

10.16.24 meeting minutes

This meeting was conducted in person at the Town Center and via Zoom.

Members present: Alison Anand, Ian Bender, Virginia Clarke, Mark Fausel, Chris Granda

Members absent: *(none, two vacancies)*

Others present: Keith Osborne (Richmond Director of Planning and Zoning), Tyler Machia (Richmond Zoning Administrator), Erin Wagg (MMCTV), Jeanne Agner, Denise Barnard, Tess Storrs, Fran Thomas, Kendra Ziskie, Bob Heiser, Jessie Heiser, Jon Kart, Lisa Miller, Bard Hill, Cara LaBounty

1. Welcome

Clarke welcomed the commissioners and guests and opened the meeting at 7:05 PM.

2. Review and adjust agenda

There were no changes to the posted agenda.

3. Public comment on non-agenda items

Fausel requested an explanation of why he had not been included in the meeting at the playground with Tyler Machia, who had been asked to provide more information about his measurements of the playground structures. Virginia Clarke and Jeanne Agner of the Three Parks Committee had attended this meeting, which had been put together suddenly as both Clarke and Agner were going out of town. Clarke said she apologized for not including him in the last minute email arrangements, and said the main point of the meeting was for Machia to clarify his measurement scheme for the Three Parks Committee. Fausel expressed frustration with being excluded, and said it had happened a number of times. Machia then offered that he would be happy to have a site visit with Fausel anytime he wanted. Fausel then expressed dissatisfaction with the Chair and the planning department.

4. Review minutes of 10.2.24 meeting

There were no corrections or additions to the minutes, so they were accepted into the record as written.

5. Public Hearing on amendments to the Flood Hazard Overlay District to allow for the relocation of pre-existing structures from one location in the floodway to another

Bender motioned to open the hearing on Sections 6.8, 4.7, 4.8 and 7, for amendments as approved by the Planning Commission (PC) on 9/4/24. Granda seconded the motion. Bender, Granda, Fausel and Clarke voted affirmatively, so the hearing was opened. Clarke then introduced the amendments by describing the general strategy (posted as memo from the Chair in the meeting materials). She said the main consideration was to change the zoning to enable the moving of the playground and the restroom structures up onto the plateau where the bandshell is to help to prevent recurring damage from flood waters. She mentioned the new definition of "Incidental structures" which was designed to allow small

structures such as trash cans and picnic tables to be placed without a permit. Two issues that need further consideration are a fence around the playground, which would not fall into the category of a “pre-existing structure,” and the need to make the relocated structures more accessible for the physically challenged. She said it is important to keep resiliency in mind and not adding structures as there will be more floods, and opened the floor to comments.

Bard Hill asked about the soccer goals and the baseball backstops. Clarke said they would be “grandfathered” but perhaps they could be made less restrictive to flood water, or, in the case of the soccer goals, could be moved as they are not fixed in place. Machia offered that the flood hazard rules were written to apply to traditional structures such as buildings, so it’s sometimes hard to classify some of the structures found in Volunteers Green. Bard suggested that items like “soccer goals” be mentioned specifically by name in the document so future administrators would know exactly how they are to be treated. Osborne said they are currently legal as pre-existing, nonconforming structures, and expressed concern about being too specific. Machia thought they might be considered temporary.

Cara LaBounty suggested that Volunteers Green be called a municipal park rather than a “recreational facility” as Machia is currently calling it, which is a listed use in our regulations. She felt that this would simplify the situation of allowing the Three Parks Committee (TPC) to achieve its goals, which, she felt, was what the Selectboard had asked the Planning Commission to do. She said the current approach was not the correct one, and is causing Machia to have to interpret things, rather than be given clear direction. Clarke responded that in fact the language has been changed in fairly simple ways to allow many of the things the TPC wants to be done. Fran Thomas, from the Three Parks Committee, suggested that the amendments should allow for other sports structures, such as field hockey goals, to be placed in the park if they are desired, and suggested that there be more general language allowing for various similar structures. She then spoke about the bandshell on the plateau, saying that it was limiting to require any replacement to look just like the current bandshell, because a different kind of structure might actually be more resilient. She said she wanted the ability to take that structure down and build something more multipurpose, and that perhaps some “credit” in terms of what could be built should be given for mitigating risk by moving structures onto the plateau. Hill agreed that more generic language should be used that would allow for structures such as goals, cones etc to be utilized as needed. The question of whether these are “temporary” or not seemed unresolved.

Fausel then said that the PC had not spent enough time debating the options, and said that Kyle Medash from the state had told him that “all of the things that have been talked about by the TPC are perfectly viable.” He asserted that the Richmond regulations are extremely strict, and that the “miniscule changes” that have been suggested “are causing all these complications with interpretation.” He agreed with LaBounty’s suggestion to have the park be a separate flood district so the Town could decide what should be put there, whereas for private property owners the current strict ordinance would remain. He suggested we move

these amendments forward to what he perceives as a more sympathetic body, the Selectboard, as he is frustrated with the PC's approach.

