



TOWN OF RAYMOND

Zoning Board of Adjustment Agenda

April 28, 2021 @ 7:30 pm

Electronic Meeting Via Zoom

Application #2021-002, # 2021-005 & # 2021-006

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. **

Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. The public has access to contemporaneously listen and participate in this meeting through the website address: <https://zoom.us/j/92298426532> or by dialing the following phone 312-626-6799 or 646- 558- 8656.

The required meeting ID is 922 9842 6532

We are encouraging residents who have questions or concerns and do not wish to speak under the Citizens questions portion of the agenda to submit them via email to cmccarthy@raymondnh.gov or phone at 603-895-7016 by April 28, 2021 noon.

For problems, please call 603-895-6405 or email at: communication@raymondnh.gov. The virtual meeting will also be simulcast for viewing purposes only on Raymond Community Television Channel 22 and streamed live at: <https://raymondtv.viebit.com/>

1. Pledge of Allegiance

2. Public Meeting-

- a. **Continued from 3/17/21 Application #2021-002** - An application for Appeal of Administrative Decision has been submitted by Patricia M. Panciocco on behalf of Diana L. and Thomas P. Luszcz, for property identified as Raymond Tax Map 22/ Lot 35, located at 39 Old Manchester Rd., Raymond NH, 03077 within Zone C1.
- b. **Application #2021-005**- An application for a Variance has been submitted by Sid Madore, for property identified as Raymond Tax Map 40-3/ Lot 41, located at 14 West Shore Dr., Raymond NH, 03077 within Zone B. The applicant is requesting relief from Article 15 Section 1.3 Minimum Setback Requirements. They are proposing to build a 4'x 14' shed on the property line.
- c. **Application #2021-006**- An application for a Variance has been submitted by James Lavelle, for property identified as Raymond Tax Map 8/ Lot 22, located at 10 Kristopher Lane, Raymond NH, 03077 within Zone B. The applicant is requesting relief from Article 15 Section 2.5 Notes to Area and Dimensional Requirements. He is proposing to have less than the required frontage on a wedge-shaped lot.

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 Agenda
April 28, 2021 @ 7:30 pm
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Application #2021-002, # 2021-005 & # 2021-006

3. Approval of Minutes

- 03/24/2021
- 03/31/2021

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.)

ZBA Meetings 2021	
Submittal Deadline for Completed Application & Materials	Zoning Board Meeting Dates (4th Wednesday of the Month)
April 28, 2021	May 26, 2021
May 26, 2021	June 23, 2021
June 23, 2021	July 28, 2021
July 28, 2021	August 25, 2021
August 25, 2021	September 22, 2021
September 22, 2021	October 27, 2021
October 27, 2021	November 17, 2021
November 24, 2021	December 15, 2021

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.

RE: ZBA Appeal: #2021-002, Diana L. & Thomas P. Luszcz, 39 Old Manchester Road; Assented to Postponement of Appeal

Joe Driscoll <joe@mitchellmunigroup.com>

Mon 4/26/2021 2:02 PM

To: Pat Panciocco <Pat@panciocolaw.com>; Steven M. Whitley <SWhitley@dwmlaw.com>; 'webmaster@sqlwarehouse.com' <webmaster@sqlwarehouse.com>; sql13518@sqlwarehouse.com <sql13518@sqlwarehouse.com>

Cc: Joe IIsley <jilsley@raymondnh.gov>; Christina McCarthy <cmccarthy@raymondnh.gov>

We appear to have a few email chains spurring off on their own on this issue. I'm just going to try and address all of the points that were brought up.

Attorney Whitley, you have agreed to continue this Appeal to the August meeting which is August 25, so the Board would take up this application at the hearing presently scheduled for 4/28, and continue it to that meeting, date and time certain as Vice Chair Povalaitis brought up in his email. The Board would take up the application and this email chain would serve as the request to continue that the Board would address at that time.

Attorney Panciocco, based on your email below, you are in agreement. As to your earlier question about appearing, the Board would take up this issue on its own, but it is up to you and your client whether you feel your appearance is needed, since the Board cannot act until the meeting itself.

If I missed anything, please let me know.

Best regards,

Joseph H. Driscoll IV, Esq.
Mitchell Municipal Group, P.A.
25 Beacon Street East
Laconia, NH 03246
(603) 524-3885
Fax (603) 524-0745
www.mitchellmunicipalgroup.com



From: Pat Panciocco <Pat@panciocolaw.com>

Sent: Monday, April 26, 2021 1:48 PM



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: 14 W. Shore Dr.

Map #: 40-3 Lot #: 41

Property Owner Information

Name: Sid Madore Phone: 234-9996

Address: 14 W. Shore Dr., Raymond

Address: _____

Applicant/Agent Information

Name: Same Phone: _____

Address: _____

Address: _____

Complete the Following

A variance is being requested from Article 15, Section 15.1.3 of the Town of Raymond Zoning Ordinance in order to build a 4' x 14' shed on my property line.

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: construction of shed would not negatively impact a butters, the town of Raymond, or the environment.

2) Granting a variance would be consistent with the spirit of the ordinance because: same as fact # 1 listed above.

3) Granting a variance would do substantial justice because: this is the most practical & convenient location on my small property. I need a shed.

4) Granting a variance would not diminish the values of surrounding properties because: it would actually add value to my property without any negative impact on surrounding properties.

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:

There are no special conditions that distinguish my property from others in the area. The properties in the area are all similar in that they are small & close to each other.

b. The proposed use is a reasonable one because:

given all circumstances considered, this variance would permit me to have a shed located on my property that would be most conveniently located for my needs, with no negative impact on anyone.

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.

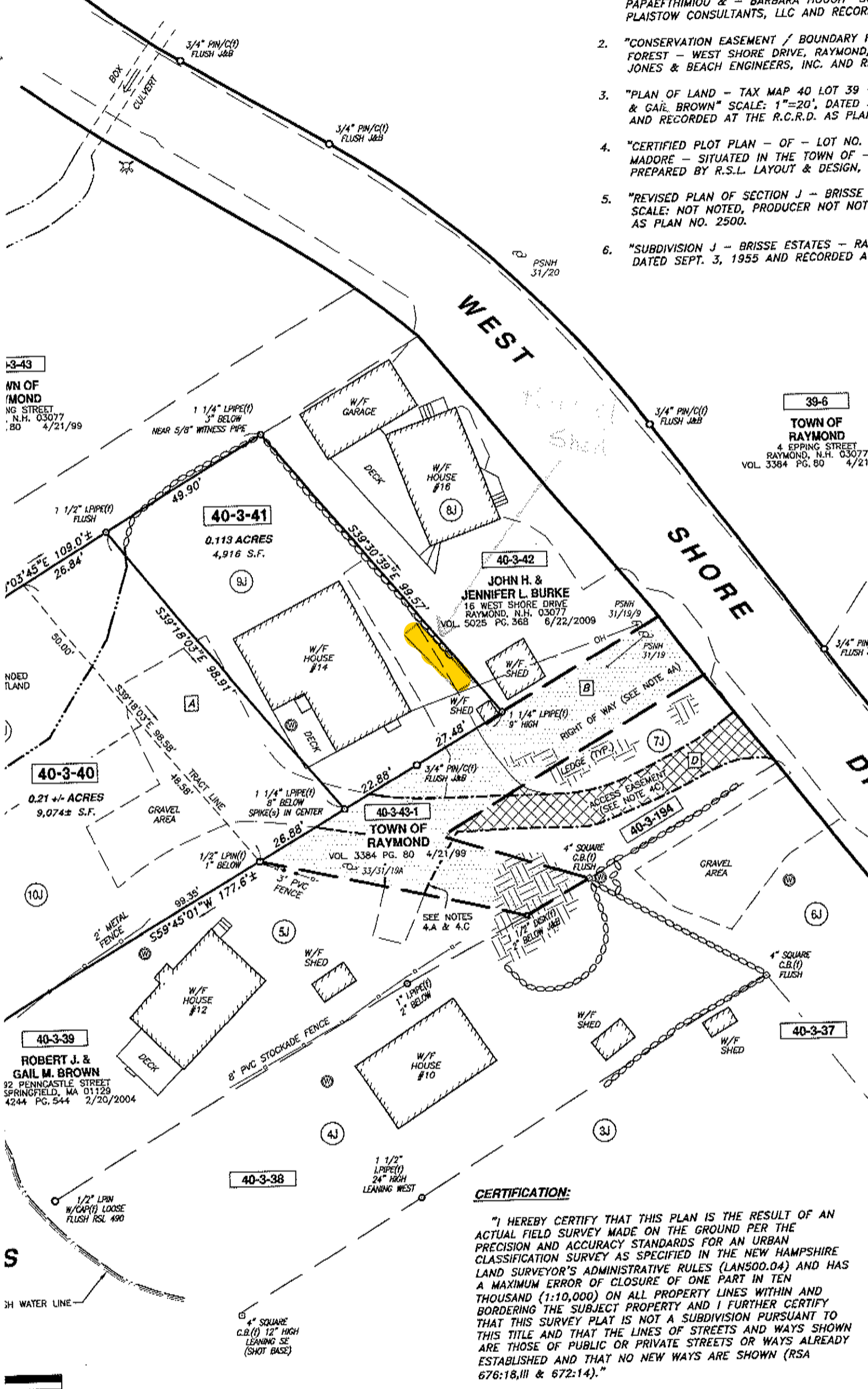
Signature of Applicant*

*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*


Date

2. "CONSERVATION EASEMENT / BOUNDARY FOREST - WEST SHORE DRIVE, RAYMOND, JONES & BEACH ENGINEERS, INC. AND R
3. "PLAN OF LAND - TAX MAP 40 LOT 39 & GAIL BROWN" SCALE: 1"=20', DATED AND RECORDED AT THE R.C.R.D. AS PLAN
4. "CERTIFIED PLOT PLAN - OF - LOT NO. MADDRE - SITUATED IN THE TOWN OF - PREPARED BY R.S.L LAYOUT & DESIGN,
5. "REVISED PLAN OF SECTION J - BRISSE SCALE: NOT NOTED, PRODUCER NOT NOT AS PLAN NO. 2500.
6. "SUBDIVISION J - BRISSE ESTATES - RA DATED SEPT. 3, 1955 AND RECORDED A



43-43
 TOWN OF
 MOND
 NG STREET
 N.H. 03077
 .80 4/21/99

39-6
 TOWN OF
 RAYMOND
 4 EPPING STREET
 RAYMOND, N.H. 03077
 VOL. 3384 PG. 80 4/21

40-3-40
 0.21 ± ACRES
 9,074 ± S.F.

40-3-41
 0.113 ACRES
 4,916 S.F.

40-3-42

JOHN H. &
 JENNIFER L. BURKE
 16 WEST SHORE DRIVE
 RAYMOND, N.H. 03077
 VOL. 5025 PG. 368 6/22/2009

TOWN OF
 RAYMOND
 VOL. 3384 PG. 80 4/21/99

40-3-39
 ROBERT J. &
 GAIL M. BROWN
 92 PENNINGTON STREET
 SPRINGFIELD, MA 01129
 4244 PG. 544 2/20/2004

40-3-38

40-3-37

CERTIFICATION:

"I HEREBY CERTIFY THAT THIS PLAN IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND PER THE PRECISION AND ACCURACY STANDARDS FOR AN URBAN CLASSIFICATION SURVEY AS SPECIFIED IN THE NEW HAMPSHIRE LAND SURVEYOR'S ADMINISTRATIVE RULES (LAN500.04) AND HAS A MAXIMUM ERROR OF CLOSURE OF ONE PART IN TEN THOUSAND (1:10,000) ON ALL PROPERTY LINES WITHIN AND BORDERING THE SUBJECT PROPERTY AND I FURTHER CERTIFY THAT THIS SURVEY PLAN IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN (RSA 676:18,III & 672:14)."



