

Town of Richmond
Planning Commission Meeting
AGENDA

Wednesday, April 21st, 2021, 7:00 PM

Due to restrictions in place for COVID-19, and in accordance to Act 92, **this meeting will be held by login online and conference call only**. You do not need a computer to attend this meeting. You may use the "Join By Phone" number to call from a cell phone or landline. When prompted, enter the meeting ID provided below to join by phone. 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.

Join Zoom Meeting: <https://us02web.zoom.us/j/83379408426?pwd=QjRvWUE0bTN4dXlwVGcrMnFyeEpudz09>

Meeting ID: 833 7940 8426

Passcode: 633169

Join by phone: (929) 205-6099

1. Welcome, sign in and troubleshooting (7:00 pm)
2. Adjustments to the Agenda (7:01 pm or upon completion of Item 1)
3. Public Comment for non-agenda items (7:02 pm or upon completion of Item 2)
4. Approval of Minutes (7:10 pm or upon completion of Item 3)
 - April 7, 2021
5. Discussion on Building Energy Standards (7:15 pm or upon completion of Item 4)
6. Discussion on Zoning for Affordable Housing project (8:00 pm or upon completion of Item 5)
7. Discussion on Nonconforming Lots, State Permit References, and Accessory Dwelling Units (8:30 pm or upon completion of Item 6)
8. Other Business, Correspondence, and Adjournment (9:00 pm or upon completion of Item 7)

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7. Discussion on Nonconforming Lots, State Permit References, and Accessory Dwelling Units

- Page 14: Proposed language for Nonconforming Lots
- Page 15: Proposed language for State Permit References
- Page 17: Proposed language for Accessory Dwelling Units
- Page 18: 24 V.S.A. §4412 highlighted

Richmond Planning Commission
REGULAR MEETING MINUTES FOR April 7, 2021

Members Present: Virginia Clarke, Chris Granda, Alison Anand, Mark Fausel, Caitlin Littlefield, Jake Kornfeld, Brian Tellstone
Members Absent: Chris Cole, Joy Reap
Others Present: Ravi Venkataraman (Town Planner/Staff), John Rankin, Jeff Forward, Lisa Miller, Allen Knowles, Eveline Killian, Laura Moltz, Lisa Kory, John Linn, Jay Moltz, Karl Goethe, Betsy Hardy, Steve Bower, Lisa Miller, Heidi Bormann, Francine Pomerantz, Steve Spatz, Sarah Volinsky, Ben Bush, Gary Bressor, Cathleen Gent, Patti Rossi, Nick Neverisky

1. Welcome and troubleshooting

Virginia Clarke called the meeting to order at 7:02 pm.

2. Adjustments to the Agenda

Ravi Venkataraman announced that the public meeting for the Bridge Street Complete Streets Corridor Study is scheduled for Thursday, April 8th at 7 pm.

3. Public Comment for non-agenda items

None

4. Approval of Minutes

Motion by Jake Kornfeld, seconded by Brian Tellstone, to approve the March 17, 2021 Planning Commission meeting minutes. Voting: Unanimous. Motion carried.

5. Proposed zoning amendments for Nonconforming Lots and State Permit References

Clarke said that Venkataraman is bringing forward proposed amendments to remove antiquated elements from the zoning regulations and move the regulations into compliance with state statute. Clarke asked Venkataraman about process. Venkataraman said that he intends to bring two to three proposed amendments at a time to the Planning Commission and Selectboard, and that the process can be adjusted based on the Planning Commission's desires. Clarke asked about how the Selectboard would like to receive the amendments. Venkataraman said that these two amendments would be straightforward as it would bring the zoning regulations into compliance with state statute, but cannot say for future amendments.

Venkataraman overviewed the proposal to amend state permit references, stating that the town cannot require state permits in order to issue zoning permits, and that the easiest fix to the zoning permits is to remove the references to state permits altogether. Mark Fausel asked how the town would know if an applicant received a state permit. Venkataraman said that he can check through the state permit search tool or by calling Agency of Natural Resources, but that it isn't his responsibility to check if an applicant has state permits. Clarke said that based on the proposed language, the town would have to check that the applicant has a state water/wastewater permit prior to construction. Venkataraman said yes but that it is expected that applicants obtain all necessary state permits prior to construction, and only under odd circumstances has that language needed to be enforced. Alison Anand asked why the town wouldn't want

state permits to be given to the town. Venkataraman said that he cannot request or enforce the provision of state permits to the town. Clarke asked about permitting pathways for local water/wastewater permits. Venkataraman said currently there is no permitting pathway for local water/wastewater permits but this is currently under consideration by the state legislature. Anand asked about the advantages of this amendment proposal. Venkataraman said the proposal is to circumvent any possible litigation by removing zoning regulations that are illegal. Chris Granda asked if the town has faced legal action for enforcing the current zoning regulations. Venkataraman said he was not aware of any legal action regarding these particular zoning regulations, and keeping the regulations as-is isn't fair to applicants nor prudent for the town. Kornfeld said that based on the information presented and the ongoing discussions, he has no objection to the recommended changes.

Clarke asked about the modifications to the language regarding hazardous waste. Venkataraman said that for that language in particular, it should be more explicit about "hazardous waste" and its storage, and such changes should happen when the commission reviews the performance standards in full. Clarke said she was hesitant to remove the language until there is replacement language regarding the storage of hazardous waste. Venkataraman said that the replacement language for now could be softer until explicit standards are made. Clarke recommended presenting replacement language at the next Planning Commission meeting. Anand asked about including a disclosure statement about federal and state permits. Venkataraman said that that disclosure statement is in the zoning permit applications. Granda asked to table this item to the next meeting. Clarke agreed.

