

VERMONT TRANSPORTATION BOARD MEETING

October 9, 2024

Board Members Present:

Chair Pam Loranger, term expires 2/28/25
Mark Nicholson, term expires 2/28/25
Philip Zalinger, term expires 2/28/25
Marilyn Miller, term expires 2/28/26
Tim Pudvar, term expires 2/28/27
David Atherton, term expires 2/28/27

Board Members Absent: Wendy Harrison, term expires 2/28/25

Others Present:

Peter Mazurak, Apex Engineering
Steve Stanley, Agency of Transportation
Ed Pierce, Agency of Transportation
Kevin Ramirez, Agency of Transportation
Alfonso Villegas, Agency of Transportation Legal
John Zicconi, Board Executive Secretary
Rachel Dimitruk, Board Executive Secretary

Call to Order:

Chair Pam Loranger (“Chair Loranger”) called the October 9, 2024, meeting to order at 10:03 a.m. and invited all members and those present to the site visit for TB 529 at 378 Lake Road, St. Albans. The meeting was adjourned at 10:05 a.m. for the site visit.

Site Visit for TB 529:

Those attending the site visit were Petitioner Colin Urban and Peter Mazurak, Mr. Urban’s representative; Board members Pam Loranger, Mark Nicholson, Philip Zalinger, Marilyn Miller, Tim Pudvar, and David Atherton; from the Agency of Transportation (“VTrans”) Ed Pierce, Steven Strange, Alfonso Villegas, and Kevin Ramirez. Also attending were Tim Hurlbut, who owns a portion of the commercial building directly across Rt. 36 from Mr. Urban’s residence, and Executive Secretaries of the Board, John Zicconi and Rachel Dimitruk. After the site visit, the Board returned to the meeting room and the meeting was reconvened by Chair Loranger.

1. New Business.

1.1 Approve Minutes of August 2, 2024, Board Meeting

On a motion by Mr. Nicholson and seconded by Ms. Miller, the Board unanimously voted to approve the minutes of the August 2, 2024, Board meeting as submitted.

1.2 Report of John Zicconi

Mr. Zicconi reported that he has been training Ms. Dimitruk to take over as Executive Secretary for the last month and this will be his last Board meeting. He introduced a new board member, David Atherton, who is replacing David Cohen, whose term expired.

1.3 TB 530 – Swanson v. VTrans

Mr. Zicconi explained that this new case challenges the imposition of new lease fees for the rental of two hangars at the Franklin County Airport. Mr. Zalinger noted that the State of Vermont State has land leases at airports, but that individuals/businesses own the hangars and the relationship is complicated. Noted by both Mr. Zicconi and Mr. Zalinger, it is anticipated there will be more cases brought to the Board because VTrans recently revaluated the value of these leases. A hearing officer is needed for this case.

On a motion by Ms. Miller, seconded by Mr. Pudvar, and approved unanimously, the Board appointed Mark Nicholson to be the hearing officer for all prehearing matters related to TB 530.

1.4 Executive Secretaries' Reports

Ms. Dimitruk provided an update on pending cases. TB 526, *JP Sicard v. VTrans (Newbury)*, will be hearing ready in April of 2025. Mr. Zalinger informed the Board that his prior perceived conflict as hearing officer for this case has been resolved. TB 525, *JP Sicard v. VTrans (Hartford)*, will be hearing ready in July of 2025. In TB 527, *Cianbro v. VTrans*, the initial briefing is due October 21, 2024. There is a potential small claims case regarding damage to a vehicle allegedly caused by road conditions which is awaiting more information from the claimant. There are proposed changes to a variety of rules, such as for aviation cases, which will be ready for initial discussion at the next meeting. Ms. Dimitruk's email is rachel.dimitruk@vermont.gov and she will email the Board with additional contact information.

Mr. Zicconi will continue to work to support Ms. Dimitruk and the work of the Board. He welcomes continued engagement with the Board and requests that Board members not hesitate to contact him. Mr. Zicconi will also continue his work with the Building Naming Committee, whose work ends in January.

1.5 Hearing on TB 529

At 11:00 a.m., Chair Loranger convened the public hearing. Attending the hearing for VTrans were Ed Pierce, Steven Stanley, Kevin Ramirez and Alfonso Villegas from VTrans Legal. Presenting for the Petitioner was Peter Mazurak, from Apex Engineering, LLC, the engineer on the project.

Chair Loranger stated the Board's mandate under 19 V.S.A. §1111(d) is only to determine whether Petitioner's application to install a longitudinal force-main along the right of way of Route 36, which runs east to west, to connect the property to the St. Albans City (the "City") municipal sewer system "will serve the needs of the public." 19 V.S.A. §111(d). If so, the Board will issue the certification, and the remainder of the application will be processed by VTrans. Chair Loranger swore in those testifying.

Mr. Mazurak moved, and the Board entered, into evidence the following: Ex. 1, letter from Peter Mazurak to the Board; Ex.2, permit from the VT Dept. of Environmental Conservation for the Wastewater System and Potable Water Supply; Ex. 3, approved permit from the City for a Wastewater Allocation; and Ex. 4, a site map. Mr. Mazurak testified to the following:

Mr. Urban seeks to connect the Property to the City wastewater system along the longitudinal right of way running west to east on the south side of Route 36/Lake Road. The property is small, 62 ft. x 62 ft. with two driveways. Although he was told at purchase there was an on-site septic system, Mr. Urban found there is just a holding tank with no leach field. An investigation showed the soil is not good for a leach field.

