



Amended Zoning Permit 2025-75

DECISION ON MOTIONS

Chelsye and Trevor Brooks (Appellants) appeal the Town of Richmond (Town) Development Review Board (DRB)'s denial of their appeal of Amended Zoning Permit 2025-75. That permit relates to specific changes to a driveway previously authorized under Zoning Permit 2024-02 for property located at 1330 Jericho Road, Richmond, Vermont (the Property). In this matter, Appellants appear pro se. Applicant Jay McCormack (Applicant) is represented by Attorneys Rachel Seelig, Esq., Alexander Arroyo, Esq., and Geoffrey Hand, Esq. Interested parties Candice and Edwin Thornton appear pro se. The Town is represented by Attorneys David Rugh, Esq. and Zachary Handelman, Esq.

An understanding of the background of this appeal and other related permits is necessary to put the pending motions into context. The Town Zoning Administrative Officer (ZAO) approved Applicant's original driveway permit on January 17, 2024 (the Original Driveway Permit). That permit application included a site plan depicting the location of the driveway relative to neighboring properties, including Appellants'. The plan noted the elevation and width of the driveway at various points and included the location of several proposed culverts. The Original Driveway Permit was not appealed. In December 2025, Applicant applied for amendments to the Original Driveway Permit. The amendments included: 1) the addition of four culverts; 2) the removal of one culvert; 3) the addition of two turnaround areas; 4) reducing the overall length of the driveway, and 5) narrowing the driveway from its originally planned 24-foot width at various points along its length. The Town ZAO conditionally approved the amended zoning permit (the Amended Permit) on February 23, 2026. The only condition of approval required was that Applicant resubmit a revised driveway plan showing the forebay at the bottom of the driveway outside the "no-build zone" as defined by the Town of Richmond Zoning Regulations (the Regulations) in the Property's zoning district. Applicant's Ex. 2, p. 3. Appellants timely appealed to the Amended Permit to the DRB, which verbally denied their

appeal on April 8, 2026, followed by a written decision issued May 8, 2026. Appellants timely appealed the DRB's decision to this Court.

Statement of Questions

Appellants' Statement of Questions lists 9 Questions, with the majority containing multiple subparts. See Statement of Questions (filed June 26, 2026). Due to the length of the Questions, the Court does not reproduce them in their entirety here. Appellants ask the Court to adjudicate compliance with various provisions of the Regulations, including:

- 1) § 3.2.4(e), which asks about the "No Build Zone" in the context of dimensional limitations on structures in the relevant zoning district;
- 2) § 4.1 – Compliance with Public Works Specifications;
- 3) § 5.2.1(c), requiring site plans filed with zoning applications to include certain information;
- 4) § 1.2, requiring issuance of a zoning permit for qualifying land development unless regulated by 24 V.S.A. § 4413;
- 5) § 5.3.3, relating to material misrepresentations in zoning applications;
- 6) § 5.3.4 – Amendments to Permits Already Issued by the Administrative Officer;
- 7) § 2.5.2 – Non-Developable Portions of a Lot;
- 8) § 6.11 – Steep Slopes; and
- 9) § 6.2 – Driveway Requirements

Id.

Discussion

Presently before the Court are Applicant's Motion to Dismiss and Appellants' Motion to Stay and Motion to Amend Motion to Stay. We address Applicant's motion first.

1. Motion to Dismiss

Applicant's motion is made pursuant to both V.R.C.P. 12(b)(1) and 12(b)(6). V.R.C.P. 12(b)(1) governs motions to dismiss for lack of subject matter jurisdiction. When reviewing such a motion, this Court accepts all uncontroverted factual allegations as true and construes them in the light most favorable to the nonmoving party. Rheume v. Pallito, 2011 VT 72, ¶ 2, 190 Vt. 245. Standing is a "necessary component to this Court's subject matter jurisdiction." Bischoff v. Bletz, 2008 VT 16, ¶ 15, 183 Vt. 235. V.R.C.P. 12(b)(6) governs motions to dismiss for failure to state a claim upon which relief can be granted. Such motions are, notably, "disfavored" and "rarely granted." Colby v. Umbrella, Inc., 2008 VT 20, ¶ 5. A Rule 12(b)(6) motion may not be granted "unless it is beyond