6. Discussion on Building Energy Standards

Clarke introduced the topic and its connection to the Town Plan. Granda said that today's item was focused on the presentation and that questions will be fielded during the next Planning Commission meeting. Granda discussed the ongoing, tangible impacts of climate change, methods to reduce greenhouse gas emissions from new buildings, and the benefits of electrification. Granda reviewed the Vermont residential building energy codes, recent updates to the energy codes, and gaps in the current energy codes, including self-certification requirements to show compliance. Granda proposed zoning amendments to require builders to show compliance via the Home Energy Rating Method (HERS), to install EV wiring for all residential construction, and to install wiring for solar. Granda said that he is not recommending the adoption of the stretch code, the installation of solar on new residential construction, any bans to natural gas heating systems, or the requirement of net-zero homes. Jeff Forward added that the HERS method would bring more new construction into compliance with the energy codes.

John Rankin asked if the zoning proposals would impact additions and renovations and said that if additions and renovations were to be left out, it would more likely be adopted. Granda said that the proposal would not change the standards already in the energy code. Eveline Killian said that the zoning proposal makes sense from an economic standpoint and are not outrageous for builders.

Steve Spatz introduced himself as a program manager for Efficiency Vermont; and reviewed the applicability of the residential energy code, the rigor of the HERS method, and the legality of limiting the compliance pathway to the HERS method. Clarke asked about authorization in statute to allow towns to restrict compliance via the HERS rating system. Spatz said that the code allows for flexibility to allow a local code official or local authority to put forth local requirements. Spatz added that any enforcement and oversight of the energy code occurs at the local level, and the energy code allows municipalities to put in place more stringent standards. Granda said that one town required new construction participate in the Efficiency Vermont program. Spatz said that he has been communicating with Geoff Martin at Two Rivers-Ottawaquechee Planning Commission regarding the legalities of the proposed zoning language. Fausel asked about the costs of third-party certification. Spatz said that hiring a rater would be \$1,500 to \$2,500, and stated that a third-party review is necessary because of a general lack of

compliance with the energy code and a lack of expertise within most municipalities to review energy standards certificates. Fausel asked if the state is interested in requiring third-party verification of certificates. Spatz said that the state is not interested in requiring third-party certification. Fausel asked Venkataraman about energy standards certificates requirements. Venkataraman reviewed the energy standards certificates requirements for Certificates of Occupancy, adding that typically commercial construction Certificates of Occupancy applications come with a rigorous COMCheck form and that that type of rigor is rare to see for residential construction. Spatz said that most states have adopted the HERS method to check for compliance because it is based on an international standard. Fausel asked if there are any other towns requiring third-party HERS certification. Spatz said that these proposed zoning regulations are based on conversations he had with Martin and towns within the Two Rivers-Ottawaquechee Planning Commission's purview, that the Town of Woodstock and other towns in this area plan to adopt similar zoning regulations. Kornfeld asked about the up-front costs to the home buyer of these requirements to new construction. Forward overviewed the economic analysis statement, said that he viewed the proposed zoning regulations as a consumer protection, and that the monthly cost of the requirements to a 30-year mortgage are negligible. Spatz added that the more houses that are built to these standards would help appraisers gauge the market better and stabilize the prices, since currently not enough houses with these standards are in existence and therefore a basis has not be clearly established yet.

7. Debrief on Village Residential Neighborhoods south of the Winooski River and Round Church Corners

Clarke overviewed the goals of the discussion item, the Municipal Planning Grant project, and the intent of overlapping the work of the Planning Commission with the Municipal Planning Grant project. Fausel asked if the hired consultant, PlaceSense, had worked in Richmond before. Venkataraman said that she worked on Richmond's land development regulations in 2011 and 2012.

Clarke reviewed findings from the March 17th Planning Commission meeting, and the proposed zoning map. Kornfeld noted that participants in past conversations called for a more streamlined zoning map, and that the presented proposed zoning map is the cleanest iteration of draft zoning maps. Laura Moltz asked about the proposal for half-acre lot sizes. Clarke said that the area under review is a transitional area between the rural areas of town and the high-density village, and that the goal is to increase the density in areas that can be served by municipal water and sewer to address the county-wide housing issues.

Clarke reviewed the discussion document in the meeting materials. Venkataraman clarified rules regarding agriculture, adding that regulating farm animals below the threshold prescribed by the state for agricultural practices is a conversation outside the scope of this discussion. Tellstone said he was not in favor of requiring off-street parking to be behind buildings. Anand asked for more clarification about the removal of the Round Church viewshed. Clarke said that residents in the draft viewshed district requested to be in the Village Residential Neighborhoods district and instead, maybe have design standards that would be applicable to their lots. Gary Bressor said that the residents opted to be in the proposed Village Residential Neighborhoods district to keep the area residential, and that the draft Round Church viewshed district allowed for more commercial uses than the proposed Village Residential Neighborhoods district which therefore does not protect the existing residential character. Bressor said he liked the language about the average of the neighboring setbacks and asked how this would be administered. Clarke said that a range for the front-yard setback could be in place. Venkataraman said that typically this type of regulation is set up so that the average is taken of the front-yard setbacks of the two properties adjoining a property on its side-yard lines, and that there are multiple variations to this requirement. Bressor said he liked that idea. Kornfeld said that this

