

**TOWN OF SWANTON
DRAFT MINUTES
DEVELOPMENT REVIEW BOARD (DRB)
TOWN OFFICE BUILDING
One Academy Street
Swanton, VT 05488**

Thursday, May 23, 2024 @ 6:00 p.m.

Present: Spencer LaBarge-Chair, Jim Pratt, Jennifer Yandow, Harrold Garrett, Reg Beliveau Jr.-Members, Amy Giroux-Zoning Administrator, Christina Candels-Administrative Assistant, Karen McDonald, Dan Triggs, Angela Trahan, Richard Cummings, Randy Livingston, Cathy Montagne, David Howrigan, Cathy Howrigan

- A. Call to Order
Mr. LaBarge called the meeting to order at 6:00 pm.
 - B. Agenda Review
Mr. LaBarge reviewed the agenda, read the definition of interested persons and swore in the applicants, interested persons and board members.
 - C. Meeting Topics:
 - DRB-15-2024: Mark & Amanda St. Pierre**
 - DRB-49-2023: David & Peggy Howrigan**
 - DRB-17-2024: David & Cathy Montagne**
 - DRB-20-2024: Richard Cummings**
 - DRB-21-2024: Randy Livingston**
1. **#DRB-15-2024: Mark & Amanda St. Pierre** request for final plat approval for a 2-lot subdivision located at 2596 Highgate Road in the SG/Southern Growth District. No representation for application present.
 2. **#DRB-49-2023: David & Peggy Howrigan** request for final plat approval for an 8-lot subdivision located at 2087 Sheldon Road in the R1/Agricultural Residential district. Mr. & Ms. Howrigan came before the board for final approval for subdivision. Mr. Howrigan said they have changed the lot numbers as requested. Mr. Pratt said since the last meeting he has been looking at the map and the back lots do not have 200' depths. MS. Yandow said when they moved the lots to not include to the center of the road, they lost the depth and made them too small. The back lots have 179', 176' and 168' of depth not the 200' required. Mr. Pratt said there is enough room if they move the lots back. Mr. Garrett asked if the new bylaws have been approved? Mr. Pratt said they are not talking about the Southern Growth district. Mr. Howrigan said he does not understand why Mr. Mazurek did not see this on the map. Mr. Pratt said they have the property to make it work. Ms. Yandow showed on the map that it clearly states what they need.
 3. **#DRB-17-2024: David & Cathy Montagne** request for final plat approval for a 2-lot subdivision located at 2623 Highgate Road in the SG/Southern Growth district. Ms. Montagne came before the board, the board members asked if there had been any changes since the preliminary presentation. Ms. Montagne said there have been no changes. Ms. Montagne asked for an E-911 address for the property. Ms. Candels will get her a letter.
 4. **#DRB-20-2024: Richard Cummings** request for final plat approval for a 3-lot subdivision located at 1 Stanley Lane in the SG/Southern Growth district. Mr. Cummings came before the board, the board members asked if there have been any changes since the preliminary presentation. Mr. Cummings said there have been no changes.

5. **#DRB-21-2024: Randy Livingston** appeal of permit number ZP-19-2024 issued by the Zoning Administrator on April 1, 2024, for property located at 60 County Road in the R1/Agricultural Residential district.

Mr. Triggs & Mr. Livingston came before the board to present their appeal of ZP-19-2024. Mr. Triggs shared maps with the board members to view the site plan from the State of Vermont Environmental Website and Town of Swanton regulations. Mr. LaBarge asked what the issue is that they are here for? Ms. Giroux stated the zoning permit was for a single-family dwelling, a manufactured home. Ms. Giroux stated it meets regulations and is outside of the 50' wetland buffer zone. Mr. Triggs stated the map showed the wetland delineation line and 50' buffer zone. Mr. Triggs stated the applicant is seeking a permit from the Town of Swanton and needs to be in compliance with the regulations. Mr. Triggs stated that the access road to the property behind that crosses the 50' buffer zone and the neighbor has filled in part of the 50' buffer zone. Mr. Triggs says by doing this the property is not in compliance with the regulations by allowing the buffer zone to be filled so heavy trucks can access. The Town of Swanton regulations state that they need an undisturbed buffer zone around the class 2 wetland. Mr. Triggs stated by the applicant allowing this buffer zone to be filled and storing things in the buffer zone the property is not in compliance. This began in March of 2023 when Giroux Repair received a conditional use permit from the DRB.

Mr. LaBarge asked Ms. Giroux to approach and show where they are discussing on the map. Where the house is going and where the buffer zone is. Mr. LaBarge asked what the problem was.

Mr. Garrett asked what the judge had said as this has been sent to Environmental Court? Mr. Triggs said that case is still pending.

Mr. Triggs said the Town cannot issue a building permit to an applicant that is not in compliance with regulations at the time of application. Ms. McDonald is not in compliance because she has allowed the neighbor to fill in the driveway with stone to allow for bigger trucks approaching in the 50' buffer zone.

Mr. Garrett asked if it's a wetland, why the other homes wouldn't be in the wetland also.

Mr. Garrett would like to see the wetland map around the other homes.

Ms. Yandow asked if the court hasn't ruled yet because it doesn't have merit to stand on?

Mr. Triggs stated it's in procedural steps and not scheduled yet. Mr. Garrett stated it went to court prior to this case in 2023 what was the outcome of that case? Mr. Livingston stated the tenant did not proceed with it as they moved out of the property.

