

**RICHMOND SELECTBOARD  
RICHMOND PLANNING COMMISSION  
SPECIAL HEARING  
RICHMOND ZONING REGULATIONS  
August 21, 2012 MINUTES**

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Members Present: Chris Granda, Chair; June Heston, Vice Chair; Amy Lord  
Absent: Neil Boyden; Ashley Lucht  
Planning Commission: Gary Bressor; Dan Renaud; Mark Fausel; Joe McHugh; Lou Borie;  
Christy Witters  
Others Present: Geoffrey Urbanik, Town Administrator; Cathleen Gent, Town Planner;  
John Rankin; Dolores Carter; Fred Carter; Jeff Forward; Justin Willis;  
George Ward; Jeffrey Ward; Rod West; Lisa Littwin; Mr. and Mrs. Earl  
Wester; Heidi Bormann; Peter Colompos; Fran Thomas; Brian Werdal;  
Wright Preston; Shirley Kelliher; Kathryn Wysockey-Johnson; David  
Sunshine; Lauke Park; David Raphael; Martha Marciel; Alison Anand;  
Jack Linn; Cara LaBounty; Angela Cote; Brian Werneke and others  
and Ruth Miller was present to videotape the meeting for MMCTV  
Channel 15.

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Chair Granda called the meeting to order at 7:05 p.m., and introduced the Selectboard and staff members present.

The Selectboard held a Public Hearing to review the proposed draft Zoning and Subdivision Regulations. This was the first formal public hearing on the proposal to amend the current regulations.

Gary Bressor, Planning Commission Chair, began by explaining the review and revision process from January 2012 to the present. There were many additional Planning Commission meetings, public hearings, and now the Selectboard public hearing. Mr. Bressor explained the new zoning districts, which were Village Business 1; Village Business 2; Village Mixed; Village Residential North; Village Residential South; Jonesville Mixed; Jonesville Residential; Gateway; Gateway Business; Rural 3; Rural 10 and Mobile Home Park. Mr. Bressor provided an overview of the significant changes since January, especially the Flood Hazard Overlay District; changes to business zones and traffic generation standards. They eliminated the affiliated lot merge, made changes to the sign ordinance and boundary line adjustments and made plat approvals required for administrative subdivisions.

Chair Granda opened the public hearing, and requested everyone state their name for the record.

Rod West said he lived on West Main Street and had not examined the whole document but went to the hearings and felt that the Planning Commission was very responsive to his business district and the new regulations are a net improvement over the existing ones.

Lisa Littwin said there were rumors about what you needed a permit for and what you didn't. She asked for clarification.

Cathleen Gent explained that in the Special Flood Hazard Area, also known as the 1% flood area, permits were needed for repairs or modifications to the existing structure. The main improvement over the old regulations was that they were now proposing a \$1,000 threshold for conditional use approval. Ms. Littwin asked if there was a fee, and Ms. Gent said there was a permit application fee now, but the Selectboard could address that separately from the zoning regulations.

