

**Town of Richmond
Development Review Board
Decision
October 14, 2020**

IN RE: Donald and Laurel Palmer, trustees of the Palmer Family Trust – Application #2020-106 for an appeal and variance request of the Zoning Administrator’s determination that a driveway is a roadway, located at 640 Palmer Lane, Parcel ID PA0640, in the Agricultural/Residential (A/R) Zoning District.

Application #	2020-106
Appellant	Brennan Punderson & Donahue, PLLC, on behalf of Donald and Laurel Palmer
Property Address	640 Palmer Lane
Parcel #	PA0640
Size in Acres	9.6 acres
Zoning District	Agricultural/Residential

SUBMITTALS:

- A. Zoning Administrator Determination email, dated July 15, 2020.
- B. Opinion from Town Attorney David Rugh, Stitzel Page & Fletcher, PLLC, dated July 15, 2020
- C. Notice of Appeal form, dated July 29, 2020
- D. Narrative to Notice of Appeal, prepared by Kevin T. Brennan, Brennan Punderson & Donahue, PLLC, dated July 29, 2020
- E. Appellants’ Exhibits:
 1. Vermont Agency of Natural Resources Map of the appellants’ parcels
 2. Vermont Significant Wetland Inventory Map of the appellants’ parcels
 3. Town of Hinesburg DRB Final Plat Approval for Donald and Laurel Palmer for a two-lot subdivision on May 7, 2002
 4. Wetland Delineation from Evan Fitzgerald, Fitzgerald Environmental Associates
- F. Town of Richmond DRB Final Subdivision Application Approval for Donald and Laurel Palmer for a two-lot residential subdivision on March 25, 2008
- G. Survey of portion of property of Donald & Laurel Palmer (subject property) prepared by Ronald LaRose, dated July 31, 2007. (For Town of Richmond DRB Final Subdivision Application)
- H. Google Earth aerial photo of subject property dated June 9, 2018
- I. Google Earth aerial photo of subject property dated May 13, 2015
- J. Google Earth aerial photo of subject property dated May 19, 2012
- K. Google Earth aerial photo of subject property dated July 5, 2009
- L. Google Earth aerial photo of subject property dated April 30, 2004
- M. Copy of Richmond Zoning Regulations Section 6.9, effective November 5, 1996
- N. Staff report prepared for Town of Hinesburg DRB for Sketch Plan Review of a two-lot subdivision, dated April 2, 2002

- O. Staff report prepared for Town of Hinesburg DRB for Final Plat Review of a two-lot subdivision, prepared by Faith Ingulsrud, Town Planner, Town of Hinesburg, dated May 7, 2002
- P. Survey of portion of property of Donald & Laurel Palmer (subject property) prepared by Ronald LaRose, dated September 6, 2000 and revised April 2, 2002 (For Town of Hinesburg DRB Final Plat Review application)
- Q. Copy of 24 V.S.A. §4413 (Limitations on municipal bylaw)
- R. Staff report, prepared by Ravi Venkataraman, Town Planner, Town of Richmond, dated September 9, 2020
- S. Correspondence from Kevin T. Brennan, Brennan Punderson & Donahue, PLLC, responding to the DRB's request for additional information, dated and received October 7, 2020
- T. Correspondence from Evan P. Fitzgerald, Fitzgerald Environmental Associates, LLC, responding to the DRB's request for additional information, dated October 3, 2020 and received October 7, 2020
- U. #2020-357 Wetland Classification Report, dated June 29, 2020 and received October 7, 2020
- V. Map of subject property with wetlands identified from Vermont Agency of Natural Resources, received October 7, 2020
- W. Draft Individual Wetland Permit and Determination from Vermont Agency of Natural Resources regarding the subject property, received October 7, 2020
- X. Memorandum prepared by Ravi Venkataraman, Town Planner for the October 14, 2020 DRB meeting

During the September 9, 2020 and October 14, 2020 DRB meetings, Don Palmer, Kevin Brennan, Evan Fitzgerald, Suzanne Mantegna, Brad Stetler, Roger Kohn, Patricia Gilbert, Lauck Parke, and Rodrique Spinette provided sworn remarks to the verbal testimony of the hearing.

