292
 - 293 • Mr. McCoy said he would agree.
 - 294
 - 295 • Ms. Wood said she would agree. It's an area that is zoned for residential. And they're
296 going to meet all the other dimensional requirements.
 - 297
 - 298 • Mr. Luszcz said “Yes.”
 - 299

300 In discussing the motion Mr. McCoy said he wanted as a condition that all lots must be
301 signed by the Selectmen for non-liability. Mr. Cleghorn advised that should be part of the
302 subdivision review by the Planning Board and this Board could recommend that it be
303 considered by the Planning Board. Mr. McCoy wanted to make it a condition that they sign a
304 Waiver of Liability.



305 **Motion:**

306 **Mr. McCoy made a motion that when they grant the variance that one condition**
307 **be that they sign a Waiver of Liability with the Selectmen form liability form**
308 **emergency vehicles or any town facility that can't get to the home if there is**
309 **some issue; Mr. Luszcz seconded for discussion.**

310
311 **Discussion:**

312 **Mr. Smith suggested amending the motion so that it would just be a**
313 **recommendation to the planning board as a recommendation.**

314 **Mr. McCoy said, "We've always put a condition, if we did a Class 6 road or**
315 **private road, we always put a condition that they put it, that they sign the waiver**
316 **of liability, like the one they were talking about his waiver liabilities in his deed.**
317 **And he also, in that particular one where they own, we made we put the**
318 **condition in that they had to give him 50 foot right away. So, if that road ever got**
319 **built, for some reason that they would have to, they would have the 50 feet."**

320 **Mr. Luszcz said that he is just not comfortable with something like that it is out**
321 **of their jurisdiction.**

322 **Ms. Wood suggested that they make it as a recommendation to the Planning**
323 **Board.**

324 **Mr. Smith asked Mr. McCoy if he wanted to change the motion to say**
325 **recommend rather than make it a condition. Mr. McCoy did not want to change**
326 **the motion.**

327 **Mr. McCoy repeated his motion.**

328 **A vote was taken by indicating "aye" if in favor or opposed. The motion failed**
329 **with 2 votes in favor and 3 votes against.**

330 **Motion:**

331 **Mr. McCoy made a motion to recommend to the Planning Board that a Waiver**
332 **Liability be signed with the Board of Selectmen as a Condition of Approval.**
333 **Mr. Smith seconded the motion for discussion.**

334
335 **A unanimous vote was taken by a show of hands. Motion passed.**

336
337 **Motion:**

338 **Mr. Hall made a motion for a three-lot subdivision on Meindl Road, a private**
339 **road that already has safety and Fire, PD access, though there is no formal**
340 **documentation with the town of Nottingham. Each lot will provide 200 feet of**



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341 frontage along with proper dimensional requirements. “I vote to make a
342 recommendation that we heard testimony also that they meet the criteria that
343 supports the issuance of a variance and move to approve.” Mr. Smith
344 seconded the motion for discussion.

345
346 **Discussion:**

347 **Mr. Hall corrected his motion to say they are approving 3 lots on a private road.**

348
349 **Mr. Smith said that because specified by 200 feet is frontage. It satisfies the**
350 **15.1. And we're granting the variance for 13.1.31.**
351

352 **A unanimous vote was taken by a show of hands. Motion passed.**
353

354 Tim Phoenix said, “I would like to make a formal request to postpone their application
355 regarding the administrative appeal. If the variances are not appealed, but with a request for
356 rehearing by someone else in the next 30 days. On day 31, I will withdraw the administrative
357 appeal.”

358 **Public Hearing:**

359 **Application 2023-008 Dugan – 37 Governors Drive**

360 Application for variance has been submitted by Promised Land Survey, LLC on behalf
361 of Casey A. Dugan, owner of 37 Governors Drive at Map 34, Lot 37. The request is for
362 relief from Article 15, Section 1 of the Town of Raymond Zoning Ordinance which
363 requires setbacks of 30 feet on the side, rear and front and 75 feet (rear); where 5.0
364 feet (southern side), 26.3 feet (northern side), 19.4 (front) and 50.4 feet (rear) are
365 proposed by the applicant. The property is located within Residential B Zoning District.

366

367 Mr. Cleghorn confirmed that the abutters had been notified.

368 Tim Peloquin of Promised Land Survey, LLC along with Casey Dugan and her mother
369 Doreen Dugan, introduced himself. Mr. Peloquin said that he would like to read the points
370 into the record and then have Ms. Dugan speak. Mr. Peloquin said that they are asking for a
371 variance from Article 15, Section 1 in order to raise the existing dwelling at the existing
372 property and construct a new dwelling. The new dwelling is proposed at a distance of 5.0 feet
373 from the Southern Lake property line 19.4. From the right of way of Governors Drive and 50.4



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374 feet from the reference line of the Governor's Lake. It's small, and it's preexisting non-
375 conforming.

