

DRAFT MINUTES
TOWN OF SWANTON
DEVELOPMENT REVIEW BOARD
PUBLIC HEARING
February 28, 2013

The Swanton Development Review Board HELD a Public Hearing on each of the submitted applications on **Thursday, February 28, 2013** at the Swanton Town Offices, 1 Academy Street, starting at **7:00 P.M.**

Present:

Kathy Lavoie
Joel Clark
Gabriel Liegey
Lucie Hill
Ron Kilburn, Zoning Administrator
Yaasha Wheeler, clerk

Also present:

Gerald Belisle (#476-2013)
Jeff Hardy, TDH Surveying (#476-2013 & #420-2013)
Jason Stoddard (#477-2013)
Shawn Bouchard (#419-2013)
J.A. LeBlanc (#419-2013)
Roger Bushey (#419-2013)
Ed Daniel (#419-2013)
Gary & Pamela Pouliot (#420-2013)
Mark & Cristine Sweeny (#420-2013)
Mark Pfenning (#478-2013)
H.D. Campbell (#478-2013)
Rene & Patty Fortin
Steve Salls

Clark opened the hearing at 7:03 p.m. He introduced the members of the board, explained the process of the hearing, and read the definition and rights of interested persons. He asked the board members to make known any possible conflicts of interest or ex parte communications; there were none. Clark then swore in the participants of the hearing.

1. #476-2013 Sketch Plan and possible Final Plat Approval Request of Gerald Belisle to create a two (2) lot subdivision by subdividing an existing 5.99 acre lot at **5 Rocky Ridge** to create one single family dwelling lot of 3.54 acres and one deferred lot of 2.44 acres. R1 Agricultural/Residential District.

Jeff Hardy of TDH Surveying and Gerald Belisle came forward. Hardy presented a sketch plan of the site. He explained that there was a proposed easement off of Rocky Ridge to access the deferred lot, for which no development was currently proposed. It was noted that there was an existing house on the other lot. Some details, such as the location of the home and the home's existing driveway, were different in reality than on the Mylar, partially because of the intrusion of ledge. Lavoie pointed out that the deferred lot had an access, so it was not really deferred, and Hardy explained that it was called deferred because it would remain open for possible future development, although none was planned at present. Belisle also wanted to create an access for that lot lower down on Rocky Ridge. Clark reminded that it was important to record an easement for the driveway in the deed. Hardy summed up that he needed to verify the easement in the deeds for the existing driveway, and show the proposed easement for the other lot on the plat.

2. #477-2013 Sketch Plan and possible Final Plat Approval Request & Lot Line Adjustment Request & Conditional Use Request of Jason Stoddard to create two lots from one lot and to reduce District set backs so as to minimize the degree of noncompliance of two existing dwellings on a single lot at **#1-3 Short Street R5 Residential District**.

Stoddard came forward. Kilburn presented pictures of area, from various angles. Stoddard said that his idea was to demo the house on one lot, replacing it with a stick-built new home in a smaller footprint, to reduce the degree of noncompliance concerning the setbacks. Eventually, he wanted to replace the existing trailer, but had not done so yet because the current resident had been there for 28 years. Essentially, he wanted to create two separate lots with two separate houses. Both lots would have separate sewer, water, and power. The existing trailer was 12 x 70 feet, and the existing house was 25 x 41 feet. Kilburn pointed out that the canvas garage on the property was in violation and would need to be removed. Lavoie asked how the situation developed, and Kilburn explained that it was due to slow incursions in a neighborhood accustomed to small lots. Clark summed up that the total acreage was approximately three-quarters of an acre, and Stoddard planned to divide it into one quarter-acre lot and one lot of 0.12 acres. Clark said that he would rather divide the lot into two basically equal portions, rather than create a lot of one-eighth acre size. He asked how that would impact Stoddard, who replied that it would not "hurt his feelings."

Lavoie asked what was motivating this project, and Stoddard replied that he wanted to be more conforming with the setbacks, and have two cleaner, more pleasing lots. The Development Review Board discussed making a subdivision of more even proportions and possible conditions regarding the existing trailer. Clark asked about the existing garage, and Stoddard replied that he would like to keep it. Stoddard explained that he planned to reduce the house from 41 feet long to 32 feet long. It was noted that this would bring the house into conformance with the front setback of 35 feet and the side setback of 15 feet. Kilburn reviewed the history of the neighborhood that demonstrated the unique character of the neighborhood, with one-acre lots that gradually broke into smaller lots as relatives subdivided. The Development Review Board discussed the possibility of doing a site visit before the next meeting on March 28, 2013.