doubt that there are no facts or circumstances that would entitle the nonmoving party to relief.” Id. (internal quotation and citation omitted). In evaluating a motion under V.R.C.P. 12(b)(6), we take the factual allegations asserted by the nonmovant as true, keeping in mind that the purpose of a V.R.C.P. 12(b)(6) motion is to test the law of the claim, not the facts that might support it. Richards v. Town of Norwich, 169 Vt. 44, 48–49 (1999); Powers v. Off. of Child Support, 173 Vt. 390, 395 (2002). A Statement of Questions “is subject to a motion to clarify or dismiss some or all of the questions.” V.R.E.C.P. 5(f).

24 V.S.A. § 4472(a) provides that an appeal represents “the exclusive remedy of an interested person with respect to any decision or act taken, or any failure to act, under [Chapter 117 of Title 24] or with respect to any one or more of the provisions of any plan or bylaw” 24 V.S.A. § 4472(a). “In considering permit appeals, the Environmental Division ‘hold[s] a de novo hearing on those issues that have been appealed’ in which it ‘appl[ies] the substantive standards that were applicable before the tribunal appealed from.” In re Lake Bomoseen Ass’n, 2025 VT 59, ¶ 14 (quoting 10 V.S.A. § 8504(h)). Importantly, in the absence of a timely appeal, decisions of the administrative officer or appropriate municipal panel become final. 24 V.S.A. § 4472(d). The Vermont Supreme Court has repeatedly affirmed that the language of § 4472(d) evinces a clear “legislative intent ‘to prevent any kind of collateral attack on a zoning decision that has not been properly appealed through the mechanisms provided by the municipal planning and zoning statutes.” In re Hopkins Cert. of Compliance, 2020 VT 47, ¶ 8 (quoting City of S. Burlington v. Dep’t of Corr., 171 Vt. 587, 588–89 (2000) (mem.) (emphasis in original)). This is true even when the original decision was ultra vires, and thus void ab initio. Id. at ¶ 10.

Applicant moves to dismiss Appellants’ appeal in its entirety, or in the alternative, substantially narrow the scope of their Statement of Questions by dismissing or clarifying aspects of the Questions. Applicant argues that most, if not all of Appellants’ Questions represent collateral attacks on the Original Driveway Permit and are barred by 24 V.S.A. § 4472. Applicant contends that this Court’s review should be limited to the specific changes in the application implicated by the Amended Permit. Relatedly, he argues that changes to certain features of the driveway, such as culverts, do not reopen the DRB’s original approval of those features. Put another way, Applicant contends that his request for the addition of culverts does not reopen the entire question of the adequacy of the driveway’s drainage for Appellants to contest.

A. Finality: Question 5, Questions 3a, 3b, 3d and Questions 6b, 6c, 6d, 6f, and 6g

Appellants respond that the application for the Amended Permit included an updated Driveway Plan and Erosion Prevention and Sediment Control Plan, both of which contained information not provided in the Site Plan accompanying the Original Driveway Permit or its application. The updated plans include additional information such as a limit of disturbance and current clearing limits. In Appellants' view, the inclusion of this information on the permit amendment application essentially constitutes a new request for additional development not previously approved by the DRB. As such, Appellants argue they should be able to pose Questions to this Court touching on issues beyond the five changes outlined by the DRB in their approval of the Amended Permit and contained in Applicant's application.

