

**RICHMOND DEVELOPMENT REVIEW BOARD
REGULAR MEETING
APPROVED MINUTES FOR DECEMBER 12, 2012 MEETING**

Members Present: David Sunshine, Chair; Brian Werneke, Vice-Chair; Stephen Ackerman; Fred Fortune

Members Absent: One vacancy

Others Present: Cathleen Gent, Town Planner/Staff to the DRB; Ruth Miller, taping for MMCTV Comcast 15; Lawrence Copp; Paul O'Leary; *also see attached sign-in sheet.*

Sunshine called the meeting to order at 7:05 p.m.

Sunshine welcomed the public. He requested that everyone sign in and that people give their names before offering testimony or providing comments. He also encouraged members of the audience to participate in the hearings. Sunshine noted that, if someone wishes to have interested person status for purposes of appealing a decision, that person must speak during the hearing about the project.

Sunshine encouraged members of the public who might be viewing the proceedings on cable television to apply for the current vacancy on the DRB.

PUBLIC HEARINGS

1. Noyes Property LLC – Application #12-182 for Conditional Use Review/Site Plan Review and Application #12-183 for a Planned Unit Development for professional office space and apartment located at 53 Railroad Street (parcel RR0053), a 0.2-acre parcel in the Village Commercial Zoning District.

Sunshine swore in Dan Noyes (owner) and Don Welch (consultant). Welch provided an overview of the project, which includes the demolishing of the existing building and garage and the building of professional office space (two offices) and one apartment within a new principal structure. Welch said that currently there are two curb cuts. One is for the handicap accessible space and one serves as the driveway. There are six proposed parking spaces for the office (five in front and one in back) and two parking spaces for the apartment (in the back). Welch said that Noyes is asking for a waiver to allow parking in the front of the building and that screening will be in place to mitigate the location of the parking. He said that parking in the front is consistent with the parking arrangements on other parcels on Railroad Street. The applicant is also asking for a waiver to allow the current 10-foot driveway to the rear of the building rather than the 12 foot driveway that is required for residential uses. Welch said the narrower driveway will allow for more green space and creates less pavement. Noyes pointed out that the parking space locations will require that drivers will have to drive into the parking or driveway areas and not back out onto Railroad Street.

Welch passed out photographs of the existing parcel, which show the driveway and the buildings. He noted that the current driveway straddles the property line, but the new driveway will be entirely on 53 Railroad Street. He then discussed the building style, which is consistent with other structures on the street. There will be a front porch with a cape-style building. Welch said that the outdoor lighting fixtures will meet the zoning requirements for cut off lighting. Lights will be located on the porch and next to all door entrances. The building currently houses two two-bedroom units, which is a non-conforming use. The square footage dedicated to the new apartment will decrease.

The DRB began its discussion. Sunshine said that he is not happy the DRB has allowed parking in front of buildings in other village locations (Jericho Road) due to his concern about the storage of snow tires and other belongings within the public view. As the project liaison, Werneke said the regulations are unclear as to whether a nonconforming use (residential, in this case) may continue, since nonconforming uses cannot be changed to any use other than a conforming use. He added that it's not clear that mixed uses or pre-existing uses are allowed. Werneke agreed that the portion of the nonconforming use will be less, therefore, it is less nonconforming. He added that he thinks this is a beautiful project. Noyes discussed the building exterior colors and the shingle roof. Werneke asked about the location of the trees and Welch replied that two trees will be removed and one tree in the rear will be replaced with a maple. Fortune asked about a dumpster. Noyes said the dumpster will be in the

1 back, although it is not on the site plan. In all likelihood, the dumpster will be a roll off type of unit.
2 Fortune asked if there are any drainage issues in the rear of the property and Noyes replied that there
3 are none. In response to a question from the DRB, Welch discussed the measurement from the
4 sidewalk to the far edge of the road pavement, which is about 38 to 40 feet. He added that the parking
5 spaces meet the zoning size requirements. Sunshine suggested there should be a storage shed for
6 residents to store all personal items.

