



Town of Richmond
Planning & Zoning Office
P.O. Box 285
Richmond, VT 05477
www.richmondvt.gov

MEETING MINUTES

11/12/2025 DRB MEETING

Members Present: David Sunshine (Chair), Padraic Monks, Matt Parisi, & Robert DiPalma.

Members Absent: Matt Dyer (Vice-chair).

Staff: Danté DeNault (Zoning Administrator) & Keith Osborne (Director of Planning & Zoning).

Public Attendance: Chelsye Brooks, Trevor Brooks, Josi Kytly, Brendan O'Reilly, MMCTV Erin Wagg, & MMCTV.

Start Time: ~7:00 p.m.

Summary

Agenda Item #1: CUR 2025-05, 74 Jolina Court (Parcel ID: JC0074)

- Applicant Buttermilk LLC, represented by major partners Josi Kytly and Brendan O'Reilly, presented opening remarks on this conversion and enhancement project.
 - o Applicant sought approval to convert about ~5,245 square feet of existing, unoccupied commercial space into nine (9) residential dwelling units featuring studios and one-bedrooms of various sizes.
 - o No changes to the second and third floors were proposed.
 - o The remaining commercial unit will be enhanced with a small bathroom and kitchenette.
 - o Other site plan improvements include a new window well, a front staircase, ADA accessible pathways and greenspace, two EV-Charging stations, and a semi-transportable lockable "Bike Barn" for storage space that follows the multi-family housing regulations.
- Applicant noted that the nine additional dwelling units would not trigger the need for a traffic study because an oversupply of parking already exists.
- JO 4-468 determined that no Act 250 permit amendment was required for the conversion of a structure used for a commercial purpose to 29 or fewer housing units.
- Applicant will seek State Fire & Safety review and approval for the converted units.
- While Applicant has not gotten comment from the Richmond Water Resources Department pertaining to a use calculation, Applicant expressed that an outstanding oversupply exists.
 - o Even though an oversupply likely exists, Applicant will be required to obtain a comment from the Water Resources Department.

- The DRB discussed the need for maintenance of general wear and tear of the paved portion of the parking lot.
 - o Applicant expressed that ground settling has been taking place.
 - o Applicant planned to patch the paved parking lot before the winter, but with the early snow, that plan is weather dependent.
 - Depending on the weather, some stone maintenance may be needed.
- Mrs. Chelsye Brooks of 1364 Jericho Road sought clarification of the existing floors of the building.
 - o Applicant clarified that four floors exist, including the basement.
 - o Applicant further clarified that the basement units are currently used and occupied for commercial use by Greensea.
- Mrs. Brooks also commented on the egress windows at the basement level and sought clarification on compliance for using the egress windows as a fire escape.
 - o Applicant explained that the State Fire Marshall will review fire escape routes before granting occupancy.
 - o The DRB reiterated that a condition will be imposed to require State Fire approval.
 - o Applicant further explained that two points of egress exist, the window well is not the only means of escape.
- After hearing testimony from the applicants and the public, the DRB moved to approve CUR2025-05 with the three (3) recommendations in the Staff Notes.
- **CONCLUSION:**
 - o **The DRB voted unanimously to approve CUR2025-05 subject to the three (3) following conditions:**
 - 1. Applicant to obtain comment from the Richmond Water Resources Department that pre-existing water and sewer lines are adequate for the proposed use.**
 - 2. Applicant to perform maintenance on the existing paved parking spots to remedy general wear and tear.**
 - 3. Applicant will get Building 1 inspected by the State Fire Marshall and receive approval prior to construction and occupancy.**

Agenda Item #2: APE2025-01, Appeal of Zoning Permit 2025-61 (Parcel ID: JR1330)

- Appellants Chelsye and Trevor Brooks of 1364 Jericho Road challenge the issuance of Zoning Permit 2025-61, pertaining to Appellee/Applicant Jay McCormack's driveway at 1330 Jericho Road, Richmond, VT 05477.
- DRB Chair David Sunshine opened the hearing by discussing a request for continuance in this matter.
- Before the continuance vote, discussion was had on potential conflicts of interest.
 - o The Zoning Administrator, Danté DeNault, recused himself from facilitating the hearing as the person who approved the Zoning Permit application on appeal.
 - In his place, the Director of Planning and Zoning, Keith Osborne, stepped in to facilitate.

- Chair Sunshine commented that while his land abuts the Appellee's land, that he has no conflict of interest on this particular appeal.
 - Chair Sunshine explained that Appellee's lot abuts his about 90 acres away.
 - Chair Sunshine further explained that the matters being reviewed on appeal are at least three quarters to a mile away from his property.
 - Appellant Chelsye Brooks commented on the potential conflict of interest, particularly in light of the Town's adoption of the State's Ethics Rules.
 - Appellant questioned if recusal should occur because (1) Town counsel issued a memo that said something to the effect of abutting landowners should recuse, and (2) that the development occurring on Chair Sunshine's property closely mirrors the development occurring at the site subject to this appeal. Because of this reportedly mirrored development, Appellant argued that Chair Sunshine's interest in the outcome of this appeal is greater than another member of the Town because the outcome of the appeal potentially reflects on the outcomes at his own parcel.
 - Director Osborne explained that the decision to recuse is a personal decision.
 - Chair Sunshine reiterated that he feels like he can be fair and objective decisionmaker. He opined that whatever I'm doing on my property has nothing to do with somebody anywhere else in Town. He further explained that if he were to accept Appellant's premise, then anybody doing a two-lot subdivision would trigger the need to recuse.
 - Board Members DiPalma, Monks, and Parisi weighed in.
 - All agreed that under the facts presented, no conflicts of interest were identified that warranted recusal.
 - Chair Sunshine further explained that if he felt like the property subject to appeal had some context that would influence his property in any way, he would likely be in conflict. However, because of the distance, steep slopes, and everything else raised, he determined that no personal conflict exists.
- Chair Sunshine explained that because Appellee/Applicant could not make the hearing, a request for continuance to December 10 was made.
 - ZA DeNault noted that Appellee/Applicant's attendance became an issue after public notice of the hearing went out.
 - No specific reason was given other than that Appellee/Applicant and his associates could not make it.
 - Chair Sunshine opined that, personally, he sees it better to hear testimony when both Appellants and Appellee/Applicant are in the room.
 - Chair Sunshine also mentioned the need for strict rules pertaining to the submission of evidence.
- Chair Sunshine raised a vote to continue the hearing on APE2025-01 to 7 p.m. on December 10, 2025, at the usual hybrid locations (in-person at town hall, Zoom, and phone).
 - **CONCLUSION:**
 - **By unanimous vote, hearing APE2025-01 was continued to 7 p.m. on December 10, 2025, at the usual DRB hybrid meeting locations.**

