



**Raymond Zoning Board of Appeals**  
 423 Webbs Mills Road  
 Raymond Broadcast Studio  
**Minutes**  
**Monday, April 3, 2023**  
**VIA ZOOM**  
**7:00 pm**

**Call to order:** David Murch called the meeting to order at 7:00 pm

Roll was called

**Present:** David Murch, Chair; Greg Dean, Vice Chair; Tom Hennessey, Fred Miller and Pete Lockwood

**Staff:** Alex Sirois, CEO and Sandy Fredricks, Administrative Assistant PB & ZBA

**Attorneys Present:** Stephen Wagner for ZBA; Phil Saucier for CEO; Aga Dixon and Grady Burns for Appellant Salli Cheever

**Public Present:** John and Luann Levitre, Salli and Ed Cheever; Nicole Starrett

Murch read the Opening Statement into the Record as well as the Agenda.

Acceptance of Minutes:

Dean moved to approve Minutes of October 18, 2022; October 25, 2022 and November 1, 2022 as written.

Miller seconded.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain

Review and Approval of Site Walk Report:

Dean moved to approve Report as written.

Miller seconded.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain

**Administrative Appeal Re 402 Webbs Mills Road**

APPLICANT	Salli Cheever
LOCATION	402 Webbs Mills Road (Owner Starrett)
DESCRIPTION	Administrative Appeal of Commercial Use

Murch asked attorney Wagner to provide some procedural information for proceeding. Murch had a question as to where the property owner fit into providing comment if she had any. Wagner explained she is there as part of the public and could comment during public hearing comments. Murch asked if the Board was acting in the capacity of Code Enforcement Officer. Wagner explained the Board had jurisdiction to hear a non-action appeal and make its own determinations but do not have authority to order the CEO to take action.

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The Board determined no one has any bias or conflict regarding the matter.

Murch moved the appeal was timely filed.

Dean seconded.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain

Murch moved that the application was complete.

Lockwood seconded.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain

Attorney Dixon began the presentation on behalf of the appellant. She reviewed the appellant's position and stated the various reasons they believed there are additional violations that had not been addressed by the CEO. All exhibits submitted with the application were reviewed including audio recordings. It was stated that the appellant is impacted by the Conditional Use and the violations daily.

Dixon stated the Board should find the additional violations exist, order the CEO to issue a corrected Notice of Violation and Stop Work Order. Additionally, she requested the Board recommend to the Selectmen to pursue an 80K action against the Starretts. She again reviewed the timeline of the uses. She set forth the items that are considered "new" violations that have not been addressed by the Town.

The sections of the LUO are discussed, uses permitted in a RR Zone are listed from the LUO and she stated that the general rule of LUOs are if it is not a listed use, it is not permitted. Personal use of items vs business use was discussed and if the uses were accessory uses. Discussion was focused on the firewood operation whether it was a business or for personal use as owner claimed. Appellant's attorney showed Ms. Starrett's father-in-law's home in Farmington as an argument that the firewood was not being used at that location. Murch asked if they have evidence that the firewood is being sold. Dixon stated it was common sense that it was being sold. Cheever stated they have additional photographic evidence of different trucks coming to pick up wood. She further stated that in November there were 35 pallets of wood; now there are about 10.

Wagner and Dixon discuss the relevant questions to be determined by the Board if it is the Conditional Use, the Contractor use as well as the violations claimed. Dixon stated that the Conditional Use itself has been violated as the Starretts have exceeded the scope of contractor conditional use.

Saucier stated he had no questions, and he would present his argument by having Sirois explain his process. He further stated he agreed with Wagner's interpretation of the Zoning Board's authority and that the Board is not to review the NOV's that were issued nor the Conditional Use that was issued; this hearing is only to see if Sirois was incorrect in his conclusions of the "new" violations.

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Sirois stated how the process of reviewing complaints is handled by the Code Enforcement Office. He continued that after review, if violations are found, a NOV is sent with the requirements to resolve the violation as well as the information to appeal a violation. If someone is attempting to resolve a violation, we work with them. He continued if no reasonable attempt is made, we will send it to the Selectmen; it is their decision to take someone to Court and he has no input at that point.

Sirois further stated there are open violations on-site; there have been two (2) NOVs issued and abutters have filed complaints which we have acted on. He continued that he started with the Town in June 2020 and the first NOV was sent out thereafter. It has gone to the Selectmen and they have their own opinions on it. Sirois further stated he can go through each violation reported for this appeal if the Board felt it was necessary. He further stated that his Assistant CEO, Chris Hanson, was with him on the day of the inspection.

The Board took a break from 8:19 to 8:22.