7
8 Sunshine opened the hearing to the public. Jen Mincar said she owns the condo unit at 71 Railroad
9 Street, which is located behind Ian Wyatt's business. She said the Noyes project is great because it will
10 improve the value of the property. She said she wants to be an interested person for the proceedings.
11 She is concerned that the tree barrier between the back yard and her condo will be disturbed. Welch
12 replied that the trees, shrubs, and plants are located on the Wyatt property. He added that a new barrier
13 could be installed in between the rear of the building and the existing vegetation and that there will be
14 no changes in the rear of the parcel. There will not be any lighting beyond the lights next to the building
15 entrances. Mincar said she can see the garage that will be torn down and would like there not to be a
16 dumpster in the area where the garage is currently located. Noyes responded that there will not be any
17 dumpster there. Mincar agreed with Sunshine's suggestion that there should be a storage shed for
18 residents to store all personal items. The DRB then discussed the fact that the lot coverage is near the
19 maximum, at 49.5%. Welch said that about 25 square feet could be added and that the building size
20 could be modified slightly to make room in the lot coverage calculation for a shed. Welch suggested
21 that a fence could also be erected and Mincar responded that she does not necessarily want a fence.

22
23 Motion made by Ackerman, seconded by Werneke, to close the public hearing for applications #12-
24 182 and #12-183 and to enter deliberative session for those applications. Voting: 4 in favor; 0 opposed;
25 0 abstentions.

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28 2. Lawrence Copp, Patricia Weaver, Jonathan Downer, Patricia Downer – Application #12-184 for final
29 subdivision approval for a three-lot residential subdivision, located at 1950 Hillview Road (HV1950),
30 consisting of one existing lot and two new lots in the Agricultural Residential zoning district.

31
32 Sunshine swore in Larry Copp (owner), Paul O'Leary (consultant), and Justin Willis (consultant). Copp
33 provided an overview, stating that the DRB approved this project as a three-lot preliminary subdivision a
34 few months ago. Copp reviewed the waiver requests that were granted by the DRB with respect to the
35 rural road standards and discussed some of the conditions associated with the preliminary subdivision
36 approval, including the fact that an erosion control plan is included in the final subdivision application
37 and that letters from fire, police, and rescue have been received. He added that the project elements
38 have not materially changed, but the final subdivision application includes more detailed information. He
39 said the Selectboard has approved the Rural Road Specifications for the road for up to six lots. The
40 waivers granted by the DRB from the rural road standards include the reduced width of the road within
41 the floodplain area, which will be less disruptive and will keep traffic speeds lower. He noted that the
42 rural road will terminate at the hammerhead and there will be three driveways beyond that point to
43 serve the three lots.

44
45 Sunshine, who served as the project liaison, discussed the gates and fences as part of the blueberry
46 farm operation and asked if all of those will remain in place. Copp said they will remain in place and that
47 the emergency crews understand how to operate the gates. Sunshine said that he noticed that the
48 construction of driveways to two of the new lots will be a significant project. Copp said the driveways
49 will be a challenge, and that a cost-sharing agreement is a good idea, as suggested by Sunshine.
50 Ackerman asked whether the stream and gully will require a bridge for the driveway. O'Leary said that a
51 bridge is not needed and that a 36-inch culvert will have plenty of carrying capacity, because the stream
52 is intermittent. He added that there are no state permits needed for that stream, which dries up in the
53 summer. Copp said that the runoff is from Lot 1 (remaining land in the subdivision). In response to a
54 question from Sunshine, Gent said that no materials were submitted by the neighbors and that no one
55 has come in to review the files in the planning office.

56
57 Sunshine opened the hearing to the public. No comments were offered.
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Motion made by Werneke, seconded by Ackerman, to close the public hearing for application #12-184 and to enter deliberative session for that application. Voting: 4 in favor; 0 opposed; 0 abstentions.

