

Town of Richmond
Planning Commission Meeting
AGENDA

Wednesday, September 15th, 2021, 7:00 PM
Richmond Town Offices, Third Floor Meeting Room
203 Bridge St., Richmond, VT 05477

This meeting is also accessible via Zoom:

Join Zoom Meeting: <https://us02web.zoom.us/j/83503119719>

Meeting ID: 835 0311 9719

Join by phone: (929) 205-6099

For additional information and accommodations to improve the accessibility of this meeting, please contact Ravi Venkataraman at 802-434-2430 or at rvenkataraman@richmondvt.gov.

1. Welcome, sign in and troubleshooting
2. Public Comment for non-agenda items
3. Adjustments to the Agenda
4. Approval of Minutes
 - September 1, 2021
5. Discussion on Powered Vehicle Service, Powered Machinery Service, and Vehicle Fueling Stations uses
6. Discussion on Nonconforming Uses and Structures
7. Discussion on October 6th Meeting Agenda
8. Other Business, Correspondence, and Adjournment

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5. Discussion on Vehicle Fueling Stations, Powered Vehicle Service, and Powered Machinery Service uses

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- Page 11: Draft language for Powered Vehicles and/or Machinery Service
- On Standalone Documents
 - "CurrentZoningMap-Exit11.pdf"
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6. Discussion on Nonconforming Uses and Structures

- Page 13: Draft language for Nonconforming Uses and Structures

8. Other Business, Correspondence, and Adjournment

- Page 20: Williams Hill Road - Recommendations from the Planning Commission to the Selectboard

Richmond Planning Commission
REGULAR MEETING MINUTES FOR August 18, 2021

Members Present:	Lisa Miller, Dan Mullen, Chris Cole, Virginia Clarke, Jake Kornfeld, Mark Fausel, Joy Reap, Chris Granda, Alison Anand,
Members Absent:	
Others Present:	Ravi Venkataraman (Town Planner/Staff), Lauck Parke, Stephanie Rogers, Jim Monahan, Wright Preston, Tyler Merritt, Linda Donovan, Bill Donovan, Tom Frawley, Huseyin Sevincgil MMCTV

1. Welcome and troubleshooting

Virginia Clarke called the meeting to order at 7:05 pm.

2. Public Comment for non-agenda items

None

3. Adjustments to the Agenda

None

4. Approval of Minutes

Motion by Chris Cole seconded by Mark Fausel, to approve the August 18, 2021 Planning Commission meeting minutes.

Clarke asked the commission members if they had any items to discuss. Fausel noted that regarding discussions about vehicle repair and small engine repair, he had offered suggestions for zoning districts that would not allow both aforementioned uses and the minutes state that no suggestion was offered. Fausel said that he suggested allowing small engine repair in the upper block and the Residential/Commercial District. Clarke noted that on page 4, on the fourth line from the bottom, the word "that" should be "than".

Voting: 7-0 (Chris Granda and Joy Reap abstained). Motion carried.

5. Discussion on Williams Hill Road

Clarke said that the intent of today's discussion on this topic is for Planning Commission members to decide if the commission should provide testimony at the hearing, and what testimony the commission would like to offer. Clarke provided a summary of the issue under discussion. Clarke also said that the commission should hear from Wright Preston, who is in attendance and has experienced the process of reclassification and discontinuance of public

roads with Snipe Ireland Road.

Fausel said that he would like the commission to be present at the hearing, and offer testimony. Fausel said that he would like the town to retain Williams Hill Road as a Class IV road as a minimum, and would ideally like the town to reclassify the section of Williams Hill Road as a Legal Trail, as long as this would not forego the town to be able to reclassify the trail as a Class IV or higher road in the future. Clarke explained that Legal Trails can be reclassified as a road, akin to the reclassification of Class IV roads to a higher class roads. Alison Anand said that she was in agreement with Fausel's perspective and had questions about the surveys of the adjacent properties, based on survey methods employed in the past. Lisa Miller said she would support the retaining of the road because of the public good it provides the town and would support the establishment of a Legal Trail.

Granda asked about the jurisdiction of the Planning Commission on this matter if the matter is to be decided by the Selectboard. Clarke said that the Planning Commission as the body that addresses planning issues for the town would be able to offer a recommendation to the Selectboard based on the language in the Town Plan. Venkataraman concurred that the commission would advise the Selectboard since the matter is a planning issue, and that any advice the commission provides should be derived from the Town Plan. Granda asked if the commission has already decided on whether it wanted to give testimony. Clarke said that this is being discussed currently. Granda said that he would advocate for individuals to provide testimony but that the role of the commission on this matter was unclear to him.

