

TO: Richmond Selectboard

FROM: Ravi Venkataraman, Town Planner

CC: Virginia Clarke, Planning Commission Chair

DATE: August 25, 2021

SUBJECT: Proposed amendments to Richmond Zoning Regulations

Overview

During the August 18, 2021 Planning Commission meeting, the Planning Commission voted to forward revisions to the following sections: Sections 3.8.5, 4.6, 4.13, 5.2.1, 5.3.5, 5.6.2, 5.6.3, 5.6.4, 5.6.5, 5.6.6, 5.6.7, 5.6.8, and 5.8. These sections include the following:

- Regulations for nonconforming lots
- Policy and procedures for Certificates of Occupancy
- References to State Permit Requirements
- Performance Standards

The Planning Commission held a duly warned public hearing on July 27, 2021. During the public hearing, the commission discussed methods to clarify permitting processes for Certificates of Occupancy and legal requirements for all the sections under review. The Planning Commission closed the public hearing on July 27, 2021, and revised the draft regulations per comments received during the public hearing during its August 4, 2021 and August 18, 2021 meetings.

Enclosed for your consideration are:

- Draft regulations for nonconforming lots
- Draft regulations for policy and procedures for Certificates of Occupancy
- Draft regulations in regards to references to state permit references
- Draft regulations for performance standards, as finalized by the Planning Commission on August 18, 2021
- Draft regulations for performance standards, with the Town Attorney's comments, received on August 19, 2021
- Draft regulations for the Development Review Board (DRB)
- The Municipal Bylaw Report

All of the draft regulations have been reviewed by the Town Attorney. I received the legal review for the draft language for the performance standards after the Planning Commission approved to forward the draft language to the Selectboard. I recommend that the Selectboard take into consideration the Town Attorney's comments during its review of the draft language during the public hearing.

Regarding regulations for the DRB, Town Manager Josh Arneson brought to my attention that the Zoning Regulations should be changed to align the appointment and reappointment of DRB members with the appointment of members on all other town boards and committees. Per 24 V.S.A. §4442(b):

The legislative body may make minor changes to the proposed bylaw, amendment, or repeal, but shall not do so less than 14 days prior to the final public hearing. If the legislative body at any

time makes substantial changes in the concept, meaning, or extent of the proposed bylaw, amendment, or repeal, it shall warn a new public hearing or hearings under subsection (a) of this section.... The planning commission shall amend the report prepared pursuant to subsection 4441(c) of this title to reflect the changes made by the legislative body and shall submit that amended report to the legislative body at or prior to the public hearing.

Even though the changes to the DRB section of the Zoning Regulations are not included in the amendment proposal the Planning Commission forwarded to the Selectboard, the Selectboard may include the reviewing changes to the DRB section as part of the public hearing. If it chooses to do so, the Planning Commission will provide an updated Municipal Bylaw Report to reflect these changes prior to the public hearing.

This memo explains staff's and the commission's rationale for these proposed changes and the bylaw adoption process for the Selectboard's reference.

Regulations for Nonconforming Lots

The adoption of Act 179 in October 2020 changed statute in regards to the development rights for nonconforming lots. With the changes, municipalities are no longer allowed to prohibit development of existing small lots that cannot be served by municipal water and sewer. The proposed changes to the Zoning Regulations reflect these recent changes in statute.

Policy and Process for Certificates of Occupancy

I proposed to the Planning Commission changes to the policy and procedures for Certificates of Occupancy based on the following facts:

- Currently, Certificates of Occupancy requirements are triggered for all additions, changes in use, and modifications of primary structures; accessory structures which have more than a single floor, and accessory structures larger than 600 square feet. This means that all decks, landings, and finishing of basements require Certificates of Occupancy.
- The purpose of Certificates of Occupancy is to check land development for zoning compliance. When staff inspects development as part of a Certificate of Occupancy application, we are making sure that developments are built according to the submitted plans. We are not checking for the quality or structural integrity of the development, because the scope of zoning regulations does not include building code compliance.
- Currently, the fee to file a Certificate of Occupancy is at least \$55.00 (\$25 for the application, \$15 for recording the application, and \$15 per page to record RBES/CBES). These fees are intended to partially cover staff time to review applications and inspect properties.

The Planning Commission concluded that based on these facts, the policy regarding Certificates of Occupancy needed to be streamlined for the benefit of the applicant and the Zoning Administrator.

In addition, the commission identified that the required statutory reference to energy standards compliance is not included in the Certificates of Occupancy section. Per 24 V.S.A. §4449:

Provision of a certificate as required by 30 V.S.A. § 51 (residential building energy standards) or 53 (commercial building energy standards) shall be a condition precedent to the issuance of any such certificate of occupancy.

This requirement is stated in the enclosed draft language.

State Permit Standards

I brought to the Planning Commission's attention that the Zoning Regulations state that applicants must provide state permits with a zoning permit applications and that municipalities cannot require within zoning the provision of state permits in order to issue zoning permits. In the enclosed draft language, this aspect has been revised to be in alignment with 24 V.S.A. §4414(13).

Performance Standards

During the Planning Commission's revision of the performance standards, the Town Attorney advised that the performance standards be applicable to all properties within town. Currently, the performance standards are only applicable during Conditional Use Review when the applicant is seeking a Conditional Use permit from the Development Review Board.

In the draft language, the performance standards have been removed from the Conditional Use Review section and included in the "Regulations Applying to All Lots" section. In effect, these regulatory changes would make the performance standards applicable and enforceable to all properties--including land development requiring Conditional Use Review--at all times, instead of only during the approval process for Conditional Use permits.

Bylaw Adoption Process

Pursuant to 24 V.S.A. §4444, the Selectboard would:

- Receive the proposal through a motion; and then,
- Agree by motion to conduct a public hearing on each proposal, with the date of the hearing be at least 15 days after the publication of a legal notice.

When the Selectboard chooses to take action, having reviewed the enclosed documents and any amendments, and either adopts or rejects the proposal, changes shall be effective 21 days after adoption.

To facilitate action, I have prepared the following draft motion:

I, _____, move to receive the proposals to amend Richmond Zoning Regulations Sections 3.8.5, 4.6, 4.13, 5.2.1, 5.3.5, 5.6.2, 5.6.3, 5.6.4, 5.6.5, 5.6.6, 5.6.7, 5.6.8, 5.8 and 8.2 to hold a public hearing on October 4, 2021.