1  
2 John Rankin spoke of the 100 foot buffer zone outside of the mapped Special Flood Hazard area,  
3 where those within that buffer were compelled to comply with the Flood Hazard Overlay District  
4 regulations. He felt this was burdensome and unfair, and urged the Selectboard to remove this  
5 requirement. He mentioned he had spoken to the Administrator, who had prepared some information  
6 on how to effect this amendment.  
7  
8 The Administrator pointed out his memorandum to the Selectboard, and also Cathleen Gent’s mark-up  
9 on how to remove this provision. He noted that the Planning Commission would likely object to this  
10 change.  
11  
12 Gary Bressor said that the Planning Commission had discussed this, and it wasn’t such a big deal to  
13 remove it since between adoption in November and the implementation of the new Digital Flood  
14 Insurance Rate Maps in the Spring of 2013 there wasn’t much exposure to development in the area  
15 we’re discussing. The idea behind this originally was to make people show they weren’t in the  
16 floodplain, or else comply with the floodplain regulations. He felt that the Development Review  
17 Board may like this to continue to exist. This provision was set to expire when the new DFIRMs were  
18 implemented.  
19  
20 John Rankin said that Mr. Bressor didn’t understand, that his point was to not subject people outside  
21 the floodplain to these regulations. There was some discussion between Mr. Bressor and Mr. Rankin  
22 on this issue.  
23  
24 Chair Granda said that the issue was whether all of the Special Flood Hazard Overlay district  
25 provisions should apply during this time, or none, or somewhere in between.  
26  
27 Cathleen Gent felt that this was a specific and complex change.  
28  
29 Cara LaBounty asked where it said that the “zone of ambiguity” goes away? Ms. Gent replied on page  
30 42.  
31  
32 Cara LaBounty felt that the federal government wasn’t requiring all of these regulations, and it was  
33 clear that Richmond was regulating beyond the minimum requirements for flood regulations. She said  
34 that other towns exempt interior repairs from permitting. She felt that the additional standards weren’t  
35 generating lower insurance rates for those in the Special Flood Hazard Overlay District.  
36  
37 Chair Granda said that when this came up months ago, the general guidance to the Town Planner was  
38 to find a way to make this less burdensome.  
39  
40 Ms. Gent said that she was unaware of other towns that exempt interior repairs from permitting.  
41 FEMA has stated that permits were needed, but Richmond was trying to lessen the burden.  
42  
43 Lauren Esserman, a former Planning Commission member, agreed with Ms. Gent and added that  
44 FEMA’s definition of development drove the restrictions, not the preferences of the Planning  
45 Commission.  
46  
47 Martha Marciel asked if someone in the floodplain had a furnace that broke in Winter, how long  
48 would it take to get a permit?  
49

1 Ms. Gent said that if someone had a repair like that they should make the repair first and apply for the  
2 permit second. If it required a conditional use review in front of the Development Review Board, then  
3 it would likely take three months to work through that process.  
4

5 Angela Cote said that in section 2.15.2(e) the statement says that the regulations exceed the minimum  
6 requirements. Ms. Cote asked where exactly were we exceeding those requirements?  
7

8 Cara LaBounty said that the town is more restrictive in tracking repairs over three years than is  
9 necessary, since nowhere in the federal regulations does it require repairs to be tracked over three  
10 years. This is a choice as a town. She was not generally opposed to the flood regulations but said the  
11 town should not have to track and giving permits after the fact doesn't make sense.  
12

13 David Raphael, representing Craig Caswell, owner of the creamery, spoke of the need to allow density  
14 based on the gross area of the parcel, not the net area after environmental or other restrictions are taken  
15 into account. He also said that the current height requirement in Village Mixed was too low to allow  
16 them to build a suitable development. He said these items were further detailed in a letter to the  
17 Planning Commission earlier but no changes had been made.  
18

19 Jeff Forward said to Mr. Raphael that this was a key property in town, and it was the last commercial  
20 parcel in the village. He was concerned about development in the floodplain, and was concerned  
21 about adding residential units in this area. Mr. Raphael replied that there was a need for residential in  
22 town, and particularly on this parcel because a mixed use plan was the best use, and commercial  
23 couldn't move forward without it.  
24

25 Joe McHugh asked if there was a comparable area in town where the kind of density requested by Mr.  
26 Raphael exists now. Mr. Raphael felt that this existed in other towns, and passed around some  
27 examples of residential development that might fit the pattern he was suggesting. He said he wasn't  
28 sure if anything like this existed in Richmond now.  
29

30 Kathryn Wysockey-Johnson said she was concerned that someone from a different area wanted to  
31 increase the density. She wasn't happy about the density increasing in her zone going from 2/3 acre  
32 minimum to 1/4 acre minimum.  
33

34 Mr. Raphael said he appreciated the concerns but he wasn't asking to increase density on what was  
35 allowed, just to not reduce density based on the floodplain restrictions.  
36

