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**02/20/14 PUBLIC HEARING
SWANTON DEVELOPMENT REVIEW BOARD**

The Swanton Development Review Board held a Public Hearing on **Thursday, February 20, 2014** at the Swanton Town Offices, 1 Academy Street, at **7:00 P.M.**

Present:

Joel Clark
Gabriel Liegey
Spencer LaBarge
Lucie Hill
Janette Hoague
Ronald Kilburn, Zoning Administrator
Yaasha Wheeler, Clerk

Present:

Robert & Deborah Bonk (CU#497)
Spencer & Crystal Hutchings (CU#498)
Michel Gingras (#02-2014)
Andy Hoak, Ruggiano Engineering (#02-2014)
John McCarthy (#500-2014)
David & Brenda Ladue (#03-2014)

Mr. Clark opened the hearing at 7:02 p.m. There were no conflicts of interest or ex parte communications. He read the definition of an interested person and swore in the participants.

- 1. CU#497 Conditional Use Request of Robert & Deborah Bonk** to convert a hair salon studio into an additional apartment, creating a two-family dwelling at **#3 Spring St.** R5 Residential District.

Mr. Robert Bonk came forward. He explained that he and his wife had owned a salon, which they had had on real estate for a year and a half, with no result. In order to get a return on their investment, they proposed to turn the salon into a one-bedroom apartment, with space that could also be converted to an office. The conversions would involve taking out a wall and eliminating three hair stations. Mr. Bonk presented a contractor's sketch, but did not have a sketch of the whole layout. There was already an existing apartment, so the proposal would create a second apartment in the building, which was 62 feet across the front. There would be enough parking for about 10 vehicles, although he expected only one to two cars per apartment. The garage would be for storage. All of the state permits were in place, with village water and sewer, and all new electric and plumbing. It was noted that his lot was pie-shaped. Mr. Clark stated that it would be nice to see the whole plan of the building, plus the perimeter.

2. CU#498 Conditional Use Request of Spencer & Crystal Hutchins to create a Recreation/Indoor (gym) space at **#56 Merchants Row** (Below the Masonic Lodge) CB Central Business District.

Spencer and Crystal Hutchins came forward, with Neal Speer. Mr. Speer explained that he was the chairman of the Masonic Building Committee. The committee's interest was in seeing if the Hutchins' project, as proposed, would be approved by the DRB. The floor plan would not change with the new gym. The Hutchins would install men's and women's showers and locker rooms in the basement, for which they were in the process of dealing with the state.

Crystal Hutchins informed the board that she had been in the fitness industry for 7 years as a personal trainer and teacher of fitness classes, and her husband had helped to manage a gym in the past. They were familiar with this type of business, and planned to open a full-service gym which would include gym memberships and fitness classes. So far, the response in the community had been really positive. Spencer Hutchins added that only the bathrooms would be changed, and gym equipment would be added. Crystal Hutchins detailed the type of equipment that would be used (free weights, dumbbells, barbells, nautilus equipment, treadmill, ellipticals, steppers, etc.), noting that the lower story (called "the basement" or "downstairs") would include classrooms with more equipment. The Hutchins were going through the process of the insurance, the LLC, and other issues.

Mr. Clark asked about the hours of operation and suggested that if they ever planned to go a little later, they should apply for those extended hours so that they would not have to apply for a change in the future. The Hutchins felt that their earliest and latest hours of operation would be from 5 a.m. to 9 p.m. Monday through Friday, with 7 a.m. to 2 p.m. on weekends (Saturday and Sunday). A sign permit had already been applied for, and memberships would be monthly, with some day passes. Hopefully, yearly memberships would be available eventually. The Hutchins also explained the ways in which they have tried to get familiar with Swanton and have worked with various programs in the past (Open Doors Program, local business wellness programs, etc.). Spencer and Crystal Hutchins would be the only employees, except for a few teachers for some of the classes.

Mrs. Hill asked about the noise, and Mr. Spear reminded that there were no apartments over the building, only the Masonic Hall. Crystal Hutchings felt that the noise level would not be disruptive, especially since the louder noise levels would be in the basement. Mr. Kilburn noted that the applicants might consider encouraging patrons to park across the road to free up the front-side parking; the Hutchins voiced their understanding of the issue, adding that the parking spaces had good lighting in the evening.

3. #02-2014 Appeal/Variance Request of Michel & Betty Gingras to construct a 10' x 18' storage shed which does not meet the 50 ft. lake setback (16 ft. proposed) or the 20 ft. side setback (1'6" proposed) **at 176 Lakewood Drive** SR Shoreland Recreation District.