- Notwithstanding the unanimous vote to continue the hearing, out of fairness to the Appellants, Chair Sunshine allowed Appellants an opportunity to speak.
 - Appellant Chelsye Brooks expressed frustration with the process. She explained that the hearing was continued without her input, she followed the rules, and that she had to jump through hoops to attend this hearing.
 - Discussion was also had on the applicable evidentiary standard.
 - Appellant Chelsye Brooks noted that nothing in the Rules of Evidence prohibits the Appellants from submitting evidence up to the night of the hearing.
 - Chair Sunshine explained the Board's strict approach to taking and receiving evidence. He explained that he does not think that the DRB is subject to the Vermont Rules of Evidence and moreover, reiterated that the decision on how to take and receive evidence can be made at the Board level—a decision which he has already made as the Board's Chair.
 - Chair Sunshine further explained that to be an informed Board Member and have adequate time to review all evidence, all evidence must be submitted days before the hearing. If not, any evidence offered at or before the hearing would likely be denied or trigger a continuance.
 - Appellant Chelsye Brooks requested updates to the DRB Rules of Procedure or Zoning Bylaws to include very clear expectations on filing deadlines for appeals.
 - Chair Sunshine reiterated that when a hearing is closed, all evidence is deemed in, and that nothing else can be submitted.
 - Board Member Parisi mentioned that other Towns like Winooski have a drop-dead date of when materials can be submitted. He agreed that procedure should be written down and captured.
- Appellant Chelsye Brooks explained that, at this point in time, she is unaware of her availability to attend the December 10, 2025, continued hearing.
- Board Member DiPalma, as a point of order, sought to understand what changes to the existing, un-appealed driveway permit are the subject of this appeal.
 - Chair Sunshine elicited a response from ZA DeNault.
 - ZA DeNault explained, from his perspective, what changed from the original driveway permit to the amended one.
 - ZA DeNault stated that the length of the driveway was decreased to avoid triggering a General Construction Permit for stormwater runoff.
 - Board Member DiPalma asked if the amended permit sought approval for activity on the ground that was beyond the point of the present completion of the driveway.
 - ZA DeNault responded in the negative, explaining that the amended permit was more so to document the few changes that happened from what was initially permitted.
 - ZA DeNault explained that, in his eyes, only a few features were added; being, (1) an emergency vehicle services turnaround, (2) a forebay into a culvert, (3) the length of the driveway, and (4) the width of the driveway.

- Appellant Chelsye Brooks asserted that ZA DeNault's statements were inaccurate.
 - After being sworn in by Chair Sunshine, Appellant Brooks noted that the original driveway permit was permitted for 24 ft. wide, 2,283 ft. long.
 - Appellant explained that the amended plans do shorten the length of the driveway, stopping just past the home site.
 - Appellant further explained that ditching was added. She noted that ditching was not on the original plans.
 - Appellant also noted that a culverted was added, as well as changed locations for several culverts.
 - Appellant stated that the width also changed, as the driveway is no longer 24 feet wide.
 - Appellant further noted that project boundaries exist on the new plans.
 - It was explained that, on the old plans, no project boundaries or limits of disturbance were marked.
 - Moreover, the slopes of the project disturbance boundaries are different.
 - Appellant pointed out that no legend existed on the original plans.
- Meeting adjourned by unanimous vote.

11.12.25 DRB Transcript

Members Present: David Sunshine (Chair), Padraic Monks, Matt Parisi, & Robert DiPalma.

Members Absent: Matt Dyer (Vice-chair).

Staff: Danté DeNault & Keith Osborne.

Public Attendance: Chelsye Brooks, Trevor Brooks, Josi Kytle, Brendan O'Reilly, MMCTV Erin Wagg, & MMCTV.

Start Time: ~7:00 p.m. (*note: the timestamps below correspond to the [Zoom recording](#)*).

DeNault 12:43

Well, I see we have Josi here. Josi did[] mention that we could, that she'd be comfortable moving forward without Brendan.

Sunshine 12:49

Okay, you want to start Josi?

Kytle 12:50

Yeah, sure. He's, he should be here any second. So, no worries. So, I wasn't sure if, or, do you want to open the meeting, or have you already done that?

Sunshine 12:59

Sorry. Um, so welcome to the November meeting of the development review board for the Oh, I'm sorry. Have you started recording?

DeNault 13:09

We are recording.

