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**PUBLIC HEARING**  
**SWANTON DEVELOPMENT REVIEW BOARD**

*Thursday, June 25, 2015*

The Swanton Development Review Board held a Public Hearing on Thursday, June 25, 2015 at the Swanton Town Offices, 1 Academy Street, at 7:00 P.M.

**PRESENT**

***Development Review Board members***

**Joel Clark**  
**Lucie Hill**  
**Janette Hoague**  
**Gabriel Liegey**  
**Spencer LaBarge**

**Ronald Kilburn, Zoning Administrator**  
**Yaasha Wheeler, Clerk**

***CU#510 – Lester application***

Chris Lester

***CU#511 – Pelkey application***

Jessica Pelkey  
Linda Pelkey

***CU#513 – Kelly Gosselin***

Kelly Gosselin

***#525-2015 – Parah application***

Chad Parah  
Riley Bockus

**#28-2015 – Butler application**

Jason Butler

**#514-2015 – Zaremba Group application**

Matt Casey

Christopher Ponessi

John Greer

David Fosgate

Joseph Desrochers

Mr. Clark opened at 7:03 p.m. and introduced the board members. He explained the process of the meeting and swore in the participants. There were no ex parte communications or conflicts of interest amongst the board members. Copies of the definition of interested persons were distributed amongst the attendees, and Mr. Clark informed the attendees of the importance of interested person status.

**1. CU#510 Continuation of Conditional Use Request of Chris Lester to convert a seasonal camp to year-round use, located at 71 Tilley Drive. R3 Moderate Density Residential District.**

Mr. Lester came forward, and Mr. Kilburn offered additional information provided by Mr. Lester. The Development Review Board reviewed the paperwork, which testified to an inspection done on May 11, 2015, and a letter from the state, which the DRB saw previously. The last document was a septic site inspection done by Drummac Septic Service.

Mr. Clark asked if Mr. Lester had spoken with a site technician, and Mr. Lester said that he had spoken to two site technicians, who referred him to the state of Vermont, since it was not something they did. Mr. Clark noted that Dolores Eckertt from the state department, in a letter dated 2013 and referencing a document from 2009, said that the septic system met the criteria for year-round status. The jurisdictional approval did not relieve the applicant from meeting any or all local approvals required.

Mr. Clark asked for a signed copy of the Drummac report. He expressed surprise that neither of the site technicians were available to certify the septic system for year-round use. Mr. Lester said that Ms. Eckertt had told him that the documents sent by the state was all that was necessary, but normally, if the inspection showed a healthy system, there were no extra requirements. He added that the representative from Drummac said that he saw no problems with the septic system, and felt confident in its ability to be converted to year-round use. Also, risers had been added to the tank to make it accessible year-round.

**2. Conditional Use #511 Continuation of Conditional Use Request of Jessica Pelkey to convert a residential dwelling to a Personal/Professional Service Business (Salon and SPA) at 33 Canada Street. R5 Residential District.**

Jessica Pelkey and Linda Pelkey came forward. Mr. Clark turned the review over to Ms. Hill. Ms. Pelkey directed the DRB members to the parking diagram she had submitted, as requested. Ms. Linda said that there were two driveways. Ms. Pelkey stated that the two parking spaces for the tenant would be on the side.

Ms. Pelkey said that she currently only had one employee, and the other three were independent contractors. She could potentially have a total of no more than 10 employees/contractors. Ms. Linda explained how the new salon space would continue to make her business viable in Swanton.

Mr. Clark asked how many employees/contractors would be on site at one time. Ms. Pelkey said that many of them set their own hours, and there were no set hours, aside from the operating days of Tuesday through Saturday, and operating times of about 10 a.m. to 7 p.m. Mr. Labarge suggested including a bigger window of time on the permit, to have the ability to operate at those occasional extended hours. Mrs. Hill asked how many “employees” were on site on a “busy” day, and Ms. Pelkey said that, at maximum, all of the workers could be on site. There were six chairs available in the salon.

The parking included six spaces for the staff, two spaces for the apartment tenant, a few spaces for handicapped clients, and available on-street parking.

The DRB and Ms. Pelkey agreed on hours of operation from 8 a.m. to 8 p.m. Monday through Saturday.

