

TOWN OF RAYMOND

Zoning Board of Adjustment Agenda

September 22, 2021

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

7:30 pm

Appeal #2021-002, 2021-007 & 2021-008

Public Announcement

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

1. Call to Order

- Pledge of Allegiance

2. Public Meeting-

- a. **Continuation Request to continue until appeal period of PB decision over:**
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.

Both hearings continued from August 25th:

- b. **Application #2021-007**-The following application for a variance has been submitted by Christopher E Ratte, Esq. from Shaheen & Gordon, PA on behalf of Anthony & Wendy DeFranzo for relief from: **Article 14 Section 14.1 Subsection 14.1.1** Allowed uses table, to allow an accessory use as a commercial service establishment on a single-family residential property in Zone B. The property is identified as Raymond Tax Map 31-4/ Lot 3 and located at 119 Langford Rd. and is within Zone B.
- c. **Application #2021-008**- The following application for a variance has been submitted by VFW Post 4479 for relief from Article 15 Section 15.2 Subsection 15.2.1 Excepted from this requirement are all buildings on any pre-existing lot in Zones B, C, D or E or less than two (2) acres, which shall require setbacks of twenty-five feet (25') from all property lines. The applicant is proposing to build an addition within the 25' setback. The property is in Zone C1 and is identified as Raymond Tax Map 28-3 Lot 69 and located at 39 Main Street.

3. Approval of Minutes

- 08/25/2021
- Site walk minutes 08/31/2021

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.

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Appeal #2021-002, 2021-007 & 2021-008

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)
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.

PANCIOCCO LAW, LLC

Patricia M. Panciocco *
*Admitted in NH & ME

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Tel. 603-318-5370
Fax 603-206-5946
E-mail: Pat@pancioccolaw.com

September 15, 2021

Via email only -- sgardner@raymondnh.gov

Joyce Wood, Chairman
Town of Raymond Zoning Board of Adjustment
4 Epping Street
Raymond, NH 03077

**RE: Application No. 2021-002
Appeal of Administrative Decision
Town of Raymond Tax Map 22/Lot 35
39 Old Manchester Road, Raymond, NH 03077**

Dear Chairman Wood and Members of the Board:

This letter is sent to provide notice to the ZBA, the Raymond Planning Board approved my client's Change of Use on September 2, 2021. This decision moots my client's administrative appeal of the Building Inspector's decision alleging the property was being operated as a junkyard. Since the Planning Board decision remains subject to appeal through October 2, 2021, this letter requests my client's administrative appeal be continued until at least October 3, 2021, at which time it may be considered withdrawn as moot.

Should you have questions or concerns, please contact me as listed above.

Sincerely yours,

Patricia Panciocco
Patricia M. Panciocco

cc: Client; Attorney Joe Driscoll; Steven Whitley, Esq.

1 **Zoning Board of Adjustment Draft Minutes**
2 **August 25, 2021**

3 **Raymond High School, Room 109, 45 Harriman Hill Rd. - 7:30 p.m.**
4

5 Joyce Wood - Chairman
6 Scott Campbell - Board of Selectmen Representative
7 Joe Povilaitis -Vice Chairman
8 Paul McCoy - Member
9 Brad Reed - Planning Board Representative
10 Christina McCarthy - Tax Collector/ Planning Technician
11 Greg Arvanitis - Building Inspector
12

13 **Absent Members**

14 None
15

16 The first Item on the Agenda was a review of the Raymond Code of Ethics presented by
17 Gretchen Gott of the Ethics Committee. (See attached). The presentation concluded at
18 approximately 8:02pm.
19

20 Application #2021-002 - An application for Appeal of Administrative Decision
21 has been submitted by Patricia M. Panciocco on behalf of Diana L. and Thomas P.
22 Luszcz, for property identified as Raymond Tax Map 22/ Lot 35, located at 39 Old
23 Manchester Rd., Raymond NH, 03077 within Zone C1.
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25 **Motion:**