D-38633

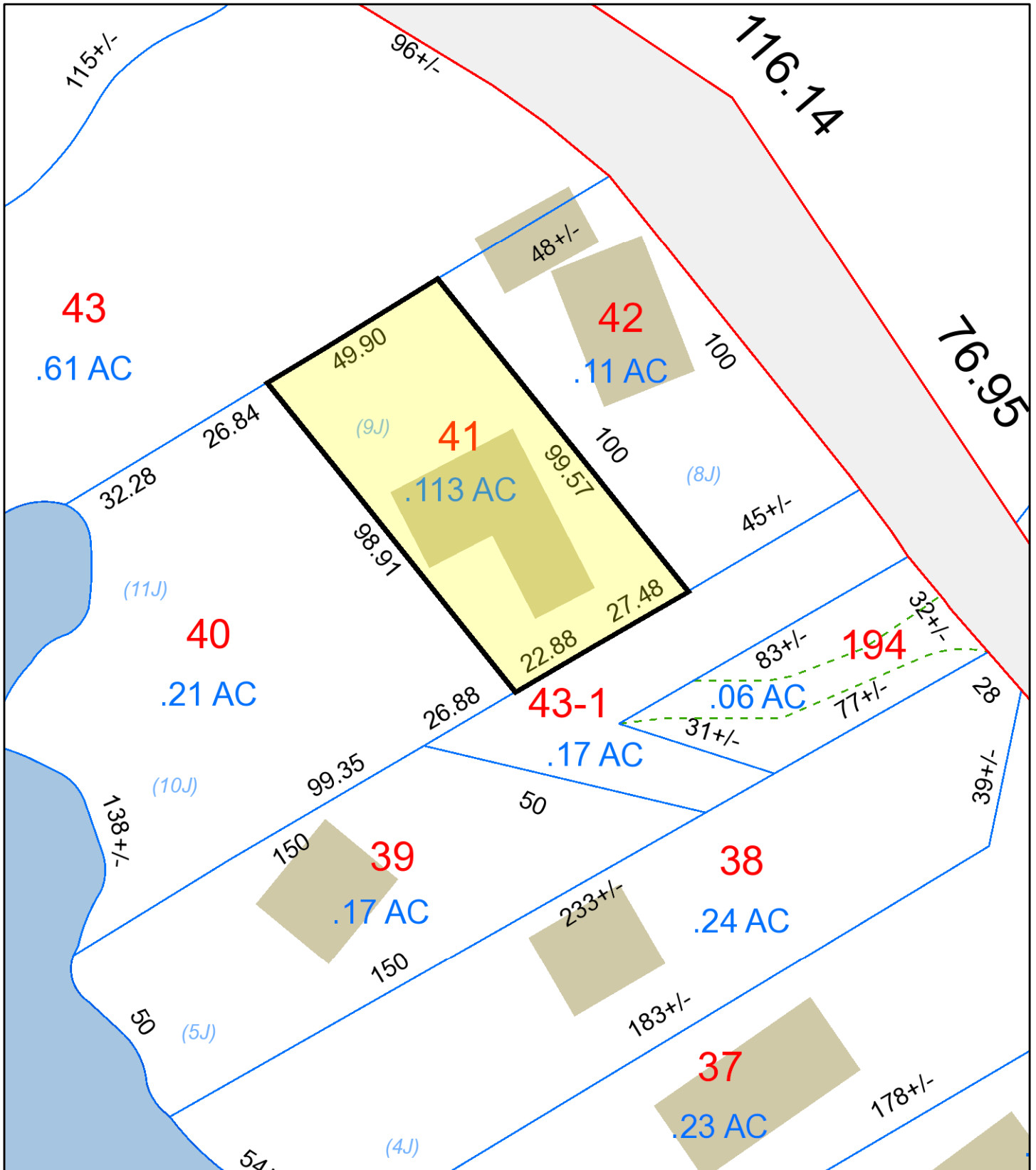


Raymond, NH

1 inch = 34 Feet



April 23, 2021



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.



TOWN OF RAYMOND

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

Tel: (603) 895-7018
Fax: (603) 895-0903
<http://www.raymondnh.gov>

Discuss each of the following questions based upon the evidence provided by the applicant, one at a time. DO NOT TAKE A VOTE ON EACH QUESTION.

VARIANCE WORKSHEET

PROJECT NAME: _____ FILE #: _____ ARTICLE: _____ SECTION: _____

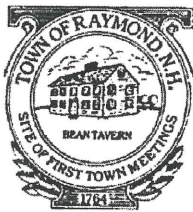
1. Granting this variance will not be contrary to the public interest:
2. Granting this variance will be consistent with the spirit of the ordinance:
3. Granting this variance will do substantial justice:
4. Granting this variance will not diminish the values of surrounding properties:
5. Owing to the 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; and:
 - b. The proposed use is a reasonable one:

ALTERNATIVE

If the criteria of 5a and 5b are not established, 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 it.

****NOTE**** *If there is any reasonable use, including an existing use, that is permitted under the ordinance, then this alternative is not available.*

1. Is there any reasonable use (including the existing use) that is permitted under the ordinance?



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Application for a Variance

Site Information

Property Address: 10 KRISTOPHER LANE

Map #: 8 Lot #: 22

Property Owner Information

Name: DUFORD, MICHAEL D. & ELISA Phone: 306-6754

Address: 10 KRISTOPHER LANE RAYMOND N.H. 03077

Address: _____

Applicant/Agent Information

Name: JAMES M. LAVELLE Phone: 329-6851

Address: 2 STARWOOD DR. HAMPSTEAD N.H. 03841

Address: _____

Complete the Following

A variance is being requested from Article 15, Section 2.5 of the Town of Raymond Zoning Ordinance in order to CREATE 2 LOTS ON AN EXISTING

CUL-DE-SAC, EACH LOT HAVING 66.67' OF

FRONTAGE ON THE CULDESAC THE LOT WITH THE

EXISTING HOME WILL CONTAIN 5.62 ACRES AND THE

PROPOSED LOT FOR A NEW HOME WILL BE 2.09 ACRES

THE INTENT IS FOR THE LOTS TO SHARE THE EXISTING DRIVEWAY CUT
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
REQUIRE ANY ADDITIONAL ROADWAY CONSTRUCTION
AND 2 HOMES ON THE 7.7 ACRES WOULD IN NO
WAY BE CROWDING THE AREA

2) Granting a variance would be consistent with the spirit of the ordinance because: FRONTAGE
REQUIREMENTS ARE GENERALLY USE TO INSURE ADEQUATE
SPACING OF HOMES, THIS PROPOSAL WILL ACCOMPLISH THAT

3) Granting a variance would do substantial justice because: IF GRANTING THE VARIANCE IS OF NO HARM TO ABOOTHER OR THE PUBLIC AT LARGE THERE IS NO REASON TO NOT GRANT THE REQUESTED VARIANCE

4) Granting a variance would not diminish the values of surrounding properties because: THE CONSTRUCTION OF A NEW HOME ON 2+ ACRES IN THE AREA OF OTHER 2 ACRE LOT COULD NOT DIMINISH VALUES, BUT COULD PROBABLY INCREASE THEM

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:

THE FACT THAT THE 7.7 ACRE LOT EXISTS AT THE END OF THE LANE @ THE COL-DE-SAC, MAKES IT MOST PRACTICABLE TO CREATE THE ADDITIONAL 2 ACRE LOT WITHOUT CREATING ADDITIONAL ROADWAY REQUIRING TOWN MAINTAINANCE.

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

IT ALLOWS THE CREATION OF A 2 ACRE LOT IN THE NEIGHBORHOOD OF 2 ACRE LOTS

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.

March 19, 2021

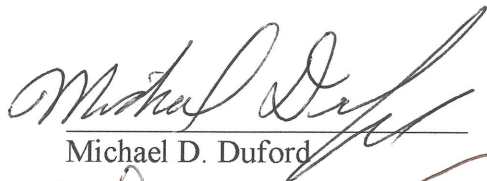
Town of Raymond
Community Development Department
Office of Planning & Zoning
4 Epping Street
Raymond, NH 03077

Reference: Michael D. Duford
Lisa A. Dufour
Map 8 Lot 22
10 Kristopher Lane
Raymond, NH 03077

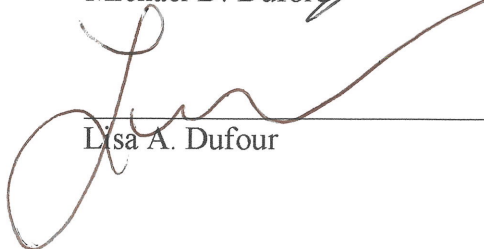
Dear Members of the Board:

Please accept this letter as formal authorization for James M. Lavelle Associates and/or his agents, to represent me before the board on the above-mentioned project.

Sincerely,



Michael D. Duford

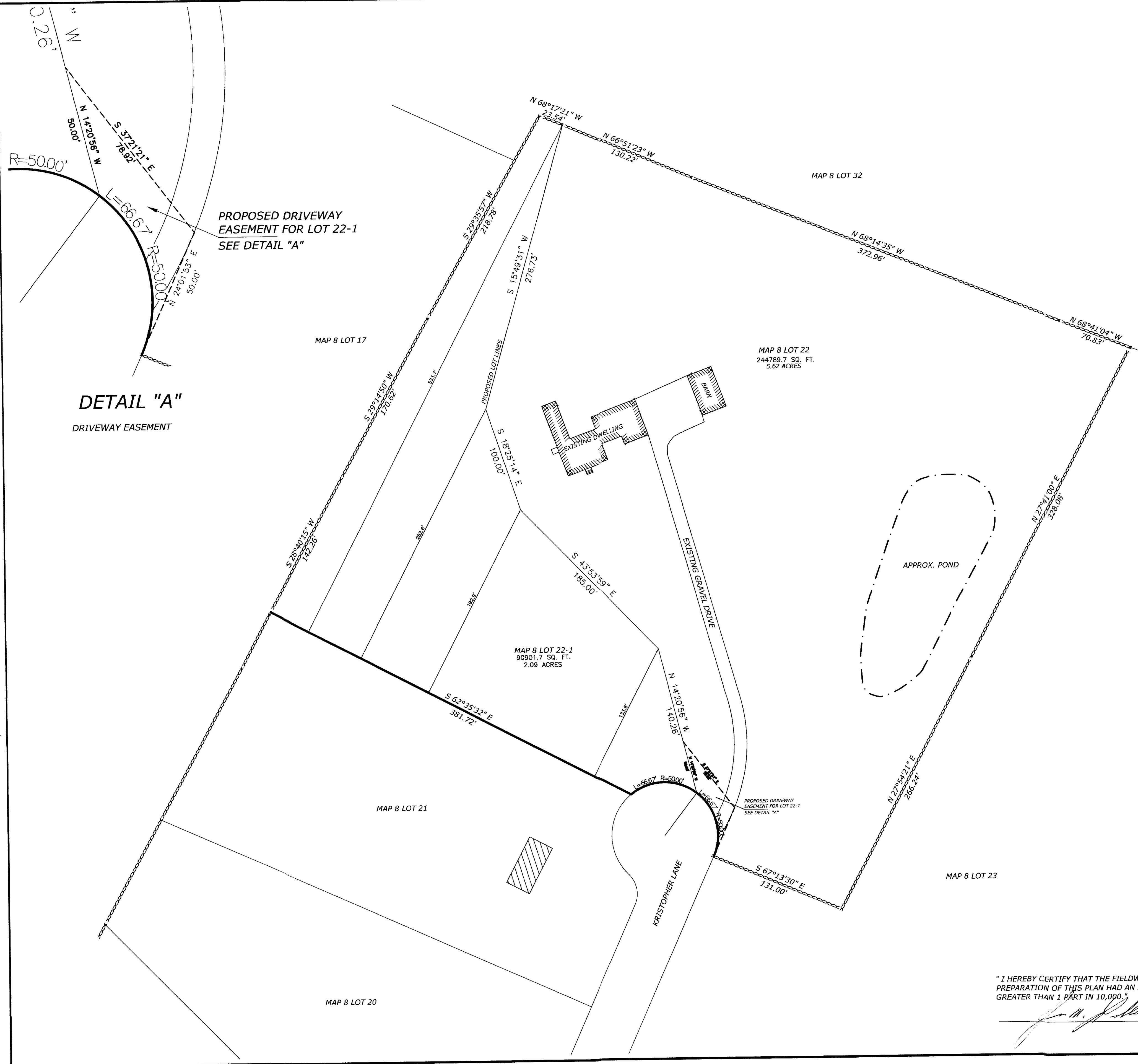


Lisa A. Dufour



DEENA MAHONEY
Notary Public, State of New Hampshire
My Commission Expires Dec. 20, 2022

NOTES:
 The purpose of this plan is to show a proposed lot (22-1) containing 2.09 Ac.
 This plan also serves to show a driveway easement across lot 22 for the
 benefit of lot 22-1.



