

**RICHMOND DEVELOPMENT REVIEW BOARD  
 REGULAR MEETING  
 APPROVED MINUTES FOR OCTOBER 8, 2013 MEETING**

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Members Present: David Sunshine, Chair; Stephen Ackerman, Vice-Chair; Fred Fortune; Anne McLaughlin, Mike Donohue; DRB Alternate Marvin Carpenter

Members Absent: None

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Others Present: Cathleen Gent, Town Planner/Staff to the DRB; Ruth Miller, taping for MMCTV Comcast 15; See attached list

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Sunshine called the meeting to order at 7:08 p.m.

Sunshine welcomed Mike Donohue to the DRB, who was just appointed by the Selectboard to serve on the board.

Sunshine then welcomed the public and requested that everyone sign in. Sunshine noted that, if someone is present for a certain hearing and wishes to have interested party status for purposes of appealing a decision, that person must speak during the hearing.

1. Jon Kart & Lauren Esserman – Application #13-103 for Conditional Use Review (Richmond Zoning Regulations, Section 6.8 – Flood Hazard Overlay District – for substantial improvement to single family house in FEMA Special Flood Hazard Area -- for property located at 44 Old Brooklyn Court (OB0044) in the Agricultural Residential zoning district.

Sunshine swore in Kart, who provided an overview of the project. Kart also distributed a revised site plan which includes the location of an existing propane tank. He referred to the boundary line adjustment that was approved by the DRB a couple months ago for this project. Kart said the plan is to jack up the house about four feet to make it flood resistant, resulting in an elevation of the first floor above the base flood elevation. The garage will be detached and temporarily moved, then placed back on a new cinder block walls, thereby elevating the garage walls. Kart added that a new mechanical room has been built, which needs approval by the DRB as an as-built, and the living room is being expanded by moving one wall (enclosing the porch). He said that the project is a substantial improvement by FEMA standards because the estimated cost is at least 50% of the structure’s value. Kart also discussed that an existing fuel tank is anchored down (i.e., bolted) to a concrete pad, but said he plans to do more to secure it in the future.

DRB project liaison Fortune said the project looks good from a zoning perspective. Kart said that they will lift the house and dig a four foot frost wall and four foot crawl space, which will be filled with sand and gravel to match ground level. In response to a question from Ackerman, Kart said that garage will be raised with a cinder block base, however, the garage floor level (height) is not changing. Kart said the new foundation walls in the house and cinder blocks in the garage meet the FEMA requirements for flood venting. He added that cinder blocks installed sideways are allowed in the garage, per a FEMA manual which was supplied with the application. Kart added that, per comments from Rebecca Pfeiffer (Vermont DEC), the fuel tank is anchored. Also, the at-grade crawl space under the house will be used for storage only. He noted that his goal is to get rid of the basement. Moving the building utilities to the new mechanical room above the base flood elevation is an important step.

Sunshine opened the hearing to the public. Cara LaBounty said she is not interested in party status, but asked a question about exterior steps to the home. Kart said there will be one set of stairs off the deck, which will be elevated along with the house. LaBounty suggested that the new steps will need to be anchored. Mary Houle also said she is not interested in having party status, but pointed out that, with the house located above the base flood elevation, insurance rates will be significantly reduced. Maria Poley asked if the garage will be in the same location and Kart said it will be.

Gent raised the question of what fill might be associated with the mechanical closet. Kart said the as-built mechanical closet is 10 feet by 3 feet with a four foot foundation, which converts to about 128 cubic feet. He said they will consider the calculation of that fill as compensatory fill in the basement, which is

1 approximately 4,500 cubic feet of fill. LaBounty said there should be a waiver from the no net fill  
2 requirements for fill around foundations above the grade level. Kart said that there is no additional fill  
3 above the ground level next to the foundation. Kart added that the bylaws allow for up to a 25%  
4 expansion. His project is well below that, since the only addition is for the mechanical room. Houle  
5 said that this project is consistent with the FEMA Community Rating System and that Kart is doing  
6 what FEMA and insurance regulators are looking for.  
7

8 Motion by Fortune, seconded by Ackerman, to close the hearing for application #13-103 and go into  
9 deliberative session. Voting: 5 in favor; 0 opposed; 0 abstentions.

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12 2. Peggy M. Farr Revocable Trust – Application #13-110 for final subdivision review for “Peggy M. Farr  
13 Revocable Trust” Huntington Road 4-lot subdivision (one original lot and three new lots) for a 125-acre  
14 parcel located at 400 Huntington Road (parcel HU0400,a) in the Agricultural Residential zoning district.  
15

16 Sunshine swore in Chuck Farr and Mike Burke, then recused himself from the hearing. Fortune also  
17 recused himself. DRB alternate Marvin Carpenter joined the hearing. Ackerman chaired the hearing.  
18

19 Mike Burke provided an overview about the application. He said the parcel is roughly 125 acres. Two  
20 of the lots contain existing houses, one of which is occupied by Peggy Farr. Burke said that the largest  
21 parcel (remaining land) is used for farming and no development is planned on that parcel, however, a  
22 portion of that lot is developable. Burke then discussed the sewer and water situation for each parcel.  
23 There is a functioning wastewater system on Peggy’s lot. If that were to fail, they could connect to the  
24 village wastewater system. On the other existing lot (lot 2), there is water and sewer currently. For the  
25 new lot scheduled for development (lot 3), village water and sewer will be used. Burke added that the  
26 project has received a state wastewater permit. Burke said that Farr has applied for a highway access  
27 permit for lot #3 and that there is an agricultural access to the remaining lands off that driveway. Gent  
28 said that the Selectboard approved that highway access permit on Monday. Burke discussed the  
29 driveway for lot #3, which has an easement across lot #2. Ackerman said that the project matches  
30 what was approved with the preliminary subdivision application.  
31