requirement seems overly prescriptive. Clarke said that this requirement isn't a maximum setback and that further discussions on maximum setbacks are needed. Nick Neverisky said that as a resident within the scope area, he is in favor of increasing density in the village to circumvent natural resource impacts outside of the village and sprawl, and that he would welcome more dense development closer to where he currently lives. Heidi Bormann asked about the viewshed area of the Round Church. Clarke identified the area encompassing the viewshed area of the Round Church on the draft zoning map. Fausel said that he would be in favor of including design aspects, but that he has reservations about placing burdensome standards. Cathleen Gent said that design standards aren't necessary for Thompson Road but may be needed in the area around the Round Church. Clarke suggested creating two districts--one with design review requirements, one without design review requirements and keeping the rest of the requirements constant. Gent suggested establishing an overlay district to place design standards in a particular part of the district. Lisa Kory said that the design standards should not apply to areas outside the Round Church area, and that she agreed with Neverisky to increase density in the village to protect the forests in town and to reduce greenhouse gas emissions. Caitlin Littlefield agreed with Kory's comments. Sarah Volinsky asked for clarification about recreational facilities, and said she was concerned about the costs involved with imposing design standards and was not in favor of parking location standards. Gent asked for a map showing natural resource constraints to show actual developability of the area. Bormann said that Clare Rock had prepared a map showing natural resource constraints. Tellstone said that density is inevitably going to be increased eventually over time through accessory dwellings. Patti Rossi asked if schematics and visuals for buildout will be presented with the housing study. Venkataraman said that conducting a buildout study in Richmond is difficult, and that sample drawings of configurations and designs similar to what is included in "Zoning for Great Neighborhoods" may be provided.

8. Other Business, Correspondence, and Adjournment

Clarke said that the focus of the May meetings will be on the Gateway district, and that the next meeting will include a continuation of the energy code discussion and more information on the housing consultant's work. Bressor asked about the process of forwarding proposed zoning to the Selectboard. Clarke said that at this point, she is unsure and that she expects the proposed zoning for the entire village to be presented to the Selectboard.

Motion by Tellstone, seconded by Granda to adjourn the meeting. Voting: unanimous. Motion carried. The meeting adjourned at 9:29 pm.

Respectfully submitted by Ravi Venkataraman, Town Planner

Chat Log

00:02:16	John Rankin: John Rankin
00:03:15	Jeff Forward: Jeff Forward
00:03:22	Laura: Laura Moltz
00:30:53	Lisa Kory: Lisa Kory
00:30:58	eveline killian: Eveline Killian
00:30:58	francinespomerantz: Francine Pomerantz
00:31:06	John Linn, AIA: John Linn
00:31:09	Jay Moltz: Jay Moltz
00:31:27	Karl Goetze: Karl Goetze
00:31:33	Betsy: Betsy Hardy

00:31:46 stevebower: Steve Bower, signing in
00:31:48 Lisa Miller: Lisa Miller
00:32:03 Heidi L Bormann: Heidi L Bormann
01:01:26 Karl Goetze: I need to hop off, but want to express support for the proposal. Blower door tests have been used for new construction programs in VT for over 20 years, so most experienced builders have experience with blower door tests. Many builders take pride in having the blower door test show their skill as builders in building an efficient home. Thanks, Karl Goetze
01:21:14 Jeff Forward: Thank you for addressing this issue. We look forward to continuing the conversation.
01:21:21 John Linn, AIA: A question/point for future discussion. With the solar ready zone requirement it appears that the homeowner/builder would be required to show structural design live/dead loads in the construction documents. Will these loads be required to be approved by a licensed engineer or is someone at the town level is taking the responsibility for confirming that those loads are adequate?
01:22:18 Jeff Forward: I am available for questions at forward@gmavt.net and 802-735-3026
01:23:25 stevebower: I also support the proposal for meeting RBES standards. The economic analysis demonstrates that this is in the long-term best interests of homeowners economically, as well as reducing their and the Town's climate impact. These measures would pay for themselves within about a decade, providing benefits for many subsequent decades for typical homes. This is good policy. Thanks for an excellent presentation.
01:30:39 Jake Kornfeld, Planning Commission: Thanks for including acreage on this Ravi, very helpful.
02:24:55 Caitlin Littlefield, Planning Commission: Guidance Ravi is referencing:
<https://accd.vermont.gov/content/zoning-for-great-neighborhoods>

SCOPE OF WORK AND PROPOSED SCHEDULE

TASKS

APRIL

— **Project Administration.** The consultant will work with the Richmond Town Planner to complete project contracting and confirm the project schedule.

— **Housing Committee Meeting.** The consultant will meet virtually with the Richmond Housing Committee for a kick-off meeting (HC Meeting #1). This meeting will provide an opportunity for Housing Committee members to share their goals for the project and perspectives on housing issues more generally in Richmond with the consultant.

It is my understanding from the RFP that the Housing Committee has been working to compile demographic and housing data to be shared with the consultant. Key findings from that data will be discussed during the kick-off meeting.

In advance of the meeting, the consultant will provide the Housing Committee with draft questions for a Community Housing Survey. The survey will gauge residents' (1) level of support for additional housing in Richmond, (2) attitude toward and perceptions of affordable housing, and (3) concerns about creation of housing both in their neighborhood and in the town more broadly. The Housing Committee will be able to use the survey results to inform its future approach and strategy and to guide future public education efforts. Survey questions and distribution methods will be discussed during the meeting.