37 Gary Bressor said he did meet with Mr. Raphael, and tried to meet his request part-way. The zone did  
38 not allow any residential prior to this, and the vision of the Planning Commission was to require more  
39 commercial than Mr. Raphael wanted.  
40

41 Mr. Raphael said he was required to build 1,000 square feet of commercial space for every residential  
42 unit. Mr. McHugh said even this was relaxed from an earlier calculation.  
43

44 Mr. Bressor spoke of the height requirement and that if you increased it, it might cause the town's fire  
45 insurance to increase if we did not have a ladder truck to reach the top. Also the Planning  
46 Commission didn't want to pile up development on the edge of the floodplain.  
47

48 Chair Granda asked how high did Mr. Raphael want to go, and he said three stories was easier to build  
49 the development they felt would fit.  
50

1 Chair Granda asked if the regulations were the best way to address this, and the Administrator said  
2 yes, this was the best place to address these issues.

3  
4 June Heston said that there was a need to address the tax base. If we want a business to locate here  
5 then we need to determine what was the best long-term solution.

6  
7 Amy Lord believed that the Planning Commission and landowner went a long way to getting an  
8 agreement on the proposed regulations, and the commercial requirement has gone from 100%  
9 commercial to 33% commercial.

10  
11 Joe McHugh asked what the market reality was for commercial.

12  
13 Lauren Esserman said that if one were to amend to increase density, and not count wetlands or other  
14 restrictions, this would apply to other parcels also, and to think about the consequences.

15  
16 Cara LaBounty said that going from one acre to an R10 to an R3 was an attempt to change density. If  
17 you go from one acre to ten, and then subtract wetlands, etc., from the development calculation you  
18 might end up with only one building lot.

19  
20 Mr. Raphael said that this was a difficult parcel to develop, since 50% of the gross square footage had  
21 to be matched with commercial.

22  
23 Angela Cote said that we needed to look creatively at ways to calculate density. She asked if this was  
24 approved what was the likelihood that the DRB would consider waivers?

25  
26 David Sunshine, Chair of the Development Review Board, said that variances and waivers were  
27 dangerous and almost always denied and if approved, usually don't survive a court challenge. The  
28 DRB can only be as flexible as the ordinances allow.

29  
30 Gary Bressor said that the mixed use density calculation was 1/3 commercial 2/3 residential. There is  
31 a lack of commercial officespace here in Richmond, and that has hurt us competitively.

32  
33 Chair Granda asked if we're asking for less commercial for the sake of residential and Mr. Bressor  
34 said no.

35  
36 Christy Witters, of the Planning Commission, spoke of where she lives on Church Street, which is in  
37 the same area as the creamery. She said that she felt that was pretty dense already, and the town  
38 needed to consider whether more density was necessary.

39  
40 Brian Werneke of the Development Review Board spoke of the 100 foot SFHA buffer and said that  
41 with the new DFIRM this would go away and this might be an opportunity think about what was in the  
42 floodplain. How to deal with things related to building height. He said that whatever the town was  
43 proposing on density it should be clear in what its intent is.

44  
45 Christy Witters said she would now be in the SFHA under the new maps and she didn't want to have  
46 to get a permit for a new doorknob or a new refrigerator, but explained the value of the town having  
47 the ability to track repair costs.

48  
49 June Heston said that getting the \$1,000 waiver it was a huge accomplishment. Mr. Bressor said that  
50 the Planning Commission decided that tracking over three years is best.