32 Ackerman opened the hearing for public comment. Denise Curley said she had a concern about the  
33 property line for lot 2 and lot 3 along her property line because of issues with a property line on the  
34 other side of her property. Burke said his company has surveyed the property line between Farr and  
35 Curley and the lines are substantially the same. Their research showed that the road right-of-way  
36 differs by a few feet, but they are basically matched. Curley brought up the fact that a dispute with  
37 another neighbor, James O’Brien, might call that into question. Burke said this company stands behind  
38 the survey for the boundary line between Farr and Curley. In response to a question by Carpenter as  
39 to whether the surveys by Curley and Farr match, Burke replied that they do. Representing the  
40 applicant, Sunshine said that the Curley and O’Brien dispute is a civil matter and that both Curley and  
41 Burke testified that the subdivision line for Curley and Farr are in agreement. He added that any  
42 problems with the O’Brien/Curley line will not necessary affect any other property lines. Denise Curley  
43 and James Curley stated again that a change in the O’Brien/Curley line will affect the Farr/Curley line.  
44 Donohue stated that the Farr/Curley line has been established and that the DRB is not the place for  
45 this discussion, especially because O’Brien has not brought forth a survey at this time. Ackerman and  
46 Carpenter agreed that the issue about the property dispute is not relevant to this hearing, Cara  
47 LaBounty said that the listers are responsible for updating tax mapping and the grand list and said the  
48 listers do not enter into any boundary line disputes, as those are civil actions, and recommended the  
49 DRB does the same.  
50

51 Denise Curley then asked about plans for some screening between the new house on lot 3 and the  
52 Curley property. Burke said that the plans include a six-foot high privacy flat panel fence along the  
53 northeast corner of lot 2 across to the property corner on lot 3. He showed Curley the location of the  
54 fence on the site plan and noted that screening was required from the preliminary subdivision review.  
55 Curley then agreed that a fence would be sufficient.  
56

57 Motion by Carpenter, seconded by Donohue to close the hearing for application #13-110 and to enter  
58 deliberative session. Voting: 4 in favor; 0 opposed; 0 abstentions.  
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1 Sunshine and Fortune re-joined the meeting and Carpenter left the meeting.

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3 3. Other Business

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5 Mary Houle asked a general question, namely whether someone can live in an accessory dwelling, before  
6 a principal dwelling is built. Ackerman pointed out that such a structure would be the principal dwelling  
7 until such time that a principal dwelling is built. LaBounty suggested that both should be permitted at the  
8 same time. Sunshine said the principal structure can be an accessory dwelling later, but that there can't  
9 be an accessory structure without an existing principal structure. When the owner moves into the principal  
10 structure, an accessory dwelling can then be designated.

11  
12 Sunshine brought up the Cochran's decision that was recently issued. He asked the DRB to clarify  
13 whether the DRB meant to limit the number of users to 250 during the ski season. Ackerman,  
14 McLaughlin, and Fortune indicated that the limitation is for the non-ski season activities. Ackerman asked  
15 that, if the Cochran's want a written clarification, they should make a written request.

16  
17 A. Meeting Minutes: September 11, 2013

18 No amendments were offered. Motion by Ackerman, seconded by Fortune, to accept the minutes.  
19 Voting: 4 in favor (Sunshine, Ackerman, Fortune, McLaughlin); 0 opposed; 1 abstention (Donohue).

20  
21 B. DRB Rules of Procedure: Gent and Sunshine reported that they have reviewed State Statute  
22 Chapter 117 and other towns' rules of procedure to come up with a mechanism for the DRB to  
23 keep the site visit in place without violating the ex parte communications rule. Gent handed out  
24 Chapter 117, Section 1207, regarding ex parte communications, and the Town of Hinesburg Rules  
25 of Procedure regarding site visits. The DRB decided that, by providing a written record of the site  
26 visit as part of every public hearing, they would comply with the statute. Houle and LaBounty  
27 suggested that the DRB look at the BCA grievance hearing procedure. Gent will review the BCA  
28 language and will contact Hinesburg regarding their experience with their site visit process.

29  
30 C. Deliberative Session/Action regarding Application #13-110

31 At 8:17 PM, motion by Donohue, seconded by Ackerman, to enter deliberative session. So voted.  
32 Sunshine and Fortune left at this time.

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34 At 8:30 PM, motion by McLaughlin, seconded by Donohue, to come out of deliberative session. So  
35 voted.

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37 Motion by Donohue, seconded by McLaughlin, to approve application #13-110 (Farr). Voting: 3 in  
38 favor (Ackerman, Donohue, McLaughlin); 0 opposed; 0 abstentions.

39  
40 Sunshine and Fortune re-joined the meeting.

41  
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43 D. Deliberative Session/Action regarding Application #13-103

44 At 8:31, motion by Fortune, seconded by Ackerman, to enter deliberative session. So voted.

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46 At 8:43, motion by Fortune, seconded by Ackerman, to come out of deliberative session. So voted.

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48 Motion by Ackerman, seconded by McLaughlin, to approve application #13-103 (Kart & Esserman).  
49 Voting: 5 in favor; 0 opposed; 0 abstentions.

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52 4. ADJOURNMENT

53 At 8:45 PM, Fortune made a motion, seconded by McLaughlin, to adjourn the meeting. So voted.

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57 Respectfully submitted by Cathleen Gent, DRB Secretary and Town Planner/Staff to the DRB