Dan Mullen said that based on the correspondences from the attorneys--Mark Sperry and John Kleisch--the town can have a legal trail without having to forfeit the right-of-way, and that he would recommend reclassifying the right-of-way to a legal trail because the legal trail would be minimally intrusive for the neighbors, could be a public benefit as a multi-use trail, and can be a way for the Town to retain a three-rod right-of-way. Mullen said that the commission should give an opinion because the Selectboard has solicited an opinion from the commission.

Cole said that the commission should provide an opinion to the Selectboard, and that the opinion should be based from the Town Plan. Cole said that the question the Selectboard has to address is whether to discontinue the Class IV portion of Williams Hill Road, that the commission should focus on the primary question at hand, and that the question regarding reclassifying the right-of-way as a Legal Trail comes after the primary question is addressed. Cole said that his opinion is that the Town should not discontinue the road because the Town should not give up assets without a good reason and he has not heard a good reason yet.

Clarke said that the Selectboard can decide during the hearing whether to reclassify the Class IV section of Williams Hill Road into a Legal Trail, and therefore the question regarding reclassification is within the scope of the hearing. Venkataraman said that per statute, the Planning Commission is provided notice prior to the hearing for the discontinuance and reclassification of roads with the intent for the commission to be able to provide input on the matter. Venkataraman said that the hearing for the William Hill Road matter is combined hearing regarding the discontinuance of the road and the reclassification of the road, so both items are within the scope of the hearing. Cole said that the reclassification of Williams Hill Road is a Selectboard decision, not a Planning Commission decision because it is not germane

to the commission. Granda concurred.

Reap said that the commission should attend the public hearing, that the road should not be thrown up, that she had concerns about retaining the right-of-way as a trail because it may restrict the ability to maintain the trail if vehicles aren't allowed on the Legal Trail, and concerns about reclassifying the potential trail into a road if the need arises. Fausel said that he finds that the commission has jurisdiction for both questions under consideration as the Town's planning body, and that he prefers retaining Williams Hill Road as a Class IV road in case of emergencies that the Town would need an alternative to access Hinesburg. Fausel said that encouraging the use of Williams Hill Road as a trail would aid in transitioning the nearby residents of possible future impacts.

Miller noted Josh Arneson's memo about how on Legal Trails, the Town can bar vehicular access, unlike Class IV roads. Clarke said that for Legal Trails the Town could establish an ordinance setting the rules on use of the trail.

Jake Kornfeld said that the commission should offer an opinion to the Selectboard, that the right-of-way should be retained as a Legal Trail, and that that decision is for the Selectboard to make.

Granda said that the commission's opinion should be rooted in the Town Plan. Mullen said that the Town Plan has language about expanding and maintaining trail access, and that the commission would be able to easily find that their opinion to retain Williams Hill Road as a Legal Trail has a basis in the Town Plan. Clarke referenced the community development, transportation, economic development, and natural resource sections of the Town Plan goals as basis for the commission's opinion.

Clarke asked Preston for his insights from past conversations about Snipe Ireland Road. Preston said that at that time he was dealing with ATV, motorcycle, and jeep traffic on Snipe Ireland Road across his property, that neither Richmond or Jericho had the obligation to maintain the Class IV road or Legal Trail, that he and his forester Mark Moltrou attempted to maintain the road and could not effectively, that he requested Jericho and Richmond to convert the Class IV road into a Legal Trail, and that the request was received well in both towns. Preston said that regard should be given to the existing wildlife communities and wildlife corridors in the decision making, that he had put together a natural resource study for Snipe Ireland Road to show the negative impacts of ATV, motorcycle and jeep traffic on the road. Preston said that he and the Towns crafted the ordinance together, and that the ordinance allows for abutters and power company to use the road. Preston recommended that the Town listen to the neighbors, to be mindful of the neighbors, and to go through the process slowly and thoroughly. Preston added that parking for trail use could become an issue.

Clarke said she would entertain a moment at this point of the discussion.

Motion by Cole to make the Planning Commission respond to the Selectboard's request to provide an advisory opinion on their hearing with the advisory opinion be that the Town does not discontinue the portion of Williams Hill Road under consideration. Seconded by Anand.

Mullen suggested amending the motion to add "to the extent the commission is asked to give an opinion on what to do with the road, the commission would like to reclassify the portion of Williams Hill Road into a Legal Trail."

Cole said he has no problem with reclassifying the right-of-way to a Legal Trail, does not think it is the commission's jurisdiction, and that the goals of the Town Plan to provide access to bicycles and pedestrians can be achieved with a Class IV road. Anand said she wanted to make sure the Town retains rights to the road. Cole said his motion is straightforward stating that the Town should retain the right-of-way and that Mullen's addition makes the recommendation to reclassify the Class IV road to a Legal Trail. Clarke clarified the reclassification process from a Legal Trail to Class IV road. Reap asked for Clarke's opinion and said that it didn't appear as though the commission reached a conclusion on the question of reclassification. Reap said that if the road were to become a Legal Trail, there should be a caveat to allow for vehicular access in emergency situations and maintenance. Clarke said that she would be in favor of reclassifying the road into a Legal Trail as it would give the Town more control over access restrictions compared to a Class IV road.

