

TOWN OF RAYMOND
Zoning Board of Adjustment Agenda
August 23, 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. Overview of the Source Water Protection Plan- What is it?

-presented by Madeleine DiIonno, Regional Planner, RPC
 -appointment of one member to be on the Steering Committee
 for the Source Water Protection Plan Program

3. Approval of Minutes

- **06/28/2023**

4. Other Business

- Staff Updates –
- Board Member Updates
- Any other business brought before the board- **Discussion of Rules of Procedure and NH RSA's.**

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

2023 PUBLIC HEARING DATES AND APPLICATION DEADLINES

BOARD OF ADJUSTMENT (Public Hearing- 4th Wednesday)	
Public Hearing Date	Application Deadline
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.

Christina McCarthy

From: Madeleine Dilonno <mdiiionno@therpc.org>
Sent: Wednesday, July 12, 2023 11:11 AM
To: Dee Luszcz; Dennis Campbell; KEITH SMITH / NAN PARADIS; punda_milia@hotmail.com
Cc: Christina McCarthy; Paul Hammond; Building Inspector; Michael Labell; Peter Manor
Subject: Raymond Source Water Protection Plan Update
Attachments: SWPCCommittee_Raymond.pdf

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Dear Raymond officials and staff,

The Rockingham Planning Commission has been awarded grant funding from the NH Department of Environmental Services (NHDES) Source Water Protection program on behalf of the Town of Raymond to update Raymond's Local Source Water Protection Plan. The goal of the project is to develop a robust action plan for mitigating existing and future threats to source water quality and to improve resilience of the town's water supply.

A key part of this project is establishment of a Steering Committee made up of representatives from the town. The Steering Committee will meet regularly during the project to provide input to the content of the Plan and public outreach.

The following groups are being asked to appoint at least one participant to serve on the Steering Committee for the Raymond Source Water Protection Plan Update by September 1, 2023:

- Select Board
- Planning Board
- Zoning Board of Adjustment
- Conservation Commission
- Water Planning Committee

Additionally, the following town staff will be asked to participate in this project to varying degrees: Town Manager, Emergency Management Director/Fire Chief, Public Works Director, Building Inspector, Planning and Zoning Technician and Police Chief.

The Steering Committee will meet two to three times from September through December 2023. Meeting times will be determined when a committee has been established.

When individuals are appointed, please forward their name(s) and contact information to me at mdiiionno@therpc.org or call (603) 658-0522.

Thank you for your support and assistance.

Madeleine DiIionno, Regional Planner
[Rockingham Planning Commission](#)
156 Water Street
Exeter, NH 03833
Direct line: 603-658-0522
RPC Main line: 603-778-0885
mdiiionno@therpc.org

July 12, 2023

RE: Request for Steering Committee Volunteers – Local Source Water Protection Plan Update

Dear Raymond officials and staff,

The Rockingham Planning Commission has been awarded grant funding from the NH Department of Environmental Services (NHDES) Source Water Protection program on behalf of the Town of Raymond to update Raymond's Local Source Water Protection Plan. The goal of the project is to develop a robust action plan for mitigating existing and future threats to water quality and to improve resilience of the town's water supply. The project is intended to increase awareness of source water protection measures through outreach and engagement from elected officials, staff, and residents to result in greater support for implementation efforts.

A key part of this project is establishment of a Steering Committee made up of representatives from the town. The Steering Committee will meet regularly during the project to provide input to the content of the Plan and public outreach.

The following groups are being asked to appoint at least one participant to serve on the Steering Committee for the Raymond Source Water Protection Plan Update by September 1, 2023:

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When individuals are appointed, please forward their name(s) and contact information to me at mdionno@therpc.org or call (603) 658-0522.

Thank you for your support and assistance.