DETAIL "A"
 DRIVEWAY EASEMENT

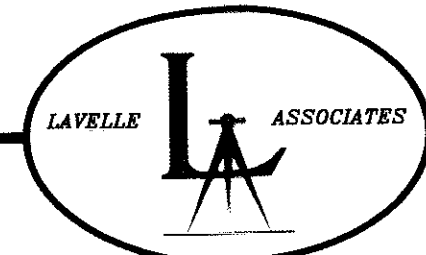
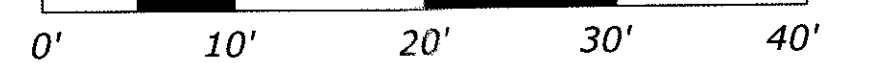
PROPOSED DRIVEWAY
 EASEMENT FOR LOT 22-1
 SEE DETAIL "A"

**SUBDIVISION PLAN OF LAND IN
 RAYMOND, NH**

**MAP 8 LOT 22
 10 KRISTOPHER LANE**

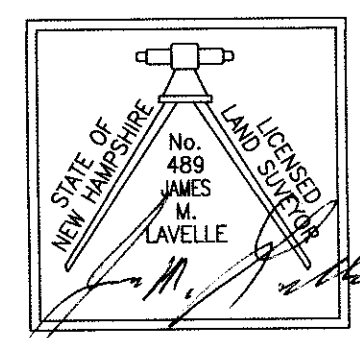
**OWNED BY
 MICHAEL DUFORD & LISA DUFORD**

SCALE: 1"=50' DATE: MARCH 16, 2021



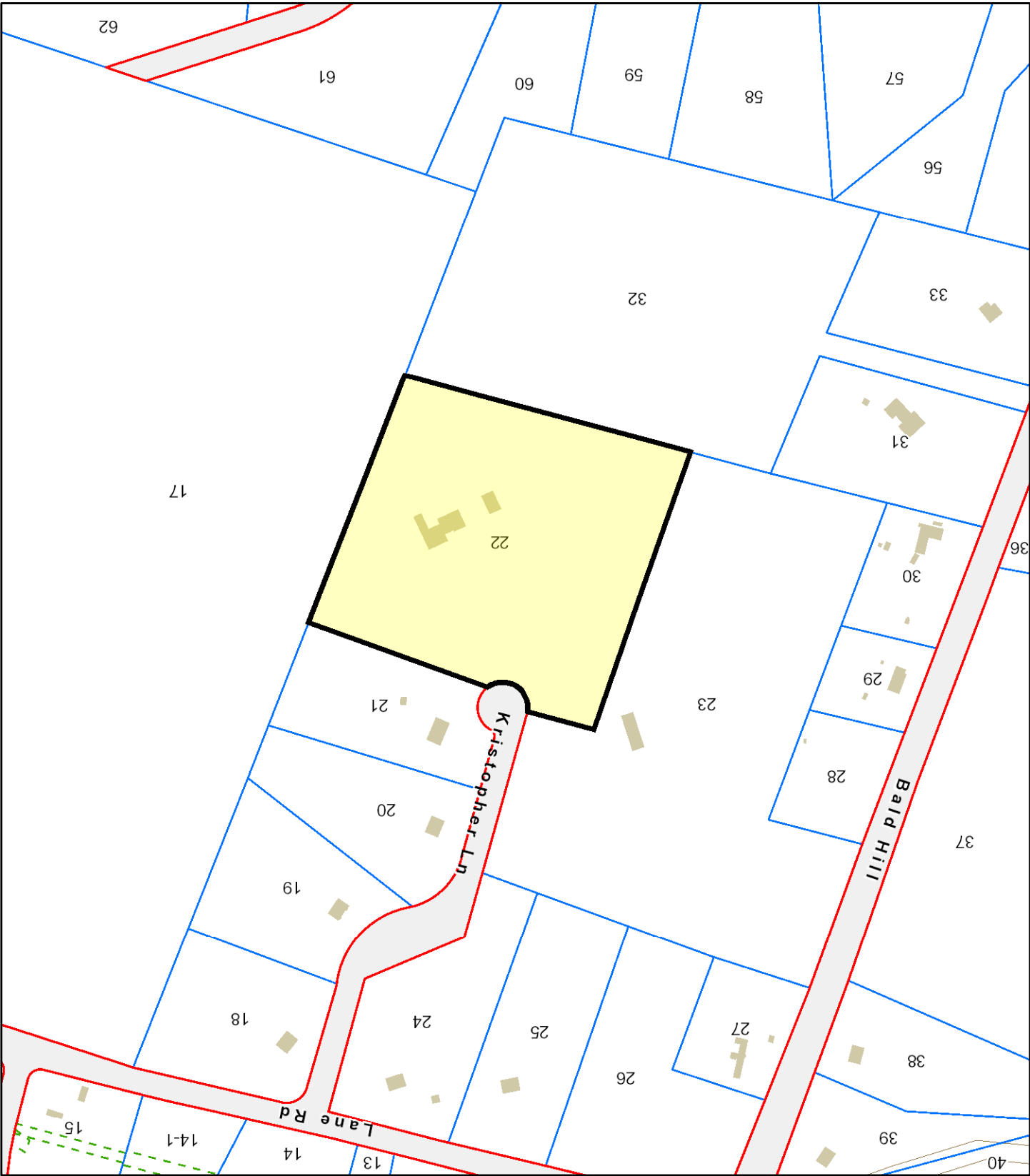
" I HEREBY CERTIFY THAT THE FIELDWORK DONE FOR THE
 PREPARATION OF THIS PLAN HAD AN ERROR OF CLOSURE NO
 GREATER THAN 1 PART IN 10,000."

James M. Lavelle



PREPARED BY
JAMES M. LAVELLE ASSOC.
 2 STARWOOD DRIVE
 HAMPSTEAD, NH 03841
 TEL(603)329-6851

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April 23, 2021

0 275 551 826

Raymond, NH
1 inch = 275 Feet





TOWN OF RAYMOND

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

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1 **Zoning Board of Adjustment Draft Minutes**

2 **March 24, 2021**

3 **Zoom Meeting - 7:30 p.m.**

4
5 Joyce Wood - Chairman

6 Kathy Hoelzel - Board of Selectmen Representative Alternate

7 Joe Povilaitis -Vice Chairman

8 Paul McCoy - Member

9 Brad Reed - Planning Board Representative

10 Christina McCarthy - Tax Collector/ Planning Technician

11 Stephanie Gardner - Planning Technician

12 Greg Arvanitis - Building Inspector

13
14 **Absent Members**

15 None

16
17 **Pledge of Allegiance**

18
19 Application #2021-001- A variance application has been submitted by Jones &

20
21 Beach on behalf of Troy Brown of Loon Lake LLC, for property identified as Raymond Tax Map 46/ Lot 9,
22 located at 68-70 Mountain Rd., Raymond NH,03077 within Zone B. The applicant is requesting relief from
23 Article 15 Section 15.1.1 'Minimum Lot Size', Article 15 Section 15.1.2 'Minimum Frontage',
24 Article 15 Section 15.1.3 'Minimum Setback Requirements', and Article 15 Section 15.3.1 'Minimum
25 Contiguous Upland'.

26
27 Mr. Reed had to recuse himself from the application.

28
29 Joe Coronati: "Joe Coronati from Jones and Beach representing Troy Brown and Loon Lake LLC. Troy is
30 the proud new owner of Mountain Road Trading Post." "The reason we are here tonight is to find a way to
31 separate the residential house from the commercial business. Mr. Brown would like to sell off the house
32 but keep the business. He wants to operate and run the Trading Post. To do that I have created a plan...
33 We have decided to increase the size of that lot based on some of the input from the last meeting and we
34 are proposing to separate the house onto a 27,800 square foot lot. The lot does not meet the lot size out
35 in this zone. The lot size is two acres. We are clearly shy of the minimum lot size however we are larger
36 than our abutting parcel. We also are proposing to have 149 feet of frontage, which is less than the 200
37 feet of frontage that you require. We are also trying to meet the side yard setback which is 30 feet. The
38 next item is a variance for contiguous upland and because the lot is proposed at 27,800 it would need a
39 variance for contiguous upland and the 5th and final variance is for a preexisting nonconforming lot,
40 which this is considered. There is no real change to the site because of these variances. We would need
41 to provide easements to keep the driveway where it is located." "Troy you don't currently have water
42 service to the business?"

43

44 Troy Brown: "We do not. We occasionally will borrow water from the spigot at the house so in that respect
45 we use the house water but there is nothing tied to the well. The commercial building does not have a
46 septic. "

47

48 Joe Coronati: "The existing house would have its own septic and well. The septic is a State approved
49 septic that was designed for a 3-bedroom house. In 1997 the septic was approved, and they have a well
50 and they meet the State radius. It meets State requirements and town requirements for the house." If
51 Troy ever decides to keep the business open year-round if he decides to have a well and septic, he still
52 has 4.4 acres of land and he could fit a septic and well on his property with no problem at all. There are
53 no safety issues at all. "

54

55 Mr. Povilaitis: "If this was to go forward and he was going to separate this property would that business
56 then require a septic and water to be a viable business?"

57

58 Joe Coronati: "I personally don't think so because whenever I have shopped there it was an option to go
59 use the house if you wanted to use the bathroom. Nobody went to the house for the facilities. I don't
60 know Troy if you have porta-potty."

61

62 Troy Brown: "We do. The one that was there was not sufficient. We did upgrade the porta-potty to a
63 higher class one. That is what has been done for a long time."

64

65 Greg Arvanitis: - "I do believe you're required to have that. I think it is a question that should go
66 to the State. It should be investigated but right now the way it sits on one lot if somebody had to
67 go use the bathroom in the house, they can but if it is separated, they won't have that option. I
68 think this is something that needs to be looked into thoroughly."

69

70 Troy Brown: "I am not opposed to making those investments if those investments are required."

71

72 Mrs. Wood: "We do have some input from abutters and one of their major concerns is that the business
73 will grow beyond what it is today."

74

75 Mrs. Hoelzel: "With the amount of land that is available, was there any consideration to making the house
76 lot a conforming lot by giving it the two acres that it needs? It would be noise since it has always been
77 nonconforming if it would have two acres instead of the 27,800. That is less than half of what the Town
78 requires." "My basic thought is the house and the people that live in it are living right next to commercial
79 business and along that road we do not have a lot of commercial business. So, it would be nice to give
80 protection to the new owner of the house."

81

82 Joe Coronati: "There won't be any real change to the use of the land in either case. If there was a
83 concern about buffering to commercial use which would certainly be brought up at the Planning Board
84 level, we could plant some sort of divider. "

85

86 Mrs. McCarthy read emails from Steve Brewer and Glenn Copleman (See attached).

87

88 Joe Coronati: "I guess I would respectfully disagree with a lot of those. This is existing, not proposed. If
89 we were building a new house, I think Glen's comments would be justified but this is an existing house
90 and existing business, and they should not be on the same lot. We have pre-pre-existing situation that is
91 not typical."

92

93 Ms. Gardner: "There was a question from Bob McDonald who wrote in and he asks is the person from
94 Jones and Beach a licensed engineer in the State of New Hampshire if yes please provide his license
95 number?"

96

97 Joe Coronati: "I am personally not a licensed engineer, but Miss Paige Libbey is. I don't believe you need
98 to be a licensed engineer to submit a variance application. So that is not really a concern."

99

100

101 Paige Libbey: "I am a licensed engineer, but I do not know my license number off the top of my head."

102

103 Mrs. Wood read an abutter comment from Kathleen Morneau, 72 Mountain Road (See attached).

104

105 Mrs. McCarthy read an abutter comment from Dan Sullivan, 74 Mountain Road (See attached).

106

107 Joe Coronati: "There seems to be a lot of conjecture that by granting the variance that we are going to be
108 expanding the commercial business. That is not the proposal that is in front of you. The proposal that is in
109 front of you is just to separate the two conflicting uses. The residential and the commercial that are on the
110 same lot. If Mr. Brown decided to expand the business, he would have to follow whatever zoning and site
111 plan regulations that exist at the time and we may not need additional variances." "This does not result in
112 any additional crowding. We are not proposing any additional structures; they are the same structures
113 that are there today."

114

115 Mr. Brown: "I do have a couple things to add. I haven't had a chance to speak with any of the neighbors
116 that have expressed their concerns. Dan and I have been in regular communication. He is actually a
117 service provider who works on the building security services. I would say that I did ask him when I first
118 moved in last fall to refrain from using the wood behind his property, which overlaps on mine, as a
119 shooting range because I do have kids back there that are working on the property and splitting wood.
120 We agreed that he would just call when he wanted to do that since we didn't have anything going to see if
121 he could do that. I also wanted to add with respect to the sound of the wood operation that has been
122 going on for years the business has been producing firewood for a long, long, time. We eventually have
123 plans to stop cutting firewood. I have contracted with a local provider to bring in cut and split logs directly.
124 We are working through a backlog of inventory meaning logs need to be cut up and processed. That is
125 not going to continue forever and when it does stop that cord wood contract will kick in. I look forward to
126 talking with neighbors directly. I look forward to talking to them."

127

128 Motion:

129 Mr. McCoy made a motion to go into deliberative. Mr. Povilaitis seconded the motion. The motion passed
130 with a vote of 4 in favor, 0 opposed, and 0 abstentions.

