

Richmond Development Review Board  
 REGULAR Meeting  
 APPROVED MINUTES FOR FEBRUARY 10, 2016 MEETING

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6	Members Present:	Ian Bender; Mike Donohue (Acting Chair); Cara LaBounty; Roger
7		Pedersen (Alternate);
8	Members Absent:	David Sunshine; Matthew Dyer
9	Others Present:	Niels Rinehart, Zoning Administrator; Ruth Miller for MMCTV
10		Comcast 15; Mary Andes, Cara LaBounty; Bruce LaBounty; Don
11		Palmer; Doug Goulette; Patti Gilbert

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 13 Mike Donohue called the meeting to order at 7:10pm, announced that he would be serving as Chair in  
 14 Sunshine’s absence, and instructed attendees to sign in. Cara LaBounty recused herself. Cara and Bruce  
 15 LaBounty are representing Patrick and Peggy Coulombe in the hearing for Mary Andes’ appeal.

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 17 **Mary Andes** – Application #15-101 for an appeal of the denial of zoning application #15-101 to  
 18 expand an existing shed at 54 Jones Mill Road (parcel JM0054). Mary Andes owns the parcel at  
 19 54 Jones Mill Road within the Commercial District.

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 21 Andes explained that this hearing is a continuation of the January meeting and that at the earlier meeting  
 22 the DRB asked Andes to procure more information about the boundary line between her property at 54  
 23 Jones Mill Road and the adjoining property belonging to Patrick and Peggy Coulombe at 98 Jones Mill  
 24 Road. Surveyor Chris Haggerty came out to the site on January 26. Together they walked around the  
 25 site with a metal detector in an attempt to find the original pins, but they were unable to do so. According  
 26 to Andes, Haggerty recommended that she contact Trudell Consulting Engineers (TCE) since they  
 27 conducted the original survey that established the location of the pins. According to Haggerty, TCE  
 28 would have the CAD file and documentation of the points that they mapped previously. Andes  
 29 explained that she contracted Haggerty for \$100 and TCE for \$900.

30  
 31 TCE surveyed the property that morning, Wednesday, February 10. Andes produced a map that  
 32 illustrated the locations of the pins set up by TCE. Andes stated that TCE told her that the property  
 33 owner at 98 Jones Mill Road had instructed them to not emplace the two survey pins marking the  
 34 boundary between her property and 98 Jones Mill Road. TCE also confirmed the location of the shed  
 35 with the northern point located 4.5 feet from the property line in the northern corner and in the southern  
 36 corner, 3.83 feet. Andes concluded by asking the DRB for a variance from the 5-foot rule.

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 38 Mike Donohue asked for confirmation that the hearing was to appeal the denial of the permit to build  
 39 the shed extension and that now Andes was also asking for a waiver from the 5-foot setback rule.

40  
 41 Niels Rinehart questioned if she was asking for a waiver or a variance. Andes replied that she was  
 42 asking the DRB for a variance but also asked if there was a difference. Rinehart said yes there was and  
 43 that he believed the limit for a setback variance was 5 feet which would prohibit the DRB from giving  
 44 Andes a variance, but that he would have to consult the regulations.

45  
 46 Roger Pedersen asked the DRB if the DRB could admit new evidence in an appeal. Can the DRB  
 47 consider this request for a variance based on the evidence that the DRB has? If the new evidence  
 48 presented is not sufficient, then we have to deny the appeal. Bender and Donohue agreed with Pedersen.  
 49 Pedersen reviewed RZR 8.4.2 and explained that he was unsure how to proceed. If this hearing was a  
 50 court case, then the case would be heard on the record, but this hearing is not the same situation.  
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1 Donohue asked if there were any more questions from the board of if the public had any questions.

2  
3 Cara LaBounty stated that the fence will be removed. She questioned however if the Zoning  
4 Administrator had the right to issue a permit for a shed extension constructed in the Commercial District  
5 and/or the Floodzone. LaBounty contested that according to the regulations, an expansion would have  
6 to go before the DRB, and therefore Mary should have been directed to the DRB in the first place and  
7 upholding the denial does not stop her from applying for a new permit. Also, Andes says that she intends  
8 to use the shed as an office space and the Zoning Administrator does not have the authority to issue an  
9 additional use permit but rather, she must apply via the DRB. LaBounty requested that the DRB uphold  
10 the denial of her application and direct Andes to proceed through the proper permitting process.

11  
12 Rinehart explained that he believed there was a discrepancy within the RZR, citing the chart on Pages  
13 4 and 5 (RZR 3.0). The chart on Pages 4 and 5 (RZR Section 3.0) state that the Zoning Administrator  
14 reviews an application to construct an accessory structure, “with no review required by the DRB.”  
15 However, Rinehart stated that Cara is correct that according to RZR Section 3.6.1, the construction of  
16 an accessory structure requires the review and approval of the DRB. Rinehart recommended that the  
17 town discuss the matter with the town lawyer before making any judgement in regards to LaBounty’s  
18 question.

