

Appellants' Reply to the Zoning Administrator's October 7, 2026 Memorandum

AP2026-003 | Zoning Permit AS2026-001

Trevor and Chelsye Brooks
October 12, 2026

This reply follows the Zoning Administrator's ten topics. "Incorrect" identifies statements contradicted by the regulations or record. "Inconclusive" identifies conclusions the cited evidence does not establish or statements that do not answer our argument. References to RZR are to the Richmond Zoning Regulations effective August 25, 2025.

1 Vehicular access

ZA statement [Incorrect]: "The question of whether the existing access is compliant with future development plans is not ripe for review by the Zoning Office or the DRB."

Response: RZR §2.6.2 prohibits issuance of a Zoning Permit under §2.6 unless each lot created complies with the applicable vehicular access requirements and the standards of the Richmond Subdivision Regulations. Later dwelling applications do not eliminate that requirement. (RZR §2.6.2.)

ZA statement [Inconclusive]: "The Zoning Administrator suspects that the width of the existing access meets or exceeds shared driveway standards."

Response: The connection to Jericho Road must meet the applicable B-71B entrance-width and turning-radius standards. Suspecting that it meets shared-driveway width standards does not establish compliance with those separate requirements. The reply provides no dimensional comparison demonstrating that the road connection complies. (RZR §6.2.1(e); VTrans Standard B-71B; Access Permit AC2023-04 at 1–2.)

ZA statement [Inconclusive]: Sight-distance issues "could be cured by future actions of the Town such as lowering the speed of Jericho Road or enacting a formal process to waive or modify the corner site distance requirements."

Response: Possible future changes do not establish compliance with present requirements. The reply identifies neither an adopted change nor a measurement demonstrating adequate sight distance. (Josh Arneson email, August 27, 2026; Sept. 9 hearing recording at 36:35–38:17.)

ZA statement [Inconclusive: Does not address our argument]: "To any extent Appellants challenge the Selectboard's approval of the original access permit, AC2023-04, that matter is subject to the rule on finality and cannot be directly or indirectly contested."

Response: This does not address our argument. We are not challenging the issuance of AC2023-04. We are challenging whether AS2026-001 establishes compliant access for the additional dwellings and proposed driveway changes. Approval of access for one house does not establish compliance for that proposal. (Access Permit AC2023-04 at 1–2; AS2026-001 packet at 10–12.)

2 Emergency access

ZA statement [Incorrect]: “The accessibility requirement does not impose a mandatory shall; instead, it includes a discretionary must.”

Response: Section 600.8 states: “Emergency and service vehicles must have access to all LOTS and buildings.” This requirement appears in Article VI, “REQUIRED IMPROVEMENTS AND DESIGN STANDARDS.” The provision does not make emergency access optional. (Subdivision Regulations §600.8 at 11.)

ZA statement [Inconclusive]: Because Engine 2 reached the existing house, “it follows that the Fire Department effectively has access to all lots and existing buildings.”

Response: Engine 2 reaching the house does not resolve Fire’s findings that the first bump-out was too small for turning and Engine 3’s wheels left the traveled surface at the second bend. Fire requested additional turning space. The test evaluated the existing driveway, not the proposed narrowed design, so one engine’s successful trip does not establish adequate emergency access for the proposed design and planned development. (AS2026-001 packet at 27–28.)

ZA statement [Inconclusive: As proof of adequate emergency access]: The plan specifies “inner radius to be widened by 4 feet per fire department comments.”

Response: Fire described moving the driveway to the right when descending to create a wider swing and requested confirmation of adequate width. The reply does not explain how inner-radius widening implements that recommendation or identify Fire’s confirmation that it resolves the problem. (AS2026-001 packet at 5, 27–28.)

ZA statement [Incorrect]: Accessibility problems “can be addressed at the zoning permit stage and resolved before a Certificate of Occupancy is issued.”

Response: Section 2.6.2 requires vehicular access compliance before issuing this Zoning Permit. AS2026-001 leaves the widening design and resulting impervious-area calculations for later submission. Those submissions would determine compliance, not merely document construction of a design already found compliant. (RZR §2.6.2; AS2026-001 packet at 2.)

3 Stormwater and drainage

ZA statement [Inconclusive]: “Lot 1 will have a net decrease in runoff due to portions of the driveway being returned to pervious conditions.”