376 * Granting the variance would not be contrary to the public interest because many of the
377 existing dwellings within the immediate area have a similar distance of the right way
378 and property lines. This proposed layout is consistent with the immediate area.

379 * Granting a variance would be consistent with the spirit of the ordinance because the
380 proposed use aligns with the allowed use within the zone. And specifically, the layout
381 of the proposed dwelling meets the NHDES Shore Land Protection Program, primary
382 structure setback of 50 feet, providing even more of a buffer. When we're saying that
383 providing more of a buffer than the existing dwelling, and the dwelling on the property
384 for the protection of Governor's Lake.

385 * Granting a variance would do substantial justice because otherwise the size of the
386 preexisting non-conforming lot of record is too small to construct a dwelling. Granting
387 a variance for relief of the setbacks as requested allows for the dwelling to be
388 constructed, whereas observing the dimensional requirements of Article 15 deprives
389 the landowner from constructing a dwelling on the property

390 * And before granting a variance would not diminish the values of the surrounding
391 properties because the land use would not change, and the structure will be newly
392 constructed dwelling that conforms to the local building code. Removing the older
393 structure, constructing a new one, along with the associated landscaping and other
394 improvements, will add both aesthetic and economic value to the neighborhood.

395 * Owing to the special conditions of the property that distinguish it from other properties
396 in the area. Little enforcement of the provision of the ordinance would result in
397 unnecessary hardship because the parcel is too small to fully observe the setback
398 requirements for the zoning district. Observing the setback requirements provides an
399 unusable building envelope that is approximately 10 feet by 17 feet. But whereas the
400 modest dwelling that is proposed with this application is 22 feet by 36 feet.

401 * The proposed use is a reasonable one because the proposed project uses the lot in
402 the normal and expected way that is consistent with both the allowed use prescribed
403 in the zoning ordinance. And also, within the immediate area, a modest dwelling of
404 similar size to other dwellings in the area, and a driveway.



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405 As part of their application, they have a signed permission to represent from Casey. That's
406 not germane any longer. And then also provided you with a detailed plot plan, showing where
407 the proposed building is the lot lines, various structures on the property and abutting
408 structures. And that was based on the survey by Mr. Peloquin's firm.

409 Casey Dugan introduced herself and her mother, Doreen, saying that her grandparents were
410 Helen and Henry Romboli residents of New Hampshire even though she is a resident of
411 Massachusetts. Ms. Dugan spent every summer in New Hampshire and wants to make sure
412 that her kids can spend summers here too. They currently have a tiny footprint, 13 by 26
413 square footage, and it will be a full-time home. Currently, it is in much need of repair and is
414 not currently occupied.

415 Mr. Peloquin said there is a lot of history to the neighborhood and the 26 by 32 footprint is
416 very reasonable. They know that they will have to meet all the criteria with DES in terms of
417 landscaping and various things to protect the lake. They have confidence that they can make
418 the septic work. They will have to have a drilled artesian well. This is an example of it being
419 an improvement. This is a small, modest home. If they can't justify a well and septic on the
420 lot, then it can't be constructed.

421 **Public Comment:**

422 Eileen Fitzgerald of 16 Governor's Drive about 4 doors up from Casey's lot. She has been
423 here since her grandparents built their cottage 65 years ago. Ms. Fitzgerald gave a history of
424 the area. Ms. Fitzgerald explained that Doreen has health issues, and the purpose of this
425 house is to provide a safe and independent home. The house will be an open concept on the
426 first floor where she will have her bedroom, an ADA bathroom, and functional kitchen
427 designed for a person with some disability. The house will be wheelchair and walker
428 accessible. Ms. Fitzgerald wanted the Board to know there is a purpose to this house.

429 Lynne Romboli, 35 Governor's Drive said she is in favor of all that her family is proposing to
430 do. They know what the process is. And are very, very supportive of Casey through this
431 whole process.

432 **Deliberative:**

433 **Motion:**

434 **Mr. McCoy made a motion to go into deliberative; Mr. Luszcz seconded the**
435 **motion.**

436 **A unanimous vote was taken by a show of hands. Motion passed.**



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437 Ms. Wood said that Governors Lake is considered an impaired water body by the State of
438 New Hampshire because the phosphorus levels are high. Ms. Wood is pleased that they are
439 increasing the setback from the lake.