Sincerely,

Madeleine Dilonno,
Regional Planner, Rockingham Planning Commission and Raymond Circuit Rider Planner

Zoning Board Draft Minutes
June 28, 2023 @ 7:30 PM
Room 109 Raymond High School
45 Harriman Hill Road, Raymond, NH 03077

Zoning Board Members Present:

Keith Smith – Chairman

Tim Cahill - Vice Chair

Tom Luszcz – Member

David Hall - Alternate (Seated)

Paul McCoy - Member

Member Absent:

Joyce Wood- Alternate (excused)

Staff Present:

Christina McCarthy - Planning Technician/Tax Collector

Paul Ayers – Building Inspector

Pledge of Allegiance: Recited by all in attendance.

MEETING CALLED TO ORDER:

Roll call:

Christina McCarthy, Planning Tech, Paul Ayer, Building Inspector, David Hall, Alternate (seated), Tim Cahill, Vice-Chair, Keith Smith, Chair, Tom Luszcz, Member.

Paul McCoy arrived at approximately 7:32pm.

Public Hearing:

Application 2023-003: Applications for two variances have been submitted by Nathaniel Swift on behalf of Kelby Ferwerda. The first application is to request a variance from Article 15, Section 2, Sub Section 3 All existing lots of one-third acres (14,520 sq. ft.) or less shall meet the setback requirements of Zone A (not serviced by Town water, front, side, & rear setbacks of 30 feet). The second application is to request a variance from Article 15, Section 3, Sub Section 2 All lots containing Zone G land shall comply with the frontage and setback requirements of the underlying zone as set forth in Section 15.1 and shall have minimum wetland setback of 75 feet, except a minimum wetland setback of 25 feet shall apply to lots that contained an approved structure with a drinking well or municipal water hookup and an approved working septic system on record at date of adoption on record as of March 14, 2023 (03/23). The property is identified as Raymond Tax Map 40-3, Lot 191, located on Maple Lane and in Zone B.

Nathaniel Swift introduced himself to the Board and swore to tell the truth. Mr. Swift passed out some supplemental documents. Mr. Swift explained that it is intended to be

47 a single-family home for his wife and himself to be their first home. They have been
48 living in apartments for 10 years. Mr. Ferwerda, who is also the land owner, offered Mr.
49 Swift the land if he was able to make it buildable. Mr. John Ratigan for DTC Lawyers is
50 here to correct any of Mr. Swift's mistakes. Mr. Swift explained that the property is
51 located off a private way with a gravel shared driveway called Maple Lane. It is a private
52 way and is not maintained by the Town in any way. It is one lot removed from
53 Governor's Drive from Governor's Lake. It is .174 acres. Which is less than the 1/3 acre
54 that the zone falls under in zone A setbacks. This lot was originally approved by the
55 town in 1956 in buildable lots in Greece Estates which backs up to Leonard Ponds
56 Estates as a more new subdivision created back in the 1980's. This is the last lot within
57 Greece Estates. 40-3 was originally purchased by the owners of 2 Maple Lane. The
58 house that was originally there burned down last year and has since been since been
59 rebuilt. And that extra lot was used for a bunch of different reasons. It was overflow
60 parking primarily because there were no there wasn't much parking on to Maple lane.
61 Now the new house has garage spaces so there's no need for overflow parking there.
62 They also had sheds and boats and other things stored on that lot for about 60 years
63 until this house was rebuilt and now this other lot didn't have much of a purpose for 2
64 Maple Lane. It also is important to note that 2 Maple Lane where the truck is parked in
65 the red house next door 16 Governor's Drive that used to be four separate lots. Two
66 Maple Lane and 16 Governors were combined. They combined four lots into two to
67 make them larger. If we move past the first set of photos here to the page labeled
68 example one, this lot was used as a dumping ground for a very long time for the
69 neighborhood. So, as you stated, based on this lot being less than 1/3 of an acre, it
70 follows under the setback guidelines on Zone A and that's split up into two different
71 criteria whether or not the house is serviced by town water or not serviced by town
72 water. We are looking for a variance to follow the guidelines for the setbacks for if the
73 house were serviced by town water. Those setbacks are 25 feet from the front. 10 feet
74 from sides and 10 feet from the rear. The lot does not have town water.

