

**Town of Richmond  
Development Review Board  
Final Decision**

**IN RE: Jim Cochran/ Callie Ewald Subdivision Amendment # 2019-119.** Applicant proposes amendment to conditions of approval for final subdivision application 2019-119. Applicant proposes the removal of condition stating "Prior to issuance of a Certificate of Occupancy for MK0809, the Applicant shall submit a certification from a certified professional, not related to the Applicant, that, for the length of the road, Milkweed Lane does not exceed 12% grade. Exception to the above is the last 200 feet to the foundation of any residence the grade shall not exceed 15%".

**SUBMITTALS:**

- A. Final Subdivision Amendment Application, submitted March 25, 2022
- B. Narrative prepared by Callie Ewald and Jim Cochran, submitted March 25, 2022
- C. Final Site Plan prepared by Truline Land Surveyors, Inc and Callie Ewald, P.E., dated December 10, 2019 and received March 25, 2022
- D. Subdivision Plan prepared by Truline Land Surveyors, Inc, dated December 27, 2019 and received March 25, 2022
- E. Driveway Plan View For Lower Section, received March 25, 2022
- F. Comments from Fire Chief Dennis Gile dated and received April 10, 2022
- G. Comments from Fire Chief Dennis Gile dated December 6, 2021 and received April 11, 2022
- H. Staff Comments prepared for the April 13, 2022 DRB Meeting

During the April, 13, 2022 DRB Hearing, Jim Cochran, Callie Ewald, Roger Brown, and Tom Cochran provided verbal testimony to the hearing. Brian Carpenter provided written testimony for the April 13, 2022 DRB Hearing.

**PROCEDURAL INFORMATION:**

- 1. Final Subdivision Application 2019-119 submitted on March 25, 2022
- 2. Notice placed on Town website and at three locations in town on March 28, 2022
- 3. Abutters notified on March 28, 2022
- 4. Agenda placed on website and at three locations in town on April 5, 2022
- 5. Agenda placed in Seven Days April 6, 2022
- 6. Application documents placed on the town's website April 8, 2022

## **FINDINGS OF FACT:**

1. In 2019, the DRB approved a Final Subdivision application 2019-119 for a two-lot subdivision with the following condition: "Prior to issuance of a Certificate of Occupancy for MK0809, the Applicant shall submit a certification from a certified professional, not related to the Applicant, that, for the length of the road, Milkweed Lane does not exceed 12% grade. Exception to the above is the last 200 feet to the foundation of any residence the grade shall not exceed 15%".
2. Applicants were seeking relief from the condition that the driveway must be under 12% grade.
3. The subject properties has a driveway in existence prior to the DRB approval of the Final Subdivision application in 2020.
4. A portion of this existing driveway has a 15% grade
5. In its decision for Final Subdivision application 2019-119, the DRB determined that the driveway serving the three house lots would need to meet the driveway standards under Richmond Zoning Regulations Section 6.2.
6. The decision for Final Subdivision application 2019-119 states that "The Applicant had provided a statement that the driveway will be built in accordance with Section 6.2 (Submittal G) and Driveway Plan View (Submittal H) that shows the section of the road below the driveway to MK0275 will meet the 12% road grade"
7. The applicant proposes removing the aforementioned condition of approval from Final Subdivision application 2019-19
8. The applicant proposes maintaining an existing section of driveway, which has a 15% grade, to serve two lots hosting single-family dwelling uses.
9. Richmond Fire Chief Dennis Gile noted that he could access the driveway at 2549 Huntington Road in a letter dated December 6, 2021.
10. Richmond Fire Chief Dennis Gile noted that he could not guarantee service to the single-family dwelling use located on 809 Milkweed Lane because the grade of the driveway exceeds 12%
11. Richmond Subdivision Regulations Section 500.1 states that the DRB shall evaluate any application for subdivision approval in accordance with the following consideration "Whether subdivision or development would be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas due to flooding improper drainage steep slopes, rock formations, topography, utility easements or other features"
12. Richmond Zoning Regulations Section 6.2(f) states "For the length of the driveway, the driveway grade shall not exceed twelve (12) percent except that the last 200 feet from the foundation of the primary structure being served shall not exceed fifteen (15) percent. In measuring the compliance of a driveway, the maximum grade may not be exceeded along the driveway center-line."
13. The section of the driveway that is 15% grade is not 200 feet from the foundation of the primary structure.
14. During the April 13, 2022 DRB hearing, the applicants requested that the DRB remove the requirement to have the driveway meet the standards in Section 6.2 from the criteria for issuing Certificates of Occupancy.

