Richmond Development Review Board

REGULAR Meeting

UNAPPROVED MINUTES FOR September 13, 2017 MEETING

Members Present: Roger Pedersen; David Sunshine (Chair); Matt Dyer; Gabriel Firman

Members Absent: Ian Bender; Alison Anand

Others Present: Stephen Heney, Mark Klonicke, Ed Adams, Stephen Diglio, Michael Gannon, Tara Smith, Daren Smith, Judy Rosovsky, K. Mullin, Joe Calevro, Paul Fabiani, Cherie Fabiani, Chris Hafferty, Lars Whitman, Kathy Sikora, Greg Smith, Christy Witters, Suzanne Mantegna (ZA/Staff); Geoffrey Urbanik (Town Manager); Ruth Miller for MMCTV Comcast 15;

David Sunshine opened the meetings at 7:05pm and requested participants sign in and provided an overview of what an interested party is and stated the procedures for the meeting.

Public Hearings:

**Sarah & Michael Hudson** – Application # 17-053 for a Final Subdivision Review for a 2-lot subdivision (creation of 1 new lot) at Parcel ID # HU2452, located at 2452 Huntington Road, Richmond, located within the Agricultural/Residential Zoning District.

Steve Diglio, KAS Construction, sworn in as representative for Hudson’s. No changes to plan. Chris Haggarety from Button Surveying researched title. Title is not completely cleared up yet. Need signature from one landowner. Mr. Diglio, handed out update on title and revised driveway agreement- third iteration. David Sunshine spoke to inability of board to read subject matter handed out at meeting. Pedersen questioned how diagonal property line question will be removed. Mr. Diglio replied through a confirmatory deed. Mr. Pedersen questioned about title insurance. Chris Haggerty, Button Surveyors, spoke about previous surveys done on property. Title chain speaks to lack of covenants. Joe Calevro, abutting neighbor, had question about letter receive about overshadowing of septic field. Mr.Diglio spoke to how wells or septic system are overshadowing properties or being overshadowed by Hudson property. No legal recourse, but required to provide information to neighbors. Required since 2007. Judy Rosovsky, potential purchaser of property, wants to understand overshadowing as well and process of removing diagonal line. K. Mullin, potential purchaser, wondered how the overshadowing would affect barn. Mr. Diglio answered would not affect barn. Mr. Sunshine questioned lack of building envelope on Lot 2. Mr. Diglio responded all setbacks for the Agricultural Residential District are shown.

*Motion by Dyer to close the hearing and move into deliberative session, seconded by Firman and Pedersen,, all in favor. So voted.*

**Tara & Daren Smith, Paul & Cherie Fabiani**- Application # 17-096 for an appeal of approved permit (Permit # 17-083) for Stephen & Jennifer Heney. Permit # 17-083 was for a 160 linear foot fence to be constructed at Parcel ID# OR0117, located at 117 Orchard Lane, Richmond within the Agricultural/Residential Zoning District.

Michael Gannon, lawyer for Smith, Paul & Cherie Fabiani and Daren & Tara Smith sworn in. The Smith’s,

residence is at 95 Orchard Lane, and they have owned property easterly of 117 Orchard Lane for 15+ years.

They have always understood their property line with the Heneys to be 8-10’westerly of the line shown of the

Sketch provided by Button Surveyors to Heneys, where rebar found of unknown origin or significance.

The Fabianis have live at 102 Orchard Lane for over 20 years and spoke about historic understanding of line

between properties. Mr. Gannon speaks about the lack of an official survey, since what was originally given

to ZA was a Sketch. Chair questions the difference. Chris Haggerty, Button Surveyors, explains difference

is mostly size and other minor items. However an official survey was provided at the meeting that conforms to

size. Lawyer gave information regarding civil action to claim adverse possession by The Smiths. The Smiths

are appealing ZA decision to issue permit and take issue with the notification requirements for permits and

quick turnaround time of request by ZA. The Smiths request variance from permit from DRB. Chair questions

where is Smiths’ survey to support their claim. Smiths do not have completed survey yet but have contacted

surveyor. Chair explains that DRB must determine if ZA made the correct decision or not in issuing permit for

fence.

The Heney’s lawyer, William Heney- permit applicant’s brother, spoke about differences between what Smiths

Presented and what is believed by The Heneys. Lawyer speaks to Mr. Heney obtaining a permit and how he

met all requirements of regulations.

Chris Haggerty speaks about historic surveys conducted 50 years ago in 1968 and in 1996.

ZA speaks about process of permitting in Town and what is required to obtain permit and warn neighbors. ZA

speaks to how unaware of neighbor issue until after permit received and talked to Mr. Heney to request

withdrawal. However permit requirements were met and ZA compelled to issue approved permit.

The Smith’s lawyer want DRB to delay permit. The Heney’s lawyer wants permit approved and Smith’s to file

claim in court.

Pedersen questions surveyor why is rebar there. Surveyor asked by D. Smith does line between properties look

like property line. Surveyor responds looks like line of possession.