In a de novo appeal, this Court reviews the decision below "as though no action whatever had been held prior thereto." Chioffi v. Winooski Zoning Board, 151 Vt. 9, 11. At the same time, the Vermont Supreme Court has recognized that the decision appealed below limits the scope of the issues that may be appealed to this Court. Hopkins, 2020 VT 47, ¶ 16. While we are not bound by a municipal panel's interpretation of zoning regulations, our jurisdiction is "as broad as the powers of a zoning board of adjustment or a planning commission, but it is not broader." In re Torres, 154 Vt. 233, 235.

Here, no party disputes that Original Driveway Permit was not appealed and has since become final and binding. Appellants challenge the Town's denial of their appeal of the Amended Permit. The DRB's written decision reflects the DRB's understanding that the issues before it in assessing the application were limited in scope to the five amendments to the Original Driveway Permit only. See Ex. A (the amendment application); Richmond DRB Denial of Notice of Appeal 2026-01, filed June 5, 2026, p. 4.

The DRB approved the initial application for the driveway based on the site plan then-submitted as Appellants' Exhibit A.¹ This map did not include clearing limits or limits of disturbance as depicted in the site plan submitted in connection with the amendment application. Ex. 2, p. 1–2.

¹ Review of the record in this case shows two exhibits submitted as "Exhibit A"—an "Amended Driveway Permit Application," submitted by Applicant on 8/20/26, and an "Original Permit Plan" submitted by Appellants on July 29, 2026. We refer to the latter here. Further, it appears that Applicant has submitted two versions of the amended permit application with different materials—one with 33 pages, labelled Exhibit 2, submitted on 7/15/26, and the aforementioned Exhibit A, with 29 pages, filed on August 20. Because the applications substantially overlap and both include the updated Erosion Prevention and Sediment Control Plan and updated Driveway Plans which are relevant to our analysis, we refer to Exhibit 2 to avoid confusion.

When the DRB's approval of the Original Driveway permit was not appealed, the driveway as permitted became final in every respect, even if approved in error. Hopkins, 2020 VT 47, ¶ 16. Put another way, if Applicant had never returned to the DRB to seek permit amendments, he would have had approval to construct the driveway based on the initial application alone. This would include associated clearing limits and limits of disturbance, even if not pictured on the original site plan. This Court makes no determination about whether Applicant would have been fully compliant with the Regulations in doing so; however, the doctrine of finality compels such a harsh interpretation. Levy v. Town of St. Albans Zoning Bd. of Adjustment, 152 Vt. 139, 142 564 (1989) (“[T]here should, in fairness, come a time when the decisions of an administrative officer become final so that a person may proceed with assurance instead of peril.” (quotation omitted)).

Here, the permit amendment application expressly stated it related to five listed changes. It did not seek review or approval of any previously permitted development. Indeed, that would make little sense given the fact that non-amended aspects of the development had final zoning approval. The amendment application and the decision on appeal make clear that jurisdiction was and is narrowly limited to review of those five changes.² The Court concludes that our jurisdiction, as well as the DRB's below, does not extend to any aspect of the driveway beyond culverts, the driveway's length and width, and the installation of turnaround areas as identified in the amendment application.³

These jurisdictional limitations have important implications for the Questions that Appellants may permissibly pose to this Court. Given the above analysis, the Court concludes that the additional information provided with a permit amendment application on an Erosion Prevention and Sediment Control Plan and an updated Driveway Plan is not a “material inaccurac[y] or misrepresentation[]” as those terms are used in Regulations § 5.3.3(a). Appellants do not contend the information (such as limits of disturbance and clearing limits) shown on the updated documents for Amended Permit represent a change from information provided in the previous plan. Rather, they object to the provision of this information for the first time at this stage. Even if this qualified as misrepresentation,

² In fact, the DRB goes so far as to offer an alternative avenue for Appellants to contest broader aspects of the driveway, stating that “[t]o the extent there are any issues with the project as constructed in relation to the approval given in the permit as amended, that matter can be taken in connection with the issuance of the Certificate of Occupancy.” Denial of Notice of Appeal 2026-01, p. 4. Appellants have since appealed the relevant Certificate of Occupancy in Docket 26-ENV-00082.