75

76 Mr. Cahill asked how much trash have they cleaned up?

77

78 Mr. Swift said a lot of it has been cleaned up. The reason I'd like to go to the setbacks of
79 service by town water is sort of the essence of why that exists. And that's the
80 transportation of sewage waste from the house itself. What we want to use and what we
81 have an approved septic design for is a really advanced septic system called an aerobic
82 treatment unit. This treatment system was chosen to be used mainly because it is very
83 clean. So, a traditional septic system, you have solids and water coming into a single
84 tank. And as the water rises, there's an outflow. And that goes out to the septic field.
85 And that is all of the solids fall to the bottom. And then aerobic and anaerobic bacteria
86 break it down, make it smaller over time. The downside to that is that there that
87 bacterium is also in the water. And when that water leaves the tank that is leached out
88 to the fields, the ground is responsible for processing that and filtering that water out as
89 it's returned to nature. The benefit of this system is that it uses aeration in the form of a
90 compressor, carbon balls, as well as ultraviolet lights to sanitize the effluent before it
91 leaves the tank. Essentially, this system, in a company called Clean solutions produces
92 in a clean the water leaving the tank is 98% Pure before it ever leaves the sealed tank,

93 and goes out to the leaching field. it's essentially doing what a municipal water
94 treatment system water treatment plant would do, just on a much smaller scale. This
95 system also requires by the state that it comes with a service plan that you have to
96 subscribe to and that makes sure that the company comes out and double checks that
97 everything is working correctly, and it's performing to the standards that they set. Also,
98 we're gonna utilize a deep bedrock, well, that is sealed to the steel casing. Because
99 selfishly, I don't want my own water to be anywhere near any sort of flow disposal area.
100 And moreover, it does follow the state guidelines and regulations regarding how close a
101 well will be to your own septic and other septic's. Ultimately, we want to promote health,
102 safety and economic wellbeing of the neighbors. That's my first and foremost. Priority
103 with this. I don't want to add another house and potentially contaminate someone else's
104 land.

105 Granting a variance produces substantial justice because granting this variance one
106 part of the public more than the loss to the landowner would be all the lots in this
107 development are very, very small. In most houses are on their lot lines over their lot
108 lines or within feet of their lot lines with houses built very, very close together. An
109 example for which is the next one. There are several examples of this. These are all
110 very close by houses to the lobby question in as you see they're crossing lot lines.
111 They're they have outbuildings that are over a lot lines. And that's the way it was built
112 way back when it was just paste out and someone owns this tract of land and they built
113 the house. So, what I'm trying to do is build a house that is more conforming than the
114 neighborhood and try to keep it where it should be as much as possible. And then on to
115 the next page, for example, five, proposed dwelling will also cover a lower percentage of
116 the lot than almost all the abutters. And in this table, the first one is the lot. The
117 proposed structure is 24 by 38. That will cover 12% of the lot. The four below are
118 abutting neighbors. As you can see, they're a little bit higher on their percentages, with
119 the outlier being 17 Finland farm, which is the butter on the backside, which would be
120 over here. That was part of London Farmers states and their lots were all significantly
121 larger than neighborhood that was built out towards Harriman Hill Road. Moreover, if we
122 flip another page, I've really, really tried to keep the abutters informed on this. And they
123 were gracious enough to offer letters of support. So, I have some here to have the
124 numbers here as well. A total of seven abutters. So, the abutters are in favor of the
125 building a home there. I've kept them updated on every step of the process. I've showed
126 them my paperwork as we go along. And they were very gracious to offer letters of
127 support for you to build a home there for myself. That finishes up number three on to
128 number four, granting a variance would not diminish the values of the surrounding
129 properties, because this is going to be a new home with new finishes. It's going to be a
130 standard house that's going up. Economically a new home in this land, wouldn't lower
131 any values.