Sunshine 13:12

Okay, to the DRB for November 12 of 2025. We have two applications on the agenda. First one is CUR2025-05, Buttermilk LLC. And they're seeking DRB approval to convert 5,245 square foot of existing unoccupied commercial space into nine residential dwelling units made up of studios and one bedrooms. No changes to the second third floor proposed. They are asking for some change to the one remaining commercial unit, putting a bathroom and small kitchenette in it, and they're going to put in a new window well, and my other minor exterior and site plan improvements. So let me swear you in. Josi, do you swear, affirm, to tell the truth, all truth and nothing but truth?

Kyle 14:16

Absolutely.

Sunshine 14:17

Thank you. Is there anybody on the board who has a conflict of any way with this application or with the applicants?

DiPalma 14:26

I don't.

Parisi 14:27

I do not.

Monks 14:27

I do not.

Sunshine 14:28

Nor do I. Josi, why don't you tell us what you have in mind here?

Kyle 14:32

Sure. First. My name is Josi Kyle. I myself, and Brendan, who will be coming on, are one of the two major partners on Buttermilk [LLC], and we were thrilled that this summer, the Planning Commission and the Select Board made some changes to the zoning to that we could progress with converting space that had been empty for over in a year, commercial space that had been open for over a year in the creamery into usable housing. As we all know we're in a housing crisis and the cost of construction is out of reach for most developers and with their price market. So, using existing space that is being unused by the current use, i.e., commercial [] is an excellent way for us to progress and to try to provide more housing in Richmond at, in an affordable way. So, our current plan is to take, but we also are committed and believe that the right thing to be doing is keeping a mixed-use development going so that we can be flexible in the future, that if the opportunity changes, to bring in more commercial there for in future buildings. So, I'm not saying we're walking away from mixed use at all, but this enables us to be a little bit more nimble with, based on the market design. So, we have developed a plan based on those changes to the rules. We've looked at re-invigorating the front commercial remaining spot to put in a kitchenette and a bathroom, because, if not, they would have had to walk through a long building, and also to improve the access on the patio and the kind of street front visage, a vista of the commercial unit, and then with the remainder of the commercial space, which is on the ground floor and on the lower floor, is to optimize that into nine additional housing units, so each of them individual apartments. And what we've learned from our existing 14 units is that having a broad range of different type of units, i.e. from affordability and spec, is very, it's very helpful for the community because then you attract a wide variety of individuals and some people stay and move between the different units. So, we feel like

this mix of nine units is going to be a wonderful addition to the community and is a good use of the space. So, I think there's site plans, and Brendan's joined us now. So, I'm going to, I'll just speed through.

Sunshine 17:16

Brendan, I need to swear you in. Do you swear or affirm to tell the truth, all truth and nothing but truth,

O'Reilly 17:21

Nothing but.

Sunshine 17:22

Thank you. I'm sorry, Josi, go on.

Kyle 17:25

No worries. So, I mean, I'm curious on, it's been a while since we've been in front of you guys. So first of all, introductions to everyone who's new. But I wasn't sure if you want me to go through the narrative overall, I was kind of broad stroking what we were doing on how things, we could get into the details we could answer questions. How would you best help? How would you like to run this?

Sunshine 17:48

We've your narrative was posted, so I think we should be aware of it. And so going over detail by detail, I don't believe is necessary. So if you hit the high spots, then we can open it up to the Board and the public for any discussion.

Kyle 18:08

Okay, so I think the only other thing that I would cover in that upfront section is related to the challenge that we face and the reason you have two site plans in the pack of information is that we have an as built, what we currently are living in terms of the infrastructure and what are forecasted, long term planned unit development, PUD. The as-built is what we launched back in, I think it was the last time we were in front of the formerly for the site plan was in 2017 and then the building actually launched in 2000, in early [20]20, but then the PUD was approved in 2023, so the reason that there is those two, we provided those two plans, is that we're kind of blending those, because you can see where we're going long term. But not all those changes are going to be made here and today, because ... it's just out of scope and unnecessary, and we also don't want it, but that we are doing a multi phased development, and we have three additional buildings planned. The current permit, and the discussion today, is really about optimizing that first building and trying to make the changes that are necessary to make that building operational. And also, the other thing I need to point out is, as I pointed out early on, is keep it within meaning, you know, reasonable, feasible cost constraints. I'm sure everyone is well aware of the challenges that we're, that that that our community is facing in terms of construction. So, we've tried to do our best to achieve all the objectives, but also to keep control so that we don't have cost, an inflated cost that need to go to, to service that debt in terms of rent or anything. So anyways, to move on beyond that. Uh, we have, I've already talked through. We're doing nine units. Very little is changing the exterior, except for the, and David you already identified the front patio and access. And we also adding a bike barn to house and to achieve the multi family housing regulations that require a certain amount of storage space. And then we're going to also do ADA compliant. We already have an existing outdoor living area where there's tables and chairs and Adirondacks--we're going to make that ADA compliant. And also we're going to be able to, through this project, connect two EV charging stations into the infrastructure. So those are the minor exterior things going on. In terms of other things that historically have been hit upon. We are over supplying parking. There should be no issue with the usage around

parking and traffic. We have done several traffic studies, the current traffic impact is below any threshold that would require any mitigation. So I know that historically was a big discussion point. All of we actually got, the only other thing would be environmental concern. We got our Act 250 Jurisdictional Opinion, the JO for this from ANR. So they have already given their thumbs up and actual seal of approval of these amendments. So anything that, in terms of storm water, wetlands, all those things that are always a point of conversation have been achieved with this, this permit that have actually already been achieved. And then, of course, once we're at the point where we are at Fire and Safety, we will work with the Fire Marshal to get a full review and get approval from the State around that. I'm just, I'm scanning the narrative to things that catch out.