³ The fact that Appellants have raised issues outside the scope of their Statement of Questions has no bearing on the subject matter of this appeal in this context. Hopkins, 2020 VT 47, ¶ 15 (“[T]he fact that a statement of questions limits the issues to be heard on appeal does not mean that issues beyond the scope of an appeal are drawn within a court's jurisdiction through their inclusion in a statement of questions.”)

that issue was not before the DRB under the amendment application and thus is not before this Court. Thus, the assertion remains barred by § 4472. For these reasons, Question 5 and Questions 3a, 3b, 3d and Questions 6b, 6c, 6d, 6f, and 6g must be **DISMISSED**.

B. Scope of Amendments: Question 1, Question 2, Question 7, Question 8

To be clear, Appellants may permissibly pose Questions relating to the amended driveway features' compliance with the Regulations. As noted, these include amended length and width, installation and removal of the culverts, and installation of the turnaround areas. They may not, however, raise issues outside the narrow scope of whether these changes comply with the Regulations because all other aspects of the driveway are unappealed and final. For example, installation of the culverts does not reopen the entire question of Applicant's compliance with every provision in the Regulations regarding stormwater management. With this scope of review in mind, the Court analyzes the remaining Questions before the Court.

a. **Question 1**

Question 1 asks about the driveway's compliance with Regulations § 3.2.4(e), which demarcates a "No Build Zone" for construction activity within 5 feet of a lot line.⁴ It does not ask about the amendments' compliance with other subparts contained in § 3.2.4. Because this Question asks about the driveway as a whole rather than the limited amendments at issue in this appeal, it is foreclosed by 24 V.S.A. § 4472. Further, although the Town ZAO's approval letter for Amended Permit includes a condition mandating the Applicant submit a revised plan showing the driveway's forebay outside the "No Build Zone," the application sought no amendment to the forebay as approved by the Original Driveway Permit. The requirement that Applicant submit a plan depicting this feature does not reopen the feature's approval to Appellants' present attack. This is also the case with the aspect of Appellants' Question 1 that deals with underground utility installations.⁵ The application on appeal does not seek approval for underground utilities. Thus, the issue is not part of this appeal. As such, Question 1 lies outside the scope of this appeal and must be **DISMISSED**.

⁴ The Court construes Appellants' mentions of the "proposed development" as referring to the driveway project as a whole, as opposed to their other references to "the amended permit application and associated plans" Statement of Questions at 1.

⁵ Appellants assert that issues related to underground utilities are before the Court because of alleged statements that occurred at an in-person meeting with the ZAO. Opposition, p. 2. Putting aside whether those statements occurred and their context, they do not change the fact that the application before the Court does not seek approval of such installation, nor does the DRB's decision on appeal approve underground utilities.

b. Question 2

Question 2 asks broadly about the amended permit's compliance with Regulations § 4.1, which mandates compliance with all Town Public Works Department specifications. This issue was foreclosed by the approval of the Original Driveway Permit, lies outside the scope of the appeal, and must be **DISMISSED**.

c. Question 7

Question 7 asks about the Amended Permit's compliance with Regulations § 2.5.2, which defines what constitutes land capable of supporting development on lots exceeding 10,000 square feet. What constitutes land that is capable or incapable of supporting development on the Property was determined by the Original Driveway Permit. Thus, this issue is outside the scope of this appeal. Question 7 is therefore **DISMISSED**.

d. Question 8

Question 8 asks about the driveway and the Amended Permit's compliance with Regulations § 6.11, which requires the submission of engineering plans for any proposed construction occurring on land with a slope greater than 20%. The driveway's slope as a whole was approved by the Original Driveway Permit. Applicant's first application, submitted as Exhibit 1, contains plans showing the driveway's profile, including slope. The exhibit also contains a letter from the former Town ZAO acknowledging receipt of the plans and requesting the Applicant submit a signed letter from the responsible engineer or contractor attesting to their accuracy after the work is completed. Applicant's Exhibit 1, p. 3. Thus, the issue of slope was decided by the Original Driveway Permit and has necessarily become final and lies outside the scope of this appeal. While aspects of the Question address the features at issue in the amendment application, no party asserts that the amended features alter the permitted slope. Thus, there is no assertion that the amended features do not comply with Regulations § 6.11, and this Question must be **DISMISSED**.

