

Appeal of Administrative Subdivision Permit AS2026-001

Summary

The permit AS2026-001 could only be approved administratively if the record demonstrated that each created lot complies with all things listed in Richmond Zoning Regulation 2.6.2.

The three clearest deficiencies concern vehicular access, emergency access, and stormwater. The record does not presently demonstrate compliant vehicular access for the expanded uses, emergency access under the proposed narrowed-driveway design, a drainage system to remove water and accommodate flows, nor the capacity of the actual downstream drainage facilities. While these are not our only concerns they are the ones I will primarily focus on tonight.

Administrative Authority

"No Zoning Permit may be issued by the Administrative Officer under this Section unless each lot created complies with all pertinent state and local statutes, regulations and ordinances relating to water supply, sewage disposal, vehicular access, environmental impact and other provisions of these Zoning Regulations and with the standards of the Richmond Subdivision Regulations." RZR §2.6.2

RZR §8.1 further provides that the Administrative Officer must administer the Zoning Regulations literally and has no power to permit land development that does not conform. Section 704 of the Subdivision Regulations assigns any available waiver authority to the DRB upon the required findings; it does not give waiver authority to the Zoning Administrator.

Vehicular access and sight distance

"All vehicular accesses shall comply with the 2000 Public Works Specifications, or the most recent version of Public Works Specifications at the time of application." RZR §4.1

"A property owner must apply for an access permit (or amendment) for any new access on to a road or street, such as for a new road or driveway (or for any new uses that increase the ADT for the driveway)." 2016 Public Improvements Standards §1.3

The existing access-permit application describes the project as access for a single-family house. AS2026-001 proposes two lots and four dwelling units: a duplex, a new single-family house, and conversion of the existing single-family house to an accessory dwelling unit. No new access permit or amendment was requested. The approved record contains no complete project-wide average-daily-traffic calculation and no written Highway Department determination that a new access permit is unnecessary.

Sight distance is also unresolved. The existing access permit recorded approximately 470 feet to the north. In recent correspondence, the Town Manager stated that 495 feet was required, that a new access permit is needed, and that there is no procedure for waiver. The town manager confirmed that a current review revealed inadequate sight distance.

The width of the shared driveway is also at issue and does not meet the minimum requirement illustrated in Figure 8 from the Public Works Specifications. AS2026-001 proposes to narrow the driveway to 12 ft wide, however a 15 ft wide driveway is required per Figure 8.

The question is whether the application affirmatively demonstrates vehicular-access compliance for the additional lot and uses. On the present record, it does not.

Applicable provisions: RZR §§2.6.2, 4.1, 6.2.1(e), and 6.11; Subdivision §600.9; 2016 Public Improvements Standards §§1.3 and 6.6, Figure 8, and Table 2.

Emergency and service access

*"Emergency and service vehicles must have access to all LOTS and buildings."
Subdivision §600.8*

The Fire Department tested the existing driveway with two Town engines. Its July 2, 2026 letter reports that the larger engine could not turn at the first bump-out and that Engine 3's rear wheels left the traveled driveway at the second bend. Fire recommended making the first turnaround deeper, a turnaround at the new house, an increased width of four-foot at the second bend, and later confirmation of the width to cure the turning radius.

Those observations were made under the existing, wider driveway conditions. The approved subdivision plan proposes a 12-foot driveway. The record does not show that Fire was aware of the proposed narrowed configuration, nor did they provide feedback on this proposal. The approved plans do not show a deeper turnaround, turnaround at the new house, bend width correction, or confirmed turning radius. Instead, the approval directs the applicant to work with Fire at later permit and CO stages.

Unresolved requirements cannot simply be deferred to future zoning permits or Certificates of Occupancy. This cannot replace proof of a compliance that must be satisfied before an administrative subdivision is approved. If a mandatory standard requires a material design change the plans need to reflect this before approval. Fire's letter does not answer the regulatory question. Section 600.8 requires the result: emergency and service vehicles must have access to all lots and buildings. The Administrative Officer does not have the authority to grant waivers, variances, or defer compliance as the zoning regulation authorizing this process requires this compliance in order for a zoning permit to be issued.