- 3. Chittenden County Fish & Game Club (hearing continued) - Application #12-025 motion to appeal and motion for stay regarding the February 21, 2012 Notice of Zoning Violation by the Zoning Administrative Officer related to the increased use of the shooting range at an outdoor recreation facility located at 1397 Wes White Hill Road (WW1397) in the Agricultural Residential zoning district.

Sunshine stated that the DRB has received a written stipulated joint motion that the DRB continue the public hearing for the application until after January 22, 2013. Sunshine referred to the on-going efforts at mediation and that the three parties are now seeking the use of professional help. He added that Jim Spink is the mediator and that, with Jim’s help, hopefully the parties will reach an agreement. March 13.

Motion by Werneke, seconded by Ackerman, to continue the public hearing for application #12-025 until March 13, 2013 at a time to be determined. Voting: 4 in favor; 0 opposed; 0 abstentions.

4. MEETING MINUTES – October 19, 2012

Motion by Ackerman, seconded by Werneke, to approve the minutes with no amendments. Voting: 3 in favor (Sunshine, Werneke, Ackerman); 0 opposed; 1 abstention (Fortune).

5. DRB MEETING SCHEDULE

While waiting for the town engineer to show up to discuss the Peet subdivision decision, the DRB took up the topic of the DRB meeting schedule. Gent discussed some of the public comments that were made during the weeks preceding the vote on the proposed zoning and subdivision bylaws. Several comments suggested that the process of getting through the DRB and getting a decision issued take too long. Sunshine pointed out that state statute requires that decisions be issued within 45 days after a public hearing is closed. He added that the DRB has options, including adding another meeting each month or the DRB could deny the more complicated applications and not do the hand-holding that the DRB often does now. Sunshine asked, “What’s too long?” He pointed out one factor, namely that it is human nature to procrastinate and that people come in right when they are ready to build and they have not factored in enough time to get the permitting done. He said that he encourages people to come in for sketch plan review so that, when they are ready with a full application, it will be complete and accurate.

Gent said that the checklists for applications will be revised to be more user-friendly. Sunshine said that is good and, in addition, people should bring in complete applications fully prepared to address the nuances and vagaries that arise during the process. Werneke pointed out that the DRB does schedule additional meetings when necessary. He added that the regulations are posted on the town web site and the requirements should not be a surprise to people. Ackerman pointed out that certain state laws require sufficient time to be built in prior to the hearings and after the decisions are issued. Sunshine said that the DRB will likely have a very light schedule (with 1-2 applications or no applications in January through March) and then the schedule gets busy in April through June. He encouraged people to schedule the hearings during the slower time of year, well ahead of construction start dates. Werneke said the DRB could issue the decisions more promptly, which could gain around 15 days. The DRB asked Gent to publish an article in the Times Ink with information for the public about the application process to make it easier for people. Fortune said that the only way to expedite the process is to have an extra meeting, to cut off 15 days. He cautioned that, with the extra meetings in the past, applicants brought in supporting application information, even after the hearing ended. Werneke said that no longer happens because the DRB does not accept additional information after the hearing is closed.

Gent reviewed the “fast-track” changes to the Richmond Zoning Regulations that the Planning Commission is currently working on. Those changes include revising Section 6.8 (Flood Hazard Overlay District), zoning changes for the creamery parcel, and reducing parking requirements for new

1 uses in the central business block. Ackerman said that he would like to review trend data and asked
2 Gent to assemble, with his help, the last two years of decision in terms of the length of time the process
3 took and how many applications required multiple hearings. Sunshine pointed out that the DRB has not
4 taken longer than 45 days to issue a decision in quite some time.
5