131
132 Mrs. Wood: "I have to remind the applicant that we have four members sitting on this case tonight. We
133 are one short of a full board. If we do not approve your variances this evening you cannot use the fact
134 that we do not have a full board as grounds for an appeal."
135
136 Mr. Povilaitis: "You can continue this until we have a full board seated."
137
138 Mr. Brown: "I understood that to be the case."
139
140 Mrs. Wood: "Granting a variance would not be contrary to the public interest because..."
141
142 Joe Coronati: "It is one response for all of the variances we did not separate them out. We sort of lumped
143 then all together."
144
145 Mrs. Wood: "The applicant says the variance will not be contrary with the public interest because the
146 buildings already exist. The proposed lot line is simply to formally separate the existing residential home
147 from the business (Mountain Road Trading Post). There is no additional construction proposed and the
148 business will continue to operate as it did previously with the existing house remaining as a residential
149 home. The existing business is not a permitted use in the residential/agricultural zone and therefore the
150 lot has multiple uses, one of them being nonconforming. Subdividing the residential home onto its own lot
151 will separate the two uses and one of the lots will then be a conforming use. The lots will then also be
152 taxed separately which provides a tax benefit to the Town."
153
154 Mr. McCoy: "In this particular case I think at present it is actually a residential lot with a preexisting
155 business with a residential home on the property. I'm not sure which came first, the business or the
156 house. I think by dividing this you are creating two non-conforming lots. Right now, we have a conforming
157 lot. My feeling is it would be contrary to the public interest to try and divide these because we are going
158 to create more problems than they have now because of the lot size. I think it is very contrary to the
159 public interest."
160
161 Mrs. Wood: "We are granting the size relief just to the residential portion of the lot. The business section
162 of the lot would meet the minimum requirement."
163
164 Mr. McCoy: "It would have the acreage but not the frontage."
165
166 Mr. Povilaitis: "A couple concerns that the front residential lot is quite small and when they go for
167 subdivision, they would have to find an alternate location for the septic on that lot. I did hear if it was perk
168 tested or anything like that."
169
170 Motion
171 Mr. Povilaitis made a motion to leave deliberation. Mrs. Hoelzel seconded the motion. The motion passed
172 with a vote of 4 in favor, 0 opposed, and 0 abstentions.
173
174 Greg Arvanitis: "I have seen septic systems removed and replaced in the same spot."

175
176 Joe Coronati: "They have a State approved septic system that was approved in 1997 for the house. So,
177 they don't need a secondary location they can replace in kind. It is only a two-bedroom house, but the lot
178 would meet the requirement for a 3-bedroom house. If the owner wanted it.
179
180 Motion
181 Mr. Povilaitis made a motion to go back into deliberation. Mrs. Hoelzel seconded the motion. The motion
182 passed with a vote of 4 in favor, 0 opposed, and 0 abstentions.
183
184 Mr. McCoy: "I just want to mention that these lots were put in before zoning."
185
186 Mrs. Hoelzel: "I am opposed to the lot being smaller than the 2 acres. I think this is a perfect time to make
187 it instead of non-conforming make it conform."
188
189 Mr. Povilaitis: "How can you make it conforming because there is a residential and business on it? So, it
190 will always be non-conforming."
191
192 Mrs. Hoelzel: "Well if they are going to subdivide it then it could be conforming if it had two acres."
193
194 Mr. Povilaitis: "No because they still have a problem with the frontage and the front setback on both lots."
195
196 Mrs. Wood: "I" weigh in on minimum lot size, I don't see any reasonable way to make this second lot or
197 subdivided off lot be brought up to two acres. It would involve moving the storage building in the back and
198 it just not a practical thing to do. The small lot size is not inconsistent with the other lot sizes in the
199 neighborhood, so I think it is not contrary to the public interest."
200
201 Criteria number 2 the spirit of the ordinance is observed...
202
203 The applicant states that the spirit of the ordinance is observed because it is our belief that the spirit of
204 the ordinance is to ensure that there is adequate space for a building to be constructed on the properties.
205 The buildings on this property already exist. Because the single-family home already exists within the
206 front setback, it is not possible to meet this setback. There is also a staircase for the Mountain Road
207 Trading Post building that will be within the proposed side setback. However, all other setbacks have
208 been met to the proposed lot line. The new lot has been sized for NH lot size by soil type standards and
209 has adequate space for more than 300 gallons per day required for a 2-bedroom house. The existing
210 single-family home on the proposed lot is a permitted use in this zone. Additionally, the proposed lot is
211 the same size as the immediately abutting residential lot. (Map 46 lot 10)
212
213 Mr. McCoy: "Again it is not in the spirit of the ordinance for the same reason I mentioned before. I believe
214 if you look at the setbacks the house is going to be near the business, they are going to be using that for
215 their driveway. There are going to be all kinds of issues there. It makes sense for the house to stay with
216 the business, so they have control of that house they rent it, or they live in it. We are going to create two
217 non-conforming lots and right now we have a conforming lot even though that business is there it
218 predates zoning. I am not for a substandard lot, but I am also against it because of the setback and how

219 close that is going to be to the business. As far as a minimum lot size, that house is not in the spirit of the
220 ordinance at all.”

221
222 Mr. Povilaitis: “I have to agree with Paul on a couple of points. My most troubling concern is the fact that
223 the south side of the property where the property line extends onto the driveway heading into the main
224 building that will be a problem. I could throw a hypothetical situation where an owner buys this property
225 and decides to put a big stockade fence up on that side of the property to block his view and he takes out
226 a good portion of the driveway that gives egress to get onto that. That is just a hypothetical thing. So
227 again, in the spirit of the ordinance is to create adequate spacing, and light I think this impedes on the
228 adequate space in between the lots, in my opinion.”

229
230 Mrs. Hoelzel: “I kinda agree with Joe.” “I guess I could live with that reading the response.”

231
232 Mr. Povilaitis: “I only comment on the way this plan is written on the side lot line going onto the access
233 onto the rear of the business. That was my main concern. If there is some way to protect this so a future
234 owner couldn’t block egress onto the rear lot. I am saying it could be handled with easements the front
235 house would know that and they couldn’t block the rear access. If that were taken care of, I wouldn’t
236 have a problem with it. That would eliminate any future problems if there were different owner on the two
237 lots.”

238
239 Criteria number 3: Substantial justice is done. The applicant states the existing single-family home
240 already exists. This would formally separate the home and the business and allow the owner to sell the
241 residential property separately while keeping his business.

242
243 Mrs. Hoelzel: “I agree.”

244
245 Mr. Povilaitis: “I would agree.”

246
247 Mr. McCoy: “I agree with what he is saying but I don’t agree that this should be separated. This is
248 residential property and the reason the business is there is because of the residence. The reason to
249 subdivide is we are creating a non-conforming lot the business is on its own lot. Usually, you have a
250 resident in a residential zone. Creating a separate lot with that house is not substantial justice. It would
251 be justice for the owner. It would be now but once he sells that it could be not justice.”

252
253 Mrs. Wood: “I don’t think a variance is needed to create substantial justice here. The owner has good use
254 of the property and if there are concerns about blocking access to the commercial portion of the property
255 that is an issue that the owner would be concerned with and take care of as part of the conditions of the
256 sale. To ensure that he has an adequate easement across the residential portion of the property to get to
257 the business portion, and I think it would behoove the prospective buyer to protect his interest in that
258 property. The variance is not needed to create substantial justice in this case.”

259
260 Number 4: The values of the surrounding properties are not diminished.

261 The applicant states that the value of the surrounding properties will not be diminished because the
262 buildings on the properties already exist and no new construction is proposed. This is simply to formally

263 separate the two uses into two separate lots. The two lots to the north of this property as well as many of
264 the properties in the area also have less area than required by the Zoning Ordinance. The proposed lot
265 is the same size as the abutting residential lot.
266

267 Mr. McCoy: "I don't believe it would have any difference in value. It would not diminish the property
268 value. "

269
270 Mr. Povilaitis: "I would say the same thing. I don't think it will have any effect on the surrounding property
271 values."

272
273 Mrs. Hoelzel: "I agree with the former two speakers. "

274
275 Mrs. Wood: "I do too. I don't see how it would affect the surrounding properties."

276
277 Criteria number 5. Owing to the special conditions of the property that distinguish it from other properties
278 in the area, literal enforcement of the provisions of the ordinance would result in unnecessary hardship
279 because ...

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

282
283 The applicant states that the property currently has both a commercial business and a single-family home
284 on it. Subdividing the lot separates the two different uses onto two separate lots. This allows the single-
285 family home to be sold if desired while the business remains in operation. The business has been in
286 operation for years and has been successful despite its location in a residential zone. Subdividing the
287 property in order to sell the home would allow the business to continue to be operated and be in support
288 of local business. Separating the uses into two separate lots also simplifies the financing of the property
289 for a potential buyer.

290
291 Mr. McCoy: "Again, the property is getting use, more use than most lots. I don't think it would be a
292 hardship if it were subdivided. And the way the property is and how that property is situated the residence
293 is there to accommodate the business. I think that this lot, they are already using it to its maximum. The
294 lay of the land it is better to keep the house with the building."

295
296 Mr. Povilaitis: "I think this kind of says it. There are special conditions on this property. Obviously, you've
297 got a business that has been there for 50 years, possibly before zoning. I think that in this particular case
298 to just allow a smaller lot size for that front building would result in an unnecessary hardship because
299 they can meet the septic and other health needs for that little house out front. I'm ok with that part of it.
300 I think that if you put little enforcement of the provision on lots sizes on this it would create a hardship
301 because the owner would not be able to separate a residential use from his business use. When if done
302 right they could be separated and have their own entities. "

303
304 Mrs. Wood: "I agree that forcing this lot to meet the two-acre minimum would create an unnecessary
305 hardship. There's just no practical way to force that lot into a two-acre minimum. To do so you would end
306 up having to force the storage building to be moved and you would start encroaching on wetlands and

307 you would have a hard time meeting the setback requirements or the separation requirements between
308 buildings. You would have a lot of trouble maintaining the side setback.”

309
310 Mrs. Hoelzel: “I understand what you are saying Joyce, I agree with you.”

311
312 b.) The proposed use is a reasonable one because...

313
314 The applicant states that the proposed use is a reasonable one because the building on the proposed lot
315 already exists. The lot has been sized by soil type for the number of bedrooms that exist, and the septic
316 flow needed for that number of bedrooms. The existing building on the proposed lot to be subdivided is a
317 permitted use in this zone. The existing house will meet all setbacks to the proposed lot line. The
318 proposed lot is the same size as the immediately abutting residential lot.

319
320 Mr. Povilaitis: “I think it is a reasonable use.”

321
322 Mrs. Hoelzel: “I agree.”

323
324 Mrs. Wood: “Me too.”

325
326 Mr. McCoy: “I agree if we allow the lot, but I believe because of creating two non-conforming lots when
327 we actually have a conforming lot with a preexisting business on it. By creating that lot and selling that
328 property I believe it would not be a good use for it. It is an allowed use. “

329
330 Mrs. Wood: “I agree that it is a reasonable use.”

331
332 Motion

333 Mr. McCoy made a motion to come out of deliberative. Mr. Povilaitis seconded the motion. The motion
334 passed with a vote of 4 in favor, 0 opposed, and 0 abstentions.

335
336 Motion:

337 Mr. Povilaitis made a motion to grant the variance for minimum lot size with some conditions attached. A
338 condition being that there should be an easement on the side of the property that extends onto the
339 driveway. Mrs. Hoelzel seconded the motion. The variance was granted with a vote of 3 in favor, 1
340 opposed, 0 abstentions.

341 Joyce Wood - Yes
342 Kathy Hoelzel - Yes
343 Joe Povilaitis - Yes
344 Paul McCoy - No

345
346 Mr. Povilaitis: “The variance specifically was for article 15 section 15.1.1 Minimum lot size is granted with
347 conditions attached to it.”

348
349 Motion:

350 Mr. Povilaitis made motion to continue application #2021 001 to March 31, 2021 at 7:30 pm. Mr. McCoy
351 seconded the motion. The motion passed with a vote of 4 in favor, 0 opposed and 0 abstentions.

352 Joyce Wood - Aye

353 Kathy Hoelzel - Aye

354 Joe Povilaitis - Aye

355 Paul McCoy - Aye

356
357
358
359
360 Application #2021-003- An application for a Variance has been submitted by Roscoe Blaisdell on behalf
361 of Louise Lewis, for property identified as Raymond Tax Map 37/ Lot 7, located at 324 Route 27,
362 Raymond NH, 03077 within Zone C1. The applicant is requesting relief from Article 14 Section 1 Allowed
363 Use Table. They are proposing to build a residential unit in a C1 Zone.

364
365 Roscoe Blaisdell: "I am the land surveyor for the project. Louise Lewis has around 3 acres on route 27
366 and it is a commercial zone. There is a house that has been there a long time and she would like to
367 create one lot off of this for her son who would like to build a house. They would like to live together but
368 the zone says commercial only, but we already have a residence on one of them as it is. There are other
369 residences in the area, and we are right on the Candia town line on route 27. So, I think it would be fair to
370 let them create this lot for her son."

371
372 Mrs. Hoelzel: "Are there surrounding properties that are commercial?"

373
374 Roscoe Blaisdell: "I believe there is a hair salon near it. Across the road is that quarry Kevin Cole had.
375 But as you continue into Candia, I believe there is a house there. So, there are other houses in the area."

376
377 Mr. Povilaitis: "Is this by the power lines?"

378
379 Roscoe Blaisdell: "Yes, it is a little bit separated by one lot from the power lines. The power lines go
380 through the neighbor."

381 Mrs. Hoelzel: "Is it almost on the Candia line on the left-hand side heading towards Manchester?"

382
383 Roscoe Blaisdell: "The Candia line is the abutting lot, so it is on the Candia line. So, we would be putting
384 a house right on the Candia line and the existing house would be one lot removed from it."

385
386 Mrs. Hoelzel: "What is the size of the lot?"

387
388 Mr. Povilaitis: "1.5 and 1.62 acres."