Sunshine 22:02

Have you had anything from the Water Department?

Kyle 22:05

We haven't. We haven't gotten anything as of as of yet, because we're, I know that we have an oversupply for the building, and we have an oversupply in the water department overall, but we also know that there's plenty of bandwidth. We would, once we have the final specs of what toilets we're putting in and all that stuff. I think Brendan has that, and probably more in scope. But that was the, it wasn't a requirement, I thought, for this meeting. But that is well in scope of the future for sure.

Sunshine 22:39

Okay. Brendan.

O'Reilly 22:41

Well, we, we met with the Water Department there to look at some other things in the building while they were, I don't know what, what it was in relation to. When the current Commissioner, I'm not sure his title, came in, but we, we haven't, I haven't talked to him specifically about the use calculation. But, and when I mentioned it to him back then, it was like, you know, they're celebrating for any more users.

Sunshine 23:11

Right, so probably, if the board sees fit to grant this, we're going to probably, one of the conditions will be that you obtain something in writing for the Water Department.

O'Reilly 23:22

Of course.

Kyle 23:23

Of course. We had that in scope, I think when once we were further down the pike on this.

Sunshine 23:31

Anything else from the applicants that you want to raise?

O'Reilly 23:37

Not right now.

Sunshine 23:39

Does the board have any questions?

DiPalma 23:42

Not here.

Monks 23:45

It was just one other recommendation in Dante's notes that the applicant to perform as a recommendation for the, any decision that the applicant for maintenance on the existing paved parking lot spots to remedy general wear and tear. Any comments on that?

O'Reilly 24:05

For us?

Monks 24:07

Yeah.

O'Reilly 24:07

Yeah, that's basically, I mean, the wording is accurate. That mean, I was just there today all afternoon going through the building with the subs again, trying to prep for the going forward with the apartments and and looking at the parking lot, just because it's been challenging, just from the pre existing site of, of the excavation and all of the undermining, and, you know, there's just settling that takes place over the first five years of all the material. And knowing that we were going to, that it was really just a preliminary two inch lift of paving, and we've been patching it. But right now it, believe me we were planning on patching before winter, which, if we could still get the window, it's like the paving plant. So I think ... now, even they like the batch plants, they're weather dependent, and we're kind of gotten hammered a little bit. But it's still we might have to do a little stone maintenance for the winter, potentially, depending how everything kind of goes here in the beginning of the winter season. But it's really it. I mean, our plan is to repave it, but we want to do Building Two before we wreck it. So being an ongoing maintenance thing, and has to continue to be. Most of the people that use that spots are actually not from the building. Those, I mean, those front spots we share with the neighbors, and whenever those spots are open. It's just informational. I mean, we're just been really good neighbors about, like, everybody and anybody that knows to park there in town parks there, and so it's, uh, whatever. It's kind of a symbiotic relationship.

Monks 25:55

Course. All right, thank you. That's it.

Sunshine 25:57

Anything else, is there anybody out there in the public that has questions?

Sunshine 26:06

Yes. Chelsea.

C. Brooks 26:08

Hi. Chelsea Brooks, I just have a quick question, because when I was looking at the plans prior to this meeting, I was having a hard time understanding and just wanted to clarify. Is this like a ground floor and a basement? Because, I like, when the sort of rezoning went in to be able to put housing units on the first floor, I anticipated, like one floor. And this was confusing, because it looks like two. Can you?

O'Reilly 26:36

It's two floors. It's a lower level or basement, actually, since it's not a walkout, and then we have to have egress windows put into the south side, towards the cemetery side, for there's four apartments

downstairs.

C. Brooks 26:54

Oh, okay, so, so the egress windows, the one that you, you have in the packet that like shows existing, but I'm pretty sure the plans say you're expanding them correct? So, there'll be actual like compliant so somebody can escape in a fire through the egress?

O'Reilly 27:11

We have to. We'd never get our building permit from the, we'd never get occupancy from the State.

Sunshine 27:18

That's, and that's why we require a sign-off from the State on that.

C. Brooks 27:23

Yeah, I just, thank you. I just wanted to clarify, because I was looking at the side of three floors, but there's four floors of apartments, and I was like, where, where is this other floor? Thank you.

Kyle 27:33

Their existing, their existing Office units right now. So they were being used and occupied for five years by Green See. They were, they're beautiful window well, like, well units and FYI, just so, you know, just so that there's full transparency, is that actually the two ways of egress actually do not need to be through the window. It actually is through. There's two egresses. We've already gone through that review process, so we've already mapped that out, but that there will be an egress as well through that, or, for humanity and light, you know, because we want to maximize the light as well, but those will be very affordable and appealing apartments to some individuals, so.

C. Brooks 28:17

Thank you.

Sunshine 28:21

Anything else?

Anything from the board?

Anything else from the applicants?

What would the board like to do on this?

Monks 28:30

Move to approve with the recommendations in Dante's Staff Notes?

Sunshine 28:37

Do I have a second on that?

DiPalma 28:39

Second.

Sunshine 28:41

All in favor,

[collective, unanimous Aye's].

Great. We have 45 days [to] get you a decision. I'm sure we'll be much faster than that. And thank you very much. I think it's a good idea what you're doing.

Kyle 28:57

Great, thanks. Nice to see you David. All right. Bye guys, take care.

Sunshine 29:04

Okay, back here.

DeNault 29:13

At this point, should I go grab Keith for transition?

I'll be right back.