PROCEDURAL INFORMATION:

As per the Notice Requirements, a Notice for Public Hearing appeared in the Burlington Free Press on August 25, 2020. The Notice was also posted at three locations within the Town. The Referral Notice were sent on August 20, 2020. Notice to the adjoining landowners was sent on August 20, 2020. An additional Notice for Public Hearing for the reopened hearing appeared in the Burlington Free Press on September 27, 2020. This notice was also posted at three locations within the town.

FINDINGS OF FACT:

1. The Zoning Administrator met with appellants on June 4, 2020 to discuss constructing a driveway on the subject property.
2. The appellants requested a determination from the Zoning Administrator on constructing a driveway within a wetland buffer on July 2, 2020.
3. The subject property has had a logging roadway since 2012 to facilitate forestry activities on the subject property and the adjacent property owned by the appellant located within the Town of Hinesburg.
4. Said logging roadway provides access to the 42.3-acre parcel located within the Town of Hinesburg.
5. According to the Vermont Agency of Natural Resources, portions of the logging roadway are located within a presumed wetland.

6. Richmond Zoning Regulations Section 6.9 states that: “No building, roadway or septic system shall be constructed within 100 feet of a Class I wetland and within 50 feet of a Class II wetland. Classifications of wetlands are established by the State of Vermont.”
7. The Zoning Administrator sought legal advice from the Town Attorney on this matter on July 2, 2020.
8. The Town Attorney concluded that, based on the plain meaning of the language used, a “driveway” is a “roadway”, and therefore driveways would be subject to the stipulations under Richmond Zoning Regulations Section 6.9.
9. Based on the Zoning Administrator’s interpretation of the zoning regulations and the Town Attorney’s advice, the Zoning Administrator made the determination that “a driveway is a roadway and hence development within the wetland buffers isn’t allowed” in an email to the appellant on July 15, 2020.
10. The appellant filed an appeal on the Zoning Administrator’s determination on July 29, 2020.
11. The DRB opened the hearing on September 9, 2020.
12. The subject property was created via a subdivision in 2008.
13. The original 60-acre parent parcel spanned across the Town of Richmond and Town of Hinesburg border.
14. The portions of the original parent parcel located within the Town of Richmond were subdivided from the original parent parcel in 2002.
15. The Town of Hinesburg DRB Final Plat Decision included the following condition of approval: “A 42.3 acre portion of the 60 acre property remaining after this subdivision is created, is located in Hinesburg, and is separated from the 18.8 [acre] portion remaining in Richmond by the Hinesburg-Richmond town boundary. Due to lack of frontage on a town road, the 42.3 acre portion shall not be considered a lot and shall not be placed in separate ownership from the 18.8 [acre] portion without further subdivision review by the Hinesburg Development Review Board. No zoning permit shall be issued for development on the 42.3 acre portion without Development on a Private Right-of-Way approval. This requirement shall be noted on the final plat.”
16. The appellant’s consultant Evan Fitzgerald of Fitzgerald Environmental Associates, LLC, delineated the appellant’s property located within the Town of Hinesburg and identified Class II wetlands on said property.
17. The appellant stated in verbal and written testimony that they are in conversation with Vermont Agency of Natural Resources on permitting and mitigation requirements for constructing a driveway.
18. The proposed driveway would be 18-feet wide, with a 14-foot travel lane.
19. The appellant stated that the proposed driveway would serve four lots, all of which would be located within the 42.3-acre parcel within the Town of Hinesburg.
20. Per Richmond Zoning Regulations Section 6.2.1, the minimum driveway width is 12 feet.
21. The Richmond DRB closed the hearing on September 9, 2020.
22. During deliberative session, the Richmond DRB decided to reopen the hearing on September 25, 2020 with the following items to be provided for the record: (1) Additional information on the ownership of the lot not owned by the appellant created via a subdivision in 2008; (2) Information on whether the property owner of said lot was approached by the appellant; (3) Information on the status of the Class II wetlands including why and how the wetlands were classified Class II wetlands, whether the classification of the Class II wetlands were a recent development, and

