

DRAFT

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ZONING OFFICE**

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**PUBLIC HEARING
SWANTON DEVELOPMENT REVIEW BOARD**

Thursday, October 22, 2015

The Swanton Development Review Board held a Public Hearing on Thursday, October 22, 2015 at the Swanton Town Offices, 1 Academy Street, at 7:00 P.M.

DRB Members Present:

Joel Clark
Lucie Hill
Spencer LaBarge
Gabriel Liegey
Amy Giroux

Ronald Kilburn, Zoning Administrator
Yaasha Wheeler, Clerk

#527-2015 - Hemond

Ed Hemond, applicant
David Tudhope, engineer
Chad Tyler, neighbor
Jesse Bugbee, Tyler's attorney

#515-2015 - Chase

John Chase, applicant
Brad Ruderman, engineer
Richard Deso

#498-2013 - St. Francis

Matthew Glitman
James & Tina Brace

Dan Bockus, Jr.
Brian & Deborah Medor

#532-2015 – Maquam Holdings

Peter Garceau, engineer
Gordon & Deborah Winters
Shawn Cheney

#533-2015 – Dean

Scott & Jori Dean
Peter Mazurak

Other Business

Joseph Cahill, on behalf of Teresa Legrove

Mr. Clark opened the meeting at 7:02 p.m. He introduced the new zoning administrator, Darlene Marrier, and publicly thanked Ron Kilburn for his twelve years of service in that position. He introduced the board members, the administrative assistant, and the zoning administrators. He asked the board members to make known any conflicts of interest or any ex parte communications; there were none from the other board members, though Mr. Clark noted that the Dean application involved a sale of land to his son, and that he had had some discussion with Gordon Winters regarding his application and the best way to move forward with it. He drew attention to the definition of interest persons. Then he swore in those present.

1. **#527-2015 Sketch Plan and Possible Final Plat Approval request of Edward R. Hemond** to create a three (3) lot subdivision by subdividing a 59.45 acre parcel into three (3) additional house lots #15, #16, #17 (South Woods Way) at Maple Grove Estates. R3 Moderate Density Residential District. A site visit was conducted on Monday, October 5 at 4:00 p.m.

Those present at the site visit: Joel Clark, Lucie Hill, Amy Giroux, Ronald Kilburn, Ed Hemond, and Chad Tyler.

Mr. Tudhope stated that the plat was the same as previously presented, but some lots had since received wastewater permits. Mrs. Hill said that, after the site visit, she had spoken with Mr. Chad Tyler. Mr. Hemond said that the light glare was addressed in the declaration that went along with the project.

Mr. Bugbee, attorney for the Tylers, said that their only request was for a condition that required the developer to maintain sufficient screening to prevent light from escaping onto the adjoining property. Mr. Clark noted that the definition of “adequate screening” was up for interpretation. Mr. Bugbee said that he would be happy if the condition used the same language as the declaration regarding lighting. Mrs. Hill noted that the attempt to plant

trees for screening, her thought was to plant on the Tyler side, which had more sunlight and might be better for growing.

2. **#515-2014 Final Plat Approval request of John T. Chase** to create a nine (9) lot, seven-residential unit, Planned Unit Development (PUD) of an existing vacant 21 acre parcel on the West side of Route #105 (Sheldon Rd.) accros from the intersection with Pond Road. R1 Agricultural/Residential District. The DRB approved this development on April 16, 2015. The applicant failed to file the approved plat within 180 days. The plat has expires. A new and different plat is proposed.

Mr. Ruderman stated that the approved 7-lot subdivision had since been scaled down to a 6-unit subdivision because of a state-approved wetlands delineation. All six units would be served by a single mound, with six on-site and off-site drilled wells. The road had been shortened by about 350 feet, still coming off of the existing Ruth Drive. An amended application had been sent to the state for the water and wastewater systems. Each lot had a minimum of 150 feet in width, and Lot 1 would be accessed by a fifty-foot right-of-way through Lot 2, although Lot 1 did have the required road frontage as well. Mr. Clark discussed ways with Mr. Ruderman to minimize the impact of the right-of-way to Lot 1, so that Lot 2 would get the best use of space.