19  
20 Pedersen asked for clarification and Rinehart indicated where in the town regulations the conflict  
21 occurs.

22  
23 LaBounty read the opening paragraph to RZR Section 3.0 to explain that the town must look at RZR  
24 Section 3.6.1 and not the chart in Section 3.0. LaBounty continued by asking if the Zoning  
25 Administrator can issue a permit for an office in the Commercial district. Andes replied that the shed  
26 is a storage unit. LaBounty said that the permit application states that among the shed’s uses, it will  
27 serve as an office. LaBounty continued that her question was that since the DRB will possibly overrule  
28 the Zoning Administrator’s denial, then does that mean the DRB believes that the Zoning Administrator  
29 can issue a permit for the extension, assuming Andes will submit a new permit?

30  
31 Pedersen asked if the boundary line was agreed upon by all parties. LaBounty explained that she has  
32 not seen the documentation but that she was not here to argue about it. Pedersen asked further whether  
33 or not the setback remained an issue. LaBounty said that yes it was an issue if Andes kept the shed  
34 extension within 5 feet of the boundary. Pedersen asked for clarification if the shed was within 5 feet  
35 of the boundary line that was illustrated today. Andes stated that yes, the shed is within the permitted 5  
36 feet.

37  
38 Bruce LaBounty questioned if the measurement provided was from the wall or the eve. Andes said the  
39 measurement was from the wall. LaBounty said that the measurement has to be from the eve. Donohue  
40 asked Andes how large were the eves and Andes said that they were 6 inches.

41  
42 LaBounty explained that he felt that throughout the process, they have been considered the bad guy.  
43 He continued that they were not the ones to put up a building without a permit and then expand that  
44 building without a permit so that it was within the setback. They should not be made to feel as though  
45 they were the offending party. Now the Coulombes were going to have to give up part of their setback  
46 when they did nothing wrong. In addition, if the fence is in the wrong place, then it will be removed.

47  
48 Andes left the materials produced by TCE for the LaBountys to review.

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50 *Motion by Bender to close the public hearing and move to a deliberative session, seconded by*  
51 *Pedersen. All in favor. So voted.*

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**Patricia Gilbert** – Application #15-054, Applicant Patricia Gilbert for Final Subdivision Review for a 4-lot subdivision located at parcel #PA0343 located within the Agricultural/Residential Zoning District.

Donohue swore in Doug Goulette.

Goulette summarized the project to date, explaining that he presented the project in July and the DRB approved the project for Preliminary Subdivision Review. The project consists of constructing a four-lot subdivision at the end of Palmer Road/Lane and that the proposed project has not changed since the preliminary review. Goulette proceeded to review the conditions put forward by the DRB in their Preliminary Subdivision Review decision.

Condition 1 – The DRB requested that copies of new roadway agreements/letters from town be submitted. Goulette explained that they spoke with Peter Goselin to identify how these agreements might work. From there they went to the Selectboard and developed a new roadway policy for Palmer Lane that dealt with roadway maintenance. Goulette explained that he developed the policy in September 2015 that the Selectboard discussed. Goulette identified Palmer Lane as a Class IV road that the town of Richmond does not maintain. Rather, he explained, according to a private roadway agreement from 1995, it is the responsibility of the people who live there to maintain it. They were proposing to extend the road within the town ROW to serve the proposed lots and the town has agreed to acknowledge and accept these changes. Also, there will be changes to the existing section of road, expanding the width from 16 to 24 feet without shoulders. In the final decision, the road would be expanded to 22 feet for the first 300 feet up to the culvert and would then be widened to 24 feet. A memo from the Town Manager confirming these decisions is forthcoming.

Donohue asked why the road will get wider to 24 feet. Goulette and Patti were not certain but that the change likely relates to obstructions such as trees and steep slopes. LaBounty confirmed that there were limitations to the possible width of the road. Goulette continued that the Hinesburg section of the road is about 20 feet, so the road will continue to become wider as you approach the dead-end.

Condition 2 – Goulette provided a draft roadway/driveway agreement for the new homes. The agreement will cover the length of road to be constructed beyond the end of the town road that will be maintained by the lot owners. Donohue asked if there could be a potential problem with four lots since the four lots owners could become dead-locked 2-to-2. LaBounty proposed that votes, like the payments of the low owners, could be proportional. Donohue also suggested that they could state what to do in the case of a 2-to-2 tie. Goulette acknowledged that the DRB raised an important point and that the voting should probably be proportional. Pedersen stated that he was concerned with the ambiguity concerning the snow and ice removal as discussed in the maintenance agreement since it defines the involvement “shared by those using some portion of the road during at least some portion of the snow season.” He asked how one determines these criteria. Gilbert explained that a couple of the lots will not be developed right away and therefore those people living there will be responsible for more of the plowing. LaBounty said that they could use that language in the agreement. Pedersen further questioned the provision that stated that “a lien shall arise in favor of the remaining lot owners.” Pedersen asked if that was all that was needed for a lien stating that he was concerned about possible disputes that might arise. LaBounty explained that Pedersen isn’t asking for an answer now, but rather that Gilbert should discuss these issues with her lawyer, including the issue of snow-plowing. Pedersen said that the documents need to be clearer to prevent potential battles over wording. LaBounty suggested that the DRB as a board might need to see a final but perhaps the decision can list as a condition that the chair must clear it the road maintenance agreement.