440 Mr. Luszczyk said it is more than just the water, it's about wildlife and everything like that
441 protecting it.

442

443 *Did the applicant provide proof that demonstrates the variance will be will not be contrary to*
444 *the public interest? Yes. And no.*

445

446 • Mr. Luszczyk said he believes it will not. It is part of the existing neighborhood. It's
447 consistent with the houses in the neighborhood. It's actually improving the property
448 with the septic design. Yes.

449

450 • Ms. Wood said yes because of the setback and to bring the septic up to current
451 standards.

452

453 • Mr. Smith said yes because of the improvements that will be taking place.

454

455 • Mr. McCoy agrees with Tom.

456

457 • Mr. Hall said he agrees, and that the applicant filled out their application for a variance
458 since they are just going to repeat what is on the worksheet the Board should accept
459 this as their input.

460

461 **Motion:**

462 **Mr. McCoy made a motion to accept the variance as requested with the**
463 **conditions that they meet DES approvals and water protection for septic, well**
464 **and shoreline protection.**

465

466 **Mr. Hall said the findings of fact, the variance is not contrary to public interest**
467 **because of similar sizes to all the other houses in the neighborhood. The area**
468 **was already properly zoned for residential use. And that's all they're asked to do**
469 **within the confines of the setbacks and asking for in the it allows for them to**
470 **have a new house for substantial justice.**

471 **Mr. Luszczyk seconded the motion.**



472 **A unanimous vote was taken by a show of hands. Motion passed.**

473

474 **Approval of Minutes:**

475 **8/23/23**

476 **Motion:**

477 **Ms. Wood made motion to approve the minutes from August 23, 2023, as**
478 **written;**

479 **Mr. Hall seconded the motion.**

480 **A unanimous vote was taken by a show of hands. Motion passed.**

481 **10/25/23**

482 **Motion:**

483 **Ms. Wood made motion to approve the minutes from October 25, 2023, as**
484 **written; Mr. Hall seconded the motion.**

485 **A unanimous vote was taken by a show of hands. Motion passed.**

486

487 **Staff Update:**

488

489 Mr. Cleghorn said that as of last Monday we are considered fully staffed. The Planning
490 Technician just started her second week. Her name is Christine. Mr. Cleghorn said that his
491 vision long term is that she will be supporting the Board. Additionally, Dana Dinsmore, the
492 building inspector, is now working 4 days a week and is now in the office between Monday
493 and Thursday.

494

495 Mr. Smith asked when they would be doing the 2024 ZBA Calendar.

496

497 Mr. Cleghorn said he would take a stab at producing the calendar. The Board does not have
498 any current applications right now.

499

500 Ms. Wood asked if the Planning Board had any zoning ordinance changes in the pipeline.

501

502 Mr. Cleghorn said that they do and will be discussing those changes at the upcoming joint
503 meeting between the Conservation Commission and Planning Board.

504

505 **Update on the Appointments:**

506



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507 Mr. Smith said the Board got a notice that Joyce and Chris Long had received emails on 11/3
508 for a notice to appear before the Board of Selectmen for the appointments. Then, they
509 received email about an hour later on 11/3, that the appointments for the ZBA will be
510 removed from the agenda on the sixth and that they would be rescheduled. He has not heard
511 anything back as of today.

512 **Email Discussion:**

513 Mr. Smith said he reached out to Steve Buckley because he wanted to know if they should
514 put it in the rules and procedures. (See attached). Steve Buckley said that someone could
515 request your emails relative to ZBA but cannot mandate it. He suggested they keep it out of
516 the rules of procedure and there are no RSA's speaking directly to it. There are only
517 suggestions. It is up to the individual, whatever you are comfortable with.

518 **Adjournment:**

519 -

520 **Motion:**

521 **Ms. Wood made motion to adjourn; Mr. Hall seconded the motion.**

522 **A unanimous vote was taken by a show of hands. Motion passed.**

523

524 **The meeting adjourned at approximately 9:14 pm.**

525

526

527 **Attachments:**

528

529 **Letter from the Town of Nottingham and email from Stephen C. Buckley**

530

531 *From:* Ellen White <TA@notingham-nh.gov>

532

Sent: Thursday, June 29, 2023 4:11:11 PM

533

To: Christina McCarthy <cmccarthy@raymondnh.gov> *Cc:* Plan. Zone <plan.zone@notingham-nh.gov>

534

Subject: RE: Miendl Road

535

Hi Christina,

536

537 156 Water Street | Exeter, NH 03833 603-778-0885 | www.therpc.org

538



539



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I searched our files, checked with our past Public Works Director, and found that there is no agreement in place for Miendl Road between the towns of Nottingham and Raymond. It's probably a result of an old handshake agreement. Please let me know if you have any other questions.