Mr. LaBarge asked Chief Tim Girard, Swanton Village Fire Department Chief, if servicing Lots 1 or 2 from the cul-de-sac would be difficult. Chief Girard explained that the cul-de-sac was excellent, but those two driveways would be a “nightmare” for emergency vehicles. He explained that a ninety degree angle was better in terms of emergency vehicles. “If we have to back out, let’s make it as straight as possible.” The longest fire truck was 47 feet. He discussed options with the board, the applicant, and the engineer.

Mr. Clark informed the applicant that this may not be considered for final plat approval.

3. **#498-2013 Lot Line Adjustment request of the Estate of Hilda St. Francis** to adjust the boundary line between Hubert St. Francis Jr. & Sandra St. Francis and to also annex a 40-ft. right of way; all in connection with lots located on the East side of Pine Street situated north of Fourth Street in the vicinity of 49 ½ Pine St. R5 Residential District. The applicant failed to file the approved plat within 180 days. The plat has expired. A new and different plat is proposed.

Matt Glitman stated that, back in the 1950s, a development had been planned with multiple 1-acre parcels and a deeded 40-foot right-of-way. Over time, most of those parcels had been bought up by the Estate of St. Francis. They proposed to reconfigure and combine the various lots, to create three lots. Lots 5 and 6 would be combined into one lot, and Lots 13 and 14 would be combined into one lot, both accessing along the existing driveway from Pine Street. Lots 11 and 12 would be combined into one lot, with access off of Fourth Street. Mr. St. Francis stated that the last application had been contingent on the approval of Mr. Bockus (owner of Lot 7), which they possessed. Lots 11 and 12 had given up their access to

Pine Street, and would now access from Fourth Street. Mr. Bockus was present, and stated that he had accepted the agreement, on the condition that the lawsuit was dropped. Mr. Clark said he was not aware of the lawsuit. As far as the plat itself, Mr. Bockus said that it met all the requirements, and he was happy with it.

Mr. Glitman said that there was a status conference next week, and there was an agreement to dismiss, assuming that this application worked out. Mr. Glitman presented his e-mail correspondence between himself and Mr. Bockus' attorney. Mr. Glitman stated that the lawsuit was to determine whether his deed contained the right-of-way, and they were dropping their claim of adverse possession, so he would retain whatever right-of-way claim that his deed had. He was no longer losing that right-of-way. Pending the results of this current application, that lawsuit would be dropped. It would be up to him to build the actual driveway as sketched out. Currently, Mr. Bockus only owned 7 and 8, accessed off of Fourth Street from his own driveway.

Mr. Brian Medor (owner of Lots 1, 2, and 3) asked to know the intention; Mr. Brace said the lots would be combined to add two homes: one on Lots 11 and 12, and one on Lots 5 and 6.

Mr. Clark said he saw it as a better situation, since the lots were larger.

4. **#532-2015 Site Plan Review request of Maquam Holdings – York Street, LLC** for a proposed retail store which would involve a variance to setback distances, at the former TD Bank building at 13 York Street. NCL Neighborhood Commercial Light and R5 Residential Districts.

Mr. Clark swore in those who had arrived after the swearing-in. Mr. Garceau passed out color copies of the site plan for an Ace Hardware retail store. He stated that the plan proposed development at the corner of York and First Street. They wished to dialogue with the DRB to get ideas, with two possible layouts of the site. Currently, there was a 30 foot setback for side yard and 15 feet for the front and rear. The applicant had reviewed the Community Visit report, with requested pedestrian access and more parking. To do that, it made sense to locate the building adjacent to the sidewalk. The first possible variation involved just development on the site, which showed possible improvements on York Street resulting in increased parking. The second variation involved locating the building within three feet of the property line nearer FairPoint, which resulted in the loss of the secondary access. The applicant favored the first idea.