15. Per Section 5.3.5.3, in order for the Administrative Officer to issue a Certificate of Occupancy, the Administrative Officer shall determine that the land is used and the structure is built according to the terms and conditions of an approved zoning permit, these Zoning Regulations, approved project plans, applicable conditions of approval, and any other applicable specifications.

## **CONCLUSIONS**

Based upon the application, testimony, submission materials and other evidence the DRB concludes the following:

1. The applicant's proposed development does not comply with Richmond Subdivision Regulations 500.1, as it would be harmful to the safety, health and general welfare of the present and future inhabitants.
2. The applicant's proposed development must meet all requirements in Richmond Subdivision Regulations Section 500 and Section 6.2 of the Richmond Zoning Regulations
3. The applicant's proposed development does not comply with Richmond Zoning Regulations Section 6.2, because the driveway the applicant proposes to use exceeds 12 percent.
4. The DRB does not have the authority to grant any form of relief from the requirements listed in Section 5.3 for Certificates of Occupancy by removing the requirement to meet the standards listed in Section 6.2.

**DECISION:**

**The Richmond Development Review Board denies the Subdivision Amendment for Jim Cochran/ Callie Ewald #2019-119**

Any other applicable zoning regulations not expressly waived in this decision must be complied with.

This decision shall not relieve the applicant from any obligation to obtain all other applicable required federal, state and local permits, including wastewater permits.

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**The application as approved shall be in conformance with the decision, referenced items, the findings of facts, and conditions. The applicants and interested parties are hereby notified that if they disagree with this decision, they have the right, under 24 V.S.A. 4471, to appeal to the Vermont Superior Court – Environmental Division.**

**The appeal must be filed within thirty days of the date of this decision, and be in accordance with the governing rules of procedure and rules of the Vermont Superior Court - Environmental Division. Title 24 Vermont Statutes Annotated, Section 4471 provides that “An interested person who has participated in a municipal regulatory proceeding authorized under this title may appeal a decision rendered in that proceeding by an appropriate municipal panel to the environmental court. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.**

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**DRB VOTING ON THIS MATTER (circle one for each member):**

David Sunshine, Chair	in <b>FAVOR</b>	<b>AGAINST</b>	<b>ABSTAINING</b>	<b>RECUSED</b>	<b>ABSENT</b>
Mathew Dyer, Vice-Chair	in <b>FAVOR</b>	<b>AGAINST</b>	<b>ABSTAINING</b>	<b>RECUSED</b>	<b>ABSENT</b>
Padraic Monks, Member	in <b>FAVOR</b>	<b>AGAINST</b>	<b>ABSTAINING</b>	<b>RECUSED</b>	<b>ABSENT</b>
Roger Pedersen, Member	in <b>FAVOR</b>	<b>AGAINST</b>	<b>ABSTAINING</b>	<b>RECUSED</b>	<b>ABSENT</b>
David Schnackenberg, Member	in <b>FAVOR</b>	<b>AGAINST</b>	<b>ABSTAINING</b>	<b>RECUSED</b>	<b>ABSENT</b>

The above votes occurred at a DRB meeting on the 13 day of April, 2022.

  
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Roger Pedersen  
Richmond Development Review Board Acting Chair

DATED 4/28/22