Thank you,

Ellen White

Town Administrator

Town of Nottingham
P.O. Box 114
Nottingham, NH 03290
Phone (603) 679-5022

From: Christina McCarthy <cmccarthy@raymondnh.gov>

Sent: Wednesday, June 28, 2023 10:40 AM

To: Public Works Director <smclean@nottingham-nh.gov>; Plan. Zone <plan.zone@nottingham-nh.gov>

Subject: Miendl Road

562 Hello,

563
564
565
566
567
568
569
570
571
572
573

I am the Planning/Zoning admin for the Town of Raymond, I was wondering if there was a written agreement between the Town of Nottingham and the Town of Raymond for the maintenance of Miendl Road. If so, could I get a copy please?

*Christina McCarthy Tax Collector
Town of Raymond 4 Epping Street
Raymond NH 03077
603-895-7016
cmccarthy@raymondnh.gov*

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582

Legal Inquiries <legalinquiries@nhmunicipal.org> 10/31/2023 4:04 PM

Raymond: Stephen C. Buckley - Keith Smith Raymond ZBA REF Board Email Address

Good afternoon, Keith:

Here is a summary of our basic tips on how municipal boards and commissions should handle email communications:

- Never use email or other communication outside a meeting to express ideas, concerns, opinions, etc. on matters related to the business and duties of your public body.
- Use an administrative person (*i.e.*, someone who is not a member of the public body) to send an email to



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- 583 members of a public body, if you have that option.
584 • Put the recipients' email addresses in the BCC line of the email to prevent the possibility of "Reply All" and
585 a discussion ensuing among a quorum of the public body.
586 • If at all possible, always use official email addresses issued by the municipality, school district, or other
587 governmental entity for communicating town business, because such communications constitute governmental
588 records that will be subject to possible disclosure.
589 • Leave discussion and deliberation of official matters for a public meeting, a properly held nonpublic session, or
590 a proper "non-meeting," as discussed later in this chapter.
591 • When individual board members send and receive email communications about municipal matters, it is
592 recommended they should use an email account separate from their regular, personal email account. It
593 suggested that the member establish a separate Gmail account for board or committee business.
594 • It is not necessary nor required that these suggestions be included in the ZBA's Rules of Procedure.

595 **Stephen C. Buckley**
596 **Legal Services Counsel**
597 **NH Municipal Association**
598 25 Triangle Park Drive
599 Concord, NH 03301
600 603-224-7447

601
602

603 Note: Video Supplement to Minutes can be found @ RCTV on Demand (5 years)
604 <https://cloud.castus.tv/vod/rctv?page=HOME>

605

606 Respectfully submitted,

607

608 Jill A. Vadeboncoeur



Town of Raymond
Zoning Board of Adjustment
Order Granting or Denying a Variance
Application # _____

The Zoning Board of Adjustment for the Town of Raymond, New Hampshire, having held a public hearing on _____ to consider an application for a Variance of _____ . This application was submitted by _____ for the property located at _____. Having heard all the arguments presented at the hearing, the Zoning Board of Adjustments makes the following FINDINGS OF FACT, and draws the following CONCLUSIONS to each of the required criteria:

1. Did the Applicant provide proof that demonstrates the variance will not be contrary to the public interest? Yes _____ No _____

This CONCLUSION is based on the following FINDINGS OF FACT, BECAUSE OF:

2. Did the Applicant provide proof that demonstrates how a variance observes the spirit of the ordinance? Yes _____ No _____

The CONCLUSION is based on the following FINDINGS OF FACT, BECAUSE OF:

3. Did the Applicant provide proof that demonstrates how a variance will result in substantial Justice? Yes _____ No _____

This CONCLUSION is based on the following FINDINGS OF FACT, BECAUSE OF:

4, Did the Applicant provide proof that demonstrates the variance will not diminish the values of surrounding properties? Yes _____ No _____

This CONCLUSION is based on the following FINDINGS OF FACT, BECAUSE OF:

5A. The Applicant was to provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Did the Applicant demonstrate that special conditions of the property exist that distinguish it from other properties in the area?

Yes _____ No _____

This CONCLUSION is based on the following FINDINGS OF FACT, BECAUSE OF:

b. Did the Applicant demonstrate that 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? Yes _____ No _____

This CONCLUSION is based on the following FINDINGS OF FACT, BECAUSE OF:

c. Did the Applicant demonstrate that the proposed use is a reasonable one?