Mr. Winters said that they had thought for a long time about having a store in the downtown area. It seemed like the perfect site to offer pedestrian access, increased parking, and other possibilities, and believed that bringing the building closer to the corner would help make those things happen. He showed the proposed customer entrances, and truck entrances, with a through-way for good traffic flow. Mr. Clark asked if the applicants had discussed parking with the Village; they replied they had not.

Mr. Garceau explained that the lot was not only a corner lot, but was in two districts. They were looking for a zero setback for both York and First Street. Right now, the concept included 30% building coverage, which was the maximum allowed. Mr. Clark noted that a zero-foot setback would require speaking with the Village, since it would involve working in the Village right-of-way. Mr. Kilburn clarified that the district referred to maximum building coverage, not maximum lot coverage. Mr. Garceau stated that there would be a stormwater management plan regardless.

Mr. Clark explained that, historically, the DRB had required 10 foot setbacks and perhaps easements to work on neighboring land. However, this case was a little different because the neighbor was Swanton Village. "This has some potential." The proposed parking along York Street would essentially be village parking.

They discussed the Ace Hardware store that the applicant had built in St. Albans, with a similar layout.

Mr. Shawn Cheney said that he wished to ensure that the building "did not stick out too far." He supported the project, but did not want their signs to "bury" his neighboring building's visibility. "I'd like to see them on the same plane" as his own building.

The DRB agreed with the applicants that this would move forward as a continuation, since the applicants knew that this was not a complete site plan; they simply wanted feedback from the board to know how to best move forward. The DRB agreed with the applicants' assessment that Plan C2 was the better of the proposals, and would make their comments based on that.

5. **#533-2015 Sketch Plan and Possible Final Plat Approval request and Lot Line Adjustment of Scott & Jori Dean** to create a two-lot subdivision by creating lot C1 and revising boundaries of lots 1, B1, and B2 of an existing subdivision at 113 Woods Hill Road. R3 Moderate Density Residential and R1 Agricultural/Residential Districts.

The Deans came forward with Peter Mazurak. Mr. Mazurak explained that they had previously subdivided four lots, with a lot line adjustment in the back. Lot 5 had been created in the alfalfa field (no proposed development). The Deans had a buyer for one house, but had decided to keep the barn and eventually convert it into a two-bedroom dwelling. In order to fit a lot into the area, they cut off 1.6 acres from Lot 1. The last proposal showed the road cutting through that new lot (C1), but there was a lot of ledge in that area, so the road would skirt the ledgy area and give a little more space to the new lot. The cul-de-sac is in the exact same place. This plan modified the front of Lots B1 and B2, to make straighter lines. Lot C1 would own the land under the right-of-way. Lot 1 went from 36.3 acres to 35.1 acres, and those 1.2 acres were used to create Lot C1, with 0.4 acres added to Lot C1 for the right-of-way.

Mr. Clark clarified that the potential buyer of the big lot was his son.

6. **Public Comment** – None.

7. **Any other necessary business**

Attorney Joseph Cahill was present, in place of Michael Gawne and representing Teresa Legrove. Mr. Cahill stated that Ms. Legrove had submitted an application, acted upon by the DRB in a letter dated August 4th from a hearing on July 30th. She had requested to convert a camp to year-round use, and had been denied because her acreage was under the required minimum. Mr. Gawne had pointed out that the decision was correct in terms of section 3.3(d), but failed to look at Section 3.5 (a) which referred to state statute that allowed for lots of an eighth an acre. Because of that, the applicant requested the DRB to reconsider the denial. Mr. Clark noted that the Vermont statute used the word “may be developed” and not “shall be developed.” Mr. Cahill replied that the decision did not even address the issue of the state statute’s allowance. The letter did not provide notice that the appeal date was 30 days from the decision, and, since the letter did not do so, they felt that their appeal was timely. Mr. Cahill referenced a previous decision in May of 2013, in which the DRB had approved a conversion of a similar case, provided that the septic design was approved by an engineer for year-round use.