The question is whether emergency and service vehicles have access to all proposed lots and buildings according to the submitted plans. The record shows, they do not.

Applicable provisions: RZR §2.6.2; Subdivision §§500(1) and 600.8.

Stormwater and downstream drainage

"The SUBDIVIDER shall provide a design for a drainage system which will remove any water and storm run-off which may traverse the site. The drainage system may include pipes or open drainage ways, and shall be located in road rights-of-way or in unobstructed easements not less than twenty (20) feet in width. The design of the drainage system shall utilize natural waterways and drainage ways to the extent possible. The drainage system shall identify all waterways into which water exiting the site will flow." Subdivision §650.1

"Drainage facilities shall accommodate all existing surface water and run-off, plus run-off anticipated from the proposed development." Subdivision §650.2

"The SUBDIVIDER shall demonstrate that existing downstream drainage facilities will accommodate the anticipated additional run-off from the proposed SUBDIVISION." Subdivision §650.3

"The drainage system and all easements shall be designed to accommodate water from a twenty-five (25) year storm." Subdivision §650.4

The HydroCAD material models lower post-development peak outflows than pre-development peaks. But a lower modeled peak at a watershed outlet does not, by itself, establish the capacity of each actual facility along the drainage route.

The engineer credits narrowing the driveway as part of the stormwater improvement. Based on the plans and the Appellants measurements and observations, approximately 400 feet near their property would be narrowed from about 28 feet to 12 feet. That area is down-gradient of the duplex and the forebay and culvert that receive runoff from the duplex area. Reducing impervious surface there may reduce runoff generated on that strip, but it does not demonstrate that the upstream or intermediate forebay and culvert can handle duplex runoff before the water reaches the restored area.

The Appellants have observed silt and rocks substantially obstructing the forebay and culvert. Its relevance is that §650.3 requires proof concerning the actual downstream facilities in their present condition. The record does not clearly state their current capacity, compare that capacity to 25-year inflows, or show how any required widening per the Fire Department would affect the model.

Sheet 4 identifies Drainage Area 1 as 2.58 acres. Based on the Appellants plan measurement, approximately 51,500 square feet, about 45.8 percent, lies on their property. The reported soil types and permeability of the Brooks land is incorrect. This land is also adjacent and upslope of the proposed subdivision, thus it cannot be used as treatment.

The record does not clearly inventory the actual downstream drainage facilities, state the capacity of the downstream forebay, ditch, and Jericho Road culvert, compare those capacities with the modeled flow and volume, provide 25-year capacity calculations for every swale, culvert, pipe, outlet, downstream facility, and easement, identify every

receiving waterway and legal discharge route, show every required drainage easement and its width, or explain the model inputs and contour source for the off-site portion of Drainage Area 1.

Applicable provisions: RZR §§2.6.2 and 4.1; Subdivision §§500(1), 500(3), and 650.1 through 650.5; 2016 Public Improvements Standards §§3.1 through 3.4.

Additional unresolved compliance issues

Deeded spring right and existing water system. The Brooks deed contains a right to develop a spring on the land being subdivided. The previous owner developed a shallow well at that location, and waterlines run to the Brooks garage. The plat does not show the deeded right of way or waterline. Subdivision §670.1 states that the final plat shall show all existing and proposed utility systems; §670.3 states that it shall show all easements. The omission prevents evaluation of lot ownership, access, construction conflicts, and the RZR §2.5.2 qualifying area.

Private electrical service. Appellants previously reported an energized private electrical service crossing the shared-access area that is not shown. A plan with its approximate location was given to the ZAO prior to the issuance of the permit AS2026-001. Omission from the Plat means this may pose a public health risk as the underground electric is owned by the appellants and not covered by DigSafe. Applicable provisions include Subdivision §§500(1), 670.1, and 670.3.