26 Mr. McCoy made a motion to continue application 2021-002 until September 22, 2021, at 7:30
27 pm at Raymond High School. Mr. Reed seconded the motion. The motion passed with a vote of
28 5 in favor, 0 opposed and 0 abstentions.
29

30
31 Application #2021-007-The following application for a variance has been submitted by
32 Christopher E Ratte, Esq. from Shaheen & Gordon, PA on behalf of Anthony & Wendy
33 DeFranzo for relief from: Article 14 Section 14.1 Subsection 14.1.1 Allowed uses table, to allow
34 an accessory use as a commercial service establishment on a single-family residential property
35 in Zone B. The property is identified as Raymond Tax Map 31-4/ Lot 3 and located at 119
36 Langford Rd. and is within Zone B.
37

38 Christopher E Ratte: "So this property is primarily a single-family residential property. It does
39 have an existing barn. My clients bought the property this year. They own and operate a
40 demolition business which they run out of their home office. It is a permitted use in this zone.

41 Currently their vehicles and equipment are parked on another site that they lease. They need to
42 find another location. What we would like to do is park the equipment in the barn or around the
43 barn of their existing property where they already operate the office of the business. The existing
44 building will not be changed, they will be exactly the way they are now. Most of the equipment
45 will be in the barn. Some vehicles may be parked around the barn, but it will be mostly screened
46 by the existing vegetation. Granting a variance would not be contrary to the public interest
47 because this is very much in keeping with the existing property as it is. This is an agricultural
48 property. The types of equipment used by a commercial agricultural property which is permitted
49 in this zone, is very much the same as what my clients use in their demolition business. We
50 believe it is within the spirit of the ordinance because as I said it is keeping with the agricultural
51 nature of the neighborhood. It is an existing barn. Granting a variance would do substantial
52 justice because my clients are currently paying for a lease on other land to park their vehicles
53 which they will now have to find a new location when this current lease ends. When they have a
54 perfectly excellent location right at their home. There will be very little burden on the
55 neighborhood. It really is just parking and storage. It would not diminish the values of
56 surrounding properties because it would be in keeping with what is already there. It would
57 maintain the agricultural nature of the neighborhood. It would be screened mostly from the other
58 properties. It should have no effect on the surrounding properties. The fact that commercial
59 activity will not be conducted there is another benefit to this. If they were working on a farm there
60 would be much more activity. No fair and substantial relationship exists between the general
61 public purposes of the ordinance provision and the specific application of that provision to the
62 property because this is no more burdensome than a commercial agricultural use. The proposed
63 use is a reasonable one because the use is mostly off site it is really just storage of the vehicles
64 and equipment. It will be screen either inside the barn or behind the vegetation. So, it would be
65 very unobtrusive. The activities would be just parking and storage.”

66
67 Mr. Campbell: “Do you know the sight distance where you are going to pull in the barn to that
68 corner? I know it is 130 feet. What size equipment are you going to be running in and out of
69 there?”

70
71 Anthony DeFranzo: “What size excavator do I have? A 220.”

72
73 Mr. Campbell: “My problem is I know that corner and I have seen a lot of accidents on that
74 corner in the winter. It could be a catastrophic situation because the kids don’t slow down on that
75 road.”

76
77 Anthony DeFranzo: “I can assure you any snowfall the equipment doesn't leave the yard.”

78
79 Christopher E Ratte: “Just so you know we are not going to have any fuel storage tanks for any
80 of the equipment.”

81

82 Todd Matthias, 117 Langford Road: "They started moving equipment in a few months back.
83 There was an excavator, a lowboy at least 30 feet long. There was a dozer, there were two
84 tractor trailer trucks that they pulled in, and there was a trailer with (2) 275 gallon oil tanks that I
85 assume are for diesel fuel. These guys gave you a plot of what it looked like but if you look at the
86 sketch, he gave out all of that was in the 129 feet that abuts our property. We brought that to the
87 code enforcer because Brian Havastrough who originally put up this barn, it is an indoor riding
88 arena. There is no slab, no foundation. Nothing to protect any oil or spillage. My property abuts
89 the wetlands. This property does not. So, anything that runs off of their property and into the
90 wetlands can come back to me."