1 Condition 3 – The DRB required that the application produce wastewater easements. Goulette  
2 explained that draft easement deeds are submitted and that they define where the easements were  
3 located. Goulette discussed the Gilbert easement that runs through Lots 1 and 2, leading to a mound  
4 system on Lot 4.

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6 Condition 4 – Goulette explained that all draft covenants were submitted as requested by the DRB. The  
7 covenant language is contained within the draft deeds.

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9 Condition 5 – The DRB requested a copy of the access permit. Goulette asked if the DRB had received  
10 a copy of the permit and Rinehart asked if the letter from the Selectboard was not the access permit.  
11 Goulette said that no, he thought the letter from the Selectboard only covered Palmer Lane but not  
12 access to the individual lots. Rinehart said he would locate the access permit and distribute copies to  
13 the DRB members.

14  
15 Condition 6 – The DRB requested that the applicant provide letters from Fire, Rescue, and the Police  
16 outlining their ability to serve the proposed subdivision. The DRB acknowledged that they had received  
17 copies of the letters.

18  
19 Condition 7 – The DRB requested a map delineating each house site's contiguous area of 10,000 square  
20 feet as per Section 2.5.2 of the Richmond Zoning Regulations. Goulette indicated on the plan map  
21 where the 10,000 square-foot areas had been delineated on the map as requested.

22  
23 Condition 8 – Inclusion of the wetlands delineation boundary on the final subdivision plat. Goulette  
24 indicated where and how the wetlands were delineated on the plat map. Goulette also explained that  
25 two or three days ago, they had received a state wetlands permit for the proposed wetlands buffer for  
26 the roadway.

27  
28 Gilbert explained that Hinesburg has been maintaining the section of Palmer Road within Richmond  
29 and that the Hinesburg road maintenance staff needed a turnaround to complete their work. Therefore  
30 Gilbert was providing the town with an easement for access. Goulette indicated where this provision  
31 was listed in the draft deed. LaBounty explained that Gilbert might want to benefit both towns, since if  
32 Hinesburg is plowing and the owner with the easement says the benefit is only for Richmond, then  
33 there's a potential issue.

34  
35 Pedersen asked for an explanation of the trail easement. Goulette explained that Gilbert wants to  
36 maintain the right to walk on that trail. Pedersen questioned further if the trail was a pedestrian ROW  
37 or vehicular and if this request was written out anywhere else but on the map. Gilbert explained that  
38 she might use it to have someone come onto her land to cut trees or a similar use. LaBounty indicated  
39 that the request was inscribed in the deed as well, and said that Gilbert should make sure that these  
40 requests are very clearly stated within the deeds. In addition, Gilbert should spell out who the easement  
41 is for, if it is only for her or if it is for future owners as well. Gilbert explained that she could write that  
42 the easement is for the benefit of Lot 4. Pedersen and LaBounty reiterated the importance of explaining  
43 within the deed exactly who has the benefit of that easement and exactly what the easement is for.

44  
45 Don Palmer expressed his concern that GPS tells users that Palmer Lane is open all the way. He said  
46 that it is good that there will be a turn-around in place so that people can turn around and not attempt  
47 to continue up Palmer Lane

48  
49 Palmer also explained that he wrote a letter to the DRB and to Clare Rock to explain that he built the  
50 road covering 0.2 miles. The Planning Commission at that time said that he should be reimbursed for  
51 building the road at \$500 per lot. At the time, Palmer explained, there were three lots but that he has

1 only received payment for two lots but not for the last lot. LaBounty said that Palmer and Gilbert should  
2 be able to work out a settlement but that this discussion was not part of the DRB review process for the  
3 proposed subdivision. Pedersen asked if this payment was the same \$500 listed in the 1995 Road  
4 Maintenance Agreement. Gilbert explained that Palmer was paid and that there is a receipt. LaBounty  
5 reiterated that the DRB does not have the authority to deal with these types of issues and that it was up  
6 to Gilbert and Palmer to work it out.

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9 *Motion by LaBounty to enter into deliberative session, seconded by Bender. All in favor. So voted.*

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11 **Approve Meeting Minutes – January 13, 2016**

12 *Bender made a motion to approve the January 13, 2016 minutes, seconded by Pedersen. All in favor.*  
13 *So voted.*

14  
15 **ADJOURN**

16  
17 Respectfully submitted by Niels Rinehart, Zoning Administrator/Staff to the DRB