3. CU#419 Conditional Use Request of Raymond Claude Bouchard to continue the Cottage Industry Auto Repair business of former owner **Michael Paradis** in a

modified manner from the previous operation at **131 St. Albans Rd.** R3 Moderate Density Residential District.

Shawn Bouchard was present to represent his father, Raymond Bouchard, who was on vacation. Bouchard explained that his father had just signed a lease on the house and garage on the property, with the ultimate plan of working close to home as a form of retirement. Bouchard already owned an auto repair shop at 224 Lake Street in St. Albans, but the Swanton operation would be on a smaller scale. Kilburn noted that the owner of the property, Michael Paradis, had the thickest file of zoning violations in his files. Clark asked what would be done with the automobiles waiting to be repaired and Bouchard said that, at the St. Albans shop, the cars were lined up neatly. Lavoie asked if Raymond Bouchard intended to move into the house and Kilburn said that he would have to move into the house for the operation to be considered as a cottage industry. Shawn Bouchard said that his father was in the process of moving to the property.

Clark pointed out the conditions set forth in the existing conditional use permit, which stated that the permit would expire upon the sale of the property. He added that, although the permit disallowed any hazardous waste on site, oil was considered a hazardous waste, and the permit allowed for oil changes. Bouchard explained that the business would not involve bodywork, but just repair and maintenance.

Kilburn explained that the neighbors had complained of bodywork being done at the shop, involving fumes and other irritations, but that Paradis had always claimed that the work was being done on his own vehicle, or for a personal friend or relative. He suggested crafting conditions thoughtfully, to avoid a repeat of that situation, although he suspected that Bouchard would be a conscientious neighbor. Clark said that he would be interested in having a statement from the applicant outlining the full vision of the business. Bouchard said that the business would basically be the same as the St. Albans business, except for the volume.

Kilburn noted that, as the Zoning Administrator, he did not have the authority to go on the premises to investigate a complaint, and that Paradis had ordered him off of the property whenever he had arrived. Kilburn asked for conditions that would allow him to investigate. Bouchard said that he was certain his father would be agreeable to such a condition, adding that his father was dedicated to working well with neighbors. Clark said that he appreciated the attitude, and would consider Kilburn's proposal. He added that he was still a little concerned about vehicles waiting outside to be repaired. Bouchard replied that a car would usually go into the garage and leave the same day, so there would not be a line of cars waiting to be worked on.

Clark gave the interested parties a chance to speak. Ed Daniel said that his main concern was ensuring that the conditions were maintained and that there were no incursions into the residential areas.

Roger Bushey, a neighbor adjacent to the business, asked what the board considered to be a cottage industry. Lavoie read the definition of a cottage industry, which states as follows: "An expanded home-based business conducted by the resident of a single family dwelling, which is carried on within the principal dwelling and/or an accessory structure, and has no more than 12 nonresident employees on-site at any one time (see Section 4.11)." Section 4.11 stated that "the owner and operator of the cottage industry shall reside on the lot." Bushey said that leasing, rather than owning, the property did not fit into the stipulations required for a cottage industry. Clark said that would need to be looked at, because the owner and operator had to reside on the lot. Kilburn informed the board that Paradis had conveyed the property to create a life estate, and

Paradis' daughter Christie had the legal title to the property. Bushey asked who would enforce the conditions if they were not met; Kilburn replied that he would be the enforcer, and that violations, if not resolved, could potentially end up in Environmental Court.

Alan Lampson said that he lived across the street from Bouchard and that he had never had an issue with the shop, because he lived far enough away to avoid being affected. However, over the years, he had been concerned that it was basically turning into a car lot, with various types of vehicles being sold and with excuses being made as to why it was not a violation of zoning. Lampson was concerned that Paradis would continue as the owner of the property, and added that leasing did not create the same sense of interest in the property as ownership. He echoed Bushey's concerns that the business could not legally be considered a cottage industry until Bouchard owned the site. Daniel said that he liked the idea of the conditional use permit expiring upon the sale of the property, in order to provide a limitation to the use and to allow a chance for it to come before the board for a renewal.

Clark asked for clarification of the life estate terms and Kilburn explained that the title was in the name of Christie Paradis, but Michael Paradis had retained a life interest in the property, so he could live on the property, use the property, and do all things consistent with ownership but only reflected by possession. Lavoie pointed out that the requirement that the owner and operator of the cottage industry must live on the property did not necessarily mean that the owner and operator of the industry had to own the land as well. Clark said that the board would probably want additional information after discussing the matter in deliberative session, and thanked Shawn Bouchard for his time.

4. CU#420 Conditional Use Request and Site Plan Approval Request of Gary & Pamela Pouliot to construct and operate a Storage Facility on land across the road from their residence at 182 Maquam Shore Rd. R3 Residential District.