**3. CU#513 Continuation of Conditional Use Request of Kelly Gosselin to expand the current conditional use in a Historic Barn (section 4.3) by converting 18 storage bay units located on the ground floor where renters could sell antiques and arts/crafts. The remainder of the building (17 units) would remain as warehouse space, the current use. At 529 St. Albans Road. R3 Moderate Density Residential District.**

**NOTE: The DRB conducted a SITE VISIT on Thursday, June 25, at 6:00 p.m. to 6:30 p.m., prior to the Public Hearing. Mr. Clark, Mrs. Hill, and Mrs. Hoague were present, as well as Kelly Gosselin and Bob Johnson.**

Mrs. Hill asked if anything was set up for outdoor displays, and Ms. Gosselin showed the sections of 15' x 30' on either side of the barn to be available for the displays. If possible, she would desire even more to have about 30' feet out from the barn all the way across the barn's front, to attract attention to the wares inside. There would also be people going inside the barn to look at items in the groundfloor units. The hours of operations were “daylight hours.” Currently, the storage space was accessed 24/7. Mr. Clark was in favor of a restriction of the retail hours. Ms. Gosselin did not plan to be on site, with the individual sellers setting their own time, so she wanted as much flexibility as possible. Mr. Clark said that, at the site visit, the DRB and Ms. Gosselin had discussed restroom/water, and Ms.

Gosselin had offered a Port-a-let as a possible solution if required. Mrs. Hill added that a letter from the fire department should approve the situation for fire safety purposes.

The DRB had confirmed that there was the potential for extra parking across Sugar Maple Drive. Ms. Gosselin pointed out the various parking spaces, including handicapped spaces.

Mr. Clark said that the DRB would discuss the display, the hours of operation, the fire department approval, and whether a port-a-let was needed. The DRB would also want a copy of the parking diagram. Mr. Liegey suggested restricting the possibility of parking along Route 7. While Mr. Clark agreed with his intent, but he felt that matter was outside of the DRB jurisdiction to restrict.

Ms. Gosselin wished to clarify that the following would be sold: antiques, collectibles, arts and craft (maple syrup, handmade cards, etc.). There would be no fresh food. It would be like a Farmer's Market type of thing.

**4. #525-2015 Sketch Plan and Possible Final Plat Approval Request of Chad Parah to create a two (2) lot subdivision by subdividing a 5.75 acre parcel into two house lots consisting of Lot #1, 3.27 acres for proposed single-family dwelling and Lot #2, 2.48 acres, with existing house at 527 Middle Road. Agricultural/Residential District.**

Chad Parah and Riley Bockus came forward. Mr. Bockus explained that they proposed a 2-lot subdivision with the existing house and wastewater system. The project proposed a new, single-family three-bedroom dwelling, with its own water and wastewater system, with an easement for replacement water on Lot 1 for Lot 2 (the existing home). The existing home had a conventional system. The soils were not good enough on Lot 2 to allow for the replacement system to be placed there. Both lots met the lot frontage and acreage.

**5. #28-2015 Appeal/Variance Request of Jason & Katherine Butler to construct an addition and garage attached to existing house, which does not meet the required side setback of 50 feet (22 ft. requested) at 169 Middle Road. Agricultural/Residential District.**

Mr. Butler came forward. He explained that the bedrooms and the bathroom were on one side of the house, and to build an addition off of them would require rearranging the footprint. It would be easier to build off of the other side of the house. Mr. Clark asked if the addition could be reduced from 36 feet to 23 feet, and explained that that would reduce the request from a variance to a Conditional Use request, which would be easier to approve. Mr. Butler pointed out the location of the 1000-gallon holding tank, the pump house, and the leach field. He hoped for an "oversize 2" size garage, with a staircase going into the new living space (a second bathroom, a mudroom, and a dining room). He had purchased the existing house.

Mrs. Hoague asked if the garage could come toward the road more and being narrowed. Mr. Butler said that he already had a design put together, but the garage could be moved if necessary. There would be a window on the addition. He had spoken with his neighbors, and they were fine with the proposal, especially since the neighboring land was in land trust.

Mr. Clark swore in some participants who arrived after the swearing in.

- 6. CU#514 Conditional Use Request of Zaremba Program Development, LLC to construct a 9,100 sf DOLLAR GENERAL retail store at the existing properties located at 108, 110 & 112 First Street which one the South side of the street, immediately adjacent to the Swanton Municipal Complex. It is planned to completely raze the existing six (6) buildings on site, which include two (2) residences, two (2) garages, one (1) mobile home and one (1) commercial building. It is also planned to have a single access to this property as shown on the proposed plans, but there would be three-sided access for emergency uses, as one side of this proposed building faces the Swanton Municipal Complex. NCL Neighborhood Commercial Light District.**

Mr. Matt Casey and Mr. Chris Ponessi came forward with documents and drawings. Mr. Ponessi had had a number of discussions with the town about permitting and other requirements. Three parcels and a rear, partial parcel near the Village Complex would be razed and redeveloped. The three accesses on the roadway would be condensed into one access, and he had spoken with representatives of the Village to resolve some concerns. He presented the altered plan, which included a drainage improvement (a rain garden with landscaping and water quality treatment), a structural section with gravel and topcoated with seed (requested by the Fire Department), and with sidewalk to be replaced as necessary.