Mr. Mazurak testified that Mr. Urban explored connecting to the City's sewer system through nearby properties. The neighbor directly east sought \$20,000 for the easement to connect through his system. The nearby restaurant requested \$15,000 in addition to the \$20,000 to go through Mr. Savage's

property. Likewise, going across the street to the Hulbert property would require \$10,000 for an easement and involve boring under Rt. 36, a path the City rejected.

Mr. Mazurak testified that installing a force-main horizontally in the right-of-way of Rt. 36 to the connection at the corner of Beaugard and Rt. 36 is the most straightforward way to connect Mr. Urban to the City sewer system. The horizontal boring would be 10 feet away from the City water system and it will run underneath it. Mr. Mazurak states this plan meets the distance/separation requirements between water and sewer, as shown by the granting by the City and State for a permit for this project.

Mr. Mazurak testified the force-main would run through the eastern driveway entrance on the property and that driveway will then be closed. The force main will use HDPE pipe DR 11.0, a heavy-duty pipe put in by horizontal boring. At the end of that HDPE pipe will be a PVC conversion fitting to tie into the valve pit at the corner of Rt. 36 and Beaugard Drive and back into the Beaugard Drive pump station. Mr. Mazurak has worked on several similar projects before and testified it is a very straightforward installation; they will test the line when done to make sure it holds pressure.

Mr. Zalinger asked whether easements were needed by anyone other than the State. Mr. Mazurak stated there were no additional easements needed. Mr. Zicconi informed the Board that notices of this hearing and copies of the permit application were provided to all adjacent and nearby properties.

For the VT Agency of Transportation, Mr. Pierce provided testimony.

Mr. Pierce from VTrans permitting services testified that VTrans would like to grant the permit. Mr. Pierce said VTrans concerns would be addressed by conditions in the permit, including that if problems arise with this sewer line, the applicant is responsible for repairs. The only unique requirement is that VTrans asked Mr. Urban to close one of the driveways and he agreed. VTrans supports this project and would like to issue the permit so Mr. Urban can have a functioning septic system.

Mr. Atherton asked whether it was the power of the city to take ownership or responsibility for the sewer line. Mr. Pierce stated that usually where a private owner wants to install a private utility to the municipal system, the municipality is a co-applicant but here the City declined to do so. Mr. Zalinger asked if the City took responsibility for other private access for homeowners along Rt. 36. Mr. Pierce did not know but knew that along Rt. 38, the City had done so.

Mr. Nicholson inquired if there was a record showing ownership and responsibility for the sewer line. Mr. Pierce stated that a Notice of Permit Action would be recorded by the Petitioner with the land records as part of the permanent record for the Property. Since this permit runs with the land, every future owner would have the same responsibility.

Ms. Loranger noted that the 450 GPD (gallons per day) allocation by the City was above average. Mr. Mazurak clarified that the City requires that number to be used for the City's accounting purposes.

Mr. Atherton noted that we are not hearing any concern about the extension of the City's sewer area. Mr. Mazurak stated the City approved the permit and that the City is allowing expansion of their wastewater system. As an example, Mr. Mazurak explained he is currently working on a project further west on Rt. 36 for 25 units on Jewel Street – and the City approved that expansion of the wastewater system. Mr. Mazurak testified that the properties adjacent to and east of the Property connect to City wastewater

system. Across Rt. 36, the Sheriff's office and other offices tie into the City wastewater system. Properties west of the Property and on the same side of Rt. 36 have private septic systems.

Mr. Pierce stated that once VTrans gets the Board's certification, VTrans will issue the §1111 permit with standard conditions. Mr. Pierce stated that VTrans could ask for additional conditions under §1111, but since this is a small project, VTrans is not asking the Board to impose any additional conditions.

Mr. Atherton inquired as to why not tie Mr. Urban's sewer to the city system located across Rt. 36. Mr. Mazurak stated that it was the City's decision.

The timing of the permit in relation to the appeal period was discussed. The Board clarified that the appeal period for a Board decision is 30 days under the Administrative Procedure Act. Mr. Mazurak indicated the petitioner would like the permit issued by VTrans prior to the end of the appeal period to allow the project to get done before winter.

The Board left the evidentiary record open for ten days to receive any additional evidence or commentary, after which time, the Board will deliberate and issue an order.

The hearing was adjourned at 11:38 a.m.

At 11:38 a.m., on a motion by Mr. Zalinger, seconded by Ms. Miller and approved unanimously, the Board entered deliberative session, pursuant to 1 V.S.A. §313, to discuss TB 529. Mr. Zicconi and Ms. Dimitruk were invited to be present. The Board exited deliberative session at 11:56 a.m.

2.0 OLD BUSINESS

There was no old business to discuss.

3.0 OTHER BUSINESS

No one had any other business to discuss.

The Board chose the next meeting date as October 21, 2024, at 9:00 a.m. to be held virtually to deliberate on TB 529. The following meeting will be held on Thursday, December 12, 2024, at 10 a.m. in conjunction with Board training.

On a motion by Mr. Atherton, seconded by Ms. Miller, the Board unanimously voted to adjourn at 11:59 a.m.

Respectfully submitted,
Rachel Dimitruk
Executive Secretary

Next Meetings:

October 21, 2024, at 9:00 a.m. virtual meeting to deliberate TB 529

December 12, 2024, at 10 a.m. in the first-floor conference room at Barre City Place