Professional engineer certification. Subdivision §420.3(10) calls for a professional engineer's letter stating that all proposed public and private infrastructure is in compliance with the Subdivision Regulations and other Town standards. Bryan Currier, P.E.'s June 4 letter states only that the infrastructure is in 'significant accordance and intent.' Jacob Wechsler, E.I., signed the July 2 narrative. Neither letter cures the specific access, Fire, drainage, and utility gaps.

Cross-lot facilities and easements. The plans/plat show existing underground electric, however their location is inaccurate at and around the Baker back corner pin. At this location, the electrical was installed over the property line and on the Baker parcel. This information was previously provided to the ZAO. The approved plat needs to show the accurate locations of utilities in order to ensure the safety of electric workers, nearby landowners, and other members of the public. The plat cites a VEC easement at Book 276, Page 635, while the proposed deed cites Page 653. The controlling instrument should be produced and all plans and conveyance documents made consistent. Applicable provisions include RZR §2.5.2 and Subdivision §§670.1 through 670.3.

Contiguous qualifying area. RZR §2.5.2 requires each lot to contain one contiguous 10,000-square-foot area capable of supporting land development after the listed exclusions, including wetlands, slopes of 35% or more, and private vehicular and utility easements. The plans do not identify or calculate that area. The lots may in fact contain it, but the present record does not supply a plan-based demonstration accounting for

the identified easements and other exclusions. The determination cannot be accurately made until all non-developable features are identified and shown on the plans.

Steep slopes soil stability and erosion control. The plans state a finished driveway grade, but do not clearly identify all construction on existing slopes exceeding the RZR §6.11 trigger or the safe-construction methods for those areas. The record also lacks test-pit or boring documentation directed to the stability of proposed structure sites. More complete erosion phasing and temporary controls appear on separate Sheets E.1 and E.2, but their status as approved municipal plans has not been established. Applicable provisions include RZR §6.11 and Subdivision §§500(1), 650.5, and 650.6.

Safety along steep banks. Subdivision §500(1) requires consideration of safety and welfare in light of steep slopes, topography, easements, and other site features. Increased vehicle use along narrow access beside steep banks raises a legitimate planning question, including vehicles meeting, vehicles leaving the traveled surface, and risks to children and other persons on adjoining land. The regulations do not themselves specify a barrier at this location, however there is nothing in the record to indicate that this and other planning standards in §500 have been reviewed.

Requested findings and decision

RZR §2.6.2 required proof of compliance with every applicable mandatory zoning and subdivision standard before administrative approval.

No waiver or variance was requested, identified, or supported by the process and findings required for such relief.

The earlier access and easement approvals did not determine compliance for the expanded two-lot, four-unit proposal or the current post-construction access condition.

The record does not demonstrate current vehicular-access and sight-distance compliance for the expanded uses.

The Fire Department's apparatus test based on existing conditions identified unresolved turning and width limitations, and the measures it identified are not incorporated into a controlling approved plan for the proposed 12-foot driveway.

The stormwater analysis does not establish the present 25-year capacity of the actual forebay, culvert, and other downstream facilities along the flow route; downgradient driveway narrowing does not by itself establish upstream or intermediate capacity.

The plat omits material deeded rights, existing utilities, and easement information required to evaluate the subdivision.

Because the application and record do not affirmatively demonstrate compliance with the applicable requirements, the Board should grant the appeal, reverse the Zoning Administrator's decision, and deny AS2026-001.



Chelsye Brooks <chelsyebrooks@gmail.com>

Access Permit Review

Josh Arneson <jarneson@richmondvt.gov>
To: Chelsye Brooks <chelsyebrooks@gmail.com>

Thu, Aug 27, 2026 at 1:11 PM

Chelsye,

When we reviewed the original access permit and saw that the northerly sight distance was at 470' and it needed to be at 495' I wanted to go take another look at it to double check the 470' measurement. Pete, Danté, and I did a quick review of it on site and determined that it was about 470'. We'd have to do a more thorough measurement to determine the current site distance since the construction of the driveway.

Josh Arneson (he/him)

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From: Chelsye Brooks <chelsyebrooks@gmail.com>

Sent: Tuesday, August 25, 2026 2:51 PM

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