6 6. PEET FINAL SUPDIVISION APPROVAL #12-135: CLARIFICATION OF CONDITION #10
7 REGARDING ROAD

8 Danny Peet joined the DRB for the discussion, along with Jeff Godbout, who will be developing the
9 subdivision project. Town Engineer Mike Weisel was expected to attend the meeting, but had not
10 arrived yet, so the DRB proceeded with the discussion. Before getting to the question about condition
11 #10 pertaining to the road, Peet asked about two other conditions. The first condition (condition #8)
12 requires that Peet present a formal offer to the Richmond Selectboard for the recreation trail between
13 lots 8 and 9 through lot 13. Gent explained that the next step is for Peet to contact Geoff Urbanik, Town
14 Manager, with the draft legal documents, to set up a time to meet with the Selectboard. Gent added that
15 a couple neighbors have expressed interest in attending that meeting. Peet next asked about condition
16 #9, which specifies that Peet ensure that the new road agreement is signed and recorded prior to
17 granting any deed. He said that his attorney will write up a road maintenance agreement.
18

19 Peet then went on to discuss condition #10, which states that no zoning permit can be issued until the
20 entire road is installed and the road is approved for travel by the Richmond town engineer. Peet and
21 Godbout described what typically happens during subdivision development. Usually the base for the
22 road is put in place and zoning permits are issued for individual houses before the road is completely
23 built. However, no certificates of occupancy are usually issued until the road is completely built. Peet
24 said he is seeking clarification from the DRB that such an arrangement applies to the Sadlar Meadow
25 subdivision. He specifically asked what the term "approved for travel" means. The DRB agreed that
26 they envisioned a similar process when they coined the term "approved for travel," however, no
27 Certificates of Occupancy will be issued until the road is completely installed, including the portion of
28 the road that will have an asphalt surface. Peet added that their engineers will be overseeing the road
29 construction in terms of compliance with Act 250 for erosion. The DRB decided to issue a memo of
30 clarification, specifically that no certificate of occupancy shall be issued for any principal structure on
31 any parcel until the entire road is completely installed in conformance with the site plans submitted with
32 the final subdivision application. The DRB noted that a sub-base must be installed prior to the issuance
33 of any zoning permits. The DRB also requested that Peet not allow mud from the Sadlar Meadow Road
34 to get onto Jericho Road during the subdivision construction. Peet said that is a concern, so they will
35 likely put down stone near Jericho Road until the asphalt is installed.
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37 7. PLANNING COMMISSION: DISCUSSION OF CURRENT ZONING AND SUBDIVISION BYLAWS

38 Planning Commission Chair Mark Fausel joined the DRB for this discussion. Sunshine mentioned that
39 the DRB had, earlier in the meeting, chatted about the concern voiced by some that the DRB takes too
40 long to make decisions. He said that some public education is needed so that people understand there
41 are state statute time-related thresholds for the hearing and deliberative process, which the DRB does
42 not control. Sometimes the DRB is waiting for information, but some people see only the amount of time
43 the process takes. Sunshine added that the DRB could cut off two weeks in the process, but that the
44 key is for people to bring applications in earlier in their planning process for projects. If they want to do
45 a project in the summer and don't apply until May, it will be tough. Fausel suggested that there needs to
46 be an education process so that people understand the time frame for getting approval from the DRB.
47 In addition, there are some types of projects that currently come to the DRB that could be approved by
48 the zoning administrator. On the other hand, Fausel recognized that the DRB is a volunteer board and
49 there are reasons to keep the meetings to a minimum number. During the busy season, it might be
50 necessary for the DRB to meet more often, which is what they do now. Werneke brought up the
51 Vermont Gas line installations in the floodplain as an example of repetitive cases, where the DRB tried
52 to get them through the process as quickly as possible within the regulations. In the aftermath of
53 tropical storm Irene, the town implemented an interim bylaw to help people make the needed repairs
54 and get back on their feet. The DRB and Fausel discussed Section 6.8 of the bylaws, which will be
55 revised as soon as possible to reduce the numbers and types of applications that must come to the
56 DRB, even within the constraints that FEMA has in place. Fortune said that, if the development is going
57 to potentially impact others, then it should come to the DRB, but the repairs should not. Werneke said
58 that the definition of development in Section 6.8 is confusing and that substantial improvement and