132 Owing to the special conditions of the property that distinguish it from other properties in
133 the area literal enforcement of the provisions of the ordinance would result in
134 unnecessary hardship because a no fair and substantial relationship exists between the
135 general public purposes of the ordinance provision and the specific application of that
136 provision to the property because the zoning ordinance clearly states that it's here to
137 promote health and safety and economic wellbeing and social wellbeing of the
138 community. Lots serviced by town water are less strict with setbacks due to the septic's

139 and wells being so close together based on those tighter setback requirements. It's not
140 needed because it's water in water out. There's nothing left on the lot. Technological
141 changes with septic's concealed bedrock wells mitigate that risk. And numerous homes
142 in the neighborhood and I'm sure you might be familiar with it are now going through
143 since they're aging homes, failing septic systems, and it's a real issue. But having these
144 new septic systems coming out nowadays, it really mitigates that risk on going to the
145 future and the future generations that are If we have a lower probability of contaminating
146 our watershed in our wetlands or groundwater due to that, the house will more closely
147 match a home that would be serviced by tap water and sewer. Moreover, as I said, this
148 nice neighborhood has been built to completion. This is the last home that would be
149 built there. There's no other space for anyone else. Additionally, the lot next door owned
150 by Mr. Anthony Neva, he also supplied a of letter of support. His lot, has a 25-foot
151 drainage easement. So, nothing can ever be built directly adjacent to this lot is forever
152 off limits for anyone that wanted to build there. And it's about three to 400 feet up
153 Governor's Drive before you even get to his drive if you can't see his house from this lot
154 at all, but a pretty far distance away.

155 And then B. for number five, the proposed use is a reasonable one because the water is
156 in zone B. But this was created back when zoning ordinances are established in 1996 in
157 this town, and zone B as residential, article 14, section two allows residential homes to
158 be built and zoned in this by building a home here, it's using the land for its original
159 intended purpose to be a single family.

160 Additionally, this record Mr. Ferwerda just reminded me in the deeds within Greece
161 estates, there were original setbacks that they established. Those were seven feet from
162 lot lines and 15 feet from roads. So, I am looking for a variance that's less strict than
163 what was originally intended for this community as well. And that's also in the deed I can
164 go back and find the foundation and get it for you.

165
166 David Hall said I don't think there's really a whole lot that we need to challenge on that
167 one. So, appreciate your efforts there. I probably need help more from Christina, but
168 you can certainly help answer this question, because I'm still a little hung up. This
169 application is presented as Zone A. But the second part of this application zone G.

170
171 Mr. Keith Smith said it is an overlay district.

172
173 David Hall said So what I really want to focus on though is I don't understand why you
174 think you should go for zone A as if it had city water when it does not other than your
175 explanation for the sewer. But the frontage requirement for that is 100 feet, you have
176 about 70 If I read the map right. So, you still need a variance regardless of that frontage.
177 Whereas if it were you went without the water, which is where I think it belongs, but this
178 reading Christina's help, which is 200 feet down to 70 feet. Again, I wouldn't have an
179 issue with that based on the other lot. It's a buildable lot. There's a lot of record. I don't
180 think the town wants to be considered - this was a taking if we don't allow it, you've met
181 all the criteria, but I guess I just want to make sure if we approve it, as he's written it that
182 it's going to fly through. That didn't have to go against the ordinance for 200 feet versus
183 100 feet for zone A.

184

185 Mrs. McCarthy said so what you're requesting is that the setbacks be more like the zone
186 A with town water, rather than the zone B that zone be that it's currently.

187

188 **Public Comment:**

189

190 Harry Richard swore to tell the whole truth and nothing but the truth. Harry Richard said
191 he is probably the biggest abutter that this gentleman has. I own the property that was
192 originally owned by George Bruce (?). Mr. Richard lives at 62 Harriman Hill Road. Mr.
193 Richard has a copy of the original subdivision. He noticed on his he doesn't designate
194 the width of the lane that goes up to Maple Lane.

195

196 Mr. Hall said it was 15 feet wide.

197

198 Mr. Richard said in reference to the house across the street. I think it's causing some of
199 the problems that he's has. I was there this afternoon after we had a big rain and his
200 property was underwater. Mr. Richard said he is not here to pick on anyone else. I'm
201 happy for somebody that's willing to go through the work that he's done to improve that
202 lot. But I would hate to see him build any piece of property there and have it underwater.
203 Part of the problem is the house across the street, I've also got a letter that I received
204 back April 6, 2023, from Dingen Consulting (SP?) and it was in reference to the water
205 system that this house next door has and I believe it is your place. If you are looking at
206 his lot I didn't get any all these pictures. But there's a new home right across the street.
207 Now that new home has got a special system to get rid of the water on the house. All of
208 the drains have their own system or disposing of the water.