389
390 Motion:

391 Mr. Povilaitis made a motion to continue the meeting until 10:30 pm. Mrs. Hoelzel seconded the motion.
392 The motion passed with a vote of 5 in favor, 0 opposed and 0 abstentions.

393 Joyce Wood - Aye

394 Kathy Hoelzel - Aye
395 Joe Povilaitis - Aye
396 Paul McCoy - Aye
397 Brad Reed - Aye
398
399
400

401 Motion:

402 Mr. Povilaitis made a motion to go into deliberation. Mr. Reed seconded the motion. The motion passed
403 with a vote of 5 in favor, 0 opposed and 0 abstentions.

404 Joyce Wood - Aye
405 Kathy Hoelzel - Aye
406 Joe Povilaitis - Aye
407 Paul McCoy - Aye
408 Brad Reed - Aye
409

- 410 1.) Granting a variance would not be contrary to the public interest because the applicant states there
411 is already a residence on the lot. The owner would like to rebuild that residence and have her son
412 build residence on the remaining lot.
413

414 Mr. McCoy: "I think in this particular case, this particular lot it would be to the public interest."
415

416 Mr. Povilaitis: "I think it would be a better use as a residential lot considering the lot next door is
417 residential and this is the last lot in Raymond on 27 before the Candia border. So, I think it would be a
418 good match for it to be residential, more suitable than a commercial use."
419

420 Mr. Reed: "Yes I agree with Paul and Joe."
421

422 Mrs. Hoelzel: "I agree."

423 Mrs. Wood: "I think it would be in the public interest for the existing home to be improved. It would create
424 a greater tax base."
425

- 426 2.) Granting the variance would be consistent with the spirit of the ordinance because...
427 The applicant states the area already has residences.
428

429 Mr. McCoy: "The spirit of the ordinance, this particular lot where it is, its location because there is already
430 a house on the existing lot. If we allow this to go in it will be a residence between two residences. It would
431 make more sense and it would be in the spirit of the ordinance."
432

433 Mrs. Wood: "I don't think it would be inconsistent with the spirit of the ordinance."
434

435 Mrs. Hoelzel: "I think it is consistent."
436

437 Mr. Reed: "Where it is already a residential property that when zoning went in it was declared C1, I don't
438 see an issue with this."
439
440 Mr. Povilaitis: "I would agree."
441
442 3.) Granting a variance would do substantial justice because...
443 The applicant states it would allow the owner and her son to have residences next to each other.
444
445 Mrs. Hoelzel: "I agree."
446
447 Mrs. Wood: "Me too."
448
449 Mr. Povilaitis: "I agree it would be substantial justice because now those lots are more geared toward
450 residential use anyways. So, it would give substantial justice to let the owner enjoy the lot and use it how
451 he wishes with no harm to the community as well. "
452
453 Mr. McCoy: "I agree."
454
455 Mr. Reed: "I agree."
456
457 4.) Granting a variance would not diminish the values of the surrounding properties because ...
458 The applicant states a new house would be built.
459
460 Mr. Povilaitis: "I agree any new construction tends to increase surrounding properties rather than to have
461 any decrease."
462
463 Mrs. Hoelzel: "I agree."
464
465 Mr. McCoy: "I agree on this particular site, I agree."
466 Mr. Reed: "I agree also."
467
468 Mrs. Wood: "I think that upgrading the existing residence and adding a new residence would not diminish
469 surrounding property values."
470
471 5.) Owing to the special condition of the property that distinguish it from other properties in the area,
472 literal enforcement of the provisions of the ordinance would result in unnecessary hardship
473 because ...
474 a.) No fair and substantial relationship exists between the general public purposes of the
475 ordinance provision and the specific application of that provision to the property because ...
476 The applicant states that there are other residential buildings nearby.
477
478 Mrs. Hoelzel: "I agree."
479
480 Mr. Povilaitis: "I agree as well with the existing residential properties nearby."

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Mrs. Wood: "I agree."

Mr. McCoy: "I agree."

Mr. Reed: "I agree."

b.) The proposed use is a reasonable one because...
The applicant states the son would be able to live next to his mother.

Mrs. Wood: "I think that is commendable."

Mrs. Hoelzel: "I agree."

Mr. Povilaitis: "I think it is a reasonable use because the property next to it is already residential, so the use of this property is residential and also being the last lot on that particular road until we get into another town. So, the last two lots are conforming with each other. Seems like a good use to me."

Mr. Reed: "I agree."

Mr. McCoy: "I agree and by the way that has got to be one of the oldest houses in the town."

Motion:

Mr. Povilaitis made a motion to get out of deliberation. Mr. McCoy seconded the motion. The motion passed with a vote of 5 in favor, 0 opposed and 0 abstentions.

- Joyce Wood - Aye
- Kathy Hoelzel - Aye
- Joe Povilaitis - Aye
- Paul McCoy - Aye
- Brad Reed - Aye

Motion:

Mr. Povilaitis made a motion to grant the variance request by Roscoe Blaisdell. Mrs. Hoelzel seconded the motion. The motion passed with a vote of 5 in favor, 0 opposed and 0 abstentions.

- Joyce Wood - Aye
- Kathy Hoelzel - Aye
- Joe Povilaitis - Aye
- Paul McCoy - Aye
- Brad Reed - Aye

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Application #2021-004- An application for a Variance has been submitted by Roscoe Blaisdell, for property identified as Raymond Tax Map 8/ Lots 36 & 37, located at Bald Hill Road, Raymond NH, 03077 within Zone B. The applicant is requesting relief from Article 15 Section 2.9 Notes to Area and Dimensional Requirements. He is proposing to allow use of Zone G land for his lot size calculations.

Motion:

Mr. Povilaitis made a motion to continue this application until March 31, 2021 at 7:30 pm. Mr. Reed seconded the motion. The motion passed with a vote of 5 in favor, 0 opposed and 0 abstentions.

Joyce Wood - Aye
Kathy Hoelzel - Aye
Joe Povilaitis - Aye
Paul McCoy - Aye
Brad Reed - Aye

Motion:

Mrs. Wood made a motion to take up Application #2021-004 first on March 31, 2021 at 7:30 pm. Mr. Povilaitis seconded the motion. The motion passed with a vote of 5 in favor, 0 opposed and 0 abstentions.

Joyce Wood - Aye
Kathy Hoelzel - Aye
Joe Povilaitis - Aye
Paul McCoy - Aye
Brad Reed - Aye

Approval of minutes:

Motion:

Mr. Povilaitis made a motion to accept the minutes of March 17, 2021 as written. Mr. Reed seconded the motion. The motion passed with a vote of 4 in favor, 0 opposed and 1 abstention.

Joyce Wood - Aye
Kathy Hoelzel - Abstains
Joe Povilaitis - Aye
Paul McCoy - Aye
Brad Reed - Aye

Mrs. Wood: "We did get a request from Kevin Woods requesting that the meeting materials be posted to the Town website so the public has access to that so that when they join the meeting, they can be aware."

567 Mr. McCoy: "The misunderstanding is we don't get the information until they present it to us."
568
569 Mrs. McCarthy: "What Kevin would like is for the board to post their material onto the website so that the
570 public can access the information. Now I know that there have been previous concerns about people
571 getting the information before you even have a chance to review it. So, our alternative to this is to post it
572 on the website either the day before the meeting or the day of the meeting, is what the suggestion was.
573 So that way you guys get your work, you have a chance to review everything, and then we will put it out
574 there for everybody else. "
575
576 Kevin Woods of 25 Nancy Lane read a letter to the Board (see attached.)
577
578 Mr. Povilaitis: "I like Christina's suggestion about having the material posted a couple days before a
579 meeting. Is that a hard thing to do?"
580
581 Mrs. McCarthy: "We can get that done, absolutely."
582
583 Mrs. Hoelzel: "I would agree that we need to get some kind of legal opinion on that because if everybody
584 is on social media because of what they read that could change and you are basically a judicial board. "
585
586 Mr. McCoy: "I agree you have to be careful with that."
587
588 Kevin Woods: "Madame Chair, are these documents not public at the time they are submitted to the
589 Town Office and if they are public then are, they not subject to 91A. The public's right to know law.
590
591 Mrs. McCarthy: "Once it is submitted it is a public document."
592
593 Mr. McCoy: "I have no problem with it. Except that is why we do abutters lists and the applicant has a
594 chance to present his proposal to us."
595
596 Mrs. McCarthy: "We can easily get your packets out to you guys and the day before the meeting we can
597 post them on the website. That way you have a chance to review things."
598
599 Mr. Povilaitis: "How about we do this, we ask for legal."
600
601 Mrs. Hoelzel: "I agree."
602
603 Mrs. McCarthy: "I can do that, and we can have a decision and answer for next Wednesday."
604
605 Motion:
606 Mr. Povilaitis made a motion to adjourn. Mrs. Hoelzel seconded the motion. The motion passed with a
607 vote of 5 in favor, 0 opposed and 0 abstentions.
608 Joyce Wood - Aye
609 Kathy Hoelzel - Aye
610 Joe Povilaitis - Aye

611 Paul McCoy - Aye
612 Brad Reed - Aye

613
614 Respectfully submitted,

615
616 Jill A. Vadeboncoeur

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1 **Zoning Board of Adjustment Draft Minutes**

2 **March 31, 2021**

3 **Zoom Meeting - 7:30 p.m.**

4
5 Joyce Wood - Chairman

6 Kathy Hoelzel - Board of Selectmen Representative Alternate

7 Scott Campbell - Board of Selectmen Representative

8 Joe Povilaitis -Vice Chairman

9 Brad Reed - Planning Board Representative

10 Christina McCarthy - Tax Collector/ Planning Technician

11 Paul McCoy - Member

12
13
14 **Absent Members**

15 Greg Arvanitis - Building Inspector

16
17 Pledge of Allegiance

18
19 Continued from 3/24/21 Application #2021-004- An application for a Variance has been submitted by
20 Roscoe Blaisdell, for property identified as Raymond Tax Map 8/ Lots 36 & 37, located at Bald Hill Road,
21 Raymond NH, 03077 within Zone B. The applicant is requesting relief from Article 15 Section 2.9 Notes to
22 Area and Dimensional Requirements. He is proposing to allow use of Zone G land for his lot size
23 calculations.

24 NOTE: The property proposed to be subdivided is shown on the town tax maps
25 as two lots. There is a pending legal action regarding that designation.

26
27 Mrs. McCarthy: Scott Campbell is here for Roscoe Blaisdell’s hearing and Kathy is here for the Mountain
28 Road hearing.

29
30 Mrs. Wood: “The caution is we do not have a full board this evening we give you the option to go forward
31 with the hearing of this case but if for some reason we do not grant the relief that is sought you cannot
32 use the fact that there is less than a full board present as grounds for an appeal.”

33
34 Roscoe Blaisdell: “Point of order can Kathy Hoelzel take the place of Paul McCoy?”

35
36 Mrs. McCarthy: “No Roscoe the only person that can replace a Board of Selectmen representative is
37 another Board of Selectmen member and they cannot take the place of a regular member.”

38
39 Jim Soucy:” So Roscoe since you are in the driver’s seat with respect to moving forward or not. Since we
40 are not all in the same room, I need to make sure that you still want to go forward with less than a full
41 board, and we also by my count have an even number. I am not certain if there were to be a tie, the tie
42 breaker procedure for that.”

43

44 Mrs. Wood: "By State law in order for the Zoning Board to grant a relief you have to get 3 affirmative
45 votes. So, you need to get 3 out of 4. So, if it is 2 to 2 it fails."

46

47 Roscoe Blaisdell: "I am Ok to proceed."

48

49 Jim Soucy: "Madam Chair may I proceed? As it was read in the introduction with respect to this
50 application for a variance it is with respect to 15.2.9 which the summary recounted 15.2.9. States and I'll
51 quote "Zones A, B & E, including all residential overlay zones, shall not include the use of Zone G land in
52 determining the maximum number of units or lots being developed" basically what we have is a large
53 tract of land, 80 plus acres for which Roscoe has submitted an application for subdivision and under the
54 conservation developments I believe there is slightly more than half of this land will be in conservation.
55 With respect to the variance requested as the presentation will line out the conditions of this site as well
56 as the overall spirit and nature of the ordinance from which we are seeking a variance lends itself nicely
57 to the granting of a variance. I just see on my screen that Paul has signed in and I would like Madam
58 Chair a chance to welcome him to the meeting." "So, with respect to section 15.2.9 of the ordinance, the
59 application for subdivision was developed, I am going to back up this a summary I am going to review the
60 criteria that this Board has to consider and assess. I would like to make sure the members have the
61 submission that went with the request for variance. Do all of the members have a copy of that?"