Cole proposed amending Mullen's proposed amendment with "should the Town decide to reclassify Williams Hill Road to a Legal Trail, the Planning Commission recommends allowing vehicular access to those maintaining the Legal Trail on the Town's behalf strictly for maintenance purposes". Mullen said he is fine with this amendment, and that granting vehicular access permits could be an option. Anand concurred.

Fausel highlighted the value of having a Class IV road in case of emergencies at the Town's disposal, and that one can put a trail on a Class IV road but not a road on a Legal Trail. Cole clarified that the key difference between Class IV roads and Legal Trails is the restrictions Towns can place for vehicular access, that Towns cannot bar vehicle access on Class IV road but can on a Legal Trail.

Kornfeld asked for how this matter came about in the first place. Fausel said that the idea of putting in place a trail was presented to the Selectboard by the Trails Committee, and the abutting property owners filed a petition to discontinue the road. Kornfeld said that reclassifying the road to a Legal Trail and encourage increased trail usage would not address the neighbor's concerns or address the issue at hand, and that retaining the right-of-way as a Class IV road would offer more flexibility at this point. Anand said that the discussion on reclassification is extraneous at the moment.

Reap asked for the motion to be repeated. Venkataraman paraphrased the initial motion and first amendment to the motion, and deferred to Cole to clarify the motion.

Cole said that tackling each issue one motion at a time would be best at this point. Clarke asked Cole to restate his first motion.

Cole said the initial motion was "to have the Planning Commission advise the Selectboard not to discontinue the Class IV right-of-way on Williams Hill Road." Anand said she still supported this motion

Voting: 8-0 (Granda abstained). Motion carried.

Clarke asked for motions for further advice.

Motion by Mullen that if the commission is asked by the Selectboard for advice about the reclassification question, the commission recommends the reclassification of the portion of Williams Hill Road under consideration into a Legal Trail with maintaining the three-rod right-of-way. Seconded by Miller.

Cole asked Mullen if maintaining the right-of-way means that the Town expends money on maintaining the right-of-way. Mullen said no, that the intent is to retain the width of the right-of-way and not narrow the right-of-way to the width of the trail, referencing the email from the Town Attorney. Reap clarified that the motion is only for if the commission is asked for their opinion about the reclassification, and said that she would like verbiage about allowing motorized vehicles on the trail for maintenance purposes. Kornfeld said that he would be fine with this motion but does not understand the benefits of reclassifying the right-of-way, and the role of the commission on this question. Clarke asked Kornfeld if he would be in support of a motion to recommend establishing a trail. Kornfeld said that he would prefer the motion to be straightforward, pertaining only to the first question.

Clarke restated the motion: "if the commission is asked by the Selectboard for advice about the reclassification question, the commission recommends the reclassification of the portion of Williams Hill Road under consideration into a Legal Trail that will retain the three-rod right-of-way and would allow for the ability for motorized vehicles to apply for a permit for trail maintenance and emergency purposes".

Voting: 4-5. Motion failed.

Clarke asked for additional motions. Venkataraman asked how the commission will be transmitting information to the Selectboard, and recommended that the commission appoint a designee. Clarke said that she will provide the testimony as the chair and provide written comments.

Motion by Cole for the commission to support the use of a trail on the Class IV road. Fausel seconded. Miller asked if the minutes will be provided to the Selectboard. Clarke said that the meeting is being recorded. Clarke asked Cole to restate the motion. Cole said that maintaining a trail on a Class IV road would be consistent with the Town Plan. Clarke asked for clarification on Cole's motion.

Cole revised the motion to: Motion to acknowledge that a trail on a Class IV right-of-way would be consistent with the Town Plan. Seconded by Fausel.

Clarke asked for clarification on whether the term "Class IV" is necessary for the motion if the intent is to give the Selectboard leeway in its decision. Cole said that the motion as-is stands.

Voting: 7-0. Motion carried.

Clarke said that she will prepare written remarks and will attend the public hearing. Cole requested the written comments be distributed once it's prepared.

6. Discussion on Vehicle Fueling Stations, Powered Vehicle Service, and Powered Machinery Service uses

Clarke provided an overview of the topic, an overview of recent changes to the draft language, and said that the discussion today should address the EV charging requirements. Anand asked if two EV chargers should be required instead of one EV charger. Granda said that usually multiple DC fast chargers are installed to capitalize on economies of scale but the equipment are generally expensive at the moment, and said that the current proposed requirement for one EV charger was a reasonable first step. Fausel supported requiring a second DC fast charger, and recommended including in the definition "see 'DC Fast Charger' definition" in parentheses. Clarke recommended adding "vehicle" before "DC Fast Charger".