Pouliot came forward and presented his site plan, which showed a cedar hedge on site within his boundary to the north. He also presented pictures. Clark said that the lot was vacant, approximately 150 x 200 feet, and asked how many storage units were planned. Mr. and Mrs. Pouliot explained that there would be a variety of units of the following sizes: 10 x 20 ft., 10 x 10 ft., and 10 x 5 ft. Mrs. Pouliot stated her intention to screen using vegetation, rather than fencing.

Clark determined that the facility would exceed the maximum building coverage of 15% and would therefore need a variance. In order to fall within the Conditional Use 30% rule, the Pouliots would have to knock off 10 feet from their facility length.

Kilburn informed the Pouliots that they would also have to consider the hours of operation and the restriction of access to certain days of the week, in order to consider the neighbors. He had received an objection that the lot was already being used for storage, and asked if the Pouliots would agree not to sell things on the lot; the Pouliots said they would. Kilburn asked about the two gravel driveways and Mrs. Pouliot replied that they only used one for access; the other was existing, but not used. Kilburn asked about signage and Clark directed the Pouliots to the bylaws for guidance in deciding on the best signage for their business.

Kilburn read the following letter into the record: "To the Chairman of the Development Review Board: Dear sir, I will not be able to attend the public hearing on 2/28/13. However, I do not approve of the construction and operation of a storage facility on that lot. Sincerely, Jean Prouty, neighbor to the north." Kilburn stated that he had also received a similar verbal request

from another neighbor, who did not wish to put his concerns in writing, because he did not want to offend the Pouliots.

Clark thanked the Pouliots and said that the board would have to consider the building coverage issues.

5. #478-2013 Sketch Plan and possible Final Plat Approval Request of Pfenning Holdings, LLC to revise an existing seven (7) lot subdivision on the **East Side of Lakewood Drive** SR Shoreland Recreation and RC Recreation Conservation Districts. The proposal is to adjust the boundary lines on Lots #2,3,4,5 & 6 by reducing them in size and to create a new Lot #7 of 37.35 acres. Access to Lot #7 would be over an existing farm road across Lot #6 with a 100 ft Right of Way.

Jeff Hardy of TDH Surveying came forward with Mark Pfenning. Hardy explained that the applicant planned to reduce the length of the long, thin “bowling alley” lots and create a seventh lot in the back. The boundary lines would be pulled west of the wetland, with the exception of Lot 1, which had access to the back lot. Lot 7 would have a 100 foot wide easement to the road. Kilburn asked about the right of way access to the lake for the lots and Pfenning replied that lots 2 through 6 had their own deeded beach access, off from H.D. Campbell’s neighboring property. Clark asked why the lots were being reconfigured and Hardy replied that the lots currently could not access the back parcel without crossing Class 3 wetland; Kilburn said that he believed it was done in an effort to make each lot 10+ acres. There was discussion about whether or not Lot 7 had enough road frontage for building; it was determined that it did because of its 50 foot easement. The septic was in three mounds, with easements back to the lots they serviced, and the south edge of the existing farm road was considered the edge of the wetland.

H.D. Campbell, neighbor, said that he was fine with the project.

6. Public Comment. – None.

7. Any other necessary business.

Salls and Fortin came forward. Salls explained that Fortin wanted to buy a portion of Salls property (19 x 119 ft.). The DRB in an earlier hearing, had asked Salls and Fortin to go within 5 feet of the garage instead (resulting in 16 x 119 ft). Salls and Fortin had not initially wanted to do so, but since the denial of the request, they had decided to renew their request with the DRB’s suggestion. Lavoie felt that a new application would be needed, but that waiving of the fees might be considered. Salls emphasized that he felt the transfer would result in more aesthetically-pleasing lots. Mrs. Fortin wanted to know if the board felt that the application had enough of a chance of passing that it would be worth reapplying. Lavoie said that the board was reluctant to commit, but did want to give as much help as possible; they simply couldn’t afford to make decisions within these type of preliminary discussions.

Fortin explained that the reason they had not pursued their application was because they had to discuss the removal of certain trees in order to accommodate the board’s stipulations.

The DRB directed Fortin and Salls to present a sketch plan and that, if the application went through, the DRB would probably require a site plan before finalizing approval.

The hearing recessed at 9:03 p.m. and resumed at 9:08 p.m.