MAY

— **Community Survey.** The consultant will finalize the survey questions for an online survey to be hosted on Survey Monkey. The town will be responsible for advertising the availability of the online survey and encouraging resident participation through regularly used channels such as the town website, listserve/email groups, social media, etc. Based on experience with online surveys in recent years, the consultant recommends leaving the survey up for 4-6 weeks with weekly messaging reminding people they can participate and explaining why their input is being sought. With this approach, online surveys have been significantly out-performing mail-based surveys in Vermont communities.

The consultant recommends the Housing Committee pay particular attention to communicating with renters in Richmond as their perspective will be valuable and renters as a group typically have lower response rates to this type of community survey than homeowners. If there are other groups in Richmond that the Housing Committee is concerned will not participate in an online survey, the consultant can also provide a print version of the survey. It would be the town's responsibility to distribute and collect paper surveys and to enter the results into Survey Monkey manually.

Deliverables: Online Community Survey on Survey Monkey with paper version provided upon request

— **Housing Committee Meeting.** The consultant will meet virtually with the Richmond Housing Committee (HC Meeting #2). The purpose of this meeting will be for the Housing Committee to finalize and approve public distribution of the survey. It will also provide an opportunity for the Housing Committee to develop invitation lists for interviews and focus groups, and review the proposed discussion questions.

TASKS

JUNE

— **Interviews.** The consultant will conduct phone interviews with up to six developers, builders and landlords in Richmond to hear their perspective on housing issues in the community with a particular focus on the extent to which the town’s regulations and development review processes are affecting creation of housing units generally and affordable housing in particular. The consultant will provide the Housing Committee with a summary of each interview.

The consultant will prepare a list of interview questions to be distributed to interviewees in advance. The consultant will work with the Richmond Town Planner to contact potential interviewees, schedule phone interviews and distribute the questions. The RFP requested that the scope of work include reaching out to local developers. I am also recommending including landlords with multi-unit properties.

Deliverables: Written summaries of each interview

— **Focus Groups.** The consultant will facilitate up to three focus groups via Zoom. The consultant will provide the Housing Committee with notes from each focus group meeting. The consultant will work with the Housing Committee to select groups to speak with that would broaden the perspective on the community’s housing situation and identify potential participants. Based on experience, my recommendation is to plan for groups of 5-9 people. Potential topics/groups include seniors and other residents with specialized housing needs, parents with young children (hopefully capturing some renters in that group), homeowners who have created an accessory dwelling, mobile home park residents, etc.

Deliverables: Written notes from each focus group meeting

— **Infrastructure Assessment.** This task is not included in the RFP, but it would be a valuable step prior to drafting zoning changes that will likely include recommendations for increased densities in some areas of town. Water and sewer infrastructure is essential for creation of higher-density and affordable housing.

The consultant recommends that the Richmond Town Planner and the Housing Committee collect the information necessary to: (1) estimate the available capacity of the water and wastewater systems serving Richmond’s village center, including any constraints imposed by the Lake Champlain TMDL or other state regulations that could trigger upgrades to fully use permitted capacity; and (2) accurately map the area served (based on hook-up addresses) if this information is not currently available and (3) assess the geographic constraints on extending those systems beyond the area currently served (terrain requiring pump stations or additional storage tanks, highway or river crossings, etc.).

JULY

— **Community Survey.** The consultant will compile and analyze the survey results. As appropriate, survey responses will be broken down by demographic groups and geographic areas. The consultant will provide the Housing Committee with a written report presenting the survey results and highlighting key findings.

Deliverables: Survey results report

TASKS

AUGUST

Community Meeting 1. The consultant will work with the Richmond Town Planner and the Housing Committee to organize and facilitate a Zoom-based community meeting. The meeting agenda would include summarizing the findings of the Housing Committee’s demographic/housing analysis, information learned through the interviews and focus groups, and the results of community survey. The meeting would also provide an opportunity for Richmond residents to share their concerns and preferences related to housing and the town’s regulations/permitting and development review processes.

The town will be responsible for advertising the meeting through regularly used channels such as the town website, listserve/email groups, social media, etc. The consultant and Town Planner will coordinate “hosting” the online meeting to ensure orderly participation. The consultant will provide the Housing Committee with a written summary of public comments and questions following the meeting.

Deliverables: Written meeting notes

Zoning Review. The consultant will prepare a technical memo reviewing Richmond’s adopted Zoning Regulations against the housing goals of the Town Plan, statutory requirements and limitations (including Act 174 provisions that became effective last October), state recommendations as presented in Zoning for Great Neighborhoods, eligibility requirements for the state’s Neighborhood Development Area program, housing needs as documented by the prior work of the Richmond Housing Committee, and information collected through the public engagement process to-date (survey, interviews, focus groups, community meeting).

The technical memo will identify approaches to improve the effectiveness of the Zoning Regulations to further the community’s objectives related to housing supply and affordability.

Deliverables: Technical memo

SEPTEMBER

Housing Committee Meeting. The consultant will meet virtually with the Richmond Housing Committee (HC Meeting #3). At this meeting, the consultant will present the technical memo reviewing Richmond’s adopted Zoning Regulations. The Housing Committee will agree upon a zoning reform framework, selecting elements and approaches described in the technical memo for further development as proposed zoning amendments.

Draft Zoning Amendments. The consultant will prepare the proposed zoning amendments as outlined in the zoning reform framework. The first draft will be annotated to provide context for the proposed changes and facilitate Housing Committee discussion. The first draft of the amendments will be distributed to the Housing Committee for review and discussion.

Deliverables: Draft zoning amendments for Housing Committee review and comment

TASKS

OCTOBER

— **Housing Committee Meeting.** The consultant will meet virtually with the Richmond Housing Committee (HC Meeting #4) to review and discuss the draft zoning amendments. The meeting will also provide an opportunity to organize and prepare for the second community meeting.