C. Fabiani speaks of confrontation between herself and J. Heney.

*Motion by Dyer to close the hearing and enter into deliberate session, seconded by Pedersen, all in favor. So voted.*

**Gabriel Firman**- Application # 17-095 for an appeal of a denied permit (Permit # 17-062) for an awning at Parcel ID# BR0030, located at 30 Bridge Street, Richmond, within the Village Commercial Zoning District. Parcel is owned by Richmond-Bender LLC.

Gabriel Firman recused himself from the board, and represented himself as appellant. Mr. Sunshine introduced the issue and swore in Mr. Firman. Mr. Firman explained he was appealing decision, and asked why the Manager was sitting in. Mr. Sunshine explained he was playing clerk to avoid a conflict of interest.

Mr. Firman spoke of a conversation he had prior to Ms. Mantegna’s hire regarding the installation of his awning. He explained the extensive remodeling of his business, and asked the Town Planner about an awning. No reference to awnings in regs, as is pointed out in Ms. Mantegna’s memo. What he did, was replace an existing awning that was there prior to his occupancy of the property. He felt he was replacing the awning that was there but no longer serving its purpose. Felt ZA was overstepping bounds, and definition from ZA was incorrect, according to his independent research. Mr. Sunshine asked Mr. Firman to define an awning, which he did via the Merriam Webster and Oxford definition of awning. Strangely these didn’t exactly match the structure installed by Mr. Firman. Mr. Firman explained why he didn’t feel that he needed a permit initially, but then he asked Town Planner Clare Rock for advice. She was acting as the zoning administrator, and recommended he needed a permit as a procedural effort than a debatable effort. He asked if it needed to go before the DRB, and she stated no. He was offended about the denial, over putting the word awning in quotation marks. He spoke on several points to build a case on why he shouldn’t have had to obtain a zoning permit on this item. He felt the only issue the town should have had was being able to plow the streets (sidewalk), where the awning apparently is.

Mr. Pedersen asked a question about chronology. Mr. Firman explained he asked Clare first, then began construction and then applied for the permit – according to Mr. Pederson “pro forma.”

Ms. Mantegna felt that the main reason for denial was that the development was on less than .05 acres which was prohibited in this zone, a struggle in her decision.

Mr. Sunshine asked if there were questions from the board, or the public, but there were no questions at that time.

Mr. Firman argued that the regulation cited referred to a building lot which it was not, but it was an existing structure, whether they conform to existing regs or not – they conformed at the time they were built. He didn’t want to speak to this because what he did he did not need a permit for.

Ms. Mantegna again reiterated that the lot size was the property lot, and the size had restrictions.

Kathy Sikora spoke about a garage on a lot on Tilden, and going forward any changes required variances and went through channels. This awning was no different than this and should have gone through same channels. You don’t build and then go get permits.

Mr. Pedersen asked if this was near the Hatchet but Ms. Sikora said no.

*Mr. Pedersen moved to enter deliberative session, was seconded by Mr. Dyer and the motion carried unanimously.*

**Other Business:**

**Andrew Powers**- Application # 17-100 for a Sketch Plan Review for a proposed multi-unit building or Planned Unit Development, Residential at Parcel ID # TL0051, located at 51 Tilden Lane, Richmond, located within the High Density Residential Zoning District.

Sketch plan process explained by Chair. Mr. Powers looking for ability to develop lot. Section 4.6.1 deals with existing small lots. Question about what does the applicant want DRB to rule on? Chair, not rule but guide. Applicant. Does it have to be 2/3 of an acre? 5.12- Planned Unit Development- does it apply to this lot. Which direction should he pursue? Dyer which direction is the applicant leaning. Applicant leaning more towards a PUD. Applicant wants develop but keep in character of the neighborhood. Parking behind building preferred? Chair- yes.

Questions from audience- Kathy Sikora, only abutting owner occupied dwelling. Feels non-owners are not as concerned with properties. Worries that amount of parking required would be add to increase in traffic. Concern about adding more traffic. Would rather see a duplex.

Chair – DRB will look at Zoning. Good to have discussion with neighbors.

If it is just a duplex, does ZA just issue permit? Chair- yes within regulations.

Christy Witters, neighbor but not abutting. Would like more contact besides just abutters. Increase traffic, noise, dumpsters concerns with neighbors.

*Minutes to be approved at next DRB meeting.*

*Motion by Pederson to enter into deliberative session, seconded by Bender, all in favor. So voted*.

The four members present went into deliberation on Application 17-096.

Once out of deliberative session, Matthew Dyer made a motion to deny the appeal of permit #17-083 and was seconded by Roger Pederson, and the motion carried 4-0.

Gabriel Firman recused himself from the vote on his appeal.

The board went back into deliberative session, minus Gabe.  Once they deliberated and reconvened the regular session, Matthew Dyer offered a motion to uphold the appeal of permit 17-062 and was seconded by Roger Pederson and the motion carried 3-0.

*Adjourn:*

Matthew Dyer offered a motion to adjourn the meeting at 9:35 pm and was seconded by Roger Pederson and the motion carried 3-0.

Deliberative Session to be continued to September 19, 2017 at 7:30pm at Town Offices.

Respectfully submitted by Suzanne Mantegna, Zoning Administrator/Staff to the DRB