Yes _____ No _____

This CONCLUSION is based on the following FINDINGS OF FACT, BECAUSE OF:

OR

5B, Did the Applicant demonstrate that, if the criteria in subparagraph 5A above are not established, an unnecessary hardship exists 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 it. Yes _____ NO _____

This CONCLUSION is based on the following FINDINGS OF FACT, BECAUSE OF:

THEREFORE, based upon the foregoing, and all the evidence in the record, IT IS ORDERED) that the application for a variance be GRANTED / DENIED by a vote of _____ for/ _____ against/ _____ abstain.

If granted, it is subject to the following conditions:

Ordered this _____ day of _____, 2023.

Zoning Board of Adjustment

Town of Raymond, NH Zoning Board of Adjustment



Rules of Procedure

ADOPTED

11/12/2008

LAST AMENDED

10/25/2023

ARTICLE I – AUTHORITY AND MEETING BASICS

1.100 AUTHORITY

These Rules of Procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, Chapter 676:1, and the Town of Raymond Zoning Ordinance.

1.200 MEETING DATE, TIME, AND PLACE

Zoning Board of Adjustment (ZBA) meetings are held on the fourth Wednesday of every month on an as-needed basis, unless otherwise designated by the Chair. Additional meetings may be held if deemed necessary by the Chair. All ZBA meetings shall begin 6:30 p.m. unless otherwise specified. In the event of inclement weather, the Wednesday following the canceled meeting shall serve as the makeup date, unless another date is specified. All ZBA meetings shall be held in Room 109 at Raymond High School, located at 45 Harriman Hill Road, unless otherwise specified.

ARTICLE II – BOARD MEMBERSHIP

2.100 MAKEUP OF BOARD

In accordance with the local legislative body, ZBA members shall be appointed by the Board of Selectmen as outlined in RSA 673:3. The ZBA shall consist of a maximum of five (5) Members, and up to five (5) Alternate Members. Members and Alternates are required to be residents of the Town of Raymond, NH.

2.200 TERM LENGTH

ZBA Members shall be appointed to terms of three (3) years, per RSA 673:5(II). Alternate Members shall be appointed to terms of three (3) years, per RSA 673:6(I)(a). The Town Clerk shall record the appointment and expiration dates of the terms of each Member and Alternate Member.

2.300 SWEARING-IN

Each newly appointed Member and Alternate Member must sign appointment papers and be Sworn-in as authorized to administer the Oath required by chapter RSA 42:2 prior to being eligible to serve on the Board.

2.400 PROCESS FOR APPOINTMENT OF ALTERNATE MEMBERS

Interested residents shall declare their interest in serving as an Alternate Member to the Chair at a posted meeting of the Board. It is strongly encouraged that the prospective Alternate Member attend three (3) consecutive ZBA meetings prior to consideration for appointment as an Alternate Member. In addition, the prospective Alternate Member will be interviewed by the Board and considered for a recommendation to the Board of Selectmen for appointment.

2.500 PROCESS FOR FILLING VACANT MEMBER SEATS

In the event that a Member’s seat becomes vacant due to resignation or any other reason, the Board of Selectmen shall appoint a new Member to fill the vacant seat for the remainder of the vacated Member’s term, per RSA 673:12(II). The Chair may designate an Alternate Member to fill the vacant seat temporarily until the Board of Selectmen permanently fills the seat, per RSA 673:12(III).

2.600 BOARD TRAINING WITH LEGAL COUNSEL

A training session with the Board’s Legal Counsel will be scheduled annually, preferably within three (3) months of the annual Town Meeting.

2.700 INDIVIDUAL BOARD MEMBER TRAINING AND REFERENCE MATERIALS

Pursuant to RSA 673:3-a, it is recommended that any new Member of the Zoning Board of Adjustment undertake six (6) hours of training within six (6) months of assuming their position on the Board for the first time.

Community Development Department shall provide new Members with the following documents and reference materials and recommends that new members review them. The materials provided shall include but not be limited to:

- New Hampshire Planning & Land Use Regulation (RSA book)
- Town of Raymond Zoning Ordinance
- Town of Raymond Floodplain Development Ordinance
- The Board of Adjustment in New Hampshire – A Handbook for Local Officials (by the NH OSI)

ARTICLE III – BOARD OFFICERS

3.100 PROCESS FOR ELECTING OFFICERS

During the first meeting following the annual Town Election, the current Chair shall begin the meeting by requesting nominations for the position of Chair. The current Chair will then call for a vote on each person nominated in the order the nomination was received. This procedure will continue until a member receives a majority vote. Once a Member has been elected as Chair, said Member shall then conduct elections for the positions of Vice Chair and Clerk, in the manner described above.