C. Advisory Opinion: Question 4

a. Question 4

This Question asks whether a variety of alleged activities (e.g., excavation, grading, filling, clearing) related to "homesite preparation" meet the definition of "Land Development" and therefore require a zoning permit under Regulations § 1.2. This application does not seek approval for any of these alleged activities. As such, this question seeks an impermissible advisory opinion. "Advisory opinions are those that have no conclusive, legal effect . . . Courts are not authorized to issue advisory

opinions because they exceed the constitutional mandate to decide only actual cases and controversies.” In re Snowstone LLC Stormwater Discharge Authorization, 2021 VT 36, ¶ 28, 214 Vt. 587. This appeal concerns Applicant’s amendments to the Original Driveway Permit. These amendments exclusively relate to the driveway, not to any proposed or existing structure or the surrounding area. Thus, the question of whether Applicant’s alleged activities at the “homesite” constitute land development under § 1.2 has no bearing on the outcome of this appeal and is an advisory opinion. Therefore, this Question must be **DISMISSED**.

D. Remaining Questions: Amended Questions 3c, 3e, 6a, 6e, and 9

This Court’s precedent establishes that we may construe Questions in a party’s Statement of Questions to remove ambiguity. In re Capitol Plaza 2-Lot Subdivision, Nos. 3-1-19 Vtec, 4-1-19 Vtec, slip op. at 8 (Vt. Super. Ct. Envtl. Div. Feb. 4, 2020) (Walsh, J.). In this case, a number of Appellants’ Questions raise some issues that lie within the scope of this appeal, and others that do not. For the sake of clarity, the Court construes these Questions to remove issues that lie outside the scope of this appeal.

a. **Amended Questions 3c and 3e**

Question 3, in relevant part, asks about the permit amendment application’s compliance with Regulations § 5.2.1(c)(iv) and (v).⁶ These subsections mandate that a site plan contain enough information about a parcel’s dimensions (or any other information the ZAO requires) to ascertain whether application complies with various requirements of the Regulations.

Specifically, § 5.2.1 (c)(iv) asks whether a site plan has provided enough information related to a parcel’s dimensions to allow the ZAO to determine whether the relevant application complies with the Regulations. Because the driveway’s dimensions, as amended, were part of the permit amendment application, Appellants may raise this issue. Subsection (c)(v) asks whether a site plan has provided any other information that may be required by the ZAO to determine whether the relevant application complies with the Regulations. Because the Court does not yet know the full extent of information the parties will present that may relate to the permit amendment application, Appellants may raise this issue. As currently framed, however, Appellants’ Questions 3c and 3e are impermissibly argumentative. In re Conlon CU Permit, No. 2-1-12 Vtec, slip op. at 1 (Vt. Super. Ct. Envtl. Div. Aug. 30, 2012) (Durkin, J.) (“[F]actual and legal information that goes beyond identifying the

⁶ Notably, this Question can be distinguished from Question 1 because it asks about the amended permit, rather than the driveway as a whole.

Questions and crosses over into arguing the merits of the Questions is misplaced in a Statement of Questions.”) As such, the Court reframes these Questions to state:

Does the amended permit application comply with Regulations § 5.2.1(c)(iv) and (v) based on: 1) the application’s representation of the amendments as compliant with § 3.2.4(e), and 2) based on the application’s representation that it contains sufficient information for the Administrative Officer to determine whether the permit amendments comply with the Regulations?