209

210 Mr. Smith said So you're saying the lot across the street from where it is proposed is
211 causing problems it's not allowing the water, it's impervious

212

213 Mr. Smith rebutting saying that's addressed on the shoreland impact permit, how the
214 water will be mitigated for that reason. I'm not an engineer. I'm not an excavator. And
215 those are professionals that will handle that. Also, I know soils only have a certain
216 percolation rate, or only goes down through them so fast. And it rained very hard today.
217 And as far as the water on the lot, there's been machines on that lot for the past few
218 days. And it's just been beaten up and it's muddy, it is it's just preexisting soils that are
219 there that mixed with water as machines went over it. As far as Mr. Ferwerda's house,
220 that area, that driveway where the water was running off, that is going to be paved at
221 one point and they will take care of the water runoff. So, it does not run on to that lot as
222 well.

223

224 David Hall said I appreciate your concern. That's one of the reasons I asked what the
225 floodplain, we have no jurisdiction. It's due diligence on his part as to what he wants to
226 develop on that lot. As long as we authorized the setback that he's requested.

227

228 Tom Harper swore to tell the truth and nothing but the truth. He said he lives across the
229 street from the proposed lot. He just came to show his support to Mr. Swift. He showed

230 me the plans. He is also a member of the Governors Lake Association. He doesn't see
231 a problem and just wanted to come and show his support.

232
233 Eileen Fitzgerald, 16 Governor's Drive, I am going to be two doors down from them and
234 just wanted to highlight again that the septic system that he used, she has had hers for
235 20 years and DES recommended those 30 years ago. That's basically the ones that
236 they use up there. And a lot of the waterfront now is using So the setbacks and things I
237 wanted to mention. All the lots up there undersized. We all struggle. All of us have been
238 through a lot line adjustments, variances, etc. Because this was a summer community
239 that's now a year-round community. So, it's been tough. And everybody tried it, but the
240 setbacks are difficult at times with the because the cottages were placed right on some
241 of the lines or somebody else's. And it does create some problems.

242
243 Kathy McDonald swore to tell the truth and the whole truth. Kathy McDonald said that
244 she is very concerned that if it is accepted and he has a variance with tiny setback that
245 it will set a precedence and other lots in town will come forward and say...

246
247 Mr. Luszcz said there are never any precedents the Board's decision is based solely on
248 what is front of them.

249
250 Kathy McDonald said there was another issue that is part of this. He mentioned that the
251 little 15-foot driveway Road, Maple Lane is going to be paved all that water, or should I
252 wait to the next and all that water has been a rush down?

253
254 Mr. Smith said Mr. Swift did not say he was going to pave the road.

255
256 Christine Holleran had a couple of questions. On the shoreland permit. She just wants
257 to make sure the State's approved it and the State Subsurface System Bureaus
258 approved that and accept it.

259
260 Mr. Smith said they have a letter from the state that was just handed to the Board.

261
262 **Motion:**

263 **Mr. Smith made a motion to have a site walk.**

264 **The motion was not seconded and the Board decided it was not necessary at this**
265 **time.**

266
267 **Motion:**

268 **Mr. McCoy made a motion to go into deliberative.**

269 **Mr. Cahill seconded the motion.**

270 **The vote was taken and the Board decided unanimously to go into deliberative.**

- 271
272 1. Did the applicant provide proof that demonstrates the variance will not be
273 contrary to the public interests?
274

275 Mr. Luszcz said it's definitely works with the neighborhood. It's not I see some of
276 the concerns by some of the public about, you know, creating a precedence
277 there about, you know, giving so much leniency on such a small lot. But yet, it's
278 absolutely what's in the neighborhood here. And I think, based on that, if this was
279 a different scenario where it was more spread out with the houses, I think you'd
280 have to look at it differently, but it definitely with the close proximity of all these
281 houses here.