- whether the property had wetlands when the subject property was created in 2008; and (4) additional information on whether all possibilities for access were explored.
23. The Richmond DRB reopened the hearing on October 14, 2020.
 24. The appellant provided in written and verbal testimony during the October 14, 2020 DRB meeting that they had approached adjoining property owners in order to create access to the 42.3-acre parcel located within the Town of Hinesburg to no avail.
 25. The appellant stated in written and verbal testimony during the October 14, 2020 DRB meeting that creating access to the 42.3-acre parcel located within the Town of Hinesburg other than what they propose would require land development on a Class II wetland, which is not allowed under State regulations
 26. Fitzgerald provided in written testimony that the classification of Class II wetlands occurred in 2020.
 27. Rodrigue Spinette of Fitzgerald Environmental Associates, LLC stated during the October 14, 2020 DRB meeting that determining the presence of wetlands is uncommon.
 28. Spinette stated during the October 14, 2020 DRB meeting that per the Vermont Wetland Rules in place in 2008, no wetlands were identified and classified on the subject property.
 29. Spinette stated during the October 14, 2020 DRB meeting that the Vermont Wetland Rules changed in 2010.
 30. Spinette stated during the October 14, 2020 DRB meeting that per the Vermont Wetland Rules currently in effect, Class II wetlands were identified on the subject property.

CONCLUSIONS

Based on the evidence provided during the hearings, the DRB made the following conclusions:

1. The DRB concludes that the Zoning Administrator's determination of the applicant's request was correct pursuant to the Richmond Zoning Regulations (effective May 12, 2020) Section 6.9 (Wetlands).
2. The DRB also concludes that a variance pursuant to the Richmond Zoning Regulations Section 8.4.5 is warranted for the appellant's request for the following reasons:
 - a. The unique physical circumstances of Class II wetlands on the subject property and the adjoining 42.3-acre parcel located within the Town of Hinesburg also owned by the appellant are peculiar to these properties, and that these circumstances were not created by the appellant.
 - b. Due to the location of the Class II wetlands on the subject property, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Regulations.
 - c. The Class II wetlands were not created by the appellant. In addition, the identification of the Class II wetlands today were brought upon by regulatory changes beyond the appellant's control enacted in 2010. Such changes were unforeseen at the time the appellant subdivided their property in 2008.
 - d. The proposed development of a driveway on the subject property would not alter the character of the district the property is located within.
3. The DRB concludes that allowing a driveway on the subject property to serve one single-family dwelling on the 42.3-acre parcel located within the Town of Hinesburg is the minimum variance that shall afford relief and is the least deviation possible from the Richmond Zoning Regulations and the Town Plan currently in effect.

DECISION:

Regarding Application 2020-106 for an appeal and variance request of the Zoning Administrator's determination that a driveway is a roadway, the Richmond Development Review Board upholds the Zoning Administrator's determination that a driveway is a roadway and therefore cannot be developed on the subject property pursuant to Richmond Zoning Regulations Section 6.9. However, the Richmond Development Review Board grants the appellant's variance request to construct a driveway on the subject property, 640 Palmer Lane, with the following conditions:

1. A Zoning Permit shall be filed prior to any land development, pursuant to Section 5.1.
2. The project shall be developed in conformance with the above referenced survey plat, plans, and submittal documents.
3. Any other applicable zoning regulations not expressly waived in this decision must be complied with.
4. This decision shall not relieve the applicant from any obligation to obtain all other applicable required federal, state and local permits, including wastewater permits.
5. The applicant is subject to all terms and conditions of any and all state permits and regulations in effect.
6. This decision shall be recorded in both the Town of Richmond and Town of Hinesburg land records.
7. Pursuant to Section 8.4.5, the proposed driveway shall only serve one lot.
8. Any amendments to this decision and its conditions of approval shall require Conditional Use Review and Site Plan Review approval in front of the Richmond Development Review Board.