Sunshine 29:40

Okay, next on the agenda is APE2025-01. Chelsea and Trevor Brooks are appealing the issuance of a zoning permit, 2025-61 for various reasons. I think, you know, there's been a request for a continuance in this matter. It's up to the board whether we'll grant it or not. Does anybody have a conflict with this matter?

DeNault 30:16

I do. I need, as the, as the zoning, as the person who approved the Zoning Permit application, I need to recuse myself.

Sunshine 30:23

Okay. And I'll give the same comment that I gave the last time we had something. I am an abutting land landowner of the landowner whose permit is being appealed. However, he abuts me probably 90 acres away, and this, what's being discussed here is at least three quarters of a mile from my property, down the road his, his property snakes around. So in my mind I do not have a conflict.

Does anybody want to challenge that?

Monks 31:02

I do not.

DiPalma 31:04

Not me.

Sunshine 31:05

Okay.

C. Brooks 31:06

Can the public comment on that or?

Sunshine 31:09

Well, so the, normally in this situation we would take first your appeal and then allow the Zoning

Administrator to rebut. However, since there's a motion to continue, I would like to do that. However, since you're here and you're the appellant, if you want to have something to say, you can.

C. Brooks 31:40

So, I was referring to the status of recusal based on memos from the Town lawyer regarding other situations at the DRB after the State changes with the ethics rules and our Town adopting the State's ethics rules. The Town lawyer issued a memo that said, as an abutting landowner, one should just recuse and further, like sort of on top of that, the development that you are working on in your property is very similar to the development that's happening on this parcel, so much so that it involves potential wetland impacts and things that are very closely mirror this. So I feel as though your interest in the outcome of this is just by nature of those things greater than another member of this Town, because the outcome of this potentially reflects on outcomes at your own parcel.

Sunshine 32:56

Well, I'm privileged to own 180 acres of land. I don't believe just because, some, I'm in a butte of someone who's literally close to a mile away from me, that that should be an issue. Keith, do I need something more than that? Or is it?

Oborne 33:18

Well, I mean, it's a personal decision on your part.

Sunshine 33:21

Yeah, I, I've, I feel like I can be fair. In my mind, whatever I'm doing on my property is, I'm doing on my property has nothing to do with somebody anywhere else in Town. I mean, if I, if I accepted your suggestion, then anybody doing a two-lot subdivision, you would say I would be recused from which doesn't make any sense to me. So, in my mind, Chelsea, I do not have a conflict, and I believe I can be objective in looking at this.

Monks 34:00

If you want any input from us.

Sunshine 34:02

Sure.

Monks 34:03

I don't see that you have any interests that are different than the average, average citizen.

Sunshine 34:11

That's how I feel. Anybody else?

Monks 34:14

I don't, I don't see a conflict.

Parisi 34:16

I don't see an issue here.

DiPalma 34:19

Yeah, I think if, if this applicant, application was asking the Board to make a legal determination on an issue that has an impact on your, your situation, your personal situation, that might be a closer question,

but I'm not seeing that at the moment. Nobody's identified anything, so I would not have an issue with your continuing.

Sunshine 34:41

No, I agree if, if I felt that this, if this property and what's being proposed on this property had some context that would influence my property in any way, I believe that would be a conflict. But, literally the distance and everything else. I mean, there's probably 90 acres but or 80 acres between the end of this-- what's being proposed here and my property, and it's pretty heavy uphill, as you know, you've walked that land a lot, so.

Okay, having said all that, why don't we vote on the continuance. But Chelsea, if you have, if you want to enter some evidence about this, rather than wait till December 10, we'll listen to it.

DiPalma 35:44

Well, hey, let's, what's the what's the continuance request, and what's its basis, and who's making the request?

Sunshine 35:49

Okay, the Applicant, or the Appellee, is requesting a continuance. He couldn't make it today, and he says he'll be able to make it on December 10. Did we have a reason why he couldn't make it today?

DeNault 36:05

Just that he couldn't make it.

DiPalma 36:10

Okay.

DeNault 36:11

Yeah, I was asked to schedule this as soon as possible. So as you know, I sent out the, the Staff, or, excuse me, the agenda on Friday. We got the appeal that afternoon, and so I turned it around on Monday, and we got it on the agenda. And after that was done, I was told that Mr. McCormick wouldn't be able to attend and neither would his engineers.

Monks 36:36

When did they let you know?

DeNault 36:38

After the staff, after the agenda went out.

Monks 36:42

But I guess it doesn't really matter.

I guess it seems like it would be in everybody's best interest to do it all at once, but understand that Chelsea's here, and I don't know whether you can make the next one. I think David's question makes sense. But then, then again, the Appellee is not here. I just don't want to add extra process or waste anybody's time. But yeah.

Sunshine 37:10

I think out of fairness, if Chelsea wants to have something to say, do it, but, let's, is the board ready for a

vote?

DiPalma 37:18

On the continuance.

Sunshine 37:20

Okay, so the question is.

Monks 37:21

Sorry, just a point, just to clarify, if we do continue, would we also allow Chelsea to testify?

Oborne 37:27

Yes.

Monks 37:28

Okay, that's what you're suggesting.

Sunshine 37:29

Yep.

Monks 37:30

Thank you. If she, I mean.

Sunshine 37:32

I mean I think it's, personally, I think it's better for you to testify when we have the application in front of us. So, if we vote for continuance, then the application really isn't in front of us. But I think we've all been, we're all prepared for the application because you posted, everything's been posted

Oborne 37:55

But not reviewed, and you haven't had time to review everything. Have you?

Sunshine 37:59

I reviewed everything that was posted. I haven't reviewed anything that wasn't posted,

Oborne 38:04

Right, ok.

