

Richmond Planning Board Meeting
Town Hall
Minutes
July 8, 2019

Members present: Doug Bruce, Rick Bell, John Hanson (Chairman), Katherine Keenum, Pete Lopez

Other present: Eric **Smith**, Richmond Volunteer Fire Department; Marc Volk, Foresight Land Services, Pittsfield; Justin Codwise, Richmond resident

Mr. Hanson opened the meeting at 6:30 P.M. by handing out revised agendas that included site review applications from Mr. Codwise and the Richmond Volunteer Fire Department (RVFD). Mr. Bell objected that the Board could not act that night on the applications because the revised agenda had not been posted on the Town Hall bulletin board two days in advance of the meeting. Mr. Hanson replied that the applications had come in late and were being deliberated under Item #3 on the posted agenda, "Other items not reasonably anticipated by the Chair 48 hours in advance of the meeting." He had tried to post the revised agenda on Saturday, July 6, 2019, but Town Hall, which is sometimes open on Saturdays, was closed that day. He added that it was the practice of the Board to allow people to come in at the last minute if necessary. Mr. Bruce asked whether abutters had been notified. Mr. Hanson explained that abutters are individually notified only of public hearings, not of routine site plan reviews. In regard to the application from the RVFD, Mr. Bell pointed to an e-mail from William Martin, Chairman of the Board of Appeals (ZBA) that was sent on Tuesday, July 2, 2019, at 10:16 A.M. (see Exhibit 1) and claimed that this proved there had been plenty of time to post a revised agenda. Mr. Hanson replied that he had not actually opened and read the e-mail until late Wednesday afternoon, at which point he did not have time to revise and post an agenda before Town Hall closed on Thursday and Friday for the Fourth of July.

1. As the first item of business, Mr. Hanson took up the Site Plan Review of a proposed new dwelling to be built by Mr. Codwise on a 32-acre property on Dublin Road that he was in the process of purchasing. It had not yet been assigned a street number. Twenty-seven acres were enrolled under the Chapter 61 forestry program, leaving 4.8 acres as a buildable lot. Mr. Codwise's goal was to close the sale on Thursday, July 11, 2019. The Building Inspector had not told him that he needed a site plan approval from the Planning Board in addition to a well permit and a closing on the sale in order to be issued a building permit. Mr. Hanson asked whether it would cause him a hardship to delay the Site Plan Review a month. Mr. Codwise said that he had a six-month building loan and needed to break ground as soon as possible. Mr. Hanson made a motion to approve the site plan. Ms. Keenum seconded. The motion was approved by a vote of 4-1. Mr. Bell asked that a condition be added making the approval contingent on the advice of Town Counsel. Mr. Hanson declined to add the condition.

Mr. Bell said that he did not have a problem with the site plan but asked to have the minutes record that he dissented on the grounds that the vote was not legal under Massachusetts' Open Meetings Law. Mr. Hanson so ordered but added that the intent of the law was to ensure that public officials not hide anything. This vote was just the Board acting as public servants for the good of the community by enabling a young family to live in town. He

observed that allowance is made in the Open Meetings Law (OML) for matters that come up unexpectedly.

2. To introduce the request by the Richmond Volunteer Fire Department (RVFD) for a Site Plan Review for the “Construction of a Proposed Fire House Garage” at 35 Fire House Lane, Mr. Hanson summarized the background. In response to an opinion by Beth Goodman, the Town Counsel, that Section 4.8.A.3 of the Richmond Zoning By-Law does not specify Emergency Services or a Fire Department as a permitted municipal use, the RVFD had applied to the Board of Appeals for a use variance. At Mr. Hanson’s suggestion, the RVFD was also submitting the plans for the new construction as an allowed municipal use with a Site Plan approval from the Planning Board. (For e-mails leading up to the application to the Planning Board, see Exhibit 1.) Mr. Hanson noted that if Ms. Goodman’s opinion was correct, then the Zoning By-Law needed to be changed because a fire department was an essential municipal service.

Mr. Smith and Mr. Volk laid out the plans for the Board’s examination and answered questions concerning ownership of the land, buildings, and equipment; funding for the new garage; and timing. Mr. Smith said the building would be owned by the RVFD and rented to the Town for the storage of Town-owned trucks. Mr. Hanson said that this would be a municipal use. Mr. Hanson asked when the RVFD foresaw beginning construction. Mr. Hill replied, the minute the department’s August [8th] barbecue was over in order to have the project well along by the time winter weather arrived. He expressed unease in relying on a use variance alone because if it bounced back conditional to a site plan approval, then time would be lost.

Mr. Bell objected that the agenda item had not been posted forty-eight hours ahead of the meeting. Mr. Hanson said that it was being considered under “Other items not reasonably anticipated by the Chair 48 hours in advance of the meeting.” He had made a good-faith effort to post the revised agenda on Saturday. It was, moreover, very much in the town’s interest to ensure coverage by the fire department.