282
283 David Hall said that it's a preexisting lot of record.

284
285 Mr. McCoy said he agreed with Tom.

286
287 Mr. Smith said he agreed with both of them. It is consistent with the
288 neighborhood.

289
290 Tim Cahill said he agrees.

291
292 David Hall said I agree.

293
294 2. Did the applicant provide proof that demonstrates how a variance observes the
295 spirit of the ordinance yes or no. And reason. Finding of fact.

296
297 David Hall Yes, I believe He did meet the criteria for supporting the spirit of the various
298 recorded ordinances in places to protect the health, safety, economic and social well-
299 being within the town. Again, you have a preexisting lot of record. I've heard the
300 concerns of some of the residents, but a lot of that is due diligence on the property
301 owners and developer's part. It's all out of our jurisdiction in regards to denying
302 variance.

303
304 Mr. Cahill said I agree he demonstrated it, that the variance observes the spirit of the
305 ordinances specifically, because if you look, take a look at these other lots, and the
306 floodplain, lots the other lots have actually less usable land than his lot.

307
308 Mr. Smith said I think it's an improvement over the other lots. I think it's well-designed
309 plan. So, I'm gonna say I agree.

310
311 Mr. McCoy said I agree.

312
313 Mr. Luszcz said I agree.

314
315 3. Did the applicant provide proof that demonstrates how a variance will result in
316 substantial justice?

317
318 David Hall said Yes, a variance would provide substantial justice because again, we
319 have a lot of record. That's been on the books for since 1956. So, the requirements for
320 the setbacks his request for variance doesn't impact.

321 Mr. Cahill says he agrees.

322

323 Mr. Smith also agrees.

324

325 Mr. Luszczyk also agrees

326

327 Mr. McCoy also agrees.

328

329 4. Did the applicant provide proof that demonstrates of areas will not diminish the
330 values of surrounding properties?

331

332 Mr. Cahill said he thinks that he has already improved the value of the surrounding
333 properties.

334

335 Mr. Smith said he thinks it is actually an improvement to the neighborhood.

336

337 Mr. McCoy said he agrees.

338

339 Mr. Luszczyk said he agreed.

340

341 5. A. The applicant was to provide proof that the literal enforcement of the
342 provisions of the ordinance would result in an unnecessary hardship. Did the
343 applicant demonstrate that special conditions of the property exists? That
344 distinguished it from the other properties in the area?

345

346 David Hall said Yes, the applicant provided a proof that you just read it was this little
347 enforcement of the ordinance would not be could not be attained, due to the recent
348 change in the various criteria for setbacks. In the fact that this is again, it's a built up a
349 lot of record in this with this not granted, it could possibly be interpreted as a taking the
350 property because he cannot build on it. Unless he gets a variance.

351

352 Mr. Smith said he agrees.

353

354 Mr. McCoy said he agrees.

355

356 Mr. Luszczyk said he agree.

357

358 Mr. Cahill said he agrees.

359

360

361

362

363

364

365

366

367 **Motion:**
368 **Mr. Hall made a motion that the finding of fact that they stated for the 5 they**
369 **just reviewed and recommended that the Board approve the variance.**
370 **Mr. McCoy seconded the motion.**

371
372 **Discussion: none.**

373
374 **The motion passed unanimously with a vote of 5 in favor, 0 opposed and 0**
375 **abstentions.**

376
377 Mr. Swift said we are seeking a variance for article 15, section 3, subsection 2. This is
378 regarding the G land. And it states that minimum wetland setback shall be 75 people
379 requesting and requesting to reduce that back to 25 feet as per the preceding rule that
380 was just voted on recently. For the first point, this rule change occurred, I believe, is on
381 March 14 of this year. And I do have a denied building permit, which was the first
382 starting point.