Sunshine 38:05

And that's another thing. We need to be fairly strict about additional evidence. And if you give to the Zoning Administrator evidence one or two days before the hearing, we will not have time to review it, and if we were to accept it, then we would have to have a continuance because it's not fair to the board, to, and I've been in that situation, trying to read evidence that's submitted to us while we're listening to the application or the appeal is, in this situation. Any other questions about what we're voting on? What we're voting on is a continuance to December 10.

Oborne 39:04

December 10, yes.

Sunshine 39:06

Which is a date certain.

DeNault 39:10

At a time, at a time as well.

Sunshine 39:13

At seven o'clock.

All in favor of a continuance?

Aye.

Monks 39:21

Aye.

Parisi 39:21

Aye.

DiPalma 39:22

Aye.

Sunshine 39:23

Any opposed? No. Okay, Chelsea, do you want to say anything?

C. Brooks 39:30

I mean, I guess I don't quite understand the process here, because this was just continued without my input, given that I'm the Appellant, I'm the one that properly warned this hearing. I'm the one that had to jump through hoops because the applicant wanted this done ASAP. I followed all the rules, and then they decided not to show up, which is a, sort of continued history of, of nonsense here. So, this is quite frustrating that that decision was just made before you allowed me to speak. And furthermore, on the note of evidence, I understand the Board wanting to have evidence before a hearing so that you can review it ahead of time. But there's nothing in the Vermont like statute, the Rules of Evidence, that says somebody can't present evidence to the night of the hearing.

Sunshine 40:26

All I'm telling you is, if you present evidence on the night of the hearing, as far as I'm concerned, and in the past, we have been very strict about that, we won't consider it. We'll ask for a continuance if you feel that it's, if it's important evidence. It's impossible to, if you handed us handouts for me to read a handout while the application's going on. It's just not fair to the Board. And I don't think the Vermont Rules of Evidence, one, I don't think we're subject to the Vermont rules of evidence. And two, I think this is a decision that can be made on a Board level and that's the decision I've made.

C. Brooks 41:10

Okay. I do think the wrong Rules of Evidence come into play, and I and I respect that decision. I think that it is good for the Board to prepare and plan ahead and review these things before a hearing. I think that I would request that your Rules of Procedure or something in the Zoning Bylaws that the DRB suggests to the Planning Commission, that the Zoning Bylaws for appeals be updated to include very clear expectations on that, on that note, because excluding evidence.

Sunshine 41:43

I'm not talking about excluding evidence. I would not exclude evidence. I'm just telling you that for the board to be knowledgeable and to be able to understand whatever evidence you submit, or anybody submits, within 48 or 72 hours of the hearing. It's, it's impossible for us to take that in and consider it. It's, it's just a, you want us informed, any applicant wants us informed, and the only way we can be adequately informed and up to date is to have time to review this.

C. Brooks 42:19

I understand that and, and that's why the board has 45 days after a hearing to make a decision, so that you can then.

Sunshine 42:27

No. No, you don't understand, we can't accept the evidence and then, when the hearings closed all the evidence is in. No evidence can come in after, after it's closed. So you have an Applicant who presents us with evidence very close to the time of the hearing, he has two choices, either we continue the thing or we exclude that evidence. In all fairness to the Applicants, I don't want to exclude evidence that they're submitting, so I would ask for a continuance, but then, you know, it keeps going.

Parisi 43:05

I think something else to bear in mind here is, other towns do it differently as well. Like, I know, in Winooski, they give you a, like a certain drop dead date of when stuff can be submitted. And I believe it's been a couple years since I submitted a permit. It's about a week, about when all the, you know, all the files can be submitted. So every town does it differently. I do agree with you. We should probably actually have it written somewhere and make that change later on. We're not the ones that make that decision. I think your suggestion is good, but I just want to, to let you know it's not just a Richmond, you know, rule or whatnot, other towns do require that everything be filed, you know, by a certain date.

C. Brooks 43:49

So, yeah, no, I'm aware, and this is why I said, I understand the, the logic behind the request, just that the sort of on the paper rules don't, sort of back that up, I guess, right now, as written, and.

Sunshine 44:08

It's sort of been, I'm sorry, go on.

C. Brooks 44:11

I was just gonna say I understand the DRB doesn't make the rules, but one of the duties of a DRB in State statute is to suggest zoning amendments to the Town Planner and the Planning Commission. So that's why I mentioned that

Sunshine 44:23

We've been pretty, I mean, historically, since I've been Board chair, we've been pretty strict about evidence coming in very, very soon, very close to the date of the hearing.

C. Brooks 44:35

And that, excuse me, sorry not to interrupt you, that may very well be, it's just, it's not published. And so, without somebody reviewing your hearings, that that piece of knowledge wouldn't be available to them.

Osborne 44:50

I mean, I would agree that for appeals, definitely. For applications before the DRB, there is a hard deadline for that, and that is 15 days before it needs to be, the application needs to be complete, to be deemed complete in order to be eligible for an agenda. So that, by default, requires an application to have all the materials presented at that time, and we deem it complete, it's eligible for an agenda. We do not accept additional application materials after that. So that's, that's sort of the process that we go through for applications. Appeals are a different animal. They are. We'll give you that.

Sunshine 45:27

But in the same vein, the Board wants to be fully aware and have time to digest all evidence. I would think both the Appellant and Appellee would appreciate that.

Oborne 45:42

Well it's at your discretion.

Sunshine 45:45

And I've just made it. Chelsea, is there anything you want to discuss about this application, or do you want to wait till December 10?