Other Necessary Business

Kilburn informed the board that the existing McDonald's proposed a renovation with this description: "The proposed project consists of the construction of a new 400+/- square foot addition to the front (west) side of the building. The facades will be updated by replacing the vinyl siding with brick and stone veneer will accent the new building exterior. The drive thru lane will remain in the same location and a second ordering point in the lane will be added to accommodate the high volume of drive-thru traffic McDonald's receives. The garage behind the building will remain and the façade will be remodeled to match the new exterior of the building. In addition, McDonald's is proposing to replace sidewalks around the building where needed to ensure ADA compliance and accommodate the addition to the building. The existing parking will remain the same with some minor curb replacement and re-striping where necessary." Kilburn asked if the board wanted him to deal with this administratively or whether they wanted to see a site plan. The board agreed that they wanted to see a site plan.

Kilburn stated that Dollar General wanted to purchase the 2 acres between the Sunoco Station and the interstate southbound entrance ramp. The project would require a subdivision to create a building site for the commercial lot, site plan approval, wetland delineation, and AOT approval for access. Dollar General wanted to know if the project would even be welcomed and the DRB replied that a site plan review should be set up for the next meeting. Clark said that, because Dollar General did not yet own the land, a letter of intent from Rexbo (the current owner) might be advisable.

The DRB signed the Mylar for Wesley Decker (#475-2012), whose project had been approved at the 12/20/12 hearing.

MOTION: Hill made a motion, seconded by Lavoie, to go into deliberative session at 9:20 p.m. Motion carried.

MOTION: Liegey made a motion, seconded by Lavoie, to come out of deliberative session at 9:36 p.m. Motion carried.

MOTION: Hill made a motion, seconded by Liegey, to RECESS and continue deliberative session on March 7, 2013, at 7 p.m. Motion carried.

The Swanton Development Review Board continued deliberative session on March 7, 2013, at 7 p.m.

MOTION: Lavoie made a motion, seconded by Hill, to come out of deliberative session at 7:35 p.m. Motion carried.

MOTION: Lavoie made a motion, seconded by Hill, to APPROVE #476-2013 Sketch Plan and possible Final Plat Approval Request of Gerald Belisle to create a two (2) lot subdivision by subdividing an existing 5.99 acre lot at 5 Rocky Ridge to create one single family dwelling lot of 3.54 acres and one lot of 2.44 acres. R1 Agricultural/Residential District. Lavoie added that Lot 1A must reflect sufficient access and Lot 1B requires a 50 foot right of way. Motion carried.

MOTION: Hill made a motion, seconded by Liegey, to CONTINUE #477-2013 Sketch Plan and possible Final Plat Approval Request & Lot Line Adjustment Request & Conditional Use Request of Jason Stoddard to create two lots from one lot and to reduce District set backs so as to minimize the degree of noncompliance of two existing dwellings on a single lot at #1-3 Short Street R5 Residential District. A SITE VISIT was scheduled for 6:30 p.m. before the next DRB meeting on April 3, 2013. Motion carried.

MOTION: Hill made a motion, seconded by Lavoie, to CONTINUE CU#419 Conditional Use Request of Raymond Claude Bouchard to continue the Cottage Industry Auto Repair business of former owner Michael Paradis in a modified manner from the previous operation at 131 St. Albans Rd. R3 Moderate Density Residential District. The DRB requested the applicant to provide a written explanation of who owns and who leases the property, who will own and operate the cottage industry, and a list of the work to be performed, to include information on the use of hazardous materials, hours of operation, etc. Motion carried.

MOTION: Hill made a motion, seconded by Lavoie, to CONTINUE CU#420 Conditional Use Request and Site Plan Approval Request of Gary & Pamela Pouliot to construct and operate a Storage Facility on land across the road from their residence at 182 Maquam Shore Rd. R3 Residential District. This item would be continued so that the applicant could submit a new site plan that conformed with the district requirements of building coverage, and that showed additional landscaping, signage, lighting, traffic flow, etc. Motion carried.

MOTION: Lavoie made a motion, seconded by Liegey, to APPROVE #478-2013 Sketch Plan and Final Plat Approval Request of Pfenning Holdings, LLC to revise an existing seven (7) lot subdivision on the East Side of Lakewood Drive SR Shoreland Recreation and RC Recreation Conservation Districts. The proposal is to adjust the boundary lines on Lots #2,3,4,5 & 6 by reducing them in size and to create a new Lot #7 of 37.35 acres. Access to Lot #7 would be over an existing farm road across Lot #6 with a 100 ft Right of Way. Motion carried.

MOTION: Lavoie made a motion, seconded by Mr. Liegey, to adjourn at 7:48 p.m. Motion carried.

Respectfully Submitted,

Yaasha Wheeler
Development Review Board Clerk

Joel Clark

Kathy Lavoie

Lucie Hill

Gabriel M. Liegey, Jr.