3.200 CHAIR

A Chair shall be elected by a majority vote of the Board in the manner described in Article III, Section 3.100 of these Rules of Procedure. The Chair shall preside over all meetings and shall perform other duties customary to the office. The Chair shall be responsible for conduct and decorum of the meeting. The Chair shall also have the responsibility to ensure all parties receive a full and fair hearing before the Board, and to ensure that these Rules of Procedure and applicable State Laws are adhered to.

3.300 VICE CHAIR

A Vice Chair shall be elected by a majority vote of the Board in the manner described in Article III, Section 3.100 of these Rules of Procedure. The Vice Chair shall preside in the absence of the Chair and shall have the full powers of the Chair on matters that come before the Board in the absence of the Chair.

3.400 CLERK

A Clerk shall be elected by a majority vote of the Board in the manner described in Article III, Section 3.100 of these Rules of Procedure. The Clerk shall preside in the absence of both the Vice Chair and Chair and shall have the full powers of the Chair on matters that come before the Board in the absence of both the Vice Chair and Chair. The Clerk shall also be responsible for keeping minutes during posted meetings for which the Assistant Planner and Code Enforcement Officer are not present. Additionally, the Clerk, or a Member designated by the Chair in the absence of the Clerk, shall take minutes and, if appropriate, photographs, during all site walks.

3.500 TERM LENGTH FOR OFFICERS

Officers shall be elected to terms of one (1) year and shall be eligible for re-election.

3.600 INELIGIBILITY OF HOLDING OFFICE

Alternate Members shall not be eligible to hold office.

ARTICLE IV – AGENTS OF THE BOARD

4.100 BOARD STAFF

The Board may appoint other agents, as necessary, to perform duties for the Board. The following are designated agents of the Board.

- a. **Code Enforcement Officer/Designated Staff** – Shall provide technical support and clarification, as needed, to the Zoning Board of Adjustment, and fulfill other duties as may be determined by the ZBA.
- b. **Assistant Planner/Designated Staff** – Shall provide technical support and clarification, as needed, to the Zoning Board of Adjustment. The Assistant Planner/designated staff shall also take meeting minutes, issue notice for all meetings, and fulfill other duties as may be determined by the ZBA.

ARTICLE V – MEMBER RESPONSIBILITIES

5.100 ATTENDANCE

Whereas the regular attendance of ZBA Members and Alternate Members is critical to the duties and responsibilities of the Board, and its duty to the public to provide an efficient and effective Board, Board Members and Alternate Members should make every effort to attend every scheduled meeting of the ZBA. In the event that a Member or Alternate Member will be unable to attend a meeting or site walk, said Member or Alternate Member shall notify the Chair, Vice Chair or Assistant Planner as soon as possible. If notification is made, the Member or Alternate Member can be granted an excused absence. Multiple unexcused absences shall be grounds for removal under the terms of Section 5.400.

5.200 REMOTE PARTICIPATION BY MEMBERS

- A) The member’s attendance must be acceptable as unpractical, and that reason must be stated in the minutes of the meeting.
- B) Except in an emergency, at least a quorum of the public body must be physically present at the location of the meeting. The determination that an emergency exists is to be made by the chair, and facts upon which the determination is based must be included in the minutes.
- C) All votes taken during such a meeting must be by roll call vote.
- D) Each part of a meeting that is required to be open to the public must be audible to the public at the physical location of the meeting.
- E) Any member participating remotely must identify anyone present at the remote location.

5.300 DISQUALIFICATION OF MEMBER

If a Member becomes ineligible to serve on a specific case, per RSA 673:14, said Member shall notify the Chair as soon as possible. The Chair shall then designate an Alternate Member to sit in that Member’s place. The ineligibility of a Member shall be announced prior to the start of the hearing. Any Board Member may request a non-binding vote of the Board regarding the eligibility of another Member. This vote can only be requested by a Board Member; Alternate Members cannot request such a vote. Any Member or Alternate Member disqualifying themselves from a case shall absent themselves from the Board table during the public hearing. When recused, the recused person shall not participate in further discussions, unless s/he clearly states for the record that s/he is doing so only as a general member of the public per the Town of Raymond Code of Ethics.

5.400 REMOVAL OF MEMBERS

Board Members and Alternate Members may be removed for inefficiency, neglect of duty or malfeasance in office, by the Board of Selectmen, per RSA 673:13(I). If a member or Alternate Member is absent for three (3) consecutive meetings or has four (4) or more total unexcused absences within a calendar year, then that Member or Alternate member may be subject to removal proceedings.