- 383
- 384 1. So, granting a variance would not be contrary to the public interest because
385 there's a large area dump waste there, as we spoke about already. By cleaning
386 that up, we're mitigating any risk of anything going into those wetlands.
387 Additionally, this area was used for parking, or for many, many years in by
388 installing a home with garage space. So the plan is to have a garage there. That
389 creates an impermeable concrete barrier for any potential vehicle spills with the
390 vehicles will be parked. So it mitigates that risk to have a garage and park the
391 vehicles inside of it. Additionally, the closest where you're seeing trash and
392 where vehicles were parked, there were about 10 feet from wetlands, the
393 vehicles the driveway is on the other side of the lot, which is still within the 75
394 feet, but it's a lot farther away than 25 feet, that's about the closest corner of the
395 house. So you're probably looking at more like if you're so if you buy to where the
396 driveway is even.
 - 397
 - 398 2. Granting a variance would be consistent with the spirit of the ordinance because
399 we have an approved shorelands impact permit to protect the health and safety
400 of the public as well as the partnership. And on that plan. It specifies the uses of
401 silt fence fences and barriers to mitigate the risk of any of anything contaminating
402 the wetlands from construction. Additionally, the state does also outline that you
403 can also use wood chips. So, from wood chipping up during the life we created.
404 And you can see in the photos, a nice berm outside of the wetlands. And there'll
405 also be silt fence installed to double check to make sure nothing can get in there.
406 I'm personally really concerned about conservation. And I don't want to harm
407 those wetlands in any way.
 - 408
 - 409 3. Granting a variance could do substantial justice because the rule change
410 occurred after the landowner purchase a lot last year. And as I said there was no
411 grace period to attempt to do something but a lot before the rule change.
412 Previously, a variance would not just application and variance would not have

413 been needed. Prior to this, this rule change can because of the rule change
414 financial hardship is automated created for Mr. Ferwerda Because it could be in
415 his lot of buildable and lower the value, but also myself because I invested a lot
416 of my life savings into getting all of this information to prepare an application
417 tonight. Additionally, the houses the house would still be further away than many
418 of the houses on governors lay par to the actual water itself. The house right
419 across the street that's falling down. That's no one has been there. It's been
420 abandoned. That's about 10 or 15 feet from the water itself. Additionally, the
421 house is within the scope of what the yes would allow us to build in proximity to
422 wetlands, the permits that we've received.

- 423
- 424 4. Granting a variance will not diminish the values of surrounding properties. As I
425 said before, It's the same type of style and use of surrounding properties. And as
426 I spoke about before, the abutting property of the four acres that's next to it has
427 that drainage easement, nothing can be built there.
- 428
- 429 5. Owing to the special conditions of the property that distinguish it from other
430 properties in the area, literal enforcement of the provisions in the ordinance
431 would result in unnecessary hardship because a no relationship exists between
432 the general public purposes of the ordinance provision and the specific
433 application of that provision to the property because zoning ordinances were
434 adopted 40 years after this law was created. And setbacks from wetlands wasn't
435 a factor for this law until 67 years after this law was created. The usage of the
436 advanced septic systems deep bedrock well with a sealed casing as well as an
437 impermeable garage foundation. mitigate the risk of contaminating the wetlands
438 from households' factors be the proposed use of the reasonable one, because
439 significant steps have been taken to mitigate sewer waste potential
440 contamination and the water returning to the ground is 98% Pure before it even
441 goes to the leaching field. Again, shoreline protection permit has been approved
442 septic permits been approved. And overall, the proposed house meets all state
443 federal and federal regulations regarding water treatment in relation to wetlands.

444

445 Mr. McCoy stated that zoning ordinances in Raymond actually started in 1971.

446

447 **Public Comment:**

448

449 Kathy McDonald asked if this particular property was it vested with the Planning Board
450 first.

451

452 Mr. Smith said it doesn't have to go to the Planning Board.

453

454 Kathy McDonald said we did pass our we did pass our zone G 15.3.2, When we had our
455 election in March, and it does say that he has to have a an approved drinking well, or
456 municipal water hookup with an approved working septic system on record as the at the
457 date of adoption, which was March 14 2023.