The application as approved shall be in conformance with the decision, referenced items, the findings of facts, and conditions. The applicants and interested parties are hereby notified that if they disagree with this decision, they have the right, under 24 V.S.A. 4471, to appeal to the Vermont Superior Court – Environmental Division. The appeal must be filed within thirty days of the date of this decision, and be in accordance with the governing rules of procedure and rules of the Vermont Superior Court - Environmental Division. Title 24 Vermont Statutes Annotated, Section 4471 provides that "An interested person who has participated in a municipal regulatory proceeding authorized under this title may appeal a decision rendered in that proceeding by an appropriate municipal panel to the environmental court. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

DRB VOTING ON THIS MATTER (circle one for each member):

David Sunshine, Chair	in <u>FAVOR</u>	AGAINST	ABSTAINING	RECUSED	ABSENT
Matthew Dyer, Vice-Chair	in <u>FAVOR</u>	AGAINST	ABSTAINING	RECUSED	ABSENT
Roger Pedersen, Member	in <u>FAVOR</u>	AGAINST	ABSTAINING	RECUSED	ABSENT
Gabriel Firman, Member	in <u>FAVOR</u>	AGAINST	ABSTAINING	RECUSED	ABSENT
Padraic Monks, Member	in <u>FAVOR</u>	AGAINST	ABSTAINING	RECUSED	ABSENT

The above votes occurred at a DRB meeting on 14th day of October, 2020.

David Sunshine DATED this 3rd day of November 2020
 David Sunshine, Chair
 Richmond Development Review Board

Brennan Punderson & Donahue, PLLC

ATTORNEYS AT LAW

Kevin T. Brennan, Esq.

Ebenezer Punderson, Esq.

Joan Donahue, Esq.

November 24, 2020

Town of Richmond
David Sunshine, Chair Development Review Board
P.O. Box 285
Richmond, Vermont 05477

Re: Motion to Reconsider – Donald Palmer and Laurel Palmer, as Trustees of the Palmer Family Trust

Dear David:

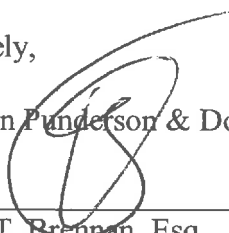
Enclosed, please find a Motion to Reconsider the DRB's November 3, 2020 Decision on the Palmer's variance request.

Although we are very hopeful that the DRB will reconsider its decision, in the interest of preserving the Palmer's right to appeal, we will be sending under separate cover, a Notice of Appeal that we will be filing with the Environmental Court shortly.

As I am sure you can understand, the Palmers are requesting that the matter be scheduled on the DRB's next available hearing date and time.

Sincerely,

Brennan Punderson & Donahue, PLLC

By: 
Kevin T. Brennan, Esq.
kevin@bpd.legal

Encls.

cc: Linda M. Parent, Town Clerk with enclosures.
Donald F. Palmer and Laurel J. Palmer, Trustees with enclosures.

TO REPLY:

KEVIN: Monkton P.O. Box 8, 1317 Davis Road, Monkton, Vermont 05469 Phone 802.453.8400 Fax 802.453.8411

EBEN & JOAN: Middlebury The Marbleworks, 99 Maple Street, Suite 10B, Middlebury, Vermont 05753 Phone 802.989.7342 Fax 802.989.7623

Motion to Reconsider Decision of the Richmond Development Review Board

Now come appellants, Donald Palmer and Laurel Palmer, as Trustees of the Palmer Family Trust, by and through their attorney, Kevin T. Brennan, Esq., of Brennan Punderson & Donahue, PLLC, and, move to reconsider the November 3, 2020, Decision of the Richmond Development Review Board granting a variance to Richmond Zoning Regulation § 6.9. Appellants respectfully request that the Board allow the driveway to serve two single-family dwellings on two lots.

This proposal, if accepted, does not alter the variance to § 6.9 or the wetland impact of the proposed driveway. The proposed condition for two dwellings is consistent with the Richmond Town Plan and Zoning Regulations. It allows the Town of Richmond to retain control over the development on the Hinesburg parcel. The proposal for two dwellings is a reasonable use of the parcel and it allows appellants to close on their contract for sale of the parcel.