Tom Frawley recommended: removing the listing of fuels and including language that deferred to the state so that the definition is kept up-to-date; allowing six vehicle fueling islands to serve up to 12 vehicles at a time; and removing the DC fast charger requirement due to potential impacts on the utility and the lack of widespread use of electric vehicles currently. Frawley said that he is installing two DC fast chargers in a location in White River Junction. Clarke asked for clarification regarding the term "pumping islands". Frawley said that they are proposing three islands, six fueling dispensers serving up to 12 vehicles. Fausel asked for clarification on the previous proposed plan regarding fueling islands. Huseyin Sevincgil presented the previously presented site plans to the commission, clarifying that an "island" in industry terms is a fueling dispenser nowadays and that in the past a fueling island used to be one long island with two fueling dispensers.

Cole asked Sevincgil if this proposed plan is the modified plan. Sevincgil confirmed that it was, that it was based on feedback from the commission and Venkataraman and that they may be able to tie into municipal sewer.

Cole asked Frawley why he was installing DC fast chargers at White River Junction. Frawley said it was to accommodate tourism-based traffic and to adapt for future traffic. Cole asked why Frawley did not want to install DC fast-chargers in Richmond. Frawley clarified that they are planning to install three DC fast chargers in Richmond. Cole asked when the DC fast chargers would be built. Frawley said that the DC fast chargers would be part of the initial build. Clarke asked if Frawley would be in compliance with the proposed regulation but objecting to the principle of the regulation. Frawley affirmed.

Clarke cited the Global Warming Solutions Act goal of having 25 percent of the vehicle fleet to be electric by 2035.

Miller asked if the chargers would be operational when the project is developed and if the utility company has given permission. Frawley affirmed and said that they have not engaged with the utility yet.

Fausel asked about how Frawley intends to add two additional fueling islands. Frawley said

that congestion would be relieved with the addition of two islands and that they would be building on top of the existing septic tank. Fausel asked the commission about why it decided on four island instead of six islands. Clarke said that the conversation at the time had to do with scale. Fausel asked Frawley how many islands were at the Randolph station. Frawley said five islands, but that they are layed out in an unstacked manner underneath a long canopy. Clarke asked how many cars can be served at one time at the Randolph station. Frawley said ten.

Fausel had concerns about the potential impacts of potential six-island gas stations that could have the same size and massing as the Randolph station.

Frawley explained that with the configuration of islands, by having unstacked islands set in a straight line, the traffic circulation improves, and that by having stacked islands, circulation is constrained by vehicles using fuel dispensers, and therefore, he would be able to serve the same amount of vehicles in a stacked configuration of islands with less islands in an unstacked configuration.

Fausel asked if there was a way to allow for Frawley's proposal for six islands without allowing for another gas station with a larger building mass. Cole suggested language that would allow for six stacked islands. Clarke suggested a maximum area for the canopy. Sevincgil had reservations about placing restrictions based on area. Venkataraman said that the easiest method he could think of would be to require stacked parking for vehicle fueling.

Fausel asked Bill and Linda Donovan for comments. Bill Donovan said that the direction of the industry is toward unstacked islands because it allows for easier circulation. Bill Donovan also said that regulating square footage wouldn't help if the commission is trying to prevent large massing. Frawley said that providing four unstacked dispensers would be as efficient as six stacked dispensers. Fausel suggested regulating the number of cars serviced per hour or vehicle trip ends. Frawley said that gauging traffic would vary based on location and price point.

Clarke concluded the discussion, noting that conversations will be ongoing

7. Other Business, Correspondence, and Adjournment

Clarke asked the commission to review the other proposed definitions, and nonconforming uses and structures for the next meeting.

Motion by Cole, seconded by Miller to adjourn the meeting. Voting: unanimous. Motion carried. The meeting adjourned at 9:13 pm.

Respectfully submitted by Ravi Venkataraman, Town Planner

Powered Vehicles / Machinery / Equipment definitions 9.15.21

Powered Vehicle and/or Machinery Service: A commercial establishment, including land and buildings, for which the principal use is the repair and maintenance of powered vehicles and/or machinery. Accessory uses include rebuilding, reconditioning and body shop work; the sale and installation of parts and accessories, and the sale or leasing of no more than 4 vehicles at any one time.

(This definition replaces part of the ~~Automobile Service Station and Repair, Garage~~)

Notes:

- **Powered Vehicle/Machinery Service** would apply to all powered vehicles (travel vehicles and equipment vehicles) and machinery. I think this is much a much simpler version, and the “no more than 4” limit gets at the fact that we don’t want outside storage of lots of vehicles in places where we might be ok with a repair facility. “More than 4” would be covered in the other two definitions listed here.