C. Brooks 45:54

I suppose I'm, there's a chat from my husband.¹ I don't know if he chatted other stuff, but I don't understand, I don't understand the way a continuance works. So you asking me if I want to speak about anything, I'm not entirely sure of what, of what you're asking of me if this isn't active....

Sunshine 46:17

You're here, you're here, and I'm giving you, you're here and I'm giving you a chance to speak. I think it would be, makes more sense if whatever you want to say to us, you say on December 10 when we have the hearing in front of us, but that's, I can't, that's up to you. You're here, and I'm trying to be fair.

Monks 46:37

I think I understand maybe Chelsea's question is like, what would the comment be because the hearing is not, it's been continued, so this is not the hearing on that appeal. So we're just.

C. Brooks 46:50

And I'm not allowed to talk to you about this, because that would be considered an ex parte communication.

Sunshine 46:56

No, we're on the record. It's not ex parte.

Parisi 47:01

You know, regardless, right? I mean, the meeting has been moved to another date, that is when a decision will be made. So all of your, all of your testimony, should probably be at that time.

Monks 47:20

Yeah, we could appreciate your frustration and having come here and played by the rules, I just.

C. Brooks 47:26

¹ At 45:54, T. Brooks commented the following: "I'd just like to point out we got the notice of the hearing 14 days prior to this meeting."

I have no idea. I haven't reviewed my calendar. I have five children. I don't know if I'm available on December 10. So that's why I brought up before you sort of cut me off and decided against on this continuance, this Applicant has given no reason for why he's not here tonight. This Appellee. I'm here, I followed the rules, I paid the fee.

Parisi 47:48

You won't have to pay again, and if you can't make the next meeting ...

C. Brooks 47:50

No, I understand.

Parisi 47:51

... we can shift it to another date, I mean, till one that works for both of you.

C. Brooks 47:56

Thanks, is that allowed?

Sunshine 47:58

And meanwhile, the applicant is getting those permits.

C. Brooks 47:59

Things have to be heard.

Sunshine 48:01

No. No. I could, we could continue and continue. You can't make it December 10?

C. Brooks 48:05

I have no idea if I can't. I'm not saying I can't. I just don't know. I haven't had chance or, I mean, I've been working all day.

Sunshine 48:09

That would be only fair if, if you can't make it, we'll continue it

C. Brooks 48:15

Okay.

Parisi 48:15

And like David said, he can't continue with his project until this is resolved. So you're...

C. Brooks 48:22

I mean that ...

Parisi 48:23

... you're not giving him the green light.

C. Brooks 48:24

... that hasn't stopped him before, so, yeah, certainly has not stopped this Applicant before at either the Town or the State level. I suppose, are you, I, I have a question. Are, given that you have reviewed all of the submitted materials and my appeal, are you between now and the next, like. Right now is when you

do stuff, I would assume that they're not sorry--I'm trying to think through this, because this is not a hearing. Essentially, my thought in tonight, given that I was last minute told the Appellee was not going to be here. My thought was, well, perhaps we will discuss things and find out if there's any more information that the Board feels they need to review this, especially from the Appellee, because the assumption is that if he wanted to continue this, there's something he wants to present to you, and I don't feel that it is fair that he hasn't submitted any premature meeting materials. He's holding back, he's stonewalling so that he can submit things, perhaps right before the next meeting. And that just seems really like not judicially efficient, and certainly not fair to a hearing where you've had the opportunity to review what I have to say. If he feels he needs to be here, clearly he and his associates, whoever they may be, feel like they have something to submit to the Board or to say. I just, I, I want to, if this is heard on December 10, I want this to be efficient and fair. I don't want this to be a circus.

Sunshine 50:10

I don't intend to let it be a circus.

DiPalma 50:16

So I guess I have a point of order as I, I wasn't on the board during the previous proceedings on this application. As I understand it, there is an outstanding permit for driveway construction, which has been issued and approved by this Board. Appeal period has expired.

Oborne 50:39

There was just a regular permit. It was just a zoning permit.

DiPalma 50:42

Just a zoning permit to build the driveway?

Oborne 50:44

Correct, and then that was appealed...

Sunshine 50:46

And no CO.

Oborne 50:47

... is not appealed. Appeal period had run.

DiPalma 50:49

Got it, okay. And I see from some of the photos that were submitted as exhibit that there is a driveway under construction.

Oborne 50:58

It's constructed.

DiPalma 50:59

It's constructed. So then, I, in reading the materials in preparation for this hearing, I, I could not understand what changes to the existing permit are being requested in this, were requested in the amended permit and are the subject of this appeal. Is there some explanation of that that would be helpful to me?

Monks 51:24

Maybe as similar point of order, like, I don't know. Like, we continued the hearing. Now we're talking about the project and the permits. Like, are we, I just kind of feel like we should just, we're not having the hearing we should go home and talk about it when we're talking about it. Maybe I'm wrong. It just seems a little odd. I just, I have been in this position where we're, you know, continued an appeal, and then we're talking about it. I'm just a little, a little.

Sunshine 51:51

However, what Bob's asking is not, I don't think is evidentiary for what the appeal is, I think he's asking why we're where we are at.

DiPalma 52:06

Yes, that's it. Exactly.

Monks 52:08

Totally your call on this.

Sunshine 52:09

We were, we were on the board before, and Bob wasn't so. Dante, do you want to, can you respond.

DeNault 52:17

I would be happy to? Would you like me to?

Sunshine 52:20

Please.

DeNault 52:21

Yeah, sure. So the question is, what's changing from the original driveway permit to the amended one?

DiPalma 52:31

Yeah. Yeah, what does the amended permit request that was not in the original permit?