Bob Heiser, a resident of Esplanade, then offered that he appreciated the care that has been taken by the PC to not open the door to significant new structures being placed in the floodway. He suggested that it was important not to add more structures and impervious surfaces in order to minimize impacts to floodplain function and increased public expenditures. He also asked if the elevation of the knoll (plateau) placed it out of the floodway, and if so, could a FEMA map amendment be done? Machia responded that Chris Haggerty, an engineer, had looked at this and determined that the plateau was still within the floodway, and so a LOMA (Letter of Map Amendment) or LOMR (Letter of Map Revision) would not be possible. He also explained that his job was to administer the zoning regs "literally," so he tries to interpret the ordinance based on what he thinks is being meant. Denise Barnard, also a member of the TPC, then spoke. She said the TPC had voted unanimously not to go forward with any plans for a paved or crushed stone walking path around Volunteers Green, and that it is not on their agenda. She also said that she hoped the PC would allow the bandshell, which a structural engineer has deemed unsafe, to be replaced by some other kind of structure, as Fran suggested. Clarke said she hoped that the outreach meeting to be hosted the TPC would help clarify whether the current bandshell structure or a different structure was what the town wants. Clarke said it might be possible to define the bandshell more generically, so that a similar structure which was not a bandshell could be built.

Jon Kart said he appreciated that the PC was making the regulations specific to Richmond's needs, and asked if the footpath along the river would ever be replaced with a paved or gravel path. Clarke confirmed that the current proposal calls this path a "nonconformity" which would be controlled by the amended section 6.8.15. This section would not allow the natural footpath to be replaced with one that is paved, because that would be considered a new structure. Kart said he was opposed to a paved path as it would be subject to damage and would need costly maintenance in future floods. Kart also suggested that a newer type of structure with roll-down walls might be preferable to the current bandshell. LaBounty reiterated her earlier point that the PC was not going about these amendments in ways that she and Fausel had suggested.

Bender then asked LaBounty and Fausel what exactly they wanted that these amendments don't provide. LaBounty said the amendments should be less restrictive. Machia responded that the current structures, being "nonconformities" should remain in their current configurations if they are to be relocated. Clarke said that that the point of the public hearing that we are having is to listen to the public comment that individuals such as herself are providing. Hill offered that perhaps the bandshell could have a different configuration but keep the same footprint, just as the playground could have a different appearance but keep the same footprint. He also commented that musical performances may be no longer dependent on the acoustic properties of the venue, and so a different structure might replace the bandshell. Fausel then reiterated his earlier points that he was

not being listened to, and that there were more options than have been presented. As an example, he said the bathroom could be made handicapped accessible and modernized up on the plateau, and that he didn't think this would be permissible under the proposed regulations. He expressed anger and frustration and suggested that the PC immediately move this draft to the Selectboard. Clarke said the process is for the PC to take this input from the public and rework the document before sending it to the Selectboard.

Kendra Ziskie, also a member of the TPC, then commented that Machia had changed his interpretation about the size of the playground. Machia responded by describing the evolution of his thoughts, and his difficulty with assigning a "footprint" to the playground equipment. In the end, he said that the expanse and location of the woodchip area is irrelevant, and it is just the size of the structures that he is concerned about. Ziskie then suggested that the bandshell had more functions than just as a music venue. Denise Barnard from the TPC agreed with Ziskie that defining the bandshell as a multi-use facility might be a better approach, a position with which Hill also agreed. Hill suggested that footprints of structures rather than narrow definitions, along with reducing flood hazard, would be better criteria to use, and that more generic language would allow for more flexibility in function of the various structures. Fausel commented that his idea was to make the park a special flood district where there could be more flexibility than in the rest of the town's flood district. LaBounty added that having an "engineered, calculated mitigation replacement" should count for as much or more as footprint when thinking about the structures. Erin Wagg suggested that we should make sure that non-fixed structures such as the soccer goals cannot be moved around by wind or water, as this might cause property damage.

As there were no further comments, Clarke then asked for a motion to close or continue the public hearing. Mark motioned to close the public hearing, seconded by Bender. As there was no discussion, the vote passed in the affirmative with 4 votes. Anand did not vote on this motion. Clarke said the next step was for the PC to discuss the information received tonight, along with the town attorney's comments, and generate a version to forward to the Selectboard. Fausel then motioned to approve the draft as currently proposed, and forward it to the Selectboard immediately. As there was no second to this motion, the motion failed, and so the PC will continue to revise the draft before forwarding it to the Selectboard. Clarke thanked the public for attending and providing comments.

6. Updates and other business

Granda asked about the outcome of the presentation to the Selectboard at their meeting of 10/7/24. Clarke said that the only issue at the Public Hearing for the VRNs, was that of the new density guidelines relating to Act 181 that the PC had recently received. Act 181 appears to require that in all W&S districts, duplexes and 3-4 multiunit buildings be allowed on any lot regardless of density limitations. So, Clarke said, this will have to be put into our ordinance, and will affect the VRNs. This is already the law that the zoning department will have to follow, so we will talk about it at our next meeting, but our hands appear to be tied in this matter. Granda also asked what the PC's schedule is going forward. Clarke replied

that our three tasks will be to revise the flood hazard amendments based on tonight's hearing; discuss the Act 181 guidelines, and finish the density bonus section as part of our Jolina Court District amendment work. All three of these items need to be forwarded to the Selectboard after we approve them, and this constitutes our work for the next few meetings. LaBounty asked about the Bridge St / Jolina Court intersection. And if any changes were planned to that intersection if the Creamery's density was going to be increased, and whether it would be the developer's responsibility to pay for any upgrades needed. Osborne said that a study would be done by the planning department, because the intersection has many contributing factors besides the Creamery. He said he had it within his budget to procure an engineer to do the traffic study, but that he has not moved it forward at this time. Granda asked that this discussion be deferred until the actual agenda item is under consideration.

7. Adjourn

Granda motioned to adjourn. The motion was seconded by Fausel. As there was no objection, Clarke adjourned the meeting at 9:07 PM.

Minutes submitted by Virginia Clarke