5.500 MEMBER CONDUCT

Board Members and Alternate Members shall not discuss elements of an application with other Board Members or Alternate Members, Applicants, or the general public outside of a noticed public hearing. If a Board Member or Alternate Member wishes to enter onto a site to gather information, they may do so only under the parameters of Article VIII, Section 8.600 of these Rules of Procedure, entitled Conduct of Site Walks.

5.600 CODE OF ETHICS

Board Members and Alternate Members are subject to the Town of Raymond Code of Ethics.

ARTICLE VI – APPEALS TO ZONING BOARD OF ADJUSTMENT

6.100 SCHEDULING OF APPEALS TO THE ZBA

Appeals to the ZBA concerning any matter within the Board’s powers as set forth in RSA 674:33 shall be scheduled for a public hearing before the ZBA within 30 days of being filed with the Community Development Department, per RSA 676:7. Appeals from Administrative Decision

taken under RSA 676:5 shall be filed with the Community Development Department within 30 days of the date of the decision. Once filed, a public hearing shall be scheduled before the ZBA within 30 days.

6.200 APPEALS REQUIRING ADDITIONAL INFORMATION AND REVIEW

Per RSA 676:5, the Board of Adjustment may impose reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents, and other matters which may be required by particular appeals or applications.

- a. When reviewing a land use application, the ZBA may require the applicant to reimburse the Board for expenses reasonably incurred by obtaining third party review and consultation during the review process, provided that the review and consultation does not substantially replicate a review and consultation obtained by the Planning Board.
- b. When retaining the services of a third-party reviewer, the ZBA shall require detailed invoices with reasonable task descriptions for services rendered. Upon request of the applicant, the ZBA shall promptly provide a reasonably detailed accounting of expenses, or corresponding escrow deductions, with copies of supporting documentation.

ARTICLE VII – NOTICE FOR ZONING BOARD OF ADJUSTMENT MEETINGS

7.100 AGENDAS

Agendas for ZBA meetings shall be posted in the Town Office Lobby and in the display, case located outside the Recreation/Public Works Office Building. Agendas shall be posted no later than 24 hours prior to the scheduled meeting. Agendas shall also be distributed to Members and Alternate Members no later than the Friday prior to the next meeting, unless otherwise specified.

7.200 LEGAL NOTICES

Public hearings held by the Zoning Board of Adjustment shall be noticed in accordance with RSA 676:7.

7.300 LEGAL NOTICE OF ABUTTERS

All legal notices mailed to abutters and associated professionals for public hearings before the Zoning Board of Adjustment shall be sent via certified mail with return receipt requested.

ARTICLE VIII – ZONING BOARD OF ADJUSTMENT MEETINGS

8.100 GENERAL PROVISIONS

- a. **QUORUM** – A quorum shall be three (3) members, including any Alternate Members sitting in place of absent Members.
- b. In the event that a quorum of the Board is present, but less than five (5) Members are seated, the applicant shall be informed that they have the opportunity to postpone a hearing. This ground for a continuance is limited to 3 total meetings. If the applicant opts to proceed with a hearing, then a vote by a Board consisting of fewer than five (5) Members cannot constitute grounds for rehearing.

- c. **MOTIONS** – A motion made, and duly seconded, shall only be carried by an affirmative vote of at least three (3) voting Members serving on the case. Voting Members may include any Alternate Members sitting in the place of regular Members.
- d. The concurring vote of three (3) Members of the Board shall be necessary to reverse any action of an administrative official, or to decide in favor of the applicant on a matter of which it is required to pass.

8.200 SEATING OF ALTERNATE MEMBERS

The Chair shall select an Alternate Member to sit in place of an absent, recused or otherwise ineligible Member, on a rotating basis, as needed. Said Alternate Member shall remain seated as a Member of the Board until the regular Member can return to their seat.

In the event an Alternate Member is chosen to sit in place of any absent Member during a public hearing, said Alternate Member shall remain seated in the place of any absent Member until the Board renders a final decision, to the extent possible.

8.300 ROLE OF ALTERNATE MEMBERS

Alternate Members may ask questions and otherwise participate in all discussions, except those from which they recuse. When not sitting as a Member, Alternate Members shall not make, second or vote on any motions, or participate in any deliberative discussions, and remove themselves from the Board to being a member of the public.

8.400 DECORUM OF THE MEETING

The Chair shall be responsible for the conduct and decorum of the meeting. All persons speaking should address only the Board, through the Chair. The Chair will not allow cross-witness arguments or cross-examination. Questions may be raised (e.g., abutter question to an applicant), but the questioner should address the Chair; the Chair will repeat the question in a manner which is impartial and seeks the type of information the Board needs to make its decision.