Mr. Bruce moved that the Board approve the Site Plan on condition that the RVFD be granted a use variance by the Board of Appeals. Mr. Lopez and Ms. Keenum seconded simultaneously. The motion carried 4–1, with Mr. Bell voting no.

3. The minutes for June 10, 2019, were approved by a vote of 5–0
4. Mr. Hanson recommended that the Planning Board not comment on a special permit application by the town of Richmond Highway Department for a “Proposed Partial Demolition of Existing Building and Construction of Pre-Engineered Storage Shed” at 2079 State Road (Route 41). The Board had a policy of not commenting on special permits in front of other boards because public input occurred at public hearing. Mr. Bruce so moved. Mr. Lopez seconded. The motion passed with a vote of 4–1. Mr. Bell cast the dissenting vote because the agenda item had not been posted forty-eight hours in advance of the meeting.
5. After a discussion of the relative merits of Ms. Keenum’s suggestions for revised content for the Planning Board’s page on the Town of Richmond website (see Exhibit 2) and Mr. Bruce’s revision of Mr. Bell’s original proposal (see Exhibit 3), Mr. Lopez suggested that Ms. Keenum be asked to combine the two. Ms. Keenum undertook the task as an action item. (For Mr. Bell’s proposed content, see Exhibit 1 in the minutes for June 10, 2017.)

6. Mr. Hanson reported that he had talked to Neal Pilson of the Board of Selectmen (BOS), who was unenthusiastic about updating the town's master plan, preferring instead to rely on specialized committees.
7. During a short discussion of a procedural manual and the question of how a new chairman could handle responsibilities, Mr. Lopez pointed to the difference between procedure and leadership. As a challenge for the next meeting, Mr. Hanson suggested that members review Mr. Bell's proposed manual and the guide adopted in 2015 and think through what they would have done if they had had to run this night's meeting.

The meeting adjourned at 8:40 p.m.

Respectfully submitted,
Katherine Keenum, Clerk

Exhibit 1: E-mail correspondence pertaining to a Site Review for a garage to be built by the Richmond Volunteer Fire Department

From: jhanson1@nycap.rr.com
 Sent: July 8, 2019 at 10:42 AM
 FW: RE: ZBA Applications - Richmond Fire Department and Richmond Highway Department
 To: Rick Bell <rickbell100@gmail.com>, "kkeenum@nycap.rr.com" <kkeenum@nycap.rr.com>, "pedro@thefieldhousecannan.com" <pedro@thefieldhousecannan.com>, "dougbruce@yahoo.com" <dougbruce@yahoo.com>, "jhanson1@berkshire.rr.com"

Board Members

In my opinion the Richmond Fire Department provides one of the most basic needs of Town government and is in fact a municipal use and permitted under our current By-Law. It is hard to believe we allow this building if it were to grow and sell marijuana but not to house vehicles and equipment purchased by the Town. Why has our By-Law been wrong for 65 years and nobody noticed? If this legal opinion is correct, we will need to make a zoning change.

Yes, I believe a variance for the setbacks required.

Katherine. please have extra copies of the site plan application.

See you all tonight.

John

 From: "William E. Martin"
 To: "Marc Volk", "jhanson1@berkshire.rr.com"
 Cc: "Richmond Administrative Assistant (adminasst@richmondma.org)", "Eric Smith"
 Sent: Monday July 8 2019 9:28:47AM
 Subject: RE: ZBA Applications - Richmond Fire Department and Richmond Highway Department

That is a fine, but I spoke with Beth Goodman (Town Counsel) and we both think a variance is required because the Fire Department is an independent non-profit entity and not part of the Town government.

It can't hurt to have both approvals.

Thanks.

WEM

From: Marc Volk <mvolk@foresightland.com>
Sent: Monday, July 08, 2019 9:22 AM
To: William E. Martin <WEM@martinoliveira.com>; jhanson1@berkshire.rr.com
Cc: Richmond Administrative Assistant (adminasst@richmondma.org) <adminasst@richmondma.org>; Eric Smith <ericsmith@heritagecutter.com>
Subject: RE: ZBA Applications - Richmond Fire Department and Richmond Highway Department

Bill and Eric

I just spoke to John Hanson of Planning Board. He is of opinion that Firehouse is allowed as use (municipal) with Site Plan approval. I replied Foresight submitted ZBA variance request with guidance and confirmation of ZBA, setback distances and use and that Richmond VFD is private

and private funds are being used for construction. Planning board is meeting tonight at 6:30 and John has recommended that the project get represented at the meeting and that PB can issue Site Plan Approval tonight (pending all agree). I can be at meeting at 6:30 and can bring Plan and describe project. Eric if you can make the meeting that would be great.