The Board wished for Sirois to go through how he reached his determinations. Murch asked if Hanson had a difference of opinion. Sirois stated it was a joint review, however, Hanson had a stronger opinion on the firewood that many people process firewood on their property. He continued that they observed the firewood and the bags of wood. Starrett had stated it came from job sites. Additionally, there were loam and rock piles but saw nothing on-site that was used for processing rock or gravel. It seemed like there was an excessive amount of impervious surface created. Starretts still need to get Site Plan approval. Starrett had stated they are no longer providing snow removal services although there was equipment for it on-site. Sirois continued that there was a pile of sand/salt on-site. The large storage structures are allowed, but they are not permitted. There was fuel storage in one of the units and a small area of spillage was noted but it was very small. He further stated there are a lot of pieces of equipment, some are there at different times. They can only have five (5) that aren't screened but they can have more.

Sirois addressed the junkyard "stuff" and stated they weren't able to get to the far corner of the property and there is a forested wetland there also. He continued that you are able to fill it. He further stated he did not see anything included in the State statute for a junkyard but can take another look at that if owner allows.

Saucier stated he felt Sirois set it out well. He continued he wanted to be sure the Board understood that Sirois has issued two (2) NOVs and that the Board understood what their responsibilities were.

Dean stated the noise wasn't addressed and he wondered if it had been observed by the Town. Sirois inquired if Dean's question was if we (the Town), as abutters, had heard noise from the site. Dean states, yes, that was his question. Sirois stated we are uphill from the site so we may not hear it. He additionally stated that Chris Hanson is in earlier than he and had stated he had noticed trucks coming out in the mornings. Dean asked if the Town could move closer to see what they heard. Saucier replied that the Town cannot just go onto the property without permission. Dean asked if the junkyard was obstructed by the weather the  
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day of inspection. Sirois stated it was not obstructed; he saw a set of concrete stairs partially buried in snow. He continued by reading the definition of a junkyard. He reiterated he was willing to do another inspection if the property owner allows.

Hennessey asked if Sirois knew of any permits issued to the Starretts. Sirois stated he believed there was a permit for the driveway and the recent work to the home was permitted. Hennessey asked if there were any contractor uses in Raymond's RR zone. Sirois replied there are none that have contractor uses to his knowledge.

Lockwood stated that in reading notes, the permit for the driveway was for residential use not commercial. He additionally asked if Sirois could say how many pieces of equipment are allowed on the property. Sirois stated that if you are a landscaper, you can't say three (3) lawnmowers are for personal use; they are only allowed to have five (5) pieces of equipment unscreened. Lockwood also asked how Sirois would describe the pile of trusses they saw on the Site walk. Sirois stated it could fall under the definition of a junkyard.

Miller stated he understood there were a couple of violations that have been issued. Sirois stated there were two NOV's issued. Miller asked if Sirois could do anything else at this point or not because the Selectmen have had it. Sirois explained he can only do NOV for new violations. He also stated he wasn't sure if another NOV would change anything. Miller asked what the Town can do next. Saucier stated that wasn't in the ZBA's purview.

Dixon stated they weren't claiming Sirois wasn't doing his job, they just disagree with his decision of no additional violations. She further stated she doesn't believe he has to see the violations with his own eyes but can use the photos and videos of others. Sirois stated that without specific Contractor Use definitions in the ordinance, he doesn't feel that it is his job to determine what is a Contractor Use. Dixon asked what was next for the Town and she believed he has the authority to issue another NOV if the Board determined there are new violations. She further acknowledged the Board can't order Sirois to issue it though.

Cheever stated it is important to get the firewood operation on the books so the Selectmen can speak to that. Sirois stated he felt that issue had been addressed as it fell under the contractor use. Saucier explained that Sirois was stating it is part of the Contractor Use, but they still need Site Plan approval and that is why it's a violation and has been addressed.

Murch opened the Public Hearing comments at 8:58 p.m.

Luann Levitre stated her support of the Cheever appeal. She stated since 2015 everything that has gone on has been unpermitted, unregulated and they (Starretts) have put down roadblock after roadblock and done nothing to come into compliance. She further stated she had concerns about the wetlands and other things. She continued that their property values have gone down.

John Levitre stated they have the longest abutment to that property. They first bought the property from Route 85 then they bought the back piece for its views. He continued that now they cannot build on the back part because they would be looking at the Starretts. He  
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expounded on the firewood operation. Additionally, he stated that they have been excavating in the middle of the night and in a rain storm.

There being no one else wishing to speak, the Public Hearing was closed at 9:10 p.m.

Saucier stated it is important that our CEO investigate complaints and inspect properties to be certain when he issues NOVs. He continued that the definitions are important in the ordinance. This particular application, they have received their Contractor Use from the ZBA, but have not received Site Plan approval as yet.