Thus, Applicant’s motion to dismiss Questions 3c and 3e is **DENIED**. These Questions will remain before the Court as restated herein.

b. Amended Questions 6a and 6e

Although aspects of Question 6, broadly, are dismissed as set forth above pursuant to the doctrine of finality, the portions set forth in subparts 6a and 6e relate to the amended features at issue in Amended Permit and are therefore within this Court’s jurisdiction. As written, however, they are not appropriately tailored to the Court’s jurisdiction as set forth herein. Therefore, the Court reframes this Question to ask:

Does the amended permit application comply with Regulations § 5.3.4’s directive to limit the scope of changes in a permit amendment based on the application’s representations of the driveway’s dimensions and the installed and removed culverts?⁷

Thus, Applicant’s motion to dismiss Questions 6a and 6e is **DENIED**. These Questions will remain before the Court as restated.

c. Amended Question 9

Although this Question raises Regulations § 6.2.1, which relates to driveway requirements, many of § 6.2.1’s subparts and the specific features covered by Question 9 were finally resolved by the issuance of the Original Driveway Permit. Others are tailored to the features at issue in the amendment application. For this reason and the reasons stated above, the Court reframes this Question to ask:

Does the permit amendment application comply with Regulations § 6.2.1(b) with respect to the driveway’s revised dimensions?

Thus, Applicant’s motion to dismiss Questions 6a and 6e is **DENIED**. These Questions will remain before the Court as restated.

⁷ This Question as originally posed did not address the turnaround areas. Thus, as restated by the Court, Amended Question 6 does not address the turnaround areas.

II. Motion for Stay/Motion to Amend Motion to Stay

By motion filed June 8, 2026 Appellants originally sought a stay of all permits associated with the driveway project during the pendency of this appeal, including Original Driveway Permit and the Amended Permit. On August 10, they filed a motion to amend their Motion to Stay, limiting their request to preservation of certain driveway features they contend are implicated by the Amended Permit

An appeal from a decision issued by a municipal panel to this Court does not automatically stay that decision. See 10 V.S.A. § 8504(f); V.R.E.C.P. 5(e). While the Court may still issue a discretionary stay at the request of a party or on its own motion as “necessary to preserve the rights of the parties,” V.R.E.C.P. 5(e), such stays are an “extraordinary remedy appropriate only when the movant’s right to relief is clear.” Howard Ctr. Renovation Permit, No. 12-1-13 Vtec, slip op. at 1 (Vt. Super. Ct. Envtl. Div. Apr. 12, 2013) (Walsh, J.). In considering whether to take action under this authority, the Court has looked for the moving party to demonstrate four traditional factors: (1) a strong likelihood of success on the merits; (2) irreparable injury if the stay is not granted; (3) whether the stay will not substantially harm other parties; and (4) whether the stay will serve the best interests of the public. Cathedral of the Immaculate Parish Charitable Trust, 23-ENV-00010, slip op. at 8 (Vt. Super. Ct. Envtl. Div. Aug. 25, 2023) (Durkin, J.) (citation omitted). “The criteria are flexible in as much as the court may consider varying strengths and weaknesses as to each in determining the necessity of a stay.” White v. State, No. 14-1-21 Wncv, slip op. at 1 (Vt. Super. Civ. Div. Apr. 28, 2021) (Bent, J.). Courts have loosened the requirement for the first prong of this test when the alleged irreparable harm is great, allowing parties to demonstrate that they “may” have a likelihood for success on the merits, as opposed to “strong” likelihood of success. Cathedral of the Immaculate Parish, 23-ENV-00010, slip op. at 8 (Aug. 25, 2023) (Durkin, J.).

The threat of irreparable harm is the “the single most important prerequisite” supporting the issuance of an injunction. Cathedral of the Immaculate Parish, 23-ENV-00010, slip op. at 16 (Aug. 25, 2023) (Durkin, J.) To demonstrate irreparable injury, the moving party “must demonstrate an injury that is neither remote nor speculative, but actual and imminent and that cannot be remedied by an award of monetary damages.” Shapiro v. Cadman Towers, Inc., 51 F.3d 328, 332 (2d Cir.1995) (quotation marks and citation omitted).

