

TOWN OF POMFRET
Zoning Board of Adjustment

Memorandum of Decision

Permit Application: ZP26-17
Property Address: 49 VT Route 12
Parcel No.: 1250

Property Owner: William & Dana Pape
881 Wayside Road
Woodstock, VT 05091

Applicant: Birdseye Building Company
3104 Huntington Road
Richmond, VT 05477

This Memorandum of Decision (this “Decision”) is issued by the Pomfret Zoning Board of Adjustment (the “ZBA”), in connection with Zoning Permit Application ZP26-13, renumbered ZP26-17 due to clerical error, (the “Application”) by Birdseye Building Company (the “Applicant”) on property owned by William and Dana Pape (the “Owner”).

The Application seeks a change of use of Owner’s farmstand/store to professional office.

For the reasons discussed below, and subject to the conditions and limitations specified below, the ZBA grants conditional use approval of the Application and directs the Zoning Administrator (the “ZA”) to issue a zoning permit consistent with this Decision.

I. Procedural History

A. Application

The Application, dated August 12, 2026, was referred by the ZA to the ZBA on August 14, 2026, for conditional use review of a change of use from farmstand/store to professional office. The Application and all supporting documents are on file with the ZA, including the following exhibits:

- A. Zoning Permit Application #ZP26-13 (renumbered #ZP26-17) dated August 12, 2026.
- B. Undated photograph of existing farmstand/store provided by Applicant.
- C. Undated photograph of Birdseye sign mockup provided by Applicant.
- D. Photocopy from Vermont Wastewater Permit site plan provided by Applicant.
- E. Annotated image from the Vermont Natural Resources Atlas showing structures on Owner’s property provided by Applicant.
- F. Image from the Vermont Natural Resources Atlas depicting the farmstead/store and residence are outside of regulated Flood Hazard Zones.

- G. Pomfret ZBA Hearing of Notice as published in the Vermont Standard newspaper on August 27, 2026.
- H. Relevant Permits, One the Edge Farm, William & Dana Pape, 49 VT Route 12.
- I. Certificate of Service dated August 21, 2026.

On August 21, 2026, notice of a public hearing was posted at the Town Office, North Pomfret Post Office, and Teago General Store. On August 27, 2026, notice of the same was published in *The Vermont Standard*, a newspaper of general circulation in Pomfret. On August 21, 2026, the ZA provided notice of the site visit and public hearing to Property abutters.

B. Site Visit and Public Hearing

Following a site visit at the Property on September 24, 2026, at 5:30 pm, the ZBA considered the Application at a public hearing on September 24, 2026, at 6:30 pm at the Town Office. Present at the site visit were ZBA members Shaun Pickett, Kyle Hansen, Lindsay Hyde, Michael Schmell, Casey Carmichael, and Charles Lucot, along with Eric Sandy and Matthew Bull (Applicant), Preston Bristow (ZA), Bailey Markwell and Peter Stromblad (abutters), and William and Dana Pape (Owner). Present at the hearing were ZBA members Shaun Pickett, Kyle Hansen, Lindsay Hyde (via Zoom), Michael Schmell, Casey Carmichael, and Charles Lucot, along with Eric Sandy and Matthew Bull (Applicant), Preston Bristow (ZA), Bailey Markwell (abutter), and Dana Pape (Owner). The hearing was closed at 6:55 pm on September 24, 2026.

Proceedings related to the public hearing are more particularly described in the draft hearing minutes available on the ZBA's page on the Town of Pomfret's website.¹ These minutes identify those persons who participated in the hearing.

II. Applicable Regulations

Approval by the ZBA of a change of use is required under Article 6.5 following a determination that the proposed change of use conforms to the General Conditional Use Approval Standards in Article 4.2 of the Pomfret Zoning Ordinance.

III. Findings of Fact

The ZBA received written submissions and heard testimony from the Applicant. The ZBA evaluated the parties' submissions and testimony; the findings of fact described below reflect the evidence the ZBA found most relevant and compelling.

1. The initial use of the property was as a residence and an exempt farmstand.
2. Conditional use approval was granted by the ZBA as a retail store to sell home and garden items in addition to exempt farmstand items on July 6, 2005 (decision #05-15).
3. State wastewater permit #WW-3-1181 for the retail store/farmstead and dwelling was issued on August 11, 2006, which superseded previous town septic approval.
4. The property is in the Rural District (RD).

¹ Town of Pomfret, Zoning Board of Adjustment, *available at* <https://pomfretvt.us/index.php/dep/planning-zoning/zo>.