1  
2 The Administrator clarified that the \$1,000 was a per-permit cost, not a per year amount.  
3  
4 Cara LaBounty said that having to track this over three years was onerous and creates a hidden  
5 nightmare. She proposed the regulations be changed to allow an exemption from permitting for minor  
6 repairs and move the threshold from \$1,000 to \$5,000.  
7  
8 Gary Bressor spoke to the issue of allowing accessory dwellings in accessory structures in the SFHA.  
9 He said that right now state law allowed accessory dwellings in principal structures, but he had no  
10 objection to allowing these in accessory structures also.  
11  
12 Lauren Esserman also suggested this could be done.  
13  
14 Jeff Forward said he felt that a second floor improvement was fine, but not in the basement.  
15  
16 Cara LaBounty said that the town should require accessory dwellings in accessory structures be  
17 elevated above the base flood elevation.  
18  
19 Brian Werneke said that the intent is to protect the insurer from higher exposure from higher valued  
20 losses. Therefore anything that increases value should need a permit.  
21  
22 There was some discussion about the DRB needing to verify plats with administrative subdivision and  
23 lot line moves. Cathleen Gent noted the section was 4-23 in a table that indicated a “survey” was  
24 required.  
25  
26 Jack Linn spoke to the mechanics of the R-3 subdivision. Say you had 15 acres and wanted to put in  
27 whatever was allowed, at different times.  
28  
29 Chair Granda asked how this would be tracked? Gary Bressor said that the subdivision approval  
30 would have to detail what was happening, and Cathleen Gent said that records in the file would  
31 indicate what had been approved under various subdivisions previously.  
32  
33 Brian Werneke said that this was a function of the DRB, and the language of approval resolutions had  
34 to be specific.  
35  
36 Jack Linn asked how many non-conforming lots would be created in the R-3 and R-10 districts?  
37  
38 No one knew, but Gary Bressor said that the Planning Commission’s position was that there were pre-  
39 existing one-acre lots that wouldn’t be much affected by this.  
40  
41 Jack Linn asked if these nonconforming lots would have to go before the DRB for any permits.  
42 Cathleen Gent said that under 3.1.4 nonconforming lots in R-3 can repair without having to go before  
43 the DRB.  
44  
45 Jack Linn said that there was a cost to property owners by downsizing, and Richmond today couldn’t  
46 be built under this ordinance.  
47  
48 Lauke Park said that the procedure for this was long, and what was the timeline. He was unnerved by  
49 how much time we’ve spent on the floodplain, since these issues could be resolved by FEMA. He felt  
50 more meetings were necessary on each zone.

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Chair Granda asked Mr. Bressor what meetings had happened in the past.

Mr. Bressor said that five years ago the town hired PlaceSense to lay out options for different zones. There had been nine public meetings on the changes, two townwide and seven zone-specific. There have been drafts, and a delay in the vote and he felt that people had enough time to comment at this point.

The Administrator explained the vote timeline. The Selectboard could vote to amend the regulations tonight, and this would trigger another public hearing. This was already scheduled for September 10<sup>th</sup>. There was also a vote warned for the 10<sup>th</sup> to consider the vote on these at the November Election to be by Australian Ballot.

Chair Granda said there would always be people in town who are surprised to learn of any given regulation. The Selectboard wanted people to have a voice. On other issues, the main consideration wasn't to have the absolute best regulations, since they would evolve over time, but whether or not this is the best at this moment.

Brian Werneke agreed, and said that these get amended over time but at some point with a major revision you have to fish or cut bait. The longer it takes to implement the more it will need to change, and it will never be final.

Jeff Forward said he supported the work done so far. He felt that it improves over the existing ordinance, and can be amended if needed. He said that in November it will be the largest "public hearing" in four years, so voters will have the chance to decide if this is in a form they want.

Lauke Park said he wouldn't quibble but there needed to be a cost analysis. What will this cost be for additional staff to the DRB and Planning Commission, zoning, etc. Over the years we will see if this leads to increased staffing and time.

Mr. Park added that there were always unintended consequences. There were twelve home businesses on his road and under the new regulations over half would be noncompliant. He felt that what Amy Lord does with the economic development does not meet the regulations goals.

Chair Granda asked how this would affect home businesses?

Cathleen Gent said that the proposed ordinances are much as it exists now, and was not appreciably different. The new bylaws wouldn't change what you're allowed to do now.

Joe McHugh said that most home businesses are under the radar.

Mark Fausel said that during the process the Planning Commission tried to look at unnecessary regulations on home businesses to eliminate them.