— **Revise Zoning Amendments.** The consultant will revise the draft zoning amendments based on feedback from Housing Committee members. Once revised, the draft zoning amendments will be provided to the Richmond Town Planner for public distribution in advance of the second community meeting.

Deliverables: Draft zoning amendments for public review and comment

NOVEMBER

— **Community Meeting 2.** The consultant will work with the Richmond Town Planner and the Housing Committee to organize and facilitate a Zoom-based community meeting. The meeting agenda would include presenting the findings of the zoning review and the draft zoning amendments prepared in response. The town will be responsible for advertising the meeting through regularly used channels such as the town website, listserve/email groups, social media, etc.

The consultant and Richmond Town Planner will jointly facilitate discussion of the proposed zoning amendments, taking comments and answering questions from attendees. The consultant will provide the Housing Committee with a written summary of public comments and questions following the meeting.

Deliverables: Written meeting notes

— **Recommended Changes.** The consultant will prepare a memo for the Housing Committee outlining any recommended changes to the proposed zoning amendments and discussion points for the next meeting based on public input from the second community meeting.

Deliverables: Memo outlining recommended changes

DECEMBER

— **Housing Committee Meeting.** The consultant will meet virtually with the Richmond Housing Committee (HC Meeting #5) to review and discuss final changes to the draft zoning amendments. The meeting will also provide an opportunity to organize and prepare for the Planning Commission and Selectboard presentations.

— **Final Report.** The consultant will prepare a final report incorporating the information collected through community outreach (survey, interviews, focus groups, meetings), the technical memo, the zoning reform framework and the final recommended zoning amendments. The consultant will provide the Richmond Town Planner with a PDF of the final report for distribution to the Housing Committee, Planning Commission and Selectboard, as well as for posting on the town website.

Deliverables: Final Zoning for Affordable Housing Report in PDF format

TASKS

JANUARY

— **Planning Commission Presentation.** The consultant will present the final report of the Zoning for Affordable Housing project with a focus on the recommended zoning amendments. The consultant will facilitate a discussion between the Planning Commission, Housing Committee and town residents in attendance regarding the report’s findings and recommendations.

Deliverables: Presentation

— **Selectboard Presentation.** The consultant will present the final report of the Zoning for Affordable Housing project with a focus on the recommended zoning amendments. The consultant will facilitate a discussion between the Selectboard, Housing Committee and town residents in attendance regarding the report’s findings and recommendations.

Deliverables: Presentation

PROJECT BUDGET

TASKS	HOURS	FEE
Project Administration	12	\$1,200
Housing Committee Meetings	20	\$2,000
Zoning Review	32	\$3,200
Technical Memo	16	\$1,600
Zoning Amendments	48	\$4,800
Final Report	8	\$800
Community Survey	40	\$4,000
Interviews	12	\$1,200
Focus Groups	12	\$1,200
Community Meetings	8	\$800
Presentations	8	\$800
Consultant Fee:	<i>216 hours @ \$100/hr</i>	\$21,600
Direct Expenses:		\$400
Total Project Cost:		\$22,000

4.6 Nonconforming Lots

4.6.1 Existing Small Lots - ~~In accordance with the Act [§4412(2)], a~~Any lot that is legally subdivided, is in individual and separate and non-affiliated ownership from surrounding properties; ~~that is legally~~ in existence on June X, 2021 may be developed for the purposes permitted in the district in which it is located, with exception to lots as described in Section 4.6.1.1, even though the small lot no longer conforms to the minimum lot size requirements of the respective district in which the lot is located ~~on the Effective Date of any Richmond Bylaw may be developed for the purposes permitted in the Zoning District in which the lot is located, even though the lot does not conform to minimum lot area requirements of the Zoning District.~~

4.6.1.1. For existing small lots which are not served by municipal water and sewer service, and are unable to connect to municipal water and sewer service, land development may be permitted if said existing small lots have the following dimensional requirements:

- a) At least one-eighth (1/8) acre in area; and
- b) A width or depth dimension of at least 40 feet.

~~. Notwithstanding this exception to minimum lot area requirements, no Zoning Permit shall be issued for Land Development on an existing small lot unless such Land Development complies with all other provisions of these Zoning Regulations.~~

State permit references

3.8.5 Other Requirements Applicable to Lots in the MHP District

~~d) State Approval of Mobile Home Parks—No Zoning Permit may be issued for Land Development within a mobile home park unless satisfactory evidence is produced to the DRB that all applicable state laws and regulations relating to Land Development have been met.~~

5.2.1 [Application, Fees, Reimbursement for Technical Review]

~~d) State Permits - All required state permits shall be a part of and made a condition of each local permit. Unless otherwise required, state permits may be obtained after local permits. In no case shall a project or use commence without all necessary state water and wastewater and local permits.~~

5.6.2 [Conditional Use Review Specific Standards]

~~d) Applicable state permits for water supply and sewage disposal shall have been obtained, and any other applicable state permits, before the use commences.~~

~~e) d) ...~~

~~f) e) ...~~

~~g) f) ...~~

~~h) g) ...~~

~~i) h) ...~~

~~j) i) ...~~

~~k) j) ...~~

5.6.3 Performance Standards

~~h) Industrial wastes shall be so stored and removed from the lot in manners as to not be reasonably objectionable to adjacent lots or create a public nuisance, or pollute the environment. These shall be stored within a structure.~~