91

92 Jaqueline Matthias, 117 Langford Road: "As they brought in all these trucks, I watched all these
93 18 wheelers come flying up the road and back illegally on Donald Drive. I brought it to the Town.
94 The put it all behind the building and told me this is fair sight unseen. It's all inside the building.
95 The choose to buy a property that they didn't have approved for a company. And there is a
96 special needs kid on the road. Bicycles, walkers, The Wellstone House, this building was never
97 supposed to be a commercial building. They should have been told no. This is a residential
98 property.

99

100 Todd Matthias, 117 Langford Road: "They are already advertising 119 Langford Road as a
101 commercial business. There are 3 entrances into the property which according to the code you
102 are not supposed to have. He made that wider so he could bring his equipment in and park it
103 adjacent to my property. The 275-gallon oil tank that was on the trailer were on the property line.
104 I don't want a junkyard next to my house and that is what he made it look like within two/three
105 days."

106

107 Gregory Arvanitis: "The reason why they are here tonight is because I told them they couldn't do
108 what they were doing there. When I received a complaint from them, I informed them from the
109 neighbors. I informed Mr. DeFranzo that he couldn't park his vehicles there and run his
110 commercial business with the size of the vehicles he has as a home occupation. I did say I
111 wasn't going to stop him from putting anything in the barn. The operation of the business was a
112 problem and that is why they are here in front of you tonight." "If you were to grant this variance
113 you would do it with the condition that he would have to go in front of the Planning Board for a
114 site plan. At that point they would have to come up with a viable solution to what is inside the
115 building, how they are going to deal with water, how they are going to deal with oils, and it may
116 be that they need to put a concrete floor in the building. I don't believe they are going to have to
117 sprinkle the building."

118

119 Motion:

120 Mr. McCoy made a motion to have a site walk on this site. Mr. Campbell seconded the motion.
121 The motion passed with 5 in favor, 0, opposed, and 0 abstentions.

122
123 The site walk was set on Tuesday, August 31, 2021, at 5:30 pm at 119 Langford Road.

124
125 Motion:

126 Mr. McCoy made a motion to continue this application until September 22, 2021, at 7:30 PM. Mr.
127 Reed seconded the motion. The motion passed with 5 in favor, 0, opposed, and 0 abstentions.

129 **Application #2021-008-** The following application for a variance has been submitted
130 by VFW Post 4479 for relief from Article 15 Section 15.2 Subsection 15.2.1 Excepted
131 from this requirement are all buildings on any pre-existing lot in Zones B, C, D or E or
132 less than two (2) acres, which shall require setbacks of twenty-five feet (25') from all
133 property lines. The applicant is proposing to build an addition within the 25' setback.
134 The property is in Zone C1 and is identified as Raymond Tax Map 28-3 Lot 69 and
135 located at 39 Main Street.

136 Mr. McCoy recused himself from this application.

137
138 John Dyer, Quartermaster for the VFW Post: "Our post has been there for about 75 years, and it
139 has always been a smoking post. More and more we would hear that veteran say they would
140 become members there if it were not for the smoking. On the flip side we are one of the only
141 posts around that has a strong membership and we operate in the black with the smoking
142 membership that we currently have. We are looking to have our cake and eat it by creating a
143 nice, enclosed environment where smokers can sit out and enjoy a cigarette and make the
144 majority of the post non-smoking. We have been looking at this for some time and we have
145 looked at several different options on how to approach this. We asked the smokers and they
146 said they would like something so they could not stand out in the rain, something comfortable
147 indoors. After studying all this we thought the best and the most cost-effective way to achieve
148 that would be to put on a small addition down the south side of our building, and perhaps create
149 an outdoor area where some picnic tables could go outside and enclose that with a fence."

150
151 Mrs. Wood: "With the recusal of Mr. McCoy we do not have a full board. Let me advise you that
152 you can decide to continue this hearing to a later date, or we can go forward tonight and hear
153 your case. If we do not approve your variance request, you cannot use the fact that you do not
154 have a full board as grounds for an appeal. In order to grant approval of your application you
155 have to get at least 3 members to vote in favor of the variance."