I understand “powered travel vehicle” to mean any vehicle whose primary function is to move people from here to there. This would include cars, pick-up trucks, passenger vans, RV’s, ATV’s, snowmobiles, motorcycles etc. This would NOT include bicycles (non-powered) or farming, construction, landscaping vehicles or any other equipment which has another primary function besides travel – These would be included (below) in the current RZR definition “Equipment Supply and Rental”

The chain saw repair businesses that I can think of are all home occupations, which would not be affected by these definitions. The repair garage as a business use is currently only in commercial districts, and we could keep this the same.

- Locations:

Powered Vehicle/Equipment repair/servicing – C, I/C (outdoor storage allowed)

- VC (with outdoor storage limited to 4 or less)

Vehicle Fueling Station Draft Regulations 9/15/21

4.14 Vehicle Fueling Stations - All Vehicle Fueling Station uses must adhere to the following requirements and standards:

4.14.1. Vehicle Fueling Stations may have up to four pumping islands, allowing up to eight vehicles to receive liquid or gaseous fuels at one time.

4.14.2. All Vehicle Fueling Station uses shall have at least one DC Fast Charger electric vehicle charging station with a Society of Automotive Engineers (SAE) Combo (also called CCS for “Combo Charging System”) connector for public use.

4.14.3. Vehicle Fueling Station uses are subject to the Exterior Lighting standards under Section 4.11.

4.14.4. No more than one fueling canopy is allowed on site, and square footage of the fueling canopy shall be no more than 3,000 square feet.

4.14.5. Customary accessory uses for Vehicle Fueling Stations include the retail sales of vehicle accessories, food and beverages prepared for off-premises consumption, and other convenience store items.

Possible Locations

Vehicle fueling station-- C, I/C (no outdoor storage) (****Let’s take the area of the Mobil Station out of G and put it into I/C****))

Definitions:

Vehicle Fueling Station -- Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of liquid or gaseous vehicular fuels including gasoline, diesel, kerosene, ethanol, ammonia, methane (including natural gas), propane, or hydrogen, **in addition to the retail dispensing of electric vehicle charge.** ~~The free or retail dispensing of electric vehicle charge where liquid or gaseous fuel is not being dispensed, such as within approved on-street or off-street parking spaces, or incidental to the use to a structure;~~ Accessory Electric Vehicle Charging Station structures shall not constitute a Vehicle Fueling Station.-

Vehicle Fueling Station replaces: ~~**Automobile Service Station**—Any building, land area or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles and light trucks; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories. This definition does not include any other uses, such as restaurants, deli’s, car washes, etc. which may only be allowed under separate review and approval under these Zoning Regulations.~~

Accessory Electric Vehicle Charging Station - Accessory structures for a residential or commercial use utilized for the free or retail dispensing of electric vehicle charge within approved on-street or off-street parking spaces

DC Fast Charger – a battery charger designed for use with commonly available electric vehicles that are capable of receiving direct current (DC) electricity. The DC Fast Charger will comply with Society of Automotive Engineers (SAE) standard J1772 and Underwriters Laboratory standard 2251 and will be rated at a minimum of 50 kilowatts electric power output.

Setback - The distance from a Lot Line or, if applicable, the center line of the Road or Highway right of way, to the edge of any structure on the Lot, including the building footprint, edge of deck, cantilevered areas, but not including the roof overhang. However, the setback provisions of these Zoning Regulations do not apply to fences, **accessory electric vehicle charging stations** or signs outside of a road right-of-way, except where specifically provided.

Structure - An assembly of materials for occupancy or use, including, but not limited to, a building, mobile home or trailer, sign, wall or fence, ~~except a wall or fence on an operating farm~~. The term Structure also includes liquid and gas storage tanks that are principally above ground. Unless otherwise specifically provided, (1) the term Structure does not include parking areas and driveways, (2) for purposes of determining setbacks, the term Structure does not include fences **and accessory electric vehicle charging stations**, except where specifically provided, and (3) for the determination of setbacks, septic systems shall not be considered structures and the setbacks shall be dictated by state law. See also Mobile Home, Recreational Vehicle.

5.10 Requirements for Specific Structures

5.10.1 Accessory Structure - An accessory structure includes any structure that is customarily incidental and subordinate to the principal structure or use on a lot, including but not limited to, fences, walls, barns, sheds, greenhouses, gazebos, patios, **accessory electric vehicle charging stations**, and free-standing garages. Accessory structures ~~(except for non-structural fences and walls which mark property boundaries, or enclose portions of the property, and are less than 6 feet high; as well as accessory electric vehicle charging stations)~~ shall conform to the setbacks established in the applicable Zoning District, unless a greater setback is required by these Zoning Regulations.