Mr. Hoak stated that Mr. Gingras proposed a 10' x 18' accessory structure (shed) that would be located on the northwest corner of 162 Lakewood Drive. Mr. Gingras would like to place the shed just 1.5' from the northern property line, which did not meet the zoning setbacks for an accessory structure, and therefore brought them before the board seeking a variance. Mr. Hoak touched on the 5 criteria of a variance of Section 9.4:

1. **There are unique physical circumstances or conditions:** Mr. Hoak stated that the lot is in the Shoreland Recreation District, in which the minimum lot size is one acre, but the lot in question is 0.35 acres, which was typical of many lakeshore lots. The unique physical conditions at the property dictated the location of the shed (he presented photographs of the lot). The boat ramp limited the space from north to south, and on the south side of the boat ramp were 2 terraced areas that also limited the space. The small size of the lot and the existing structures of the lot limited the number of suitable locations for the shed.
2. **Because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity:** A lakefront property's lake views are important, so the position of the shed as proposed allowed the applicant to maintain the reasonable use of his property by maximizing the views. Mr. Hoak explained that he referred to Table 2.17 to determine the setbacks. The front setback would be according to the district, and other setbacks would be according to the table, with the side and rear at 15 feet, and a maximum floor area of 180 square feet and a maximum height of 16 feet. It was unclear whether to apply the district's 15 foot rear setback or the lakefront 50 foot rear setback; he was using the district setback. The total available area in which to place the shed to maintain strict conformance was very limited. Mr. Clark asked about the front yard; Mr. Hoak replied that, while available, the front yard is not the best location for a shed.
3. **The unnecessary hardship has not been created by the appellant:** Mr. Hoak explained that the 2-lot subdivision approved in 2012 to separate the residential lot from the commercial lot had resulted in the elimination of a one-bedroom studio apartment that fell right on the property line. The location of the line had been selected to bring both lots into the greatest possible conformity with the zoning regulations. Although the subdivision was created by the applicant, he now has a structure that (unlike the

previous structure) is not straddling a property line. Mr. Clark asked whether the applicant had planned to put in a shed at the time of the subdivision; Mr. Gingras replied that he had not planned for a shed at that time.

4. **The variance, if authorized, will not alter essential character of neighborhood:** Mr. Hoak explained that many of the lakefront properties, being small, did not meet the minimum zoning acreage and therefore often had several uses and structures that were not in strict conformance with the zoning bylaws.
5. **The variance will represent the minimum that will afford relief, and will represent the least deviation possible:** The proposal to push the shed to within 1.5' of the property would maximize the use of the property, which would fall to the argument made under Item #2.

Mr. LaBarge asked to be shown a possible spot where the shed could be located without triggering a variance. Mr. Hoak explained that the only available areas were within the terraced green spaces (being mindful of the well area), but which would place the shed right in the middle of Mr. Gingras' backyard. Mr. Clark asked if Mr. Gingras could live with his shed being 5 feet from the northern boundary, which would result in 8 feet between the boat ramp and the shed. He noted that, in general, the DRB liked to preserve a 5 foot setback for maintenance, in the event of neighbor disputes in the future. Mr. LaBarge said that the majority of the variances were approved for 10 feet from the line, and that a shed of 100 square feet or under would not need a variance. Mr. Gingras stated that, at 10 feet, the shed would be right in front of his porch.

Mr. Clark said that the DRB would have to carefully review the district description and whether to apply the 50 foot setback from Lake Champlain or just the district rear setback of 15 feet. Mrs. Hoague asked about how the rear setback was measured, and Mr. Hoak replied that he had measured the rear setback from the corner of the retaining wall, which resulted in 16 feet.

4. #500-2014 Sketch Plan and Possible Final Plat Approval Request of John and Pamela McCarthy to create a two lot subdivision, Lot #2 consisting of 2.3 acres with existing dwelling and Lot #2A consisting of 3.11 acres at **#10 Donaldson Rd.** R3 Moderate Density Residential District.

Mr. McCarthy stated that the acreage of Lot 2 was not 2.3 acres but 3.4 acres, which Mr. Kilburn confirmed. Mr. McCarthy explained that he was interested in selling one lot to a neighbor who was willing to buy it and not to develop it, in order to preserve the view of the mountain. A septic easement would go through the property; the septic has been designed and approved but it does not have to be built currently because of a waiver. Mr. Clark said that the DRB might ask for copies of the approval and waiver for the record. Mrs. Hill asked about access, and Mr. McCarthy felt that access would more likely be off of Donaldson Road than off of Woods Hill Road. Mr. Clark agreed that the DRB would encourage a road cut off of Donaldson Road.

5. #03-2014 Appeal/Variance request of David & Brenda Ladue to construct a 35 ft. by 30 ft. steel Quonset building behind their dwelling which does not meet the 50 ft. rear setback (25 ft. proposed) at **#222 St. Albans Rd.**

Mr. and Mrs. Ladue came forward. Mr. Ladue presented photos of their lot, explaining that they wished to tear down the old shed and put up a metal Quonset building, whose location requires a variance. Because the building was 16 feet wide, meeting the 50 foot setback would put the structure at the corner of the existing house. Mr. Clark asked whether the building could be placed at 35 feet, which would make the request a Conditional Use Request (Less than 30%) and would not require a variance. Mr. Ladue said it could be “doable,” although he would “really like to start where the old shed starts.” It was noted that the back area was all forest and swamp. Mr. Ladue explained that the purpose was to upgrade the existing, mouse-filled shed and to use the structure for storage of his large equipment.