1 substantial damage changes should be brought to the DRB. The question came up as to why people in
2 the floodplain should have to pay for zoning permits. Gent explained that the fee structure has just
3 changed so as to minimize the amount people in the floodplain have to pay for applications.
4

5 Fausel reiterated the "fast track" changes that the Planning Commission is working on. The DRB
6 agreed that parking for new uses in the core business area is not needed. Sunshine and Werneke
7 suggested that the parking requirement might be eliminated for the entire village commercial district.
8 Fausel discussed the creamery parcel and said there is still open discussion about whether there
9 should be more commercial than residential in that area, since it is the last open land available for
10 commercial in the village. The owner said he is comfortable with the proposed village mixed district,
11 which was defeated in November. Fausel added that the Planning Commission had acquiesced to the
12 owner's requested changes for more residential development at the creamery and the commission is
13 still thinking about the question of residential versus commercial there.
14

15 Sunshine said that the town plan is an academic document that means little to people and that the
16 zoning document actively impacts people's lives. Most people don't realize how important the town plan
17 is, with its lofty goals and general orientation that governs the land use bylaws. On the other hand, the
18 zoning bylaws contain the rules and that's when people object to it. The DRB and Fausel discussed the
19 process for bringing the proposed bylaws to the voters again. It was agreed that some people did not
20 like the R-3 and R-10 districts and that some people will not like any changes to the bylaws at all.
21 Werneke said that a lot of Front Porch Forum postings showed there was a lack of understanding, for
22 instance that the flood plain regulations apply to all residents. He added that a lot of public education is
23 needed to explain what's wrong with the current bylaws and what's good about the proposed bylaws.
24 The DRB agreed that the unified bylaw approach is good, because the zoning and subdivision rules are
25 under one roof. Making piecemeal changes is not a good approach. Werneke said he thought the
26 proposed bylaw were a great document which clarified the definitions and offered a simple layout that
27 can be followed. Everyone agreed that the bylaws are a living document that should be updated
28 periodically.
29

30 Fausel said he appreciated getting this feedback from the DRB and that the Planning Commission is
31 looking to get more feedback. He encouraged the DRB to write down any thoughts or attend a Planning
32 Commission meeting with their ideas.
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34 8. DELIBERATIVE SESSION

35 At 9:25 PM, motion by Werneke, seconded by Ackerman, to go into deliberative session. So voted.

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37 At 9:43 PM, motion by Werneke, seconded by Ackerman, to come out of deliberative session. So voted.
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40 9. DRB ACTIONS

41 The DRB took the following actions:

42 Motion by Werneke, seconded by Ackerman, to approve applications #12-182 and #12-183 (Noyes
43 Property LLC). Voting: 4 in favor; 0 opposed; 0 abstentions.
44

45 Motion by Werneke, seconded by Ackerman, to approve application #12-184 (Copp, Weaver,
46 Downer). Voting: 4 in favor; 0 opposed; 0 abstentions.
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49 10. ADJOURNMENT

50 At 9:44 PM, Ackerman made a motion, seconded by Werneke, to adjourn the meeting. So voted.
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52

53 Respectfully submitted by Cathleen Gent, Town Planner/Staff to the DRB
54

PLEASE SIGN IN

Town of Richmond Development Review Board
 Public Hearing Attendance Sheet
 December 12, 2012

Name PLEASE PRINT	Address	Agenda Item of concern
Jen Mincar	71 Railroad St	53 Railroad dev app.
JUSTIN WILLIS	JERICHO	COPP
DAN HELOTT	DUNBURY	NOTES
Danny Peet	Richmond VT	Peet Subdivision
Lola Nye	68 Railroad St	53 RR ST Dev.
W. Dan Mays	" " "	" " "
M. Farnum		