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157 The board discussed a site walk and set a date of Wednesday, September 1, 2021, at 5 pm at
158 the VFW.

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John Dyer: “Essentially we are looking to build a 3-season porch. No footings or foundation we would put in on sonotubes like you would on a porch on your home. Then a 6-foot fence from the corner of the building running down the property line and ending at the back of the building. It would be outdoor smoking but also the Covid issues are coming back around too and would be nice to have something outdoors.”

Steve Clark, 4 Old Manchester Road: “A couple concerns of mine is access for when I have to do maintenance in the back. Mr. McCoy did say he would put in a gate. I don’t like having to open a gate every time. That sound is going to get louder in the backyard. The tenant on the top level has a newborn baby. We are going to have a yard full of butts. You know where I stand, I don't want it there.”

Amy Pettengill, 3 Old Manchester Road: “I did submit a letter with some pictures with our concerns. It is tight quarters there. The thing is it is a residential neighborhood. I have small kids. I love you guys, but the noise and I have little kids. My son is autistic. When people are drinking and people are smoking, people get loud. You will see in your walk through it is so tight back there.”

Eric McKenzie, 1 Old Manchester Road: “Since the smoking is inside, we don’t generally smell it. I don’t have the access issues that some of my neighbors have. It's mostly just the noise. The smoking would be the bigger concern for me.”

Mrs. McCarthy read a letter from Joyce Brackett of 5 Old Manchester Road (See attached).

Mr. McCoy: “The most important thing here is this is going to be a self-contained 10 by 37 building. It is going to have air conditioning. Proper smoke eaters. There would be no actual noise coming from that building. This is the only place to put it.”

Motion:

Mr. Reed made a motion to continue this application until September 22, 2021, at 7:30 pm. Mr. Campbell seconded the motion. The motion passed with a vote of 4 in favor, 0 opposed and 0 abstentions.

Motion:

Mr. Povilaitis made a motion to accept the minutes from April 28, 2021, as amended. Mr. Reed seconded the motion. The motion passed with a vote of 4 in favor, 0 opposed and 0 abstentions.

Tim Cahill and Keith Smith introduced themselves and declared their intent to be alternates to the Zoning Board.

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Motion:

Mr. McCoy made a motion to recommend that the Board of Selectmen appoint Tim Cahill and Keith Smith as alternates to the Zoning Board provide that they attend both of the site walks next week. Mr. Povilaitis second the motion. The motion passed with a vote of 5 in favor, 0 opposed and 0 abstentions.

Motion:

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

Respectfully submitted,

Jill A. Vadeboncoeur

FW: Site Walk minutes; VFW; 9/1/21

Brad Reed <brad@icreed.com>

Thu 9/1/2021 3:52 AM

To: Joyce <jmdwood@comcast.net>; Christina McCarthy <cmccarthy@raymondnh.gov>

Cc: brad@icreed.com <brad@icreed.com>

Joyce, Chris,

Minutes from the site walk at the VFW on 9/1/21.

Please forward as allowed...

The meeting was called to order at 5:32 PM by Joyce Wood

Present at the meeting were:

Joyce Wood Chair

Jo Povilaitis Vice Chair

Scott Campbell BOS Rep.

Timmy Cahill (future alternate)

Keith Smith (future alternate)

Brad Reed PB Rep.

Applicant representatives: John Dyer and Paul McCoy

Abutters present were:

Steve Clark and Amy Pettengill

Public /Resident: Paul Ayer

Starting near the front corner of the building:

John Dyer began by showing the marked-out area of the addition and explaining the proposed layout and how it would tie into the existing structure, roofline, doors and windows.

Paul McCoy shared a print showing the VFW, lot lines and adjacent properties. The closest corner of the proposed addition would be just over 7 feet from the property line.

The group then moved toward the rear of the building where the applicants explained the existing water line, septic tank, leach field, etc. and why the rear area wouldn't work due to these interferences.

The applicants also showed the rear parking area, lot lines and the R.O.W. along the North side of the building.