Project is still scheduled for ZBA hearing for both variance for use and setbacks though.

Marc S Volk

FORESIGHT LAND SERVICES

1496 West Housatonic Street

Pittsfield, MA 01201

Phone: 413-499-1560 (Ext. 114)

Fax: 413-499-3307

Email: mvolk@foresightland.com

<http://www.foresightland.com>

From: William E. Martin [<mailto:WEM@martinoliveira.com>]

Sent: Tuesday, July 02, 2019 10:57 AM

To: Lisa Peltier; Marc Volk

Cc: William E. Martin

Subject: Fw: ZBA Applications - Richmond Fire Department and Richmond Highway Department

FYI

WEM

From: William E. Martin

Sent: Tuesday, July 2, 2019 10:16 AM

To: Howard Greenhalgh; Ina Wilhelm; Peter Killeen; Richard Stover; Richmond Town Administrator; Wendy Laurin; William E. Martin; Richmond Town Clerk

Cc: ronsan@nycap.rr.com; Townadmin@richmondma.org; jhanson1@berkshire.rr.com; rwmanz413@yahoo.com; nealhp@aol.com; a.hanson@richmondma.org

Subject: ZBA Applications - Richmond Fire Department and Richmond Highway Department

Here are the applications for the Richmond Fire Department and Highway Department.

If possible, I would like to have the hearings on July 31st at 7:00PM and 7:30PM, with site visits at 6:30PM.

In order to meet that deadline, we will need comments of the Boards sooner than usual. If that presents a problem, we can continue the hearings.

We will need to mail the notices to the abutters by July 17th, but I would like them to go out by July 12th - Marie - can you handle that? Our Rules say the Notice should go to abutting towns too - I am not really sure why.

I will draft the legal notice for posting and publication. I can send it to the Eagle to be published on July 16th and 23rd.

Anything else we need to schedule the hearings?

Can the members of the ZBA all reply to confirm they can open the applications and are available on July 31st?

Thank you and Happy 4th.

William E. Martin
MARTIN & OLIVEIRA, LLP
THE CLOCKTOWER
75 South Church Street; Suite 550
Pittsfield, Massachusetts 01201
Direct Dial Number: (413) 347-8962
Telephone Number: (413) 443-6455, Extension 115
Facsimile Number: (413) 445-5883
Cell Number: (413) 441-3317
Email Address: WEM@martinoliveira.com

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Exhibit 3: Ms. Keenum’s suggestions for web page revisions

PLANNING BOARD

The Planning Board deals with matters of land use and zoning.

For individuals, it reviews site plans for:

- the construction of new primary buildings,
- the division of property into separate parcels,
- multi-lot subdivisions that require the construction of a new road to meet zoning requirements.

For the town as a whole, it recommends amendments and additions to Richmond’s Zoning By-Law as needed.

MONTHLY MEETING

Second Monday of the month at 6:30 P.M.
Richmond Town Hall

CHAIRPERSON

John Hanson
Term ends 2020

Richard Bell (2024)
Douglas Bruce (2023)
Katherine Keenum (2022)
Peter Lopez (2021)

PERMITS

FEES

Application for Determination that Planning Board Approval under Subdivision Control Law is not required (Form A)	\$50.00
Application for Approval of a Definitive Plan under the Subdivision Control Law (Form C)	\$200.00 plus \$50.00 per lot

Go to DOCUMENT CENTER for Planning Board Regulations, Forms and Applications

Exhibit 3: Proposed Content – DRAFT 7-8-19 Doug Bruce:

PLANNING BOARD

Purpose

The Planning Board plans for the development and preservation of Richmond's physical resources through the creation of the Town's Zoning By-Law and by administering the subdivision of land.

Key Responsibilities

- Review and act on Approval Not Required (ANR) subdivision plans;
- Review and act on plans for subdivisions;
- Review and act on site plan reviews;
- Act as a Special Permit Granting Authority; and
- Review or prepare amendments to the Town's Zoning By-Law.

Meeting Agendas and Minutes

- The Planning Board meets the 2nd Monday of the month at 6:30 PM in the Town Hall
- Go to [PB AGENDA & MINUTES](#) for agendas and meeting minutes.

Planning Board Members

5-year Term Ends:

- | | |
|-------------------------|------|
| • John Hanson, Chairman | 2020 |
| • Richard Bell | 2024 |
| • Katherine Keenum | 2022 |
| • Peter Lopez | 2021 |
| • Douglas Bruce | 2023 |

Contact Us

- For more information call 413-698-3355.
- Address mail to: Planning Board 1529 State Road Richmond, MA 01254

Useful information and links

- [APPLICATIONS AND REGULATIONS](#). Hard copies are also available at the Town Hall.
- [PLANNING BOARD FEES](#)
- [BY-LAWS, REGULATIONS, and ZONING MAP](#)
- [RICHMOND MAP](#)