

SWANTON PLANNING COMMISSION
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5/07/14 PUBLIC MEETING
SWANTON PLANNING COMMISSION

The Swanton Planning Commission held a public meeting at 5:00 PM on Wednesday, May 7, 2014 at the Swanton Town Offices, 1 Academy Street.

Present:

Ron Case
Ed Daniel
Andy Larocque

Also Present:

Ronald Kilburn, Zoning Administrator
David Jescavage, Town Administrator
Yaasha Wheeler, Secretary
Taylor Newton & Greta Brunswick, NRPC
Harold Garrett, Road Foreman

It was noted that Planning Commission members Jim Hubbard and Ross Lavoie would not be present. Mr. Case opened the hearing at 5:05 p.m. to review changes to the development regulations.

1. To meet with representatives of the Northwest Regional Planning Commission and others to continue the discussion regarding proposed revisions to Swanton's Zoning Bylaws & Subdivision Regulations. The focus of discussion for this meeting will be to review the Final Draft of the proposed bylaw revisions consistent with decisions reached at the last public meeting of the Planning Commission.

Mr. Newton recapped the major goals and proposed regulation changes as follows:

The Goals of the Project

To update the existing Swanton Land Use and Development Regulations to ensure compliance with the latest Town Plan and state statutes, to revise language in the document so that it is easier to use and understand, and to address the following issues:

- General "housekeeping" – Ensure compliance with state statutes, the National Flood Insurance Requirements, and the Town Plan.

- Water Quality – Review options for improving water quality, including the adoption of Low Impact Development (LID) standards, adoption of Fluvial Erosion Hazard (FEH) overlay zoning, and/or revision of existing stormwater management and erosion control regulations.
- Enforcement – Discuss and review current enforcement language in the bylaw.

The Major Changes to the Bylaws

- Access Requirements – Sections 3.2 and 7.8 were changed to clarify the regulations in regard to roads and driveways. Waivers from the standards will now only be available if a letter from the fire, police, or rescue departments is issued, stating that safe access will be provided to all structures despite the waiver.
- Development buffers from Waterways – Section 3.14 was added to the regulations to ensure that vegetative buffers exist on the banks of all waterways within the Town and Village of Swanton (lakes, ponds, rivers, streams, wetlands). Vegetated buffers provide a greater ability for stormwater to infiltrate and thereby combat erosion and improve water quality. Specific buffers applicable to Hungerford Brook [75 feet] and Missisquoi River [100 feet] were selected based on Fluvial Erosion Hazard Area data and FEMA Flood Insurance Rate maps. [Mr. Newton explained that no new constructions would be permitted within the buffers, and there would be certain conditions applicable to existing structures within those buffers. Activities such as tree removal or fill would be prohibited within the buffers.]
- Stormwater and Erosion Control – Section 7.5 was revised to require that all subdividers consult with the State Agency of Natural Resources to determine whether or not a State Stormwater Permit is needed. Erosion control provision of the bylaw was also strengthened.
- Parking Space Calculation – Section 3.12 – Parking, Loading & Service Area Requirements was revised to lower the amount of area required per parking space and to allow for up to 15% of parking spaces in a lot to be compact spaces. [Mr. Newton explained that the old language had been confusing, and the new language was much more understandable.]
- Flood Hazard Overlay – The bylaw was updated to ensure compliance with the minimum National Flood Insurance Program. Minor changes were made to the Section 2.4, Table 2.14 – Flood Hazard Overlay and Section 5.5 – Flood Hazard Review to clarify the review process and required standards. A new section for definitions specific to the Flood Hazard Overlay District was added (Section 10.3).
- Open Storage Limitations – Section 3.9 was added to the bylaw. This section limits the open storage of some materials and limits the location of open storage areas on a lot. [Mr. Newton added that explicit language in the bylaws now allowed the Zoning Administrator issue tickets to a judicial bureau for enforcement, giving him another avenue to enforce regulations.]

The revised bylaws also adopted rules regarding telecommunications facilities that were more in line with the applicable state statutes, and had eliminated language regarding wastewater, because the town no longer had jurisdiction over this state-regulated process.

Mr. Jescavage requested the removal of the cross-hatching indicated the Southern Growth Overlay, which had been removed as approved by the JLB. Mrs. Brunswick and Mr. Newton presented a map of Swanton which showed all buffer zones in red. After discussion on how the map should best be used, it was agreed that it was not precise enough for the general public to use in determining buffer zones, but would be

provided to Ron Kilburn, Zoning Administrator, for his benefit in determining if any buffer zones were involved in a particular application.

Mr. Garrett asked if he, as Swanton road foreman, was allowed an exemption to work in wetland areas in town right-of-ways. He expressed concern that members of the public would ask “Why can the Town do this and I can’t?” He referenced specific areas in Swanton that required work in wetland areas. Mr. Case assured Mr. Garrett that exceptions applied to the road crew.

Mr. Garrett stated that some subdivisions appeared to be creating driveways side-by-side, rather than combining driveways for access to multiple houses. Mr. Newton read from the bylaws that “shared driveway accesses are strongly encouraged and may be required by the DRB through subdivision site plan or Conditional Use review.” Mr. Case summed up that the DRB would determine what should be done in each particular case.