4.7 Nonconforming Structures

~~4.7 Nonconforming Structures~~

~~The following shall apply to all nonconforming structures, except for those within the Flood Hazard Overlay District, which also must comply with the provisions of Section 6.8 of these regulations:~~

- ~~a) May undergo normal repair and maintenance without a permit if such action does not increase the structure's degree of nonconformity~~
- ~~b) May be restored or reconstructed after damage to its prior condition from any cause provided that the reconstruction does not increase the degree of nonconformity that existed prior to the damage, and provided that a zoning permit is obtained within 12 months of the date the damage occurred.~~

~~A Nonconforming structure may be replaced or restored after damage or destruction by fire or other casualty, and expansion may be permitted as long as the noncompliance of any aspect of the structure is not increased; provided, however, that such replacement or restoration shall be substantially complete within 365 days of the date of the damage or destruction. The DRB may permit such extensions of the 365-day time period as may be equitable, if the lot owner is prevented from commencing or substantially completing construction due to circumstances beyond the lot owner's control. A damaged or destroyed Nonconforming structure which is not substantially replaced or restored in compliance with this section shall not thereafter be used and shall be removed.~~

~~4.8 Setback Modifications~~

~~**Purpose**—Richmond contains a large number of buildings that were built prior to the enactment of Richmond's Zoning Regulations and do not conform to setback and/or lot coverage requirements. Current zoning may prohibit even small increases in these buildings due to the restrictions on setbacks and lot coverage. Small increases in the size of these buildings may, in appropriate cases, be beneficial to landowners without adversely affecting neighbors or the interests protected by Richmond's Zoning Regulations. It is the purpose of this section to allow for such increases subject to conditional use review under Section 5.6, as needed to authorize the modification or waiver of district front, side and rear yard setback and lot coverage requirements in accordance with the Act [§4414(8)].~~

~~**4.8.1 Applicability**—The DRB may issue conditional use approval for the expansion of any nonconforming structure substantially completed prior to April 1, 1969 (an "existing building"). If lawful additions were made to any existing building after April 1, 1969, the term "existing building" shall include the original building and such additions. The conditional use approval~~

may allow expansion of an existing building to occur no closer than five (5) feet to any lot line or edge of a public or private right of way and increases in lot coverage as a result of the expansion by no more than 10% of the total ground area of the lot. (For example, if the lot is 8,000 square feet, conditional use approval could allow an increase of 800 square feet in lot coverage.)

4.8.2 Selectboard Notification – The Administrative Officer shall notify the Selectboard of applications to modify setbacks that are adjacent to land owned by the Town and Town rights-of-way whether held as a right of way or fee title, at the same time such application is referred to the DRB.

4.8.3 Review Criteria – Prior to issuing conditional use approval for the waiver or modification of setback and coverage requirements, the DRB must find that the proposed expansion:

- a) is in compliance with conditional use criteria of these Zoning Regulations, including the general standards, specific standards and performance standards outlined under Section 5.6, and with state law, and
- b) the structure must be found to be otherwise in compliance with these Zoning Regulations.

4.8.4 Conditions of Approval – The DRB may require design modifications, screening or other conditions to mitigate Undue Adverse Effects to adjoining properties or public rights-of-way.

4.9 Nonconforming Uses

A Nonconforming Use may continue to exist, subject to the following:

A Nonconforming Use shall not be changed to other than a permitted use. Any Nonconforming Use that ceases for 365 consecutive days shall not be permitted to resume, and intent to abandon the use shall be conclusively presumed for such non-use unless it qualifies under the “Adaptive Use” section (5.6.8) of these Zoning Regulations. If it can be shown that the usage has traditionally been intermittent, the historical rate will be used to assess abandonment and continued use.

Any increase or expansion of a Nonconforming Use may occur only after DRB approval. The DRB may approve increases in nonconforming uses that involve an increase of 25% or less in physical characteristics such as, but not limited to, square footage or traffic flow, after Conditional Use Review.

4.7.1 The regulations under this section does not construe or imply the permitting of the use of a structure declared unsafe by an appropriate governmental authority or the continuation of an establishment declared to be health hazard by an appropriate governmental authority.

4.7.2. Nonconforming structures may continue to exist unchanged indefinitely.

4.7.3. Nonconforming structures within the Flood Hazard Overlay District will also be subject to the regulations of Section 6.8.

4.7.4. Nonconforming structures may undergo normal repair and maintenance without a zoning permit provided that the structure's degree of nonconformity is not increased.

4.7.5. The Administrative Officer may approve the replacement, restoration, or reconstruction of a nonconforming structure after damage or destruction by fire, flood, collapse, explosion, or other similar casualty to its prior condition provided that:

- a) the reconstruction does not increase the degree of nonconformity that existed prior to the damage; and
- b) a zoning permit is obtained within 12 months of the date the damage occurred.

4.7.6. The Administrative Officer may approve the replacement, restoration, reconstruction, and expansion of a nonconforming structure for reasons other than damage or destruction provided that the structure's degree of nonconformity is not increased.

4.7.7. The Administrative Officer may approve the relocation of a nonconforming structure on the same property provided that the change in location of the structure does not increase the structure's degree of nonconformity.