I. The variance from the wetland regulation that was granted, that is, the construction of the driveway, will be the same whether one or two lots is approved.

Title 24 V.S.A. § 4469(a) authorized Appellant to seek “a variance from the provisions of a bylaw.” Specifically, Appellant sought a variance from Richmond’s wetland bylaw codified in § 6.9 of the Richmond Zoning Regulations. This Board granted the variance from § 6.9 by authorizing the construction of the proposed driveway, as the Board concluded that Appellant met all five variance criteria of Richmond Zoning Regulation § 8.4.5. Once the criteria are met, 24 V.S.A. § 4469 (a) states that the Board “shall grant [the] variance ... and render a decision in favor of appellant.”

The variance from § 6.9 of the Richmond Zoning Regulations granted by this Board is the “construction” of the proposed driveway in the wetland, that is, the improvement of the existing road “in conformance with the ... the survey plat, plans, and submittal documents.” Decision, page 5. The variance from the wetland regulation is an issue that is different from the issue of the number of lots that can be accessed by the driveway.

The materials submitted during the hearings sought a variance for a driveway with a precise location, length, width, and wetland impact. Appellants sought, and the Board approved, a driveway positioned on the Richmond parcel as depicted on consultant Evan Fitzgerald’s map, exhibit 4 to the narrative to the notice of appeal. It is a 14’ wide road surface with 2x2’ shoulders, through 60’ of wetland and 130’ wetland buffer, with a wetland impact of 1130sf and a buffer impact of 2329sf. It is this driveway through a wetland and its buffer that constitutes the variance. The State Department of Environmental Conservation issued the final wetland permit on November 3, 2020, in accordance with these specifications as well. Whether the driveway accesses one or two lots, the **variance**, meaning the construction of the driveway in

the wetland, would be the same. The location, length, width and buffer impact are the same. The deviation from the bylaw, therefore is the same. This “minimum” deviation from the bylaw is not affected by whether the driveway accesses one or two lots. There is no basis to conclude that the proposed driveway would be structurally unable to serve two lots.

II. The condition that the driveway may access only one single family dwelling is not a condition necessary to implement Title 24, Chapter 117 of the Vermont Statutes Annotated, the Richmond Zoning Regulations, or the Richmond Town Plan

The Board placed a condition on the variance that only one single-family residence may be served. Under Richmond Zoning Regulation § 8.2.5, this Board “may attach additional conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the Richmond Town Plan then in effect.” See also 24 V.S.A. 4469 (c) for the same authority. But the condition imposed is not “necessary” to implement these laws or the Town Plan.

a. The Act

The “Act” is the Vermont Municipal and Regional Planning and Development Act, Title 24, Chapter 117. See Richmond Zoning Regulations § 7.2. Pertinent to this appeal are sections of the Act dealing with municipal panels, 24 V.S.A. §§ 4460-4464, and appeals, 24 V.S.A. §§ 4466-4473. The former sections set forth Development Review Board procedures. The latter sections set forth procedures for appeals of the administrative officer to this Board, appeals from this Board to the Environmental Court, and the standards and criteria for variance. The limitation on the variance to one single-family lot is not “necessary” to implement the Act.

b. The Town Plan and Zoning Regulations

Nor is the condition limiting the driveway to serve one single family-home “necessary” to implement the Richmond Town Plan and the Richmond Zoning Regulations. The Town Plan’s description of the Agricultural-Residential District, the district adjacent to the 42.3 acre parcel, calls for “low density residential development.” Town Plan, p. 24. To the extent the Richmond Town Plan is relevant to the Hinesburg parcel, the proposal here that the driveway access two single-family homes on this large parcel promotes the goals of low density development. One cannot conclude that a one lot condition is “necessary.”

At the hearing the Board expressed concern that the Town of Richmond would lose control of the development on the parcel if it granted a variance for the construction of the driveway. The proposal here continues to allow the Town of Richmond to exercise control over the development.