62

63 All of the Board members indicated that they had the paperwork.

64

65 Jim Soucy: "So in continuing this application for the subdivision was generated using the methodology
66 employed by the Planning Board for other recently approved subdivision applications. Just a note there is
67 in connection with a yield plan that was done the maximum number of house lots that could be otherwise
68 put on this piece of property in connection with a traditional or conventional subdivision application or
69 subdivision project. That process was done in order to get the maximum number of units, and what we
70 have in connection with this application is actually a large tract of land, as I have said, that has two
71 aspects or two elements with respect to Zone G land, and that is either wetlands, very poorly drained
72 soils, as well as two fairly small and self-contained steeply sloped areas. Being a licensed land surveyor
73 in the State of New Hampshire if there is anything additional with respect to the location of those two
74 sloped areas as well as their size, and the characteristics attended to them I would defer to my client
75 Roscoe Blaisdell to address those. With respect to the public interest in light of the fact that the
76 application is for a conservation development with slightly more than 50% of this land being put toward
77 permanent conservation. So, it leaves it open for not only habitat for wildlife but also for pathways or
78 animal highways if you will. With respect to the house lots, the houses and the structures that are going
79 to be built on the lots would otherwise conform to the rest of the ordinances.

80

81 So, with respect to prong one where the granting of the variance would not be contrary to the public
82 interest it actually, this application is not only consistent with the public interest by way of adding to that it
83 is actually consistent with number of the goals in the Town's Master Plan as well as the overall Zoning
84 Ordinance. Protecting wildlife, protecting wetlands. I represent to the Board that prong number one with
85 respect for this request for variance is met.

85

86 With respect to prong number two that granting a variance would be consistent with the spirit of the
87 ordinance. Again, with respect to this particular ordinance 15.2.9 as far as this Zone G land, the reason

87 for setting it aside and not including it in any calculations for house lots or anything else in a normal or
88 otherwise conventional, or traditional subdivision where the parent parcel that is being subdivided 100%
89 of it short of any new roads being designed and constructed, there really isn't any other large block of
90 land being constructed...So with respect to the request for the variance I think it is pretty clear that it is
91 consistent with the spirit of the ordinance because although these areas are included they are not
92 actually going to be areas that are going to be first and foremost, filled or otherwise destroyed, to the
93 spirit of the ordinance of the public interest here. These areas may be part of the house lots but again
94 there may be unusable sections.

95 With respect to the third prong with the granting of the variance would do substantial justice. With respect
96 to this specific ordinance and wanting as a goal for the ordinance to set aside wetlands and not disturb
97 steeply sloped areas, again because this a conservation subdivision and that is going to be maintained
98 there is going to be no loss of these areas. Even with the granting of the variance all of the goals of this
99 ordinance are still achieved as to what is actually going to be built. And as far as the substantial justice
100 denying this variance actually does harm to the applicant in connection with his application versus
101 granting the variance where there isn't any negative effect or impact based upon the type of application
102 that it is, the type of subdivision that it is and what is actually going to be built. So substantial justice
103 actually able to be carried out by granting this variance.

104 In connection with the fourth prong that granting this variance would not diminish the value of the
105 surrounding properties. I think that is also pretty clear. I think that you can call on your own personal
106 experience and if you don't then reasonably infer that in this day and age where a development or a
107 subdivision project is developed in a way that leaves open areas that in connection with this particular
108 project the landowner within this subdivision will get to use and be able to recreate within these open
109 areas. And with respect to diminishing any surrounding properties the properties that abut this
110 subdivision project have a very large buffer around 3 sides again Bald Hill Road is on the easterly side.
111 But all 3 sides have a very large buffer. With respect to that I find it hard to imagine any kind of scenario
112 where that would be possible if diminishing any surrounding property values. The whole project as a
113 whole is put together in a way that will actually be quite advantageous to the area as well as be desirable
114 to new home buyers and should actually raise the values of the homes that abut this project. So again, I
115 think prong 4 of the variance criteria is also satisfied.

116 With respect to the fifth prong, owing to special conditions of the property that distinguish it from the other
117 properties in the area, that literal enforcement of the provision of the ordinance would result in
118 unnecessary hardship, I think this also is met and I think that also would cause unnecessary hardship if
119 this variance were denied. Again, because we have this type of conservation subdivision, more than half
120 of it is being put in permanent conservation and allowing this to go forward for otherwise Zone G land to
121 be included, which includes areas of wetlands and poorly drained soils, what I would characterize to the
122 Board as fairly small and contained within themselves, two fairly small areas of what are defined as
123 steeply sloped sections of land. The interesting physical characteristics and conditions of this property
124 are such that there are in essence, if we were standing in the middle of Bald Hill Road looking westerly
125 into this 88-acre tract of land, there are effectively two linear sections of wetland that come down and
126 divide the upland for the non-wetlands area into three separate fingers that come up and off of or away
127 from Bald Hill Road. So, the wetlands in essence split or divide the upland area or the buildable areas of
128 the 88 acres. So, these special conditions lend itself very well to the granting of a variance because what
129 again is going to or what will be constructed, will be or would be a subdivision plan that allows
130 development of the buildable land but also sets more than half of it in permanent conservation. What we

131 have got in all other respects except for this one almost standalone provision, all of the other parts of the
132 ordinance, the spirit of the ordinance, the goals of the ordinance, are still met because so many acres are
133 not going to be developed and be put in permanent conservation and managed by the homeowners
134 association that is going to be created to oversee this land as well as ensure that people get to have
135 passive recreation on it. So with respect to the variance that seeks to not have Zone G land excluded but
136 allow those small portions of land be used in the calculation of the square footages of each of the house
137 lots, in all other respects the ordinances are complied with, as well as the fact that the proposed use,
138 meaning allowed to use the sections of Zone G land, that are on this land is reasonable, again for all of
139 the reasons that I have said in every respect all of the other goals of the zoning ordinances are met. AAs
140 well as the spirit there really isn't anything that any surrounding properties or even this property itself is
141 diminished whether in its use or in the usefulness to the general community. There is a good amount of
142 wetland that is going to be saved. In the event that the Board were to find that the fifth condition isn't met,
143 owing to the special condition we have got the three upland areas that are separated by two of these
144 areas of wetland. On one of these sections basically in the middle again standing in the road from the
145 southern border on out left northerly border on our right, pretty much right up the middle is where
146 generally is where these two steeped sloped portions are. By my measuring of the plans going
147 perpendicularly these steeply sloped sections the running feet is somewhere between 25 maybe 35 feet
148 in actual distance so it really is what I would represent to the Board as a fairly limited amount of land and
149 a fairly short and abrupt steeply sloped section of land. So, to exclude something that is very relative to
150 the 88 acres, to have to impose upon Roscoe the exclusion of these very small areas and to penalize
151 these very small and discrete, so they are self-contained, but by my measurement 700- or 800-foot
152 distance separating them really does pose a hardship because Roscoe as the applicant kinda gets
153 penalized twice for this unique and odd characteristic of this lot. So, with respect to special conditions, we
154 have got the layout of these two wetlands and in addition to that these two separate and discrete steeply
155 sloped areas that are relatively very small. It is not like other properties in the area. And again because of
156 the type of application what is actually going to be built. What is going to be put in permanent
157 conservation. It really does lend itself well to granting this variance and allowing Roscoe to submit his
158 application without being unnecessarily hamstrung by this and actually being injured by the application of
159 this one application of the zoning ordinance. Do the members of the Board have a copy of the plans for
160 this project?"

161
162 Mrs. Wood: "I do not."

163
164 Jim Soucy: "Roscoe is there anything in addition to what I have informed the Board about?"

165
166 Roscoe Blaisdell: "With the steeply sloped areas the Town definition says it has to be 100 foot wide and
167 these are 25 feet wide, so they are not an issue in this subdivision. I was understanding that all of the
168 members would be sent plans."

169 Mrs. McCarthy: "Everybody has a copy of the yield plan that they should be looking at. It is the one called
170 White Tail Crossing."

171
172 Roscoe Blaisdell: "I have been surveying since 1981 and back in 2010 unbeknown to me a new rule was
173 made saying no Zone G land could be used for finding out how many lots you can have. Since 2010 I
174 have made 6 subdivisions with lots under two acres. Other surveyors have done the same thing. Part of

175 this packet was supposed to be 7 different plans showing. Other surveyors and I making lots well under
176 two acres of dry. There was one approved in 2018 on Langford Road and they would have lost 4 lots.
177 Basically, people haven't seen this hidden rule. I didn't know it existed. Planning Board members didn't
178 know it existed. So, when people made these plans half the lot is wet." "If you go to sheet 2 that is the
179 one that we are asking the variance for. So, in this case we are showing two longer roads and my yield
180 calculations showed I could get 37 lots. Some of these lots have 1.9 acres of dry so I would lose 3 lots if I
181 made all of these lots exactly two acres of dry land."

182
183 Mr. McCoy: "Are you saying that the whole two acres of land have to be upland? Is that what you are
184 saying in the yield plan?"

185
186 Roscoe Blaisdell: "Yes you need to have two acres of dry land so if you have a two acre lots with a little
187 bit of wet then that is not good enough."

188
189 Mr. Reed: "How much Zone G land is contained on this lot?"

190
191 Roscoe Blaisdell: "I couldn't tell you. It would just be a wild guess but most of my lots are two acres of dry
192 but some of them would be .9 acres, many of them are over 40,000 square feet."

193
194 Mr. Reed: "This is in the actual layout?"

195
196 Roscoe Blaisdell: "In this layout the yield plan I am showing lots, several of them won't work because
197 they are not two acres of dry land. But they are close."

198
199 Joe Driscoll from the Mitchell Group the council for the Board: "I do think you may want to tighten up the
200 conversation a little bit because there is, the variance application is from that one specific section 15.2.9
201 but just for clarity for everyone if you look in section 6.8.2.2 Yield Calculation it does refer to requiring
202 compliance with Article 15. That wasn't referenced in the application but in the development of 6.8 there
203 is that clause in there. I think it is beneficial to everyone. The variance request is from 15.2.9 to kind of
204 keep the conversation there."

205
206 Mrs. Wood: "I understand that this is two lots and the ownership of one of the lots is in dispute. What is
207 the status of that?"

208
209 Jim Soucy: "I can speak to that. A good number of years ago there was an update to the Town's tax
210 maps and essentially the contractor who updated and revised the Town tax maps erroneously updated
211 and revised the tax maps, and what we are looking at right now on the shared screen is the land that
212 Roscoe purchased when it was conveyed to him and the deed and the deed research was done in that
213 other case which I represent Roscoe in as well, shows that one lots that he thought he purchase is
214 exactly what you are looking at and there was an error in how the tax map was drawn. Essentially what
215 the contractor did in redrawing the tax map basically drew a line between the yield plans. It took Roscoe's
216 land and divided it in a line going East and West and cut the lot essentially in two. And used the Westerly
217 half, used the brook that is in the far-right corner, used this brook as the property line. The brook wasn't
218 the full Westerly property line for this parcel of land. Roscoe initiated a suit against the Town to correct

219 the tax map because it was recommended by the Town to initiate a suit against the Town so there would
220 be a court order to resolve it. We have worked out the details of that. We have an agreement to settle
221 and resolve that lawsuit. And we also have a draft of the real estate deed. Through which the Town will
222 on paper reconveying to Roscoe the land that the existing tax map. The Town has agreed to reconvey to
223 Roscoe the land that in actuality he currently owns and always had owned with respect to what is shown
224 on the screen. So that lawsuit is in the process of having the documents finalized. But we do have an
225 agreement with the Town to resolve that. I don't want to say it is a non-issue because the lawsuit hasn't
226 been settled and closed by the court. But there is a resolution to that litigation." "We have an agreement
227 to settle but the documents have not been executed so that there is an agreed upon quick claim deed
228 that the Town will be executing to clear up that confusion as to one lot versus two lots. There were also
229 other landowners that were impacted by this change and those individuals are effectively at the top of the
230 page that is shown on your screens. So, beyond the Westerly property line. So, there are a number of
231 landowners who were negatively impacted by this and it is my understanding right now that it is the
232 Town's goal and intent to resolve all of this confusion that was caused. The court action is technically still
233 ongoing only because the documents haven't been finalized."

234
235 Mrs. Wood: "Roscoe, how much relief are you looking for here?"

236
237 Roscoe Blaisdell: "I want to be able to have several lots with 1.9 acres of dry land. I have 7 plans in front
238 of me and there are about 15 lots that were approved. They didn't have to get a variance for them
239 because they didn't know that was the rule." "I will be making a trail system on the back of all the lots so
240 people- most times there is an open space and there is a big chunk of land out back and they don't
241 usually get around it. I am going to make a trail system that can be several trails just wrapping around the
242 back of all the lots, so they will get some real use of this property." "So, the lots almost all of them have
243 100% dry. Some of them have just a smidgeon, but there is no requirement on how much wet these can
244 be." "There is no dredge and fill on this property."

245
246 Kathy McDonald: "I am not here as a member of the Conservation Committee but as a member of the
247 public. Is this the very reason why Roscoe requested a conservation subdivision? To grant non-
248 conforming lots. Doesn't 5.5.12.5 Zone G land say it shall not be considered as part of the net density
249 calculation."

250
251 Roscoe Blaisdell: "I don't know that rule."