As an initial matter, the Court **GRANTS** Appellants’ Motion to Amend their Motion to Stay. Even so, Appellants have failed to show they will suffer irreparable harm in the absence of a stay. As

noted above, the parties dispute the scope of the Amended Permit. Appellants maintain that this issue need not be resolved in order to grant their motion to stay, because the motion only covers aspects of the driveway which the parties agree are covered by the permit:

Even under Applicant's narrow description of the appeal, driveway width, culvert changes, turnaround areas, and driveway length are before the Court . . . A later order could require removal, reconstruction, or restoration, but later alteration could make it more difficult to determine the existing condition that was the subject of Permit #2025-75 and the appropriate remedy. Once those features are re-worked, the original as-built condition may be difficult to reconstruct accurately, even with plans and photographs. Where width, grading, disturbance, and drainage are disputed, the existing physical condition is direct evidence of what was actually constructed and the conditions the Court may need to evaluate

Amended Motion for Stay, p. 3.

The Court's analysis above establishes that the only items over which we have jurisdiction in this appeal are the length and width of the driveway, the installation and removal of specific culverts, and the installation of turnaround areas. No party disputes that the Amended Permit seeks approval for as-built changes to the original driveway plan. Given these facts, the substance of Appellants' request for a stay is not entirely clear to the Court. Their motion appears to request that we stay any additional work related to the amended driveway features based on the possibility we find that those other aspects of the driveway Appellants seek to have reviewed (width, grading, disturbance, drainage) are implicated by the Amended Permit and must be adjudicated in this appeal.⁸

The only aspects of the driveway that this Court could permissibly stay in this appeal would be work related to the driveway's dimensions, culverts, and turnaround areas. Because those features have already been completed, Appellants cannot show they would be irreparably harmed in the absence of a stay. To the extent Applicant seeks to perform work outside of the scope of the amended permit's changes, that would require additional zoning permits from the Town which would be subject to the Regulations. Were Applicant to improperly alter those features of the driveway which were the subject of this appeal, this harm could be alleviated through site remediation. To the extent Appellants assert that Applicant has filed additional permits for driveway extensions, those permits are not before

⁸ Appellants may pose questions about the amended width of the driveway as it relates to the amended driveway permit. Appellants' motion appears to assert that portions of the driveway exceed 24 feet in width. At the same time, however, it references Applicant's approval to narrow the entire width of the driveway to 12 feet and states that approval is "not challenged in this motion." Amended Motion to Stay, p. 2.

the Court at this time. For these reasons, although we **GRANT** Appellants' Motion to Amend, we **DENY** their Amended Motion to Stay.

Conclusion

For the reasons stated above, we **GRANT in part** and **DENY in part** Applicant's Motion to Dismiss. We further **GRANT** Appellants' Motion to Amend Motion to Stay and **DENY** Appellants' Amended Motion to Stay.

For clarity, the following Questions remain before the Court:

Amended Questions 3c & 3e

Does the amended permit application comply with Regulations § 5.2.1(c)(iv) and (v) based on: 1) the application's representation of the amendments as compliant with § 3.2.4(e), and 2) based on the application's representation that it contains sufficient information for the Administrative Officer to determine whether the permit amendments comply with the Regulations?

Amended Questions 6a & 6e

Does the amended permit application comply with Regulations § 5.3.4's directive to limit the scope of changes in a permit amendment based on the application's representations of the driveway's dimensions and the installed and removed culverts?

Amended Question 9

Does the permit amendment application comply with Regulations § 6.2.1(b) with respect to the driveway's revised dimensions?

Electronically signed September 28, 2026 pursuant to V.R.E.F. 9(D).

A handwritten signature in black ink that reads "Tom Walsh". The signature is stylized, with the first name "Tom" and the last name "Walsh" written in a cursive-like script.

Thomas G. Walsh, Judge
Superior Court, Environmental Division