4.7.8. The Development Review Board may grant Conditional Use Review approval to allow a nonconforming structure to extend, or further extend, into a buffer thus increasing its degree of nonconformity provided that the following conditions are met:

1. No part of the structure or any other impermeable surface will extend into the buffer further than one half (1/2) the required width of the buffer.
2. The need and justification for the buffer distance reduction must be provided in writing with the Conditional Use Review application.
3. The Development Review Board must find that the buffer reduction would not pose any adverse effects to adjacent properties, roads or rights-of-way.
4. The Development Review Board must find that, overall, the proposed land development, even with the proposed buffer reduction, will improve the quality and function of the natural resource that the buffer protects.

4.7.9 Any nonconforming structure shall be deemed discontinued by the Administrative Officer and may no longer be reoccupied if within a continuous period of 12 months any two of the following conditions occur:

1. The structure is unoccupied and not actively offered for sale or rent;
2. Regular maintenance of the structure is not performed; and

3. The structure is not served by activated utilities.

4.7.10. For the purpose of section 4.7, the phrase “degree of nonconformity” shall mean:

1. the square footage that the nonconforming structure’s footprint occupies within a required setback, or,
2. the square footage that the nonconforming structure’s footprint or any associated impervious surface occupies within a buffer, or,
3. the square footage by which the nonconforming structure exceeds any other required dimensional standard.

4.8 Nonconforming Uses

4.8.1 A non-conforming use may be continued indefinitely provided it remains unchanged.

4.8.2 The structure hosting a nonconforming use may undergo normal repair and maintenance without a zoning permit provided that it does not increase the degree of nonconformity of the use.

4.8.3. The Administrative Officer may approve the replacement, restoration, or reconstruction of a structure hosting a nonconforming use after damage or destruction by fire, flood, explosion, collapse, or other similar casualty to its prior condition provided that:

1. the reconstruction does not increase the degree of nonconformity of the use; and
2. a zoning permit is obtained within 12 months of the date the damage or destruction occurred; and
3. all other requirements of the zoning district in which the structure hosting+ the use is located are met.

4.8.4 A nonconforming non-residential use that ceases for 12 or more months shall be deemed discontinued by the Zoning Officer and shall not be permitted to resume. A residential use may be resumed within a legal, vacant structure at any time.

Definitions:

Setback - The distance from a Lot Line or, if applicable, the center line of an adjacent road the Road or Highway right of way, to the edge of any structure or building footprint on the lot, including the building footprint, edge of deck, cantilevered areas, but not including the roof overhang. However, the setback provisions of these Zoning Regulations do not apply to excluding fences or signs outside of a road right-of-way, except where specifically provided.

Buffer - ~~Undisturbed~~ a measured zone of naturally occurring vegetation between a natural resource--including but not limited to a wetland, river, stream pond or lake--and the edge of any

structure or impervious surface on the lot that protects the ecological functions of a natural resource and minimizes the impacts of adjacent land development and sources of pollution ~~which may be initially created and planted for screening or environmental purposes.~~

Impervious Surface - An area of ground which significantly restricts or prevents penetration of water, including such as but not limited to buildings, rooftops, pavement, paving stones and compacted gravel or dirt asphalt paving and concrete surfaces but not including a gravel or grassed surface.

Clean Revision

4.7 Nonconforming Structures

4.7.1 The regulations under this section does not construe or imply the permitting of the use of a structure declared unsafe by an appropriate governmental authority or the continuation of an establishment declared to be health hazard by an appropriate governmental authority.

4.7.2. Nonconforming structures may continue to exist unchanged indefinitely.

4.7.3. Nonconforming structures within the Flood Hazard Overlay District will also be subject to the regulations of Section 6.8.

4.7.4. Nonconforming structures may undergo normal repair and maintenance without a zoning permit provided that the structure's degree of nonconformity is not increased.

4.7.5. The Administrative Officer may approve the replacement, restoration, or reconstruction of a nonconforming structure after damage or destruction by fire, flood, collapse, explosion, or other similar casualty to its prior condition provided that:

- a) the reconstruction does not increase the degree of nonconformity that existed prior to the damage; and
- b) a zoning permit is obtained within 12 months of the date the damage occurred.

4.7.6. The Administrative Officer may approve the replacement, restoration, reconstruction, and expansion of a nonconforming structure for reasons other than damage or destruction provided that the structure's degree of nonconformity is not increased.

4.7.7. The Administrative Officer may approve the relocation of a nonconforming structure on the same property provided that the change in location of the structure does not increase the structure's degree of nonconformity.

4.7.8. The Development Review Board may grant Conditional Use Review approval to allow a nonconforming structure to extend, or further extend, into a buffer thus increasing its degree of nonconformity provided that the following conditions are met:

5. No part of the structure or any other impermeable surface will extend into the buffer further than one half (1/2) the required width of the buffer.
6. The need and justification for the buffer distance reduction must be provided in writing with the Conditional Use Review application.
7. The Development Review Board must find that the buffer reduction would not pose any adverse effects to adjacent properties, roads or rights-of-way.
8. The Development Review Board must find that, overall, the proposed land development, even with the proposed buffer reduction, will improve the quality and function of the natural resource that the buffer protects.