The back of the building would have a swale that would bring the water between the two buildings and toward the roadway. The parking lot would be graded with a center drive aisle conveyance, with a wing edge on the side of the pavement, so all the water from the property would be brought up to the corner with the rain garden to help treat, detain, and release the water into the Village system. The Village manager and road foreman was very happy with that plan. The only time the water would go into the Village system was when the volume exceeded the rain garden. The Village would give an easement for construction and to manage the stormwater. The Village would provide power and gas service. There was a full landscaping plan.

Mr. Casey said that the hedges were planned to terminate around the back of the pool.

The hours of operation would be 8 a.m. to 10 p.m. Mr. Ponessi noted a pedestrian access across the parking lot and the handicap parking. Mr. Clark recommended running the screening along the whole length of the western boundary.

Mr. John Greer asked to have prior notice of any fire department training in the houses to be razed. Mr. Joe Desrochers asked if the houses would be burnt, and Mr. Casey said that he understood that there would be no burning. Mr. David Fosgate was concerned that the grading would kick the water in the direction of his property. Mr. Ponessi pointed out where the screening would be, and agreed that the property would have to be “raised up a bit” to stop any water coming off the roof, but said that there would be no water from the Dollar General site. Mr. Fosgate was concerned that creating more impervious surface may eventually increase his water issues. Mr. Ponessi would send up a revised engineer drawing with the amendments discussed with the Village representatives. The applicant submitted three plans, the overall development plan, landscaping plan, and utility and grading and drainage plan. Other documentations included information on what type of products would be sold in the store, exterior elevations, and a survey.

### **7. Any Other Necessary Business**

The DRB set the next meeting for July 23<sup>rd</sup>, with the possibility of July 30<sup>th</sup>. Mrs. Hoague added that she would no longer be able to make the meetings, since she had moved out of the county.

The DRB reviewed the case of the art wall, as presented up by Judy Paxman and Scott Rheaume from the Swanton Arts Council. Mr. Clark read the definition of “sign,” and felt that the wall fell into a gray area. He noted that the DRB could consider certain signs of artistic nature under Conditional Use (Section 3.12.G.2). The table for square footage of signs did not specifically address this kind of structure. The DRB reviewed the definitions in Article 10.

Mr. Clark was of the opinion that the structure was more of an accessory structure than a sign. Mr. Labarge felt it did not meet the definition of accessory structure that the structure should be “clearly and customarily related to the principal structure or use.” Mr. Clark suggested getting a letter from the property owner, regulating it under “accessory structure,” and limiting the size. Mr. Clark would be willing to discuss waiving the fee for building such a structure.

If the wall was defined as a sign, it would have to fit within a certain size limit. Mrs. Hoague suggested calling it a fence, which would reduce it to 6 feet tall. Mr. Labarge agreed that the project would be better served if it were regulated somehow. Mrs. Hill suggested adding a condition to review it in a year. Mr. Liegey preferred not to regulate it right now, and then address any concerns. Mr. Kilburn felt that might make the Zoning Administrator’s job difficult.

The only way that the wall fell under the definition of sign was because it “calls attention to” something, namely, itself. However, was the intention of the sign to call attention to itself, or to something other than itself (a business, etc.)? Mr. Labarge felt that it called attention to whatever would be depicted. However, Mr. Clark pointed out that, under that definition, a painting on the side of his barn could be considered a sign and would have to

be regulated. But perhaps there was a difference between something painted directly on a building, or something attached to or mounted on a building.

Mr. Kilburn said that, if they were to conclude that it fit the definition of an accessory structure, they might find that it was exempt from requiring a permit if it did not exceed 100 square feet and met the minimum setbacks and height restriction. The DRB agreed that the idea seemed practical and honest and within the DRB's authority. Mr. Kilburn suggested that the DRB should have a letter that could be used as guidance by the Zoning Administrator.

Mr. Kilburn informed the board that the Town Administrator had told him that the Selectboard requested the DRB to reconsider the requirement to fence around the Town Garage. Mr. Clark explained that the Selectboard (of which he was currently a member) had priced various fencing options, and the Selectboard felt that there was a better use of the Town's money and suggested a wooden fence with a gate so that people could not drive in there. The Selectboard was not aware of any pedestrian traffic through the property or vandalism, and simply wished to prevent vehicle traffic. The DRB members recalled that they had originally asked for fencing along three sides to prevent kids from playing on the sand piles, which were now all enclosed and therefore not attracting the kids any more. The Selectboard would like the DRB to reconsider and allow a low wooden fence in the front with a gate. Mrs. Hoague noted that, if the kids were not coming through the area, that lessened the original concern to prevent pedestrian traffic through the lot.