Even without an express limitation by this Board on the number of residential lots, the development density provisions in the Hinesburg Zoning Regulations, § 2.10.1(1)(Rural Residential District 2), allow only one dwelling unit per 15 acres of lot area where access is from

a class 4 town road, in this case Richmond's Palmer Lane. The goals of the Richmond Town Plan, which are implemented in the Richmond Zoning Regulations, are met as the proposal results in a development density more restrictive than if the parcel were governed by the density provisions of the Richmond Zoning Regulations.

Moreover, there is no reason to believe that two single-family homes on the parcel will have a materially greater impact on the transportation infrastructure obligations of the Town of Richmond than one single family home. The first town road accessed from the 42.3 acre parcel is Richmond's Palmer Lane, a Class 4 town highway. The "Town of Richmond Policy for Palmer Lane (Town Highway 20)" was adopted by the Richmond Selectboard in September, 2015, during the application process by Patricia Gilbert for a four lot subdivision at the end of Palmer Lane. The Policy states it was adopted "recognizing the probability of additional subdivisions and access requests in the future." Page 1. It states that the road was improved with a 24' width and that the Town of Hinesburg has maintained the road during the winter months. It establishes that maintenance of the road "shall be the responsibility of all lots utilizing the Class 4 road for access." Page 1. The Town has retained the obligation to repair the road in the event of a "catastrophic event, such as a major flood," but that obligation has no nexus to whether there are one or two homes on the Hinesburg parcel.

The proposal that the driveway be permitted to access two single-family homes is consistent with the development goals of the Town of Richmond in this zoning district and with the Town to implement the Act, the Town Plan or the Richmond Zoning Regulations.

III. Limiting the Hinesburg parcel to one single-family home is not a reasonable use of that parcel

Variance criterion 8.4.5 (b) authorizes a variance where it is necessary "to enable the reasonable use of the property." Limiting the development of the 42.3 acre parcel to one dwelling is not a reasonable use of the property. A parcel of this size limited to one single-family residence differs significantly from its neighbors and is totally out of character with the density of the surrounding residential development. The Vermont Parcel Viewer, maps.vcgi.vermont.gov, shows the following:

Residential lots on Hinesburg's Palmer Road are Chris Leavitt and Josie Palmer, 10.1 acres; David Ashley, 10.1 acres; Drew Corcoran, 10.3 acres; Carl Driscoll, 10.2 acres; and Norman Larock, 2.1 acres.

Residential lots on Richmond's Palmer Lane are Patricia Gilbert, 12.0 acres, and Jason Lashelle, 1.3 acres.

Residential lots on the private road in Richmond accessing the 42.3 acre parcel are Donald Palmer, 9.6 acres, and Kevin O'Neal, 8.5 acres.

Residential lots in the recently-created Beatty Lane at the end of Palmer Lane in Richmond are Erin Allan, 8.9 acres; Matthew Tabasco, 7.8 acres; Erin Allan, 7.6 acres; and

Patricia Gilbert, 23.1 acres. The average lot size in this neighborhood is less than 25% of the lot size of the 42.3 acre parcel with a single dwelling limitation.

It is not reasonable to limit this large 42.3 acre parcel to the development of one home. This conclusion is borne out by the decisions made by buyers and sellers of the existing residential lots in the neighborhood.

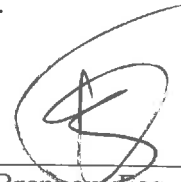
IV. The proposal here to allow access to two single-family homes allows appellants to close on their contract for sale of the parcel

Finding of fact no. 8 states that appellant stated the proposed driveway would serve four lots. That is inaccurate. Consultant Evan Fitzgerald testified at the September 9, 2020, hearing that the number of lots was “yet to be determined,” but that it was probably three or four lots. At that hearing, Bradley Stetler, the buyer of the parcel, testified that his family intended to build two homes, one for each of his daughters and their young families, and perhaps a third home for his wife and him.