Mr. Garrett asked if the bylaws required a swale at the bottom of a sloped driveway, noting that he had trouble, particularly with icing in the winter, when water ran off of a driveway into the road. Mr. Newton pointed out that private roads needed to be built to A76 standards, which should include appropriate stormwater management facilities. Mr. Newton stated that the bylaws currently referred to the Vermont Better Back Roads Manual and the A76 standard, and Mrs. Brunswick suggested that, in the absence of specific language regarding swales and ditching in the bylaws, the road ordinance should include such language regarding stormwater management. Mr. Garrett requested that the bylaws include language that the curb cut must meet the standards set by the road commissioner or road foreman, shall include a 15 inch culvert of a maximum of 40 feet in length, and has to meet such standards that will demonstrate that the water will not meet the public highway. Mr. Newton agreed to add the language. Mr. Case noted that, had he not been on the board, he would have been unaware of many of the standards in the bylaw, and suggested attaching a copy of the road ordinance to any application for a subdivision. Mr. Garrett was advised to update the road ordinance in regard to his concerns, and present the ordinance to the Selectboard for review and adoption. Mr. Garrett asked that the bylaws incorporate a note that any driveway cut requires the applicant to obtain a copy of the road and bridge standards.

Mr. Jescavage noted that the language allowing for privately-owned wastewater systems in the Southern Growth District had been deleted as a Conditional Use. Mrs. Brunswick said that this was because the town did not have purview over such permitting, and Mr. Jescavage explained that the purpose of Conditional Use review for private system was in the case of an enterprise that sought to set up a system in order to sell its services to neighboring properties or to a group (such as a campground). Although the state would permit the system, the Conditional Use review would allow the DRB to review it and set any conditions. Mrs. Brunswick and Mr. Newton felt most comfortable with checking with the state to see how the Town should address the issue properly.

Mr. Daniel noted that PUDs were deleted as a permitted use in the Southern Growth District, and Mrs. Brunswick replied that PUDs were a type of development that required a particular type of review and were therefore not considered a use. In effect, it was not a change.

Mr. Case noted that agriculture was missing from permitted uses and Mr. Newton pointed out that agriculture and forestry were exempt, so they were not technically permitted.

Mr. Jescavage suggested adding Conditional Use to the R5 district that would allow a pre-existing commercial retail use on a lot to be replaced by another commercial retail use of similar size, provided it received Conditional Use approval from the DRB. This was because of the former Aubuchon Hardware location in the R5 district, whose commercial use was pre-existing and made sense for that area, but was not permitted in the district. Mr. Newton identified in the bylaws similar language to the language as proposed by Mr. Jescavage.

After discussion, Mrs. Brunswick was in favor of expanding the Neighborhood Commercial Light district to include the lot and its neighboring lot. She did not consider this spot-zoning, as the change was justifiable and made sense for the area. She recommended also taking a broader look at the district to see if other areas should be updated at the same time. Other options included making use of the bylaw provision that allowed a nonconforming use to be changed to another nonconforming use with Conditional Use approval from the DRB, if the DRB determined that the proposed use was more in conformance with district uses than the previous use. Mr. Newton's main concern was that the lapse of one year after the abandonment of a non-conforming use would prohibit the renewal of any nonconforming use on that lot. Since the Aubuchon lot was not currently abandoned and was still being used for storage, the Planning Commission felt comfortable with taking no action at this time.

Mr. Jescavage presented suggestions based on his review of the bylaws. He pointed out that Section 1.2 should refer to section 44.19; that the definition of land development in Section 1.2 and Section 10 differed slightly; that Section 1.4 referenced 44.03, but should instead reference 44.01(b); that an asterisk by the words Lake Champlain was unaccompanied by an explanation; that the charts should (if possible) repeat the column headings on subsequent pages for easy reference; that the highway access requirements in Section 3.2(b) should reference the Town and Village separately, and refer applicants to the appropriate Town or Village officials; and that the reference to busing in Section 3.6 should be removed, as the school district, not the Town, regulated busing.

Mr. Jescavage added that Section 3.9(b)6 prohibited storage areas from existing in the front yard of any structure. If the lot was empty, how could the front yard be determined? What if the junk wasn't in the yard, but was on the front porch? After discussion, the Planning Commission agreed to eliminate the word "yard," thereby creating the wording that storage areas should not exist in the front of any structure.

It was noted that Mrs. Brunswick and Mr. Newton needed to look into the new shoreline zoning laws passed at the state level, and update the town bylaws accordingly. Mrs. Brunswick recommended continuing with the adoption process while the research was being conducted.

The next Planning Commission hearing was scheduled for June 25th at 7 p.m.

Mr. Larocque made a motion, seconded by Mr. Daniel, to adjourn the hearing at 6:58 p.m.

Respectfully Submitted,

Yaasha Wheeler
Planning Commission Secretary

Ron Case

Ed Daniel

Andy Larocque