The applicants shared that they have spoken with their neighbors and looked over their plans. The applicant has decided not to install the fence along the property line and will continue to allow their neighbors to cross the VFW property when maintenance is needed in their back yards.

The applicants have also offered assurance that the new addition will be a completely self-contained room with it's own HVAC and smoke-eater systems. This area will be the VFW's designated smoking area and with it's design there will be less smoke and noise released into the neighborhood than with the current building.

There was a brief discussion on the emergency exit from the addition, which way it will face and when it would be used. The layout and elevation of the roof, floor, windows and doors was discussed.

Brad Reed made a motion to adjourn

Jo Povilaitis seconded the motion

The vote was unanimous

Joyce Wood closed the meeting at 5:26 PM

Respectfully submitted ,
Brad Reed acting secretary

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Site Walk minutes; 119 Langford Rd.; 8/31/21

Brad Reed <brad@icreed.com>

Wed 9/1/2021 5:33 AM

To: Joyce <jmdwood@comcast.net>; Christina McCarthy <cmccarthy@raymondnh.gov>

Cc: brad@icreed.com <brad@icreed.com>

Joyce, Chris,

Minutes from the site walk at 119 Langford Rd. on 8/31/21

Please forward as allowed...

The meeting was called to order at 5:31 PM by Joyce Wood

Present at the meeting were:

Joyce Wood Chair

Paul McCoy ZBA member

Jo Povilaitis Vice Chair

Scott Campbell BOS Rep.

Timmy Cahill (future alternate)

Keith Smith (future alternate)

Brad Reed PB Rep.

Applicants: Anthony and Wendy DeFranco

Abutters: Jacquie Matthias (left shortly after meeting began)

Jeff and Debbie Dunn

Public /Resident: Paul Ayer

The attendees asked various questions to which the following discussions were shared and answers offered by the applicant:

There was a short discussion on sight line distances along Langford Rd. from the center of the "barn" driveway. Attendees later measured 247' toward Candia and 378' toward Onway Lake. The applicant is checking to see if a driveway permit was issued for the "barn".

The applicant offered an overview of his plan which, if granted, would involve only occasional parking of the larger equipment in the yard. The intent is to use the building for storage and minor repairs on the equipment. If granted the waiver the owner would have a concrete floor installed in the building. Equipment maintenance is done off-site at Andersen Equipment and Mahoney Truck service. No equipment maintenance is done on the property. Only minor repairs such as a headlight replacement are done on the property.

The applicant walked around the building with the group, pointing out the property lines and areas to be used accessing and leaving the building. A small area at the rear of the building would need to be re-graded. The lot is approximately 2.5 Acres (to be confirmed).

The group was assured that no Demolition material will be brought onto or stored on the property. The Commercial use on the property would involve the Barn, the area immediately around the Barn and the 2 sheds to the rear of the Barn. No other buildings would be used for equipment or commercial storage.

The applicant, when questioned about the operations, stated that business hours are 6:30AM to 4:30PM 4 days per week. Trucks and equipment returning at the end of the day would be positioned so that they would be driving forward in the AM and no backup alarms would be activated at the beginning of the work day. He further stated that most jobs take several days and that when the

equipment leaves for a typical job it does not travel back and forth daily but only at the beginning and end of the project.

The applicant also stated that during a typical day he is the only one that usually returns to the property and those trips are with a pickup truck. The larger equipment does not travel back and forth frequently.

Mr. Dunn (abutter from directly across the street) confirmed that the applicant typically operates only Monday through Thursday and that the only vehicle he has observed leaving on Friday or Saturday is a pickup truck.

There was a brief discussion on commercial vs. residential uses and requirements, possible mixed use implications, The Site Plan Review process and requirements and possible conditions of approval regarding the requested waiver.

Scott Campbell recommended that members take a drive around the area and specifically Power Street to get an idea of the surrounding properties, wetlands, etc.

Joe Povilaitis made a motion to adjourn

Brad Reed seconded the motion

The vote was unanimous

Joyce Wood closed the meeting at 6:04PM

Respectfully submitted ,
Brad Reed acting secretary

Total Control Panel

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