5. Professional Office is not listed as a permitted use in the RD and therefore is a conditional use requiring conditional use approval prior to a permit.
6. Article 2.2.2.1 (Purpose of the Rural District) states, "Service businesses (including those with an ancillary retail component), home businesses, professional offices, and inns are appropriate land uses for the RD provided that such uses are in keeping with surrounding development, do not unduly conflict with existing or planned residential, forestry or agricultural uses, and do not unduly affect rural character."
7. The intent of the Owner is to sell the property to the Applicant prior to the change of use to a professional office.
8. The existing residence is currently rented for residential use and will remain rented for residential use after sale of the property.
9. The property has 10 parking spaces, 2 for the residence and 8 for employees and customers.
10. The Applicant made the following representations about the intended professional office use:
 - a. Interior renovations will be made to convert the retail store space into three professional offices.
 - b. There will be no expansion to the exterior or footprint of the existing retail/office building and existing residence.
 - c. The walk-in basement will be used for small tool storage.
 - d. Larger equipment such as staging will be stored behind the building and out of sight.
 - e. A job trailer may be parked behind the building and out of sight.
 - f. The office space may be used for client meetings, subcontractor meetings, and architect meetings
 - g. Carpenters will report directly to the job site.
 - h. There will be no workshop space or assembly or fabrication work on the property.
 - i. There will be no construction debris placed or stored on the property.
 - j. There will be no change in exterior lighting.
 - k. Business hours will be from 7 a.m. to 5:30 p.m. Monday-Thursday, but project managers may work after hours and on Fridays and weekends.
 - l. Work vehicles will not idle for longer than 5 minutes in a 60-minute period per Vermont law.
11. The Applicant will apply for and be granted a sign permit from the ZA before installing a new sign.

IV. Conclusions of Law

The ZBA concludes that the proposed change of use to professional office, subject to the conditions below, conforms to the General Conditional Use Approval Standards in Article 4.2 of the Pomfret Zoning Ordinance and that the proposed professional office use, subject to the conditions below, is in keeping with surrounding development, does not unduly conflict with existing or planned residential, forestry or agricultural uses, and does not unduly affect rural character.

V. Decision

Based on information presented to the ZBA, the findings and conclusions described above, and subject to the conditions and limitations specified in Section VI below, conditional use approval is **granted** for a change of use to professional office. The ZA is directed to issue a permit consistent with this Decision.

VI. Conditions and Limitations

To ensure the change of use to professional office meets the applicable provisions of the Pomfret Zoning Ordinance, this Decision is subject to the following conditions and limitations:

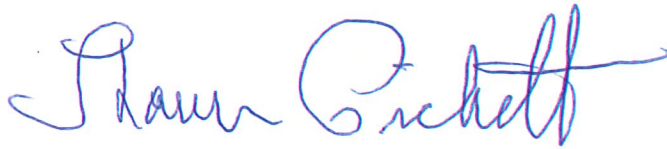
- A. The Proposed Development shall conform in all material respects to the Application materials including Applicant's submissions, plans, written representations to the ZBA and testimony. Any material change shall require further review and approval by the ZBA under the then-applicable regulations.
- B. There will be no expansion to the mass or footprint of the existing retail/office building and existing residence.
- C. The walk-in basement under the retail/office building may be used for small tool storage.
- D. Larger equipment such as staging or a job trailer will be stored behind the retail/office building and out of sight.
- E. There will be no workshop space or assembly or fabrication work on the property.
- F. There will be no construction debris placed or stored on the property.
- G. There will be no visible dust/smoke or discernable or objectionable noise or odor beyond the property line.
- H. There will be no change in exterior lighting.
- I. Business hours will be from 7 a.m. to 5:30 p.m. Monday-Thursday, but project managers may work after hours and on Fridays and weekends.
- J. Work vehicles will not idle for longer than 5 minutes in a 60-minute period per Vermont law.
- K. The Applicant shall apply for and be granted a sign permit from the ZA before installing a new sign.
- L. The Proposed Development shall conform to all applicable federal, state, and local laws, ordinances, and regulations, whether the same have been expressly referenced

herein.

M. By acceptance of this Decision and the permit authorized herein, Applicant for itself, its successors, assigns and affiliates agrees to be bound by this Decision and the conditions and limitations described herein.

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This Decision approved at Pomfret, Vermont, as of this 9th day of October 2026, and signed by the vice chair of the Pomfret Zoning Board of Adjustment on its behalf pursuant to 24 V.S.A. 1141.



Shaun Pickett, Vice Chair
Zoning Board of Adjustment

ZBA members Shaun Pickett, Kyle Hansen, Lindsay Hyde, Michael Schmell, Casey Carmichael, and Charles Lucot voted in the affirmative. ZBA member Benjamin Brickner did not participate in this Decision.

NOTICE: This Decision may be appealed to the Environmental Division of the Superior Court by an interested person who participated in the proceedings before the Zoning Board of Adjustment. Such appeal must be taken within 30 days of the date of this Decision, pursuant to 24 V.S.A. 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.