Response: That conclusion depends on narrowing the shared driveway to 12 feet. Figure 8 specifies 15 feet for average daily traffic (ADT) of 11–30 and 20–36 feet for ADT above 30. The reply does not establish that 12 feet complies or account for any additional widening needed for emergency access. The drainage calculations must reflect a compliant driveway design. (Public Improvements Standards §1.3 and Figure 8; AS2026-001 packet at 2, 5, 10–12, 27–28.)

ZA statement [Inconclusive]: “The Highway Department did not experience any related issues arising therefrom.”

Response: The Highway Department’s reported experience does not establish the capacity of downstream drainage facilities on private property. Article VI, “REQUIRED IMPROVEMENTS AND DESIGN STANDARDS,” §650.3 requires that capacity to be demonstrated by the applicant for the additional runoff anticipated from the proposal. (Subdivision Regulations §650.3 at 13.)

ZA statement [Inconclusive]: “He observed clear water flowing down Landowner’s land.”

Response: Clear water observed during a site visit does not establish that the proposed drainage system can handle runoff from the completed development or that downstream facilities have adequate capacity. (Subdivision Regulations, Article VI, “REQUIRED IMPROVEMENTS AND DESIGN STANDARDS,” §§650.3–650.4 at 13.)

ZA statement [Inconclusive]: “The culvert is otherwise working as intended despite accumulation of some silt.”

Response: The ZA acknowledges that the culvert was “about 25-50% full” but cites no engineering analysis establishing that it can accommodate the required 25-year storm. His observation that it is “working as intended” does not establish that capacity. (ZA reply, drainage section; Subdivision Regulations, Article VI, “REQUIRED IMPROVEMENTS AND DESIGN STANDARDS,” §§650.2, 650.4 at 13.)

4 Spring rights and the existing waterline

ZA statement [Inconclusive: As a response to the omitted waterline]: “The plat depicts Appellants easement for a spring in the overall sketch and references it at Survey Note 11. Moreover, the location of the spring is depicted on the plan.”

Response: Showing the spring and referencing the deed does not identify the existing waterline or “depict the easement”. Chelsye provided a map showing its approximate location, but the submitted plat omits it. Article VI, “REQUIRED IMPROVEMENTS AND DESIGN STANDARDS,” §670.1 requires all existing and proposed utility systems to be shown. (Subdivision Regulations §670.1 at 14; Chelsye Brooks utility map, delivered October 10, 2025; AS2026-001 packet at 4–5.)

ZA statement [Inconclusive: Does not address our argument]: “As the Zoning Administrator understands it, such spring and any associated waterline is not currently utilized by either the Appellants or the Landowner.”

Response: Our argument is that the existing waterline is omitted from the plans. The reply is speculation and does not resolve that omission or establish compliance with Article VI, “REQUIRED IMPROVEMENTS AND DESIGN STANDARDS,” §670.1. (Subdivision Regulations §670.1 at 14.)

5 Private electrical service

ZA statement [Incorrect]: “Because Appellants’ secondary electrical line does not service the subdivision and no easement otherwise exists for it, there is no mandatory requirement that it be depicted.”

Response: Article VI, “REQUIRED IMPROVEMENTS AND DESIGN STANDARDS,” §670.1 requires the plat to show “all utility systems, existing and proposed.” It does not limit that requirement to utilities serving the subdivided lots or having a recorded easement. The Brooks’ electrical line is an existing utility beneath the driveway. Whether an easement exists is a separate question from whether the line must be shown. (Subdivision Regulations §670.1 at 14; Chelsye Brooks utility map, delivered October 10, 2025; Chelsye Brooks email, June 30, 2026 at 1:34 p.m.)

6 Engineer’s certification letter

ZA statement [Incorrect]: “While the words the engineer used are slightly different from what the requirement states, functionally, Applicant’s engineer has provided an engineering certification letter.”

Response: Section 420.3(10) requires confirmation that all proposed infrastructure “is in compliance” with the applicable Town standards. The June 4 letter offers only “significant accordance and intent” and does not address the Public Works Specifications. That is a narrower assurance than the regulation requires. (Subdivision Regulations §420.3(10) at 8; AS2026-001 packet at 24.)

The June 4 letter also predates the submitted HydroCAD model, labeled June 29 and printed July 1. The reply identifies no updated engineer’s letter affirming compliance of the drainage design reflected in those later materials. (AS2026-001 packet at 13, 24.)

ZA statement [Inconclusive: As proof of certification]: “Moreover, Applicant’s engineer stamped the approved plans pursuant to his professional license.”