The buyers state now that they would not be able to close on the contract for sale if the proposed driveway could serve only a single home. However, they have agreed to close on the sale if the Board allows two single-family homes on two lots, and they have agreed to give up their plan to build three single-family homes. Given the buyers’ position on the sale with the current limitation to one lot, appellants will lose their contract to sell the parcel. Appellants believe that the existing one lot limitation unreasonably limits the marketability of their property.

Therefore, appellants request that this Board allow the proposed driveway to access two single-family homes on two lots on the Hinesburg parcel.

Dated at Monkton, Vermont, this 24th day of November, 2020.



Kevin T. Brennan, Esq.
Attorney for Donald Palmer and Laurel
Palmer, as Trustees of the Palmer Family
Trust

Brennan Punderson & Donahue, PLLC

ATTORNEYS AT LAW

Kevin T. Brennan, Esq.

Ebenezer Punderson, Esq.

Joan Donahue, Esq.

November 24, 2020

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Linda M. Parent, Town Clerk
Town of Richmond
P.O. Box 285
Richmond, Vermont 05477

Re: Notice of Appeal – Donald Palmer and Laurel Palmer, as Trustees of the Palmer Family Trust

Dear Linda:

Enclosed, please find a Notice of Appeal filed with the Vermont Superior Court Environmental Division relative to the Development Review Board's November 3, 2020 Decision on the Palmer's variance request.

In accordance with Rule 5 of the Vermont Environmental Court Rules, kindly forward a list of all interested persons.

Please do not hesitate to call if you have any questions.

Sincerely,

Brennan Punderson & Donahue, PLLC

By: 

Kevin T. Brennan, Esq.

kevin@bpd.legal

Encls.

cc: David Sunshine, with enclosures.
Donald F. Palmer and Laurel J. Palmer, Trustees with enclosures.

TO REPLY:

KEVIN: Monkton P.O. Box 8, 1317 Davis Road, Monkton, Vermont 05469 Phone 802.453.8400 Fax 802.453.8411

EBEN & JOAN: Middlebury The Marbleworks, 99 Maple Street, Suite 10B, Middlebury, Vermont 05753 Phone 802.989.7342 Fax 802.989.7623

Brennan Punderson & Donahue, PLLC

ATTORNEYS AT LAW

Kevin T. Brennan, Esq.

Ebenezer Punderson, Esq.

Joan Donahue, Esq.

November 24, 2020

VIA E-FILING

Vermont Superior Court
Environmental Division
32 Cherry Street, 2nd Floor, Suite 303
Burlington, Vermont 05401

Re: Appeal of Donald Palmer and Laurel Palmer, as Trustees of the Palmer Family Trust

To Whom It May Concern:

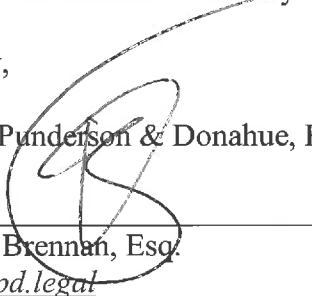
Enclosed, please find the following:

1. Notice of Appeal
2. Notice of Appearance
3. Certificate of Service
4. Payment in the amount of \$295.00 for the filing fee.

Please do not hesitate to call if you have any questions.

Sincerely,

Brennan Punderson & Donahue, PLLC

By: 
Kevin T. Brennan, Esq.
kevin@bpd.legal

Encls.

cc: Donald F. Palmer and Laurel J. Palmer, Trustees with enclosures.
Linda M. Parent, Town Clerk with enclosures (certified mail/return receipt requested).
David Sunshine with enclosures (certified mail/return receipt requested).

TO REPLY:

KEVIN: Monkton P.O. Box 8, 1317 Davis Road, Monkton, Vermont 05469 Phone 802.453.8400 Fax 802.453.8411

EBEN & JOAN: Middlebury The Marbleworks, 99 Maple Street, Suite 10B, Middlebury, Vermont 05753 Phone 802.989.7342 Fax 802.989.7623

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION
DOCKET NO.