Chair Granda asked how a cost analysis would be done. Brian Werneke suggested cost and duration. Some increased time might come from additional regulations, but with statutory deadlines it may reduce the burden on staff.

Cara LaBounty suggested eliminating the fees for the certificate of occupancy. This essentially is paperwork to close out a building permit, which was already paid for. The fee was \$60 now.

1  
2 Jack Linn spoke of section 3.2 under site plan, and asked if anything 3,000 square feet or more  
3 required a site plan including agricultural structures, landscaping and screening. Joe McHugh  
4 suggested adding “principal” just before “structure” in 3.2.1 to clarify this issue.  
5

6 Jack Linn said his point was that the entire section was restrictive verbage.  
7

8 Lauke Park suggested that the Gateway District needed to include language for a rail station and a post  
9 office, and not confined them to village mixed. He said that the Verberg Farm could house either of  
10 these facilities, and was not in the floodplain. Cathleen Gent pointed out that the Verberg Farm was in  
11 the R-3 district. Joe McHugh suggested that the new Town Plan could identify areas where we would  
12 like to see rail stations.  
13

14 Cathleen Gent suggested that section 2.15.3c could be removed since it was no longer necessary.  
15

16 Chair Granda concluded the public hearing and listed the series of proposed changes from tonight’s  
17 discussions. They were then considered in order as follows:  
18

- 19 1) Change the value of allowable improvements under the SFHA regulations in 2.15.9 and  
20 2.15.12 from \$1,000 to \$5,000. There was no motion to approve this proposed change.
- 21 2) Allow in the SFHA accessory dwellings in accessory structures under 2.15.11a. Motion made  
22 by June Heston and seconded by Amy Lord and the vote was 2-0-1 with Ms. Lord abstaining,  
23 thereby the motion failed for lack of affirmative vote by majority of full board.
- 24 3) Require accessory dwellings to be elevated above the base flood elevation in the SFHA. Cara  
25 LaBounty withdrew this recommendation, and the Selectboard did not consider it.
- 26 4) Increase allowable density for the former cheese factory, in the village mixed. Ms. Heston  
27 suggested using up to 50% of the restricted area in density calculation, and she made that  
28 motion. There was no second and the motion failed.
- 29 5) Change the definition of Certificate of Occupancy (CO) to exempt certain permits from  
30 needing a CO under 4.2.2b. There was some discussion on how to phrase this, but ultimately  
31 there was no motion to make this change and the Selectboard did not act on this proposal.
- 32 6) Under section 3.2.1a add the word “principal” before the word “structure”. Amy Lord offered  
33 a motion on this change and was seconded by June Heston and the motion carried 3-0.
- 34 7) Under 2.9.2 broaden categories allowable in the Gateway District. There was no motion to  
35 approve this change, and the Selectboard did not act on the proposal.
- 36 8) Change the SFHA “zone of ambiguity” to apply only to new principal or accessory dwellings  
37 for the time that it remains in effect. June Heston offered a motion to approve this change and  
38 was seconded by Chris Granda and the motion carried 3-0.
- 39 9) On the table on page 2-6 add to the uses allowed in R-10 “recreation, outdoor, class 2” by  
40 adding a “C” to the box. June Heston offered a motion to make this change and was seconded  
41 by Amy Lord and the motion carried 3-0.
- 42 10) Under section 2.15.3c delete the paragraph since it was obsolete. June Heston offered a motion  
43 to make this change and was seconded by Amy Lord and the motion carried 3-0.  
44

45 There was discussion about a second public hearing date to hear the substantial changes and present  
46 the final draft before approval. The Administrator suggested September 10<sup>th</sup> at 6:30 PM here in Town  
47 Center. Ms. Heston offered a motion to set the second public hearing on September 10<sup>th</sup> at 6:30 PM in  
48 Town Center and was seconded by Ms. Lord and the motion carried 3-0.  
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**Adjourn**

Motion by Ms. Heston to adjourn the meeting at 10:40 p.m. Seconded by Ms. Lord. So voted.