458

459 Mrs. McCarthy said it says except a minimum wetland setback of 25 feet shall apply to
460 lots that contained and approve structure with a drinking well or municipal water hooked
461 up. So, if they had an approved well or municipal water hookup, and approve working
462 septic system, they wouldn't be here. They wouldn't be able to get those 25 feet. It
463 doesn't have anything to do with whether they have been approved or not.
464

465 Kathy McDonald asked if they were going to need a special permit because of the
466 wetlands?
467

468 Mr. Smith said they have special permits from DES. The shoreline protection has been
469 addressed by the DES and they have been reviewed and it has been stamped. It's all
470 state approved.
471

472 Mrs. McCarthy said for the record, that there is no water allowed off of your site. So,
473 when they do their engineering, they will have to meet those assessments.
474

475 **Motion:**

476 **Mr. McCoy made a motion to go into deliberative.**

477 **Mr. Cahill seconded the motion.**
478

479 **Discussion: none**

480 **The motion passed unanimously with a vote of 5 in favor, 0 opposed and 0**
481 **abstentions.**
482

483 **Motion:**
484

485 **Mr. Hall made a motion saying I believe we have ZBA certainly have a**
486 **responsibility to enforce the ordinance. Yes, you had some criteria that may**
487 **preexist the ordinance but we this town's adopted an ordinance for future**
488 **developments. But that being said, criteria that was adopted, you can't meet so I**
489 **just want to make the record shows that previous the fact that you use a lot**
490 **existed prior to the ordinance or setbacks existing doesn't have any weight news**
491 **to me. We as a board are still held by what's in the order to present. So, with that**
492 **being said, let's make sure that was clarified. From my standpoint. Thank you. If**
493 **you if the chair would listen to this, I think they stone all the criteria we've heard**
494 **the first variants, I think most of those findings of fact would still stand. I think we**
495 **have an applicant that has applied for a setback variance that supply the state**
496 **approved well, except to claim as state approved shoreline protection. I already**
497 **know that for Christina, that there's no water runoff on the site. To your point, sir,**
498 **it's due diligence on the applicant. It's interesting when I smile without the wood**
499 **chip pile, that might be why you have a pond in your property right now, but I'm**
500 **not an engineer either. But I'm sure when it's all graded out and you figure out**
501 **what you're doing. Hopefully, you're getting a lot of runoffs and everything on the**
502 **property. So those are things that you need to be concerned with from the zoning**
503 **standpoint. I'm very comfortable with moving forward with statements of fact that**
504 **we listed previously.**

505 **Mr. Cahill seconded the motion.**

506

507 **Discussion: None.**

508

509 **The motion passed unanimously with a vote of 5 in favor, 0 opposed and 0**
510 **abstentions.**

511

512 **The Board took a 5 minutes recess at approximately 6:50pm and resumed at**
513 **approximately 6:56 pm.**

514

515 **Approval of Minutes:**

516

517 **Motion:**

518 **Mr. McCoy made a motion to accept the minutes from 5/24/23 as written.**

519 **Mr. Smith seconded the motion.**

520

521 **Discussion: None.**

522

523 **The motion passed unanimously with a vote of 5 in favor, 0 opposed and 0**
524 **abstentions.**

525

526 **Mr. Cahill left the meeting at approximately 7:27pm.**

527

528 **Ethics Training:**

529

530 **Gretchen Gott and John O’Blenis introduced themselves to give Annual Ethics Training**
531 **to the Board.**

532

533 **Ethics Training was conducted until approximately 8:27pm.**

534

535 **Other Business:**

536

537 **Adjournment:**

538 **Motion:**

539 **Mr. McCoy made a motion to adjourn.**

540 **Mr. Hall seconded the motion.**

541

542 **Discussion: None.**

543

544 **The motion passed unanimously with a vote of 5 in favor, 0 opposed and 0**
545 **abstentions.**

546

547 **The meeting adjourned at approximately 8:31pm.**

548

549

550

551 Respectfully submitted,
552
553 Jill A. Vadeboncoeur
554
555

DRAFT

Town of Raymond, NH Zoning Board of Adjustment



Rules of Procedure

ADOPTED

11/12/2008

LAST AMENDED

05/24/2023

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. The ZBA shall consist of a maximum of five (5) Members, one (1) of which is to be a Selectman serving as an ex officio Member, 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 by the Town Clerk 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.