Mr. Liegey made a motion, seconded by Mr. LaBarge, to enter deliberative session at 8:39 p.m.

Mr. Liegey made a motion, seconded by Mrs. Giroux, to exit deliberative session at 9:24 p.m. Motion carried.

Mrs. Hill made a motion, seconded by Mr. Liegey, to approve **#527-2015 Sketch Plan and Final Plat Approval request of Edward R. Hemond** to create a three (3) lot subdivision by subdividing a 59.45 acre parcel into three (3) additional house lots #15, #16, #17 (South Woods Way) at Maple Grove Estates. R3 Moderate Density Residential District. A site visit was conducted on Monday, October 5 at 4:00 p.m. The motion was made with the **CONDITION** that the external lighting should meet the requirements of Section 5.3(d)5. Motion carried.

Mr. LaBarge made a motion, seconded by Liegey, to approve **#515-2014 Preliminary Plat Approval request of John T. Chase** to create a seven (7) lot, six-residential unit, Planned Unit Development (PUD) of an existing vacant 21 acre parcel on the West side of Route #105 (Sheldon Rd.) across from the intersection with Pond Road. R1 Agricultural/Residential District. The application was approved as **preliminary plat approval**, with the **CONDITION** that the applicant should square up the driveways for Lots 1 and 2 for EMS and fire truck access, to the greatest extent possible. Motion carried.

Mrs. Giroux made a motion, seconded by Mr. Liegey, to approve **#498-2013 Lot Line Adjustment request of the Estate of Hilda St. Francis** to adjust the boundary line between Hubert St. Francis Sr. & Hilda St. Francis, and Hubert St. Francis Jr. & Sandra St.

Francis and to also annex a 40-ft. right of way; all in connection with lots located on the East side of Pine Street situated north of Fourth Street in the vicinity of 49 ½ Pine St. R5 Residential District. The applicant failed to file the approved plat within 180 days. The plat has expired. Motion carried.

Mr. Clark made a motion, seconded by Mr. Liegey, to continue **#532-2015 Site Plan Review request of Maquam Holdings – York Street, LLC** for a proposed retail store which would involve a variance to setback distances, at the former TD Bank building at 13 York Street. NCL Neighborhood Commercial Light and R5 Residential Districts. **The board approved Plan #2 in concept**, and village approval would be required for the concept of zero setbacks on First Street and York, and the proposed parking on York Street.

Mr. LaBarge made a motion, seconded by Mr. Liegey, to approve **#533-2015 Sketch Plan and Final Plat Approval request and Lot Line Adjustment of Scott & Jori Dean** to create a two-lot subdivision by creating lot C1 and revising boundaries of lots 1, B1, and B2 of an existing subdivision at 113 Woods Hill Road. R3 Moderate Density Residential and R1 Agricultural/Residential Districts. Motion carried.

Item #7 – Any Other Necessary Business: Mr. Clark stated that the board had decided to do more research on the Teresa Legrove appeal as stated in the letter from Cahill, Gawne, Miller, & Manahan, dated October 1, 2015. The DRB would make a decision at the November DRB meeting.

Mrs. Hill made a motion, seconded by Mr. LaBarge and Mrs. Giroux, to approve the minutes of September 24, 2015. Motion carried.

Mr. Liegey made a motion, seconded by Mr. LaBarge to adjourn at 9:34 p.m. Motion carried.

Respectfully Submitted,

Yaasha Wheeler
DRB Clerk

Joel Clark

Lucie Hill

Gabriel M. Liegey, Jr.

Spencer LaBarge

Amy Giroux