The DRB members (Mr. Clark excluded himself from making a judgment) felt that, because the pedestrian traffic was no longer a concern, they were comfortable with amending their

Mr. Labarge made a motion, seconded by Mr. Liegey, to approve the Selectboard's request to amend the letter dated... regarding the conditions of the Town Garage, to remove the condition requiring a 6 foot fence on three sides and to replace that condition with one requiring a fence along the front and a gate. Mr. Clark abstained. Motion carried.

Mrs. Hill made a motion, seconded by Mr. Labarge, to go into deliberative session. After discussion, the DRB agreed to withdraw the motion to go into deliberative session, and to postpone deliberative session for Wednesday, July 1<sup>st</sup> at 7 p.m.

Mr. Liegey made a motion, seconded by Mrs. Hill, to adjourn at 9:26 p.m. and to continue deliberative session to July 1<sup>st</sup>. Motion carried.

**On July 1, 2015, the DRB met at 7:00 p.m. Present: Joel Clark, Gabriel Liegey, Lucie Hill, Spencer LaBarge, and Yaasha Wheeler.**

Mr. LaBarge made a motion, seconded by Mrs. Hill, to enter deliberative session at 7:00 p.m.

Mr. Llegey made a motion, seconded by Mr. Labarge, to come out of deliberative session at 7:54 p.m Motion carried.

Mr. Labarge made a motion, seconded by Mr. Liegey, to approve CU#510 Continuation of Conditional Use Request of Chris Lester to convert a seasonal camp to year-round use, located at 71 Tilley Drive. R3 Moderate Density Residential District. Motion carried.

Mr. Liegey made a motion, seconded by Mr. Labarge, to approve Conditional Use #511 Continuation of Conditional Use Request of Jessica Pelkey to convert a residential dwelling to a Personal/Professional Service Business (Salon and SPA) at 33 Canada Street. R5 Residential District. Discussion: Hours will be Monday through Saturday, 8 a.m. to 8 p.m. Discussion concluded. Motion carried.

Mrs. Hill made a motion, seconded by Mr. Liegey, to approve CU#513 Continuation of Conditional Use Request of Kelly Gosselin to expand the current conditional use in a Historic Barn (section 4.3) by converting 18 storage bay units located on the ground floor where renters could sell antiques and arts/crafts. The remainder of the building (17 units) would remain as warehouse space, the current use. At 529 St. Albans Road. R3 Moderate Density Residential District. Mr. Clark, Mr. Labarge, and Mr. Liegey voted in opposition to the motion. Mrs. Hill voted in approval. Motion denied. If the applicant was interested in the details of the reason for denial, she can contact the DRB.

Mr. Labarge made a motion, seconded by Mrs. Hill, to approve #525-2015 Sketch Plan and Final Plat Approval Request of Chad Parah to create a two (2) lot subdivision by subdividing a 5.75 acre parcel into two house lots consisting of Lot #1, 3.27 acres for proposed single-family dwelling and Lot #2, 2.48 acres, with existing house at 527 Middle Road. Agricultural/Residential District. Motion carried.

Mr. Labarge made a motion, seconded by Mrs. Hill, to approve #28-2015 Appeal/Variance Request of Jason & Katherine Butler to construct an addition and garage attached to existing house, which does not meet the required side setback of 50 feet (22 ft. requested) at 169 Middle Road. Agricultural/Residential District. The reason for the approval was due to the fact that the house was already existing on the property when the Butlers acquired it, and with the layout of the rooms in the house, it makes more sense to build the addition toward the south, toward the neighbors' farm field that is in land trust. Motion carried.

Mrs. Hill made a motion, seconded by Mr. Labarge, to approve CU#514 Conditional Use Request of Zaremba Program Development, LLC to construct a 9,100 sf DOLLAR GENERAL retail store at the existing properties located at 108, 110 & 112 First Street which one the South side of the street, immediately adjacent to the Swanton Municipal Complex. Approval was granted with the following conditions:

- (1) The visual screening on the west side shall be continued the length of the lot
- (2) The applicant shall submit a revised rain garden plan
- (3) Hours of operation will be Monday through Sunday (7 days a week) 8 a.m. to 10 p.m.

Motion carried.



Mr. Labarge made a motion, seconded by Mrs. Hill, to approve the Swanton Development Review Board minutes of May 14, 2015 minutes. Motion carried.

The DRB agreed to present a letter to the Arts Council regarding the art walls.

Mr. Labarge made a motion, seconded by Mr. Liegey, to adjourn at 8:04 p.m. Motion carried.

Respectfully Submitted,

Yaasha Wheeler  
DRB Clerk

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Joel Clark

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Lucie Hill

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Gabriel M. Liegey, Jr.

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Spencer LaBarge