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## wetlands- Richmond

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To: Suzanne Mantegna <[smantegna@richmondvt.gov](mailto:smantegna@richmondvt.gov)>

Wed, Jul 15, 2020 at 9:44 AM

Hi Suzanne,

We write to provide our opinion regarding whether the term "roadway" in Zoning Regulations § 6.9 (May 12, 2020) includes driveways. Section 6.9 provides, "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." At issue is whether a driveway is considered a "roadway" and is thus prohibited from being constructed in a wetland or buffer.

As you are likely aware, zoning bylaws are construed in the same manner as statutes, and the goal is to discern and give effect to the intent of the drafters. First, we look to the plain meaning of the language used, and if it is clear, there's no need to resort to alternative rules of construction. Where terms in the zoning ordinance are undefined, we look to the ordinary dictionary definition.

The dictionary definition of a "roadway" is, "the strip of land over which a road passes." Merriam-Webster Dictionary definition of "Roadway," <http://www.merriam-webster.com/dictionary/roadway> (last visited Jul. 15, 2020). The Zoning Regulations in turn broadly define "road" as "[a] way for vehicular traffic, whether designated as a Road or Highway, ... thoroughfare, parkway, throughway, road, avenue, boulevard, lane, or otherwise." Zoning Regulations § 7.2, at p. 99 (emphasis added). A "driveway" is unambiguously a type of road for vehicular travel that is defined in the Zoning Regulations as "[a]n improved surface for vehicular access to no more than three (3) lots." *Id.* at p. 93. Therefore, there is no ambiguity in the Zoning Regulations, and the term "roadway" in Zoning Regulations § 6.9 includes driveways. The foregoing interpretation is consistent with the clear intent of the drafters of the Zoning Regulations and § 6.9 to protect wetlands and buffers from impacts of vehicles. See also Zoning Regulations § 2.5.2(a) (providing that wetlands on a lot are deemed incapable of supporting any "Land Development," which includes the construction of roads and driveways).

If you have any questions regarding this analysis, please let me know.

Thanks,

Dave

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