Dixon stated she wanted to refresh everyones memory what they are asking for and they are not asking for the Selectmen to take action. It is for this Board to review the evidence provided along with their own observations. The first NOV told them to get their Site Plan review. Much of what they are doing goes beyond the Contractor Use permit.

Dean asked if a Stop Work Order has been issued. Sirois stated they had been given several verbal Stop Work Orders. The day of the inspection Starrett asked what they could do and was informed to stop what they are doing and get the permits. He further stated there is no requirement that a Stop Work Order has to be a written notice and NOV is, essentially, a Stop Work Order.

Hennessey asked if any of the NOVs have any time limits imposed. Saucier stated there is no timeline on the Planning Board approval, but obviously the Selectmen can always determine to take enforcement action. Lockwood stated they were presented with a plan; if they work with the Town this can be moved forward. Saucier informed that is not within the ZBA's authority. Miller stated we know the violations that have been put out and have gone to the Selectmen which is not what we are here for. Wagner explained they have existing violations and is an on-going process. He continued the applicants have raised five (5) issues that are beyond the scope of the Contractor Use and are not in compliance with the Contractor Use.

Murch moved to close the Public Hearing at 9:15.

Miller seconded.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain.

The Board entered deliberations.

Murch reviewed the five (5) issues raised by appellant: Commercial Firewood Processing; Earthmoving, Excavation and Mineral Processing; Commercial Snow Removal Operations and Bulk Storage of Sand and Salt; On-Site Operation of Heavy Vehicles and Machinery; On-site Stockpiling and Burial of Construction and Demolition Debris.

The Board discussed the Commercial Firewood Processing. Murch stated, on the site walk, they observed a significant amount of cut and uncut firewood. He continued that he agreed with Sirois they are bringing it to their property to process. The Board felt the wood processing was an Industrial Use. The Board discussed this at length. Hennessey raised the  
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noise, vibration etc. issues and questioned if that had ever been part of a NOV. Wagner again explained that the Board needed to focus on the five (5) issues the appellant claimed if they constitute new violations.

Murch moved that the Wood Processing is not a Contractor Use and is an Industrial Use which is not permitted in the RR Zone and is a new violation not yet addressed by the CEO. Dean seconded.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain

The Board addressed the processing of materials: Earthmoving, excavation, mineral processing. Murch stated he did not see any proof of processing on the site walk. Dean stated he did not see substantial evidence of earthmoving, excavation or mineral processing. Miller stated he didn't see any equipment that do any crushing or processing.

Murch moved there is no substantial evidence that the activity described exceeds the Contractor Use.

Dean seconded.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain

The Board discussed the Commercial Snow Removal Operations and Bulk Storage of Sand and Salt. Murch stated he agreed with Sirois as did Miller, Dean, Lockwood and Hennessey.

Dean moved the piles of sand/salt are consistent with the Contractor Use.

Murch seconded.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain

The Board addressed the On-Site Operation of Heavy Equipment and Machinery. Murch read the item into the record. Dean stated it was clearly included in the second NOV on Page 2. The Board members agreed that this was part of the NOV.

The Board took a break from 10:25 - 10:27.

Discussions continued regarding operation of heavy equipment etc. Hennessey asked if filling of wetlands had been addressed and he understood that filling has a limit.

Dean moved the evidence constituting on-site operation of heavy equipment and machinery does not rise to the level of a violation that has not been addressed.

Murch seconded.

Any discussion? None.

All in favor? 5 yes - 0 no – 0 abstain

The Board discussed On-Site Stockpiling and Burial of Construction and Demolition Debris. The Board members did observe trees there and some items that were indicated to be used FOR DETAILS, PLEASE SEE VIDEO, THE OFFICIAL RECORD OF THE MEETING

for other jobs, for example piping. Dean asked if it's a violation if it's for your own house. The Board was informed it is a State definition of junkyards. Dean stated he felt it was a junkyard. Hennessey asked if any equipment was unregistered or non-operational. Lockwood stated that there were pieces of equipment that were just sitting there. Wagner redirected the Board's attention to the items in their authority. The Board did feel there is evidence of a junkyard from what was presented.

Murch moved a finding that the property constituted a junkyard based on the State Statute and LUO.

Dean seconded.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain

The Board instructed attorney Stephen Wagner to prepare the Findings of Facts Decision on behalf of the Board for formal action on April 25, 2023.

CEO UPDATE: Sirois stated he did not have anything significant. Sirois, the Board and Saucier discussed Variance changes by the State and Chapter 1000.

Dean moved to adjourn.

Murch seconded.

Any discussion? None.

All in favor? 5 yes - 0 no – 0 abstain