Mr. LaBarge asked whether the trailer containment unit was coming out, and Mr. Ladue stated that he had purchased the container to lock up his tools, but he would probably resell it. The current shed was 12’ x 20’, which was too small, and he hoped to replace it (in more or less the same location) with a 36’ x 30’ structure. The difference in size would cause the new structure to move forward by about 16 feet, although it would maintain 30 feet from the other property line. Mr. Ladue affirmed that he wished to proceed as a variance. Mr. LaBarge advised him that Criteria #3 (hardship not created by the applicant) was very difficult to justify. Mr. Clark asked to know the depth of the lot, and Mr. Ladue explained that the lot was 300 ft. by 100 ft. Mrs. Hill observed that the structure exceeded 625 square feet.

Mr. Kilburn said that he and Mr. Ladue had, upon Mr. Kilburn’s site visit, discussed conditions that the board might impose, such as the removal of the blue cargo container and the demolition of the large wooden shed (being replaced by the Quonset structure). Mr. Ladue said that he was undecided as to whether he wanted to keep the container, move it to his property in Lowell, or sell it. Mr. Clark said that the DRB would consider the proposed 25 foot setback, the possible 35 foot setback, and the existing container.

2. Public Comment – None.

3. Any other necessary business

Mr. Kilburn reminded the board to consider the Begnoche school bus issue, which had been the “homework assignment” from the last meeting. Mr. Clark stated that he had signed the Belisle Mylar (from which he had withheld his signature at the last meeting) after he had spoken with Mr. Belisle’s lawyer and felt that the issue had been resolved satisfactorily. The board agreed to set their next DRB meeting for March 20, 2014.

Mr. LaBarge made a motion, seconded by Mr. Liegey, to enter deliberative session at 8:09 p.m. Motion carried.

Mr. LaBarge made a motion, seconded by Mr. Liegey, to exit deliberative session at 8:56 p.m.

MOTION: Mrs. Hoague made a motion, seconded by Mrs. Hill, to APPROVE CU#497 Conditional Use Request of Robert & Deborah Bonk to convert a hair salon studio into an additional apartment, creating a two-family dwelling at #3 Spring St. R5 Residential District. The approval included the CONDITION that the applicant shall provide a floor plan of the final layout of the entire building. Motion carried.

MOTION: Mr. Liegey made a motion, seconded by Mr. LaBarge, to APPROVE CU#498 Conditional Use Request of Spencer & Crystal Hutchins to create a Recreation/Indoor (gym) space at #56 Merchants Row (Below the Masonic Lodge) CB Central Business District. The approval included the CONDITION that approval was subject to the installation of the two bathrooms and the showers, which shall be operational before opening. The hours of operation shall be Monday through Friday, 5 a.m. to 9 p.m., and Saturday and Sunday 7 a.m. to 2 p.m. Motion carried.

MOTION: Mr. LaBarge made a motion, seconded by Mrs. Hill, to DENY #02-2014 Appeal/Variance Request of Michel & Betty Gingras to construct a 10' x 18' storage shed which does not meet the 50 ft. lake setback (16 ft. proposed) or the 20 ft. side setback (1'6" proposed) at 176 Lakewood Drive SR Shoreland Recreation District. The board, however, APPROVED a Conditional Use at a minimum of 10.5 ft. side setback. Motion carried.

MOTION: Mr. Liegey made a motion, seconded by Mrs. Hoague, to APPROVE #500-2014 Sketch Plan and Possible Final Plat Approval Request of John and Pamela McCarthy to create a two lot subdivision, Lot #2 consisting of 2.3 acres with existing dwelling and Lot #2A consisting of 3.11 acres at #10 Donaldson Rd. R3 Moderate Density Residential District. It was noted that Lot #2 was actually 3.4 acres, not 2.3 acres. Motion carried.

MOTION: Mrs. Hill made a motion, seconded by Mr. Liegey, to DENY #03-2014 Appeal/Variance request of David & Brenda Ladue to construct a 35 ft. by 30 ft. steel Quonset building behind their dwelling which does not meet the 50 ft. rear setback (25 ft. proposed) at #222 St. Albans Rd. The board, however, APPROVED the item as a Conditional Use for 35 ft. from the rear setback. Motion carried.

Mr. Clark stated that the board would like a site review of Mike Begnoche's recently-purchased garage, located on Ferris Street.

Mrs. Hill made a motion, seconded by Mr. Liegey, to approve the minutes of the Development Review Board meeting of 1/23/14 as written. Motion carried.

Mr. Liegey made a motion, seconded by Mr. LaBarge, to adjourn at 9:05 p.m. Motion carried.

Respectfully Submitted,

Yaasha Wheeler
Development Review Board Clerk

Joel Clark

Lucie Hill

Spencer LaBarge

Gabriel M. Liegey, Jr.

Janette Hoague