Ms. Yandow asked for clarification that they are trying to tell the landowner they cannot build on their property even though they are building outside of the buffer zone because the neighbor filled in the buffer zone. Can you always prevent what the neighbors do? Mr. Triggs said if you own the property, you have an obligation to be in compliance. Mr. Triggs said because of this encroachment the surface water and ground water has been moved, affecting his client's property.

Ms. Yandow stated from what she can tell the building is not in the 50' buffer zone. Mr. Livingston said the sewer system is affected because of the buffer zone. Ms. Yandow asked Ms. Giroux if the road/driveway allowed to be over the buffer zone? That is preexisting and has permission. Mr. LaBarge asked if the sewer system has been approved by the State of Vermont. Ms. McDonald said yes, the State of Vermont has approved the sewer system. Mr. LaBarge said the State took that over a long time ago, if the State issued a permit they must take it to the State. Mr. Triggs said the State may have issued a permit, but the property owner is subject to local regulations and not in compliance by encroaching on the buffer zone.

Mr. Garrett asked if the agency of natural resources had been out to check if it was actually a wetland? This wetland map is not accurate, it's a layover map. Mr. Triggs stated because the property is in class 2 wetland Ms. McDonald had to have the property delineated in 2022. At that time there was access road to the property, since then it has been expanded. Mr. Garrett asked how many acres can be filled in? Mr. Triggs said you cannot fill in a buffer zone. Mr. Triggs suggested a site visit. Mr. Livingston said the aerial photo would show how much it has been expanded. Mr. Garrett said no they do not know because they have nothing to compare it to.

Mr. Beliveau said the State has gone through and redone what is a wetland in 2022. Mr. Garrett stated they are dealing with a house, if it is where it's supposed to be what is the problem. This is an Environmental Court issue not a Town issue. Ms. McDonald already

has the state approved permit and is in compliance. The neighbor's driveway is not for them to decide and it's preexisting. Ms. Yandow said it's not for them to dispute the State in their decision to issue a permit for a house that meets restrictions. Mr. Beliveau said if he is hearing everyone correctly, the house is in the right place the argument is over the road/driveway to the property in the back being in the buffer zone and the State has not ruled on that.

- D. Minutes DRB April 25, 2024 & May 6, 2024, Joint PC & DRB Meeting
Ms. Yandow made a motion to approve April 25, 2024, draft meeting minutes as written, seconded by Mr. Beliveau. Motion carried.

Mr. Pratt made a motion to approve May 6, 2024, draft joint DRB meeting with Planning Commission minutes as written, seconded by Mr. LaBarge. Motion carried.

- E. Set next DRB meeting.
Thursday, June 27, 2024
Thursday, July 25, 2024
Thursday, August 22, 2024
Thursday, September 26, 2024
Thursday, October 24, 2024

- F. Deliberative Session
Ms. Yandow made a motion to enter deliberative session at 6:37 pm, seconded by Mr. Pratt. Motion carried.

Mr. Pratt made a motion to exit deliberative session at 7: 04 pm, seconded by Mr. Beliveau. Motion carried.

- 1) **Mr. Beliveau made a motion for DRB-15-2024: Mark & Amanda St. Pierre request for final plat approval for a 2-lot subdivision located at 2596 Highgate Road in the SG/Southern Growth District APPROVED as warned, seconded by Mr. LaBarge. All in favor, none. All opposed. Mr. Beliveau said the motion is denied due to no attendance by applicant. Motion carried.**
- 2) **Ms. Yandow made a motion for DRB-49-2023: David & Peggy Howrigan request for final plat approval for an 8-lot subdivision located at 2087 Sheldon Road in the R1/Agricultural Residential district be CONTINUED due to the lot depth is not 200' as required in this district on all lots, seconded by Mr. Pratt. Mr. Pratt, Mr. LaBarge, Ms. Yandow, Mr. LaBarge voted aye. Mr. Garrett voted nay. Motion carried.**
- 3) **Mr. Beliveau made a motion for DRB-17-2024: David & Cathy Montagne request for final plat approval for a 2-lot subdivision located at 2623 Highgate Road in the SG/Southern Growth district be APPROVED as warned, seconded by Ms. Yandow. Motion carried.**
- 4) **Mr. Pratt made a motion for DRB-20-2024: Richard Cummings request for final plat approval for a 3-lot subdivision located at 1 Stanley Lane in the SG/Southern Growth district be APPROVED as warned, seconded by Ms. Yandow. Motion carried.**
- 5) **Mr. LaBarge made a motion for DRB-21-2024: Randy Livingston appeal of permit number ZP-19-2024 issued by the Zoning Administrator on April 1, 2024, for property located at 60 County Road in the R1/Agricultural Residential district be APPROVED, seconded by Mr. Beliveau. Ms. Yandow said aye.**

Mr. Pratt, Mr. LaBarge, Mr. Garrett & Mr. Beliveau voted nay. Motion DENIED due to the sewer being approved by the State of Vermont and existing. The applicant has that the proposed home is outside the 50' buffer zone. The board does not have enough information to rule on that. Motion carried.

G. Any Other Necessary Business

H. Public Comment

I. Adjournment

**Mr. Beliveau made a motion to adjourn at 7:09 pm, seconded by Mr. LaBarge
Motion carried.**

Respectfully Submitted by
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