Response: An engineer’s stamp does not supply the compliance statement expressly required by §420.3(10). The reply identifies no statement on the stamped plans that supplies the missing certification. (Subdivision Regulations §420.3(10) at 8; Master Development Plan and Stormwater Management Plan.)

7 Cross-lot utilities

ZA statement [Incorrect]: “The Appellants are correct that the citation on the plat to the utility easement is wrong, it should say Volume 25, Page 653-654.”

Response: The controlling easement is recorded at Book 276, Page 653, not Volume 25. The plat and conveyance documents should consistently identify that instrument. (Richmond Land Records, Book 276, Page 653.)

ZA statement [Inconclusive]: “Even if the physical location of the mapped cross-lot utilities is slightly off from the depicted location on the plans, both the Applicant and his neighbors at 1292 Jericho Road have respective underground utility easements with Green Mountain Power for the line.”

Response: The recorded easement is with Vermont Electric Cooperative (VEC), not Green Mountain Power. An easement reference does not establish the installed line’s location. Our September 9 memorandum identified that the line crosses onto the Baker parcel near the back corner pin. The reply does not resolve that discrepancy. Article VI, “REQUIRED IMPROVEMENTS AND DESIGN STANDARDS,” §§670.1 and 670.3 require the plat to show all utility systems and easements. (Richmond Land Records, Book 276, Page 653; Appellants’ September 9 memorandum at 4; Subdivision Regulations §§670.1, 670.3 at 14.)

8 Contiguous developable area

ZA statement [Inconclusive]: “Given that Lot 1 is 2.76-acres, it is inferred that the lot contains a contiguous 0.23-acre area capable of supporting land development when accounting for existing utility and access easements.”

Response: Total acreage alone does not establish the required contiguous 10,000-square-foot developable area. The reply infers compliance from the lot’s size but does not identify a plan area or calculation demonstrating compliance after the exclusions in §2.5.2. (RZR §2.5.2; ZA reply, contiguous qualifying area section.)

ZA statement [Inconclusive]: “State mapping does not indicate the existence of slopes greater than or equal to 35% on Lot 1.”

Response: The closely spaced existing contours on the Master Development Plan raise a question about slopes within the proposed duplex site and its driveway on Lot 1. Our preliminary measurements indicate slopes of approximately 33–40+% in portions of those areas. Those measurements require confirmation, but the reply does not establish whether the proposed development overlaps slopes of 35% or greater. (RZR §2.5.2(b); Master Development Plan, Sheet SH1.)

9 Steep slopes and proposed construction

ZA statement [Incorrect]: “However, because this is an administrative subdivision and not a zoning permit, no specific plans have been presented or proposed for construction on slopes over 20%.”

Response: RZR §2.6 is titled “Administratively Created Lots.” Sections 2.6.1–2.6.3 expressly identify the approval as a Zoning Permit. Calling it an “administrative subdivision” does not change its status or eliminate §2.6.2’s requirement that each lot created comply with the applicable zoning requirements and the standards of the Richmond Subdivision Regulations. (RZR §§2.6.1–2.6.3.)

ZA statement [Inconclusive]: “No Construction on Slopes Over 20% Have Been Presented or Proposed at This Time.”

Response: The submitted plans propose driveway widening, an extension, buildings, and grading. The reply does not compare those work areas with existing slopes to support its claim. Missing slope information does not establish that no work is proposed on slopes over 20%. (Master Development Plan, Sheet SH1; AS2026-001 packet at 5, 10–12.)

ZA statement [Inconclusive]: The pending state permit application “should contain applicable erosion prevention and sedimentation control plans.”

Response: The reply identifies some fencing on the plans but does not explain how it satisfies Richmond’s steep-slope requirements for the proposed work. Saying a pending state application “should contain” erosion-control plans does not establish local compliance. (RZR §6.11; ZA reply, steep-slopes section.)

10 General planning standards

ZA statement [Inconclusive]: “This administrative subdivision was many months in the making. Review began in the fall, and approval was granted the following summer.”

Response: Time spent preparing or reviewing an application is not a measure of compliance. Section 2.6.2 requires each created lot to meet the applicable requirements, regardless of how long the process takes. The reply’s account of that process does not resolve the specific deficiencies identified above. (RZR §2.6.2; ZA reply, general planning standards section.)

Conclusion

The reply relies on assumptions and future review where the record must establish compliance. It does not resolve the access, emergency-access, drainage, utility-plan, and engineering-certification deficiencies identified in our memorandum and this reply. We request that the DRB grant AP2026-003, reverse the Zoning Administrator’s approval, and deny AS2026-001.