IN RE: DONALD PALMER AND LAUREL PALMER,
AS TRUSTEES OF THE PALMER FAMILY TRUST

CERTIFICATE OF SERVICE

I, Kevin T. Brennan, Esq., of Brennan Punderson & Donahue, PLLC, attorney for Appellants, Donald Palmer and Laurel Palmer, as Trustees of the Palmer Family Trust, hereby certify that on the 24th day of November, 2020, I served a copy of Appellants' Notice of Appeal and my Notice of Appearance upon the following individuals by certified mail/return receipt requested, postage prepaid, at the addresses indicated:

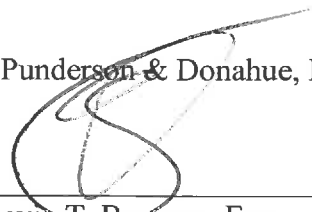
Linda M. Parent, Town Clerk
Town of Richmond
P.O. Box 285
Richmond, Vermont 05477

Town of Richmond
David Sunshine, Chair Development
Review Board
P.O. Box 285
Richmond, Vermont 05477

DATED at Monkton, Vermont, this 24th day of November, 2020.

Brennan Punderson & Donahue, PLLC

By: _____


Kevin T. Brennan, Esq.
1317 Davis Road
P.O. Box 8
Monkton, Vermont 05469
Telephone: (802) 453-8400
Facsimile: (802) 453-8411
ERN: 4685
kevin@bpd.legal

Attorney for Appellants

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION
DOCKET NO.

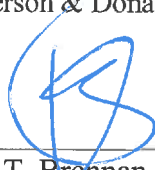
IN RE: DONALD PALMER AND LAUREL PALMER,
AS TRUSTEES OF THE PALMER FAMILY TRUST

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that Kevin T. Brennan, Esq., of Brennan Punderson & Donahue, PLLC hereby enters his appearance in the above-entitled action on behalf of Appellant, Donald and Laurel Palmer, as Trustees of the Palmer Family Trust.

Dated at Monkton, Vermont this 24th day of November, 2020.

Brennan Punderson & Donahue, PLLC

By: 
Kevin T. Brennan, Esq.
1317 Davis Road
P.O. Box 8
Monkton, Vermont 05469
Telephone: (802) 453-8400
Facsimile: (802) 453-8411
ERN: 4685
kevin@bpd.legal

Attorneys for the Appellant

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION
DOCKET NO.

IN RE: DONALD PALMER AND LAUREL PALMER,
AS TRUSTEES OF THE PALMER FAMILY TRUST

Notice of Appeal

Now come Appellants, Donald Palmer and Laurel Palmer, as Trustees of the Palmer Family Trust, by and through their attorney, Kevin T. Brennan, Esq., of Brennan Punderson & Donahue, and hereby appeal to the Vermont Environmental Court the November 3, 2020, Decision of the Richmond, Vermont, Development Review Board denying their appeal of a decision of the Richmond Zoning Administrator and granting their request for a variance from Richmond Zoning Regulation §6.9. Appellants claim party status under 24 V.S.A. §§ 4465(b) and 4471 as interested persons. Appellants are persons owning title to property, affected by law, who allege that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case. Appellants participated in the proceedings before the Richmond Development Review Board.

All interested persons are hereby advised that they must enter an appearance in writing with the court within 21 days of receiving this notice, or in such other time as may be provided in Rule 5(c) of the Vermont Rules for Environmental Court Proceedings, if they wish to participate in the appeal.

The property that is the subject of this appeal is a parcel of unimproved land located on Palmer Road, in Richmond, Vermont, containing 42.3 acres, more or less, depicted on a survey entitled "Property of Donald F. & Laurel J. Palmer, Chittenden County, Hinesburg & Richmond, VT", dated September 6, 2000, prepared by Ronald L. LaRose, L.S., and filed in

the Hinesburg Land Records in Map Slide Hanger No. 44D. The applicants for permits involved in the appeal are Donald Palmer and Laurel Palmer, as Trustees of the Palmer Family Trust.

Dated at Monkton, Vermont this 24th day of November, 2020

Brennan Punderson & Donahue, PLLC

By: 

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Palmer Family Trust