~~i) All uses shall comply with all Federal and State laws and regulations for the use, storage, hauling and disposal of hazardous materials and wastes.~~

~~h) No fire, explosive or safety hazard shall be permitted that endangers public health, safety or welfare, public facilities, or neighboring properties; or that results in a significantly increased burden on municipal facilities and services shall be permitted.~~

~~i) No radioactive emission or other hazard that endangers public health, safety or welfare, public facilities, or neighboring properties; or that results in a significantly increased burden on municipal facilities and services shall be permitted.~~

~~j) The storage of any highly flammable liquid in above ground or below ground tanks shall comply with applicable provisions of these regulations and all applicable state and federal regulations. All hazardous materials shall be stored within a structure.~~

~~j) k)...~~

5.8 Boundary Adjustments

~~5.8.4 State Permits—All state permits must be approved prior to submission of application and state permit numbers must be included on the application.~~

~~5.8.5 5.8.4 New Lot Configuration~~

~~5.8.6 5.8.5 Appeals~~

Amendments to Accessory Apartment Allowances

5.9. Accessory Dwellings. The Administrative Officer may issue a zoning permit for one accessory dwelling unit to a single-family dwelling use, except for single-family dwelling uses located within the Flood Hazard Overlay District, if:

- a) The accessory dwelling will be located within the single-family dwelling primary structure, within an addition to that single-family dwelling primary structure, or within an existing or new detached accessory structure on the lot hosting the single-family dwelling use.
- b) The accessory dwelling will not exceed 1,000 square feet or 30 percent of the total habitable floor area of the single-family dwelling, whichever is greater;
- c) The property will have sufficient wastewater capacity;
- d) The accessory dwelling will meet all applicable dimensional standards and parking requirements for accessory dwellings.

~~**5.9.1 Permitted Use**—In accordance with the Act [§4412(1)(E)], one accessory dwelling within or appurtenant to a single family dwelling, or within or appurtenant to an existing accessory structure to the single family dwelling, may be allowed as a permitted use to a single family dwelling, except within the Flood Hazard Overlay District (new Accessory Dwellings are prohibited within the Flood Hazard Overlay District), subject to the issuance of a Zoning Permit by the Administrative Officer, and all of the following requirements:~~

- ~~a) Either the single family dwelling or the accessory dwelling must be occupied by the owner or by the owner's spouse, civil union partner, parents or legal children. In the event that the owner or relative is forced to leave the dwelling, or accessory dwelling, or dies, there shall be no change in status of the accessory dwelling for a period not to exceed twelve months at which time the familiar occupancy rule will be enforced.~~
- ~~b) The accessory dwelling must be at all times owned by the same party that owns the single family dwelling.~~
- ~~c) The accessory dwelling shall be an efficiency, one bedroom, or two bedroom apartment that is clearly subordinate to the single family dwelling and has facilities and provisions for independent living, including sleeping, food preparation and sanitation.~~
- ~~d) The accessory dwelling shall not exceed 75% of the total habitable floor area of the single family dwelling or up to 1,000 square feet, or whichever is less. In cases where the State Statutory minimum of 30% of the total habitable floor area of the single family dwelling exceeds the Town maximum, the State minimum shall take precedence over the Town maximum.~~ e) The property shall have sufficient wastewater capacity.
- ~~e) The accessory dwelling shall meet all applicable setback, coverage and parking requirements for the principal dwelling as specified in these Zoning Regulations. If the accessory dwelling is to be located in a nonconforming structure, it shall not increase the degree of nonconformance, except in accordance with Section 4.7~~

~~**5.9.2 Conditional Use**—Conditional use approval by the DRB under Section 5.6 shall be required for an accessory dwelling for which any of the following also apply:~~

- ~~a) the accessory dwelling is to be located within a new single family dwelling in a district in which conditional use review is required for single family dwellings.~~

~~**5.9.3 Conditions of Approval**—In addition to any other conditions of approval, the Zoning Permit issued for an accessory dwelling shall clearly state that the dwelling is allowed only as an accessory to the primary, principal single family residential use of the property and as such shall be retained in common ownership. An accessory dwelling may be converted and/or subdivided for conveyance or use as a principal dwelling only if it is found to meet all requirements of applicable municipal and state regulations for a two-family dwelling (for an attached unit) or for two single family dwellings (for a unit in an accessory structure), including all lot, density and dimensional requirements for the zoning district in which it is located. All applicable municipal permits and approvals shall be obtained prior to conversion or conveyance as a principal single family dwelling.~~

Accessory Dwelling - A distinct residential dwelling unit on the same lot as a single-family dwelling use that is clearly incidental and subordinate to the single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. ~~One accessory dwelling per lot includes efficiency, one bedroom, or two bedroom apartment that is located within or appurtenant to, and is clearly subordinate to, a single family dwelling; is on the same lot as the single family dwelling; has the facilities and provisions necessary for independent living, including sleeping, food preparation, and sanitation; and that also meets the requirements of these Zoning Regulations (see Section 5.9), in accordance with the Act (§4412).~~

Habitable Floor Area - ~~The sum of the areas within buildings hosting residential uses and accessory structures for residential uses used for living, sleeping, eating, and cooking. Bathrooms, closets, halls, and any finished areas within primary or accessory structures are considered part of the habitable floor area. Unfinished spaces, including but not limited to garages, basements, and sheds, as well as unfinished utility spaces are not considered part of the habitable floor area.~~

The Vermont Statutes Online

Title 24 : Municipal And County Government

Chapter 117 : Municipal And Regional Planning And Development

Subchapter 007 : Bylaws

(Cite as: 24 V.S.A. § 4412)

§ 4412. Required provisions and prohibited effects

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

(A) No bylaw nor its application by an appropriate municipal panel under this chapter shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under subdivision 4382(a)(10) of this title or the effect of discriminating in the permitting of housing as specified in 9 V.S.A. § 4503.