252
253 Kathy McDonald: "It is in the Zoning Ordinance it has been there since 2010. It has also been mentioned
254 in other places in our Zoning. Conservation subdivision you can't include the Zone G land and that is
255 why you get lots that are not conforming. They are smaller. They have less frontage. You can have them
256 on angles. That is part of having a conservation subdivision to have non-conforming lots."

257
258 Jim Soucy: "Correct and again, as I laid out in walking through the 5 criteria, in light of this 88-acre parcel
259 of land and the unique conditions and the unique ways they present themselves lends it to the fact that
260 while there is this ordinance, the spirit of this ordinance that it supposed to carry out. A Zoning Ordinance
261 under New Hampshire law should not be applied, are not to be applied with an overly strict hand. Sort of
262 an iron fist kind of way without regard to how it impacts the landowners that these ordinances are being

263 applied to. The overall spirit and the intent and the goals of the zoning ordinance are still realized and the
264 benefit to the community is still realized with the granting of this request for variance.”

265
266 Kathy McDonald: “Then why is your client requesting a conservation subdivision instead of a traditional
267 subdivision?”

268
269 Jim Soucy: “Because he can and he wants to see that land is conserved, again this is not land that is
270 going to be dredged and filled and crossed and the reason in part that there are two cul de sacs is that if
271 he made it a U shape or a C shape connected road he would not only be cutting down more trees but
272 there would be a wetlands crossing or a dredge and fill scenario.”

273
274 Kathy McDonald: “So will this set a precedence for any other subdivisions coming into Raymond? That
275 they will ignore the Zone G land.”

276
277 Jim Soucy: “I would defer to the Town's council on the application of that. Presently what the Board has
278 in front of it I would hope it would be focusing on the merits of this application.”

279
280 Roscoe Blaisdell: “I recently had two conservation subdivisions very similar to this approved. They were 1
281 acre dry on some lots. I can list plenty of plans where this was approved by the Town. I am sure there
282 have been more by other land surveyors.”

283
284 Mrs. Wood: “If we grant this relief you are not going to come back to the Planning Board with a proposal
285 to add additional home to this plan, are you?”

286
287 Roscoe Blaisdell: “That is not possible. Right now, I have it laid out for the maximum number of lots. So,
288 what I am asking is the yield plan that I thought was good and has been for other people in the past and
289 myself. I just want to go by that yield plan. I am showing lots that are two acres and maybe 1.9 of it is dry.
290 Just like everyone else has been able to do since 2010 when they changed that rule. So, I can't get any
291 more lots than I am showing. My calculation shows 37 lots and that is the most I can do.”

292
293 Joe Driscoll: “Am I correct on what the Board has received is that yield plan that would result if the
294 variance was granted i.e., it is the most you can do if you stick to the ordinance as it is written it would be
295 lesser?”

296
297 Roscoe Blaisdell: “Correct, there would be 3 less lots.”

298 Joe Driscoll: “So what they are seeing in front of them is the result of the yield plan as opposed to asking
299 to deviate from that.”

300
301 Motion:

302 Mr. McCoy made a motion to go into deliberation. Mr. Povilaitis seconded the motion. The motion passed
303 with a vote of 5 in favor, 0 opposed, and 0 abstentions.

304 Joyce Wood - Aye

305 Scott Campbell - Aye

306 Joe Povilaitis -Aye

Brad Reed - Aye
Paul McCoy - Aye

1. Granting a variance would be consistent with the spirit of the ordinance because ...

Mr. McCoy: "This particular lot the way he has done the cul de sacs and so forth could be in the spirit of the ordinance. They have gone the extra mile in the amount of open space would be in the spirit of the ordinance.

Mr. Povilaitis: "I agree with what Paul said."

Mrs. Wood: "Paul you want to back up to the public interest?"

Mr. McCoy: "I think after seeing the plan and the houses, there were a couple of lots that were involved and the fact that we don't have dredge and fill and everything else I think in this particular case yes it would be in the public interest."

Mr. Campbell: "I think it goes against the public interest now that we know about this rule we haven't been following and in light of it know we know about this rule shouldn't we follow it. I think because the public voted in these rules it is to their best interest to follow it. Now that we know we aren't doing it correctly in a couple situations."

Mr. Reed: "I agree with Scott on this. I like the subdivision. I like protecting the area and everything, but I agree with him and I went back through the ordinances before the meeting, and I was not aware of these stipulations either, but it seems to be going against what we voted against in 2010."

Mrs. Wood: "Well the zoning ordinance were all inducted by the voters, but we have a Zoning Board of Adjustments so that we can create exceptions. If you took the position that this is what the people wanted and therefore, we can't change it or make exceptions we would put ourselves out of business. I think this is not contrary to the public interest because it preserves the wetlands and creates some wildlife corridors and preserves open space."

Joe Driscoll: "In your deliberations on this just please keep in mind you are comparing what the result in the yield plan would be if it were compliant versus if you were giving this variance. I believe the applicant has indicated a difference of 3 lots. Just sort of think along those lines as what a yield plan would look like versus the one you have received."

2. Granting a variance would be consistent with the spirit of the ordinance because ...

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Mr. McCoy: "This particular lot because of the way it is situated, the layout of the lot taking into consideration all of the wetlands and wildlife corridors that in the spirit of the ordinance have open space. That this would be in the spirit of the ordinance and relief would make sense."

Mr. Povilaitis: "I agree with what Paul said. The ordinance is specifically not to use Zone G land for calculations but the way this potential subdivision is laid out I think that relief can be granted for a small use of Zone G land in my opinion."

Mr. Reed: "I believe the spirit of the ordinance is really specific if you go back through all of the zoning ordinances which point you to 15.2.9 and that specifically gives you examples of how to calculate this and the fact that we haven't been specifically following it doesn't mean we can ignore it now. In spite of the fact, I like the development. I think it would be a great development with 34 lots. So, I am going to say it is not consistent with the spirit."

Mr. Campbell: "I agree with Brad on that."

Mrs. Wood: "I go back to the purpose of the ordinance which is to ensure there is adequate light, air, and space and to prevent overcrowding. And I think a conservation development which this achieves that and is entirely consistent with the spirit of the ordinance."

3. Granting a variance would do substantial justice because...

Mr. Reed: "I really don't have anything to add, and I think that the ordinance all points to the loading and the ratios. That is what it is all about so I do not have anything to say that would support substantial justice."

Mr. Povilaitis: "I don't have anything to add on that one."

Mr. McCoy: "If we grant the variance it would be substantial justice but this particular lot for the same reasons, we mentioned on the other two. Meaning the conservation easement. The way they put the roads in so there will be no dredge and fill permits. So, it will be substantial justice."

Mr. Campbell: "I am in agreement with Brad on that."

Mrs. Wood: "I believe that granting a variance would do substantial justice because it does seem that the way that Roscoe has this laid out, he has tried to maximize the amount of upland that was used and avoid the wetlands and the steep slope to the best of his ability."

4. Granting a variance would not diminish the value of the surrounding properties...

Mr. McCoy: "No it would not devalue the surrounding properties."

391 Mr. Povilaitis: "I don't believe it will have any effect on the surrounding properties if it is laid out as shown
392 to us on the plans that the applicant showed us."

393
394 Mr. Reed: "I don't believe it will have any diminishing value on surrounding properties. The plan and the
395 layout look fine. It is not going to have that kind of effect."
396

397 Mr. Campbell: "I honestly don't know because I don't know where it lays in conjunction with the
398 development where it is. I haven't been to the property. I don't know. I have been to one development
399 that has big spaced-out houses. I don't know if that is adjacent to this or part of that road going in. So, I
400 don't know."
401

402 Mr. Reed: "This is just before it on the right going down Bald Hill Road."
403

404 Mrs. Wood: "I don't see how it would diminish values of surrounding property. The surrounding properties
405 I think are going to be separated by aloof that conservation land. There is certainly an adequate buffer
406 between this development and the surrounding properties. I don't see how this could have an effect of
407 diminishing those property values."
408

- 409 5. Owing to the special conditions of the property that distinguish it from other properties in the area,
410 literal enforcement of the provisions of the ordinance would result in an unnecessary hardship
411 because ...
412 a.) no fair and substantial relationship exists between the general public purposes of the
413 ordinance provision in the specific application of that provision to the property because ...
414

415 Mr. Povilaitis: "Well the applicant is potentially trying to fit in a small amount of G land in his plan for a
416 subdivision."
417

418 Mr. Reed: "Again, my understanding of the ordinance is to get the ratio and to protect the Zone G land. I
419 don't see that it is an unnecessary hardship because he can still build the development. He could still lay
420 it out very similarly, but he could have 34 homes instead of the 37. So, I don't believe that it is an
421 unnecessary hardship."
422

423 Mr. McCoy: "I have to agree with Brad."
424

425 Mr. Campbell: "I agree with Brad and Paul also."
426

427 Mrs. Wood: "I am not going to disagree with them. I do think that the wetlands on this property do make it
428 somewhat unique. ""You want to skip over the proposed use is a reasonable one?"
429

430 Motion:

431 Mr. McCoy made a motion to come out of deliberation. Mr. Campbell seconded the motion. The motion
432 passed with a vote of 5 in favor, 0 opposed, and 0 abstentions.

433 Joyce Wood - Aye

434 Scott Campbell - Aye

435 Joe Povilaitis -Aye
436 Brad Reed - Aye
437 Paul McCoy - Aye
438

439 Motion:

440 Mr. Povilaitis made a motion to grant the variance based on the plans that were provided to us for this
441 application and not exceeding the amount of G land that is showing on the plans.
442

443 Joe Driscoll: "Joe, I am a little confused by your motion that you said not exceeding the amount of G
444 lands the variance that is requested is that he can add the G land to the calculation for his yield plan. So
445 that would be adding it and in deciding on this motion you all are saying that all of the variance criteria
446 that you just went through would be satisfied in order to grant it. I don't know if there was a misstep in
447 how you said that, but it would be to allow the Zone G land to be used in the yield calculation."
448

449 Mr. Povilaitis: "I am not a lawyer. How can you say it? Should the applicant use 100% of the G land, or
450 should he use a small part of it to accomplish what he is trying to do. So, this Board can add conditions
451 onto any variances that it grants if the Board so chooses. What I was trying to put across was do you
452 give a blanket OK to use all Zone G land, or do you limit it as to what is actually needed. Like contingent
453 to the plan that was provided to us."
454

455 Joe Driscoll: "If I may, that wasn't anything that wasn't anything that was present or deliberated on. The
456 applicant is asking that he be exempted from that specific zoning provision that says you cannot include
457 the Zone G land that is his request in order to make his yield calculation and that is really where your
458 motion needs to be. I don't think there has been any sort of presentation about what a percentage of that
459 would look like or anything that would allow you to go down that road."
460

461 Mr. McCoy: "How about you say that it be no more than 37 lots."

462 Mr. Povilaitis: "Ok. That's fine. I was just trying to limit the amount of G land used."
463

464 Mrs. Wood: "So your motion is to grant the requested relief to the extent necessary for the applicant to
465 achieve 37 house lots."
466

467 Mr. Povilaitis: "Yes not to exceed 37 house lots as the plans provided to us.
468

469 Motion:

470 Mr. Povilaitis made a motion to grant the request to the extent necessary to create a maximum of 37 lots.

471 Mrs. Wood seconded the motion. The motion fails with a vote of 3 opposed, 2 in favor, and 0 abstentions.
472

473 Joyce Wood - Aye
474 Scott Campbell - No
475 Joe Povilaitis -Aye
476 Brad Reed - No
477 Paul McCoy - No

478 Motion:
479 Mr. Reed made a motion to deny the variance from section 15.2.9 of the Zoning Ordinance. Mr. Campbell
480 seconded the motion. The motion passes with a vote of 3 in favor, 2 opposed, and 0 abstentions.
481 Joyce Wood - Nay
482 Scott Campbell - Aye
483 Joe Povilaitis -Nay
484 Brad Reed - Aye
485 Paul McCoy - Aye
486
487

488
489 Continued from 3/24/21 Application #2021-001- A variance application has been submitted by Jones &
490 Beach on behalf of Troy Brown of Loon Lake LLC, for property identified as Raymond Tax Map 46/ Lot 9,
491 located at 68-70 Mountain Rd., Raymond NH, 03077 within Zone B. The applicant is requesting relief
492 from Article 15 Section 15.1.1 'Minimum Lot Size', Article 15 Section 15.1.2 'Minimum Frontage', Article
493 15 Section 15.1.3 'Minimum Setback Requirements', and Article 15 Section 15.3.1 'Minimum Contiguous
494 Upland'.