4.7.9 Any nonconforming structure shall be deemed discontinued by the Administrative Officer and may no longer be reoccupied if within a continuous period of 12 months any two of the following conditions occur:

1. The structure is unoccupied and not actively offered for sale or rent;
2. Regular maintenance of the structure is not performed; and
3. The structure is not served by activated utilities.

4.7.10. For the purpose of section 4.7, the phrase “degree of nonconformity” shall mean:

1. the square footage that the nonconforming structure’s footprint occupies within a required setback, or,
2. the square footage that the nonconforming structure’s footprint or any associated impervious surface occupies within a buffer, or,
3. the square footage by which the nonconforming structure exceeds any other required dimensional standard.

4.8 Nonconforming Uses

4.8.1 A non-conforming use may be continued indefinitely provided it remains unchanged.

4.8.2 The structure hosting a nonconforming use may undergo normal repair and maintenance without a zoning permit provided that it does not increase the degree of nonconformity of the use.

4.8.3. The Administrative Officer may approve the replacement, restoration, or reconstruction of a structure hosting a nonconforming use after damage or destruction by fire, flood, explosion, collapse, or other similar casualty to its prior condition provided that:

1. the reconstruction does not increase the degree of nonconformity of the use; and
2. a zoning permit is obtained within 12 months of the date the damage or destruction occurred; and

3. all other requirements of the zoning district in which the structure hosting+ the use is located are met.

4.8.4 A nonconforming non-residential use that ceases for 12 or more months shall be deemed discontinued by the Zoning Officer and shall not be permitted to resume. A residential use may be resumed within a legal, vacant structure at any time.

Definitions:

Setback – the distance from a lot line or, if applicable, from the center line of an adjacent road, to the edge of any structure or building footprint on the lot, excluding fences and signs.

Buffer -- a measured zone of naturally occurring vegetation between a natural resource-- including but not limited to a wetland, river, stream, pond or lake-- and the edge of any structure or impervious surface on the lot that protects the ecological functions of a natural resource and minimizes the impacts of adjacent land development and sources of pollution.

Impervious surface – an area of ground which significantly restricts or prevents the penetration of water, including but not limited to buildings, rooftops, pavement, paving stones and compacted gravel or dirt.

Williams Hill Rd – Recommendations from the Planning Commission to the Selectboard
9.10.21

To the Richmond Selectboard:

The Richmond Planning Commission offers the following testimony in the matter of the discontinuance of the Class 4 road from the end of the traveled portion of Williams Hill Road southward to the vicinity of Palmer Road:

1. The Planning Commission supports the retention of this 0.7 mile section of Williams Hill Road as a Class 4 road.

The commission concluded that retaining this section of Williams Hill Road supports the following 2018 Town Plan goals and actions:

- Ensure that Richmond residents can meet basic needs and access affordable goods and services, including in times of emergency, as well as support or provide further services for residents when possible
- Increase resilience of town infrastructure to be able to withstand a variety of hazards and disasters

Furthermore, retaining the ROW in the location of this Class 4 road best serves the Town of Richmond's interests. In terms of planning practice, keeping the right-of-way would enable the town and its residents to utilize the right-of-way in case of unforeseen circumstances, such as road closures on Hinesburg Road. By retaining the right-of way, the Town would also be able to flexibly plan for growth (should the need arise in the future) as a network of collector roads improves traffic circulation between destinations.

2. Additionally, creating and maintaining a trail over this Class 4 road is consistent with the Richmond Town Plan and its goals.

The Planning Commission cites the following 2018 Town Plan goals and actions:

- Decrease the amount of fossil fuels used for transportation by the town government, residents and businesses in Richmond through conservation and improved efficiency.
 - Encourage walking and the use of bicycles and facilitating the substitution of electricity and renewable fuels for fossil fuels.
- Maintain a "Complete Streets" policy that encourages multi-modal transportation options such as walking and biking in addition to vehicle traffic
- Support interconnectivity of trails and connectivity of trails with destinations such as the market or park and ride in order to provide non-motorized means of travel
- Support and create outdoor recreation opportunities that are available to the public.

The Planning Commission's conclusions on the matter are based upon the following materials: a summary of events, petitions and proposals leading up to this hearing; information provided by the Town Manager, Town Planner and various attorneys; information concerning the disposition of other Class 4 roads in Richmond; and, above all, the Richmond Town Plan.

Please do not hesitate to contact me on behalf of the Planning Commission if you have any questions.

Respectfully submitted,
Virginia Clarke
Chair Richmond Planning Commission