(B) Except as provided in subdivisions 4414(1)(E) and (F) of this title, no bylaw shall have the effect of excluding mobile homes, modular housing, or prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded. A municipality may establish specific site standards in the bylaws to regulate individual sites within preexisting mobile home parks with regard to distances between structures and other standards as necessary to ensure public health, safety, and welfare, provided the standards do not have the effect of prohibiting the replacement of mobile homes on existing lots.

(C) No bylaw shall have the effect of excluding mobile home parks, as defined in 10 V.S.A. chapter 153, from the municipality.

(D) Bylaws shall designate appropriate districts and reasonable regulations for multiunit or multifamily dwellings. No bylaw shall have the effect of excluding these multiunit or multifamily dwellings from the municipality.

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to a single-family dwelling on an owner-occupied lot. A bylaw may require a single-family dwelling with an accessory dwelling unit to be subject to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit. An accessory dwelling unit means a distinct unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

(i) The property has sufficient wastewater capacity.

(ii) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater.

(F) Nothing in subdivision (1)(E) of this section shall be construed to prohibit:

(i) a bylaw that is less restrictive of accessory dwelling units; or

(ii) a bylaw that regulates short-term rental units distinctly from residential rental units.

(G) A residential care home or group home to be operated under State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property. This subdivision (G) does not require a municipality to allow a greater number of residential care homes or group homes on a lot than the number of single-family dwellings allowed on the lot.

(2) Existing small lots. Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw.

(A) A municipality may prohibit development of a lot not served by and able to connect to municipal sewer and water service if either of the following applies:

(i) the lot is less than one-eighth acre in area; or

(ii) the lot has a width or depth dimension of less than 40 feet.

(B) The bylaw may provide that if an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

(i) The lots are conveyed in their preexisting, nonconforming configuration.

(ii) On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.

(iii) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.

(iv) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.

(C) Nothing in this subdivision (2) shall be construed to prohibit a bylaw that is less restrictive of development of existing small lots.

(3) Required frontage on, or access to, public roads, class 4 town highways, or public waters. Land development may be permitted on lots that do not have frontage either on a public road, class 4 town highway, or public waters, provided that access through a permanent easement or right-of-way has been approved in accordance with standards and process specified in the bylaws. This approval shall be pursuant to subdivision bylaws adopted in accordance with section 4418 of this title, or where subdivision bylaws have not been adopted or do not apply, through a process and pursuant to standards defined in bylaws adopted for the purpose of assuring safe and adequate access. Any permanent easement or right-of-way providing access to such a road or waters shall be at least 20 feet in width.

(4) Protection of home occupations. No bylaw may infringe upon the right of any resident to use a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

(5) Child care. A "family child care home or facility" as used in this subdivision means a home or facility where the owner or operator is to be licensed or registered by the State for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 3511(7), shall be considered to constitute a permitted use of property but may require site plan approval based on local zoning requirements. A family child care facility serving more than six full-time and four part-time children may, at the discretion of the municipality, be subject to all applicable municipal bylaws.

(6) Heights of renewable energy resource structures. The height of wind turbines with blades less than 20 feet in diameter, or rooftop solar collectors less than 10 feet high on sloped roofs, any of which are mounted on complying structures, shall not be regulated unless the bylaws provide specific standards for regulation. For the purpose of this subdivision, a sloped roof means a roof having a slope of more than five degrees. In addition, the regulation of antennae that are part of a telecommunications facility, as defined in 30 V.S.A. § 248a, may be exempt from review under this chapter according to the provisions of that section.

(7) Nonconformities. All bylaws shall define how nonconformities will be addressed, including standards for nonconforming uses, nonconforming structures, and nonconforming lots.

(A) To achieve the purposes of this chapter set forth in section 4302 of this title, municipalities may regulate and prohibit expansion and undue perpetuation of nonconformities. Specifically, a municipality, in its bylaws, may:

(i) Specify a time period that shall constitute abandonment or discontinuance of that nonconforming use, provided the time period is not less than six months.

(ii) Specify the extent to which, and circumstances under which, a nonconformity may be maintained or repaired.

(iii) Specify the extent to which, and circumstances under which, a nonconformity may change or expand.

(iv) Regulate relocation or enlargement of a structure containing a nonconforming use.

(v) Specify the circumstances in which a nonconformity that is destroyed may be rebuilt.

(vi) Specify other appropriate circumstances in which a nonconformity must comply with the bylaws.

(B) If a mobile home park, as defined in 10 V.S.A. chapter 153, is a nonconformity pursuant to a municipality's bylaws, the entire mobile home park shall be treated as a nonconformity under those bylaws, and individual lots within the mobile home park shall in no event be considered nonconformities. Unless the bylaws provide specific standards as described in subdivision (1)(B) of this section, where a mobile home park is a nonconformity under bylaws, its status regarding conformance or nonconformance shall apply to the parcel as a whole, and not to any individual mobile home lot within the park. An individual mobile home lot that is vacated shall not be considered a discontinuance or abandonment of a nonconformity.

(C) Nothing in this section shall be construed to restrict the authority of a municipality to abate public nuisances or to abate or remove public health risks or hazards.