495
496 Mr. Reed and Scott Campbell recused themselves from this application.
497 Kathy Hoelzel is sitting for Scott Campbell as the Board of Selectmen's representative.
498

499 Mrs. Wood: "We will be proceeding with this case with 4 Board members and the applicant can decide to
500 go forward with only 4 members instead of a full Board. So, if the applicant is will, we will proceed to hear
501 this case with a 4-member Board. If for some reason we do not grant your application, you cannot use
502 the fact that there are only 4 members present as grounds for an appeal. So, do you care to go forward
503 tonight or to continue this hearing to another date?"
504

505 Mr. Brown: "Yes we will proceed."
506

507 Joe Coronati, Jones and Beach Engineers: "With me I have Paige Libbey with Jones and Beach
508 Engineers and Troy Brown the owner and applicant. As you recall from the meeting a week ago, we
509 discussed this site at length at the last meeting and The Board granted the variance for the lot area of the
510 two lots and then we were continued. We have a couple more variances that we need to be granted in
511 order to go forward with this. I don't know how you would like me to start. "
512

513 Mrs. McCarthy: "Actually I have, Madam Chair, if I may, I believe, I have a few more letters that were
514 emailed to us in support of this variance granting if I would like to read those into the minutes. (See
515 attached). A variance was granted last week for Minimum Lot size. Minimum Frontage is on the table.
516 One for each lot. There is a Minimum Contiguous Upland. There are two Front Setback Variances left to
517 go through, and 2.1.3 Preexisting Lot variance that needs to be dealt with. I would suggest that maybe
518 doing the Minimum Frontage and the Front Setbacks since they both have to deal with both of the lots."
519

520 Mrs. Wood: "I am a little confused. The setback applies only to the house doesn't it? There aren't
521 setback issues associated with the building that I can see."

522

523 Joe Coronati: "There is one slight issue with the ramp and the stairs that lead to the second story of the
524 Trading Post is slighting into the side setback." "We have a need for two frontage variances and the
525 distances are along Mountain Road. The house would have 149 feet of frontage and then the Trading
526 Post would have 160 feet of frontage. We would have to grant an easement for the driveway of the
527 Trading Post over a small portion of the residential house lot, and we are also willing to cut the driveway
528 of the house lot off being connected to the Trading Post. So, the two uses could be separated. We are
529 also willing to add a fence down the proposed easement line as well as planting buffer trees. Then the
530 front setback of the house is existing. It is approximately 6 feet from the property line and that is mainly
531 because the right of way for Mountain Road is 100 feet wide. Which is an extremely wide right of way.
532 And then the creation of the new lot line coming through. A small portion of the stairs and ramp area
533 leading to the Trading Post would be in the side setback of the new lot line. That would also require a
534 variance."

535

536 Mrs. Wood: "You are proposing a fence and trees along the easement. How would someone get past that
537 fence line to get access to the house, or is there a curb cut on the other end of the driveway?"

538

539 Joe Coronati: "Correct there is a paved driveway curb cut off of Mountain Road."

540

541 Motion:

542 Mr. McCoy made a motion to go into deliberation. Mrs. Hoelzel seconded the motion. The motion passed
543 with a vote of 4 in favor, 0 opposed, and 0 abstentions.

544

Joyce Wood - Aye

545

Kathy Hoelzel - Aye

546

Joe Povilaitis -Aye

547

Paul McCoy - Aye

548

549 1. Granting a variance would be contrary to the public interest because ...

550

551 Mr. Povilaitis: "I don't think it would be contrary basically because as we discussed at the last
552 meeting from a public point of view it is going to look identical to the way it looks now, and the
553 applicant has taken one of our suggestions further separating both the residential house and
554 from the business with buffering and fence between them, and a non-shared driveway access. I
555 think that further separates it. But from the public it looks the same. "

556

557 Mrs. Wood: "With the exception of the fence and the tree line I agree it looks the same, but for
558 subdividing the lot there would not be a problem with the frontage. The existing home has been
559 too close to the road probably since it was built and rebuilt. I think there is plenty of setback
560 before the corner of the house to the paved right of way. In this situation I don't see how it could
561 be a problem."

562

563 Mrs. Hoelzel: "I agree with both you and with Joe."

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Mr. McCoy: "I agree with the three of you."

2. Granting a variance would be consistent with the spirit of the ordinance because ...

Mrs. Wood: "The purpose of the ordinance is to prevent overcrowding and to ensure adequate air, light, and space. We are dealing with an existing situation here. I don't see anything here that is inconsistent with the spirit of the ordinance."

Mr. Povilaitis: "I have to agree with you Madam Chair. This has been kind of like this for a long time so separating this residential from business use in my opinion is a good thing."

Mrs. Hoelzel: "I agree Madam Chair."

Mr. McCoy: "I disagree with the spirit of the ordinance this is a residential lot. The business is non-conforming, but it was there before zoning. Subdividing the lot off under the two acres, creating a different owner of that house and its business would create more problems down the road. It is not in the spirit of the ordinance. The house and that land should stay with the business. There is no water or septic in the building. They did have use for that house. So, I would say no. We don't know who is going to own that business down the road and if we subdivide it as a business, I am not sure how you would handle that."

Mrs. Wood: "We are not approving a subdivision here. We are creating the conditions that would allow a subdivision."

Mr. McCoy: "And I agree."

Mrs. Wood: "Once the Planning Board allows the subdivision assuming that they do, if the properties are sold off separately, I think that is something that would be conditions of that sale and the access would be an issue that the buyer and seller resolve between themselves. We can't speculate what might happen. We can speculate but it is not appropriate."

Mrs. Hoelzel: "How many acres are lefty once the house is subdivided? Is it 3 point something? "

Mrs. Wood: "It looks like the lot that contains the business is about 4.5 acres"

Mrs. McCarthy: It looks like 4.38 or 4.39. The house lot looks like it is going to be .64 and the remainder of the lot will be 4.38 or 4.39."

Motion:

604 Mr. McCoy made a motion to continue the meeting until 10:30pm. Mrs. Wood seconded the motion. The
605 motion passed with a vote of 4 in favor, 0 opposed, and 0 abstentions.

606 Joyce Wood - Aye

607 Kathy Hoelzel - Aye

608 Joe Povilaitis -Aye

609 Paul McCoy - Aye

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611
612 3. Granting a variance would do substantial justice because...
613

614 Mr. McCoy: "I would say no to substantial justice because the property already has two uses,
615 and it is a residential neighborhood with a commercial business. It would stay more commercial
616 with the residence there. Actually, any people that have residences would like to have a home
617 on the property. I think this is not substantial justice in that neighborhood. Because it is already
618 a non-conforming use. If we subdivide the house from the business, we are going to make it
619 more non-conforming. Now you are going to have a commercial business on a residential lot.
620 Right now, we have a non-conforming business on a residential lot. In some respects, we are
621 creating a commercial lot in a residential neighborhood."
622

623 Mrs. Hoelzel: "I understand what Paul is saying but I do think there is substantial justice here. "
624

625 Mrs. Wood: "I think it does do substantial justice because what it does is it would formally
626 recognize an existing situation. I think it would be an injustice to force the owner to move that
627 house or somehow create a larger setback on the house and the setback on the ramp is
628 negligible."
629

630 Mr. Povilaitis: "I agree with Madam Chair. I think in this particular case, I think it is better to
631 separate the business from the residential lot, and the way that the applicant has modified his
632 plans heaving clear and separation between the two of them I think it is better to do that even
633 though it has been operating like this forever. I think it is better to be clear and separate both of
634 them."
635

636 Mrs. Wood: "Joe we are talking about Minimum Frontage requirement, the Setback requirement
637 variances and the Contiguous Upland."
638

639 Mr. Povilaitis: "Yes I think all of those combined are needed to formally have this separated. So,
640 unless you are splitting hairs on each individual variance based on dimensional sizes and stuff. I
641 think that is why this Board decided to take them all as a group. On this particular lot I think that
642 is the way it should be taken."
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644 4. Granting a variance would not diminish the value of the surrounding properties...

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Mr. McCoy: "It wouldn't necessarily diminish the property value; no, it would not diminish the property values."

Mrs. Hoelzel: "Madam Chair I agree with Paul."

Mrs. Wood: "I don't see how it could possibly diminish surrounding property values. The only visible difference that is going to be apparent to the surrounding properties is the addition of a fence and treed buffer. I can't see how that would affect the property values of neighboring properties."

Mr. Povilaitis: "Madam Chair I was going to say the exact same thing. I don't think it will have any effect on surrounding properties."

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 in the specific application of that provision to the property because ...

Mr. McCoy: "I would say that there is no hardship if he has full use of the property. There is no real hardship other than he wants to sell the house off. The property is non-conforming residential. He already got full use of it. There is no real hardship. "

Mrs. Hoelzel: "I am not so sure on this one. Can we put any stipulations? I guess I do agree with Paul, he already has use of the property. I guess I would say yes. "

Mrs. Wood: "I am going to have to disagree with Paul. I think there would be hardship associated with a literal enforcement of the ordinance. If we were going to make them meet all of the conditions of the ordinance that house would have to be moved back, the ramp would have to be moved and they would have to acquire additional frontage somehow. I think that would be a hardship and the special condition that distinguishes it from other properties is that it is preexisting, non-conforming uses. Combined commercial and residential use. I don't think that there are other properties in the area that are like that."

Mr. Povilaitis: "Madam Chair I would have to agree with what you had said Madam Chair. This particular property is kind of unique in the area. "

Mrs. Hoelzel: "Madam Chair just to clarify I am voting yes it would be a hardship."

- b.) The proposed use is a reasonable one...

Mrs. Wood: "We are not talking about use; we are talking about dimensional requirements."

Mr. McCoy: "I would say it is a reasonable request."

689 Mrs. Wood: "I think it is reasonable. I think it is reasonable to grant the relief because this is a pre-
690 existing, non-conforming, condition. Although the subdivision hasn't taken place yet so I can't say it is
691 pre-existing. It is reasonable to want to separate the two non-conforming uses."
692

693 Mr. Povilaitis: "Yes I would agree that in this particular case I think it is better to separate both uses. The
694 residential and the business. So, I am in agreement with what the applicant is trying to do here.
695

696 Mrs. Hoelzel: "I agree."
697

698 Motion:

699 Mr. McCoy made a motion to come out of deliberation. Mr. Povilaitis seconded the motion. The motion
700 passed with a vote of 4 in favor, 0 opposed, and 0 abstentions.

701 Joyce Wood - Aye
702 Kathy Hoelzel - Aye
703 Joe Povilaitis -Aye
704 Paul McCoy - Aye
705

706 Motion:

707 Mr. Povilaitis made a motion to grant the variance for section 15.1.2 Minimum Frontage based on the
708 plans put forward to us with this applicant with a condition that there be no further subdivision. Mrs.
709 Hoelzel seconded the motion. The motion passed with a vote of 3 in favor, 1 opposed, and 0 abstentions.

710 Joyce Wood - Aye
711 Kathy Hoelzel - Aye
712 Joe Povilaitis -Aye
713 Paul McCoy - Nay
714

714 Motion:

715 Mrs. Hoelzel made a motion to allow section 15.1.2 Minimum Frontage and prohibit any further
716 subdivision for the business. Mr. Povilaitis seconded the motion. The motion passed with a vote of 3 in
717 favor, 1 opposed, and 0 abstentions.

718 Joyce Wood - Aye
719 Kathy Hoelzel - Aye
720 Joe Povilaitis -Aye
721 Paul McCoy - Nay
722

723 Motion:

724 Mr. Povilaitis made a motion to grant a variance from section 15.3.1 Minimum Contiguous Upland for the
725 residential lot. Mrs. Hoelzel seconded the motion. The motion passed with a vote of 3 in favor, 1
726 opposed, and 0 abstentions.

727 Joyce Wood - Aye
728 Kathy Hoelzel - Aye
729 Joe Povilaitis -Aye
730 Paul McCoy - Nay
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Motion:

Mr. Povilaitis made a motion to grant a variance from section 15.3.1 Minimum Contiguous Upland for the residential lot. Mrs. Hoelzel seconded the motion. The motion passed with a vote of 3 in favor, 1 opposed, and 0 abstentions.

- Joyce Wood - Aye
- Kathy Hoelzel - Aye
- Joe Povilaitis -Aye
- Paul McCoy - Nay

Motion:

Mr. Povilaitis made a motion to grant a variance for the front setback for house from section 15.1.3 Minimum Setback and also to grant the variance 15.1.3 for the business for the side setback. Mrs. Hoelzel seconded the motion. The motion passed with a vote of 4 in favor, 0 opposed, and 0 abstentions.

- Joyce Wood - Aye
- Kathy Hoelzel - Aye
- Joe Povilaitis -Aye
- Paul McCoy - Aye

Motion:

Mr. Povilaitis made a motion to grant a variance from section 2.1.3 to allow a non-conforming pre-existing lot to be more non-conforming. And that there be no further subdivision on either of the lots. Mrs. Hoelzel seconded the motion. The motion passed with a vote of 3 in favor, 1 opposed, and 0 abstentions.

- Joyce Wood - Aye
- Kathy Hoelzel - Aye
- Joe Povilaitis -Aye
- Paul McCoy - Nay

Motion:

Mr. Povilaitis made a motion to adjourn. Mr. McCoy seconded the motion. The motion passed with a vote of 4 in favor, 0 opposed, and 0 abstentions.

- Joyce Wood - Aye
- Kathy Hoelzel - Aye
- Joe Povilaitis -Aye
- Paul McCoy - Aye

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Respectfully submitted,

Jill A. Vadeboncoeur