Board Members and Alternate Members will conduct themselves in a polite manner. Disagreements on positions are to be expected, but all Members and Alternate Members should interact with each other, applicants, expert witnesses, and the public with respect. The Chair may ask a member or Alternate Member to refrain from negative behavior. The Chair may request that a member of the public stop talking and may request that the person leave the room. An applicant may be warned that the hearing in progress will cease and be continued to a later date.

8.500 CONDUCT OF MEETINGS & PUBLIC HEARINGS

Zoning Board of Adjustment meetings and public hearings will generally be conducted in the following manner:

- I. Advise those in attendance of the Board’s title and function
- II. Roll call by the Chair – Indicate excused or unexcused absence for any Board members not in attendance.
- III. List the meeting’s activities – Number of cases, names of applicants, and order heard.
- IV. Public Hearings:
 - a. Announcement of application by Chair
 - b. Reading of legal notice

- c. Announcement of any disqualified members. If less than five (5) members are present, inform applicant of three (3) member requirement for positive votes.
 - d. Swearing in of applicants, Lawyers, and experts or other persons presenting Pursuant to RSA 673:15
 - e. Presentation of the application by the applicant or authorized agent
 - i. Testimony from abutters
 - ii. Testimony from abutters opposed to appeal
 - iii. Testimony from other interested parties
 - iv. Rebuttal by the applicant to abutters/other interested parties
 - v. Rebuttal by the abutters/other interested parties to applicant
 - vi. Closing statements by applicant or authorized agent
 - vii. Close public information portion of meeting
 - f. Deliberative Session (if necessary) Pursuant to RSA 676:3.1
- V. Approval of Minutes
 - VI. Other Business
 - VII. Adjournment

8.600 CONDUCT OF SITE WALKS

The purpose of a site walk is to review a plan and/or specific aspects that can be better understood through personal observation. A site walk shall be considered a public meeting. Therefore, notice shall be required, as well as minutes taken, and the public shall be allowed to attend and observe. If the Applicant refuses site access to the Board, or to the non-Board public, then such action may be a basis for denial of an application.

While on a site walk, questions should be limited to the plan and no deliberation shall take place. ZBA Members, staff, the applicant, and the public should stay in close proximity so that all questions can be documented in the minutes.

Board Members may only enter onto a site independently of a formal site walk with previous permission from an Applicant and only in the presence of a Town staff member. The Town staff member shall report to the non-attending Members of the Board on what took place during such a visit.

ARTICLE IX – ZONING BOARD OF ADJUSTMENT DECISIONS

9.100 ISSUANCE OF DECISIONS

A written Notice of Decision, including any conditions required by the Board, shall be made available to the applicant, and made available for public inspection within five (5) business days of the vote, in accordance with RSA 676:3.

9.200 REQUESTS FOR REHEARING OF ZBA DECISIONS

Any and all requests for rehearing shall be done in accordance with RSA 677:2

ARTICLE X – ZONING BOARD OF ADJUSTMENT RECORDS

10.100 RECORD KEEPING

The records of the Zoning Board of Adjustment shall be kept by the Assistant Planner and made available for public inspection at the Community Development Department Office.

10.200 MEETING MINUTES

Zoning Board of Adjustment meeting minutes shall include:

1. Name and kind of meeting
2. Date, place, and time that the meeting began and ended.
3. Names of the Chair , Vice Chair, and /or their substitute
4. Names of voting members attending and alternates(seated or not seated indicated, whether a quorum was present.
5. Names of applicants and other testifying persons including their subject matter.
6. Motions made. You must record:
 - a. Exact wording of the motion
 - b. Who made the motion and seconded by.
 - c. The results of the vote by names.
 - d. Reason of/for a yes /no vote whichever is applicable.
7. Reports. Record the name of the report, name of the presenter, any action taken on the report. If a written report, attach it or tell where it may be found. An oral report may be summarized briefly.
8. Other actions, assignments and deadlines, resolutions and recommendations can be briefly recorded

The Zoning Board of Adjustment meeting minutes will not be a verbatim transcript per RSA 91-A will be open to public inspection and placed on file with the Town Clerk not more than five (5) business days after the public meeting as required by RSA 91-A:2(II). Shall be permanently retained and made available per 91-A Any means utilized to prepare the minutes either video, audio, durable electronic files, or other common file formats shall be retained as a supplement to the minutes for three(3) years and made available for public inspection per 91-A:4(III). The minute supplements may be recycled, deleted, or destroyed after three(3) years.

ARTICLE XI – AMENDMENTS

11.100 PROCEDURE TO AMEND THE RULES OF PROCEDURE

These Rules of Procedure may be amended pursuant to RSA 676:1.