(8)(A) Communications antennae and facilities. Except to the extent bylaws protect historic landmarks and structures listed on the State or National Register of Historic Places, no permit shall be required for placement of an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the area of the largest face of the antenna is not more than 15 square feet, and if the antenna and any mast support do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

(B) If an antenna structure is less than 20 feet in height and its primary function is to transmit or receive communication signals for commercial, industrial, institutional, nonprofit, or public purposes, it shall not be regulated under this chapter if it is located on a structure located within the boundaries of a downhill ski area and permitted under this chapter. For the purposes of this subdivision, "downhill ski area" means an area with trails for downhill skiing served by one or more ski lifts and any other areas within the boundaries of the ski area and open to the public for winter sports.

(C) The regulation of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal approval under this chapter when and to the extent jurisdiction is assumed by the Public Utility Commission according to the provisions of that section. This exemption from obtaining approval under this chapter shall not affect the substantial deference to be given to a plan or recommendation based on a local land use bylaw under 30 V.S.A. § 248a(c)(2).

(D) A municipality may regulate communications towers, antennae, and related facilities in its bylaws provided that such regulations do not have the purpose or effect of being inconsistent with subdivisions (A) through (C) of this subdivision (8).

(9) De minimis telecommunications impacts. An officer or entity designated by the municipality shall review telecommunications facilities applications, and upon determining that a particular application will impose no impact or de minimis impact upon any criteria established in the bylaws, shall approve the application.

(10) Planting projects; flood hazard and similar areas. A bylaw under this chapter shall not require the filing of an application or the issuance of a permit by the municipality for a planting project considered to have a permit by operation of subsection 4424(c) of this title.

(11) Accessory on-farm businesses. No bylaw shall have the effect of prohibiting an accessory on-farm business at the same location as a farm.

(A) Definitions. As used in this subdivision (11):

(i) "Accessory on-farm business" means activity that is accessory to a farm and comprises one or both of the following:

(I) The storage, preparation, processing, and sale of qualifying products, provided that more than 50 percent of the total annual sales are from qualifying products that are principally produced on the farm at which the business is located.

(II) Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products. As used in this subdivision (II), "farm stay" means a paid, overnight guest accommodation on a farm for the purpose of participating in educational, recreational, or social activities on the farm that feature agricultural practices or qualifying products, or both. A farm stay includes the option for guests to participate in such activities.

(ii) "Farm" means a parcel or parcels owned, leased, or managed by a person, devoted primarily to farming, and subject to the RAP rules. For leased lands to be part of a farm, the lessee must exercise control over the lands to the extent they would be considered as part of the lessee's own farm. Indicators of such control include whether the lessee makes day-to-day decisions concerning the cultivation or other farming-related use of the leased lands and whether the lessee manages the land for farming during the lease period.

(iii) "Farming" shall have the same meaning as in 10 V.S.A. § 6001.

(iv) "Qualifying product" means a product that is wholly:

(I) an agricultural, horticultural, viticultural, or dairy commodity, or maple syrup;

(II) livestock or cultured fish or a product thereof;

(III) a product of poultry, bees, an orchard, or fiber crops;

(IV) a commodity otherwise grown or raised on a farm; or

(V) a product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.

(v) "RAP rules" means the rules on required agricultural practices adopted pursuant to 6 V.S.A. chapter 215, subchapter 2.

(B) Eligibility. For an accessory on-farm business to be eligible for the benefit of this subdivision (11), the business shall comply with each of the following:

(i) The business is operated by the farm owner, one or more persons residing on the farm parcel, or the lessee of a portion of the farm.

(ii) The farm meets the threshold criteria for the applicability of the RAP rules as set forth in those rules.

(C) Use of structures or land. An accessory on-farm business may take place inside new or existing structures or on the land.

(D) Review; permit. Activities of an accessory on-farm business that are not exempt under section 4413 of this title may be subject to site plan review pursuant to section 4416 of this title. A bylaw may require that such activities meet the same performance standards otherwise adopted in the bylaw for similar commercial uses pursuant to subdivision 4414(5) of this title.

(E) Less restrictive. A municipality may adopt a bylaw concerning accessory on-farm businesses that is less restrictive than the requirement of this subdivision (11).

(F) Notification; training. The Secretary of Agriculture, Food and Markets shall provide periodic written notification and training sessions to farms subject to the RAP rules on the existence and requirements of this subdivision (11) and the potential need for other permits for an accessory on-farm business, including a potable water and wastewater system permit under 10 V.S.A. chapter 64. (Added 2003, No. 115 (Adj. Sess.), § 95; amended 2005, No. 172 (Adj. Sess.), § 5, eff. May 22, 2006; 2007, No. 79, § 15; 2007, No. 79, § 15, eff. June 9, 2007; 2009, No. 54, § 45, eff. June 1, 2009; 2011, No. 53, § 14e, eff. May 27, 2011; 2011, No. 137 (Adj. Sess.), § 7, eff. May 14, 2012; 2011, No. 155 (Adj. Sess.), § 14; 2011, No. 170 (Adj. Sess.), § 16e, eff. May 18, 2012; 2013, No. 16, § 5, eff. May 6, 2013; 2013, No. 96 (Adj. Sess.), § 162; 2013, No. 131 (Adj. Sess.), § 127, eff. May 20, 2014; 2015, No. 130 (Adj. Sess.), § 5b, eff. May 25, 2016; 2017, No. 4, § 2, eff. March 6, 2017; 2017, No. 130 (Adj. Sess.), § 17; 2017, No. 143 (Adj. Sess.), § 2; 2019, No. 179 (Adj. Sess.), § 1, eff. Oct. 12, 2020.)