DeNault 52:34

Yeah, so the original permit, the drive, the original driveway permit, it basically goes further up the hill. Through working with the State, it was determined that it would, they would need a general construction permit for stormwater runoff if they were to build it all the way, all the way to the top. So this amended zoning permit application, as I understand it, is to, is to be under that threshold and not trigger that, so the driveway is—it wasn't built all the way to the top of the hill—it was more or less built to the existing house that was permitted by this, or that was permitted and is subject to an appeal before the Environmental Court right now.

DiPalma 53:14

So the amended permit seeks approval for activity on the ground that is beyond the point of the present completion of the driveway.

DeNault 53:25

No, it's, it's more so to document the changes that happened from when what was initially permitted. So there was a few features added on this amended driveway permit that didn't exist in the original one. One's like a turnaround halfway through up for like a, you know, emergency services vehicle. Another one's forebay into a culvert at the bottom of the driveway. And from my understanding, those are the

only changes, besides the, you know, the length of the driveway. The other reason why we needed to reissue or why we needed to do an amended zoning permit application is because it was initially approved with the condition that the total length of the driveway, for its entire length, be 24 feet under.

Sunshine 54:15

Total width?

DeNault 54:16

Total width. Excuse me. Thank you. Yes, width 24 feet. Under the Richmond Zoning Regulations the High Density Residential District, driveway lengths can be 12 to 36 feet. And so we felt that it was a condition that should be removed to not trigger that state construction permit. So those were the main reasons. Those were the main changes and the impetus behind it.

Sunshine 54:43

Does that satisfy your?

DiPalma 54:44

Yeah, I just want, that's why I raised this as a point of order. I really, I agree with Padriac's comment that we, we really don't want to be discussing the merits of the appeal, but I just wanted to understand what the procedural posture of the case was.

C. Brooks 54:57

Yeah. Chelsea.

C. Brooks 54:58

So unfortunately there's many things that he just said that aren't accurate. So now I don't know where we are.

Sunshine 55:03

Okay, so now you're getting into the.

C. Brooks 55:07

I'm not taking about merits, I'm talking about the differences, like and I'm, I'm, I will pause and not even say the things that I think are different, if you don't want me to. Dante was just permitted to talk about the things that he believes are different. So I don't know why I wouldn't be warranted that same grace.

Sunshine 55:25

Shouldn't have opened it up. Now, I don't disagree with you. If you wish to speak, please do.

C. Brooks 55:32

Thank you.

Sunshine 55:37

Let me swear you in. Do you swear to affirm to tell the truth, the whole truth, and nothing but the truth?

C. Brooks 55:41

I do.

So, not bringing up plans, because this is not the hearing. The original driveway permit, as Dante said,

was permitted for 24 feet wide, 2,283 feet long.

It, and that's pretty much it. 24 feet wide, 2,283 feet long. You can review the plans. I'm not going to get into it, but there, there's nothing else on them other than the driveway. And so, the new plans, I'm just talking about the plans that Dante just spoke about, they do shorten the length of the driveway. They stop the gravel part just past the home site. However, they add ditching that you'll notice, hopefully you'll review these things, the ditching that is not on the original plans. They add a culvert that is not on the original plans. They change the site of several culverts. Other changes are the width. As the, the width is not 24 feet wide. The as built width is what they're trying to sort of capture in this permit. So the different widths of the driveway, and there are now project boundaries on the new plans. The old plans had no project boundaries, no, no limits of disturbance, no sort of indication. There was no legend on the original plans. So quite frankly, like, the plans were, here's the driveway. It's going to be this width and this length. And 12% grade, that was kind of the key how to get this to a 12% grade. And so the new plan has project disturbance boundaries. It has different slopes on these boundaries. You can tell just by comparing the two plans. So I want to the Board to know these things that is different than what Mr. DeNault has just discussed, saying it's there's really no differences, because there are several that before we adjourn, I guess, tonight and lead into the following meeting. I want the Board to have that sort of, I guess, perspective of the changes.

Sunshine 58:03

Great. Thank you.

DiPalma 58:05

So I originally raised question because we're, we're considering an appeal in the context of an existing permit which is final and non-appeal appealable, so the applicant has certain rights under that permit. And I was trying to understand what are those rights, and how do they compare with what it is that's being requested in this amended permit, because that has direct bearing on, on the boundaries of this appeal.

If we already approve something and the appellant is objecting to that? Well, that's that would be out of bounds, because it's a final and non-appealable decision.

Monks 58:47

That sounds like something to talk about during the hearing, right?

DiPalma 58:50

Right, so I just wanted to understand where we were. I have a better understanding now, and I agree we should not go any further than that.

C. Brooks 59:03

I will review my calendar and let...

Sunshine 59:06

Please let.

C. Brooks 59:09

Yeah, I will let you know if I can attend on December 10.

Sunshine 59:13

Okay, thank you. I'd entertain a motion to adjourn, since we don't have anything considered.

Monks 59:22

So moved.

MMCTV E. Wagg 59:24

Can I ask a quick question before you go?

Sunshine 59:26

Oh, I'm sorry.

MMCTV E. Wagg 59:27

Yeah, just about Item One, you guys moved to approve that. But then you also said you're going for 45 days to get back to those folks. So are you going to have, are you moving into discussion now, or are you adjourning?

Sunshine 59:46

Under the law we have approved it, and we have 45 days to issue a written decision.

MMCTV E. Wagg 59:53

Okay, so you're really adjourning now. You're not going into deliberative session. Cool. Thank you.

Parisi 1:00:00

Thanks Erin.

Sunshine 1:00:06

All in favor of adjourning?

[collective, unanimous Aye's].

-- end of meeting --