

**SWANZEY PLANNING BOARD MINUTES
DECEMBER 4, 2008**

[Note: Minutes are not final until reviewed and approved by the Board. Review and approval of minutes generally takes place at the next regularly scheduled meeting of the Board.]

The regular meeting of the Swanzeay Planning Board was called to order at 7:00 p.m. by Chair Glenn Page. Members present: Glenn Page, Scott Self, June Fuerderer, Charles Beauregard, Sr., Victoria Barlow and alternate Jeanne Thieme. Thieme was seated for Steve Russell. Town Planner Sara Carbonneau was also present. The agenda for the evening's meeting was read and the following matters were addressed:

Regional Impact: Board members considered whether any items on the agenda could "reasonably be construed as having the potential for regional impact." Motion by Fuerderer that no items on the agenda could reasonably be construed as having the potential for regional impact. Seconded by Beauregard. Vote: All in favor.

A. PUBLIC HEARINGS –

1. Boundary Line Adjustment and Subdivision Application - Wayne P. Rogers seeks a boundary line adjustment between Tax Map 31, Lots 8-1 and 9. Tax Map 31, Lot 8-1 is owned by Wayne P. Rogers. Tax Map 31, Lot 9 is owned by Marlene A. Morse, Trustee. The boundary line adjustment seeks to add a total of 0.01 acres to Map 31, Lot 8-1. The properties are situated off South Road and located in the Residence Zoning District.

Wayne P. Rogers also wishes to subdivide Tax Map 31, Lot 8-1 into 2 lots. The subject premises are located on South Road and situated in the Residence Zoning District. Tax Map 31, Lot 8-1 will consist of 5.3 acres (after a proposed boundary line adjustment with Map 31, Lot 9). The proposed lots will be 1.73 acres and 3.57 acres. Tom Flavin (licensed land surveyor), Tom Forest (licensed septic designer) and Wayne Rogers appeared before the Board. No abutters were present. Public hearing opened.

Board members reviewed the plan noting that the boundary line adjustment is required in order for the proposed two-lot subdivision to have the requisite frontage. Both lots have the required frontage and

acreage. It was noted that State Subdivision Approval is required for the proposed subdivision. Public hearing closed.

Motion by Self to grant the boundary line adjustment subject to the condition that the boundary line adjustment approval will not be final until the signed deed conveying the property to Wayne P. Rogers has been conveyed to the Town for recording, together with the appropriate recording fees for recording the deed. This deed must include language that the parcel conveyed will become part of Tax Map 31, Lot 8. Seconded by Beauregard. Vote: All in favor.

Motion by Self to grant the subdivision application subject to receipt of State Subdivision Approval. Seconded by Beauregard. Vote: All in favor.

2. Multi-Tenant Application - Larry Holmes wishes to use a portion of the premises situated at 679 West Swanzey Road for a business consisting of office space and retails sales of coffee and pre-packaged snacks. The property is shown at Tax Map 73, Lot 13 situated in the Business Zoning District. The property is owned by Scott & Jay MacPhail. Larry Holmes appeared before the Board. No abutters were present. Public hearing opened.

Holmes stated that the office space will be utilized for his business "Monadnock Enterprises." In addition, the front of the space will be utilized for the sale of coffee and pre-packaged snacks. Five parking spaces have been allocated to Holmes (by the property owner). Holmes stated that typically only one person will be at the office, either himself or a bookkeeper.

Code Enforcement Officer Weston noted that the 2-hour fire wall that was to have been installed prior to the opening of Ken's Tractor and Equipment still has not been completed. Weston stated that he has given Ken's a two-week window to complete the required work. Public hearing closed.

Motion by Self to grant the multi-tenant application subject to review and approval by the Code Enforcement Officer and the Fire Inspector. Seconded by Beauregard. Vote: All in favor.

3. Application for Boundary Line Adjustment between Tax Map 25, Lots 32 and 33. Tax Map 25, Lot 32 is owned by Frank & Deborah Sales; Tax Map 25, Lot 33 is owned by Thelma Cummings. The boundary line adjustment seeks to add a total of 2.04 acres to Map 25, Lot 32. The properties are situated off Blake Road and located in the Residence Zoning District. Larry Crowder appeared before the Board on behalf of the surveyor, Robert Smith. Frank & Deborah Sales were present. Public hearing opened.

Crowder reviewed the plan with the Board. It was noted that the Sales' existing lot is currently non-conforming. The boundary line

adjustment would result in the Sales' lot being conforming. Public hearing closed.

Motion by Beauregard to grant the boundary line adjustment application subject to the condition that the boundary line adjustment approval will not be final until the signed deed conveying the property to Frank and Deborah Sales has been conveyed to the Town for recording, together with the appropriate recording fees for recording the deed. This deed must include language that the parcel conveyed will become part of Tax Map 25, Lot 32. Seconded by Self. Vote: All in favor.

4. Home Occupation Application & Free-Standing Sign Permit

Application - Peter Nikiforakis wishes to utilize an outbuilding on the property situated at 38 North Winchester Street for a machine shop. The property is situated in the Residence Zoning District, shown at Tax Map 57, Lot 33. The property is owned by Peter G. Nikiforakis Memorial.

The applicant also seeks to install a 3 to 4 s.f. free-standing sign on the property. Peter and William Nikiforakis were present. W. Nikiforakis presented the application to the Board. No abutters were present. Public hearing opened.

W. Nikiforakis stated that they wish to operate a small machine shop (3 machines) in the former Chase Tree Service Building. W. Nikiforakis stated that he will be an employee of the business. W. Nikiforakis stated that they would like to request an increase in the size of the business from 15' x 30' to 15' x 35'. Barlow stated that she did not have any problem with increasing the space to 15' x 35' but requested that all materials be stored inside. W. Nikiforakis stated that all materials would be stored inside.

W. Nikiforakis stated that noise levels would be minimal.

A small sign is proposed, not to exceed 4 s.f. W. Nikiforakis stated that he does not expect walk-in business; the sign is being requested to inform UPS, FedEx, etc. as to the location of the business. Most of the work will be done by special order. Public hearing closed.

Motion by Self to grant the multi-tenant application, acknowledging that the permitted space will be 15' x 35' and to grant the sign application subject to the condition that the sign is not to exceed 4 s.f. Seconded by Fuerderer. Vote: All in favor.

5. Public Hearing on Proposed 2009 Zoning Amendments: Page opened the public hearing on the proposed zoning amendments.

2009 Zoning Amendments (Version 8)

PROPOSED AMENDMENT #1. Amend Section II.A. and X-A.A. to include as follows: Amend the zoning map of the Town of Swanzey dated September 1, 1947, as amended, to show the portions of the

properties currently shown as Tax Map 19, Lots 97, 97-2, 98, 99, 100, 101 and 102 that are currently located in the Business Zoning District as being in the Industrial Park District and amend the description of the Industrial Park District to include the same.

Motion by Fuerderer that amendment 1 as submitted be placed on the March 10, 2009 ballot, noting that this amendment is proposed by the Swanzey Planning Board. Seconded by Thieme. Vote: All in favor.

PROPOSED AMENDMENT #2. Amend Section II.A. and X-A.A. to include as follows: *Amend the zoning map of the Town of Swanzey dated September 1, 1947, as amended, to show the portion of the property currently shown as Tax Map 19, Lot 97-5 that is currently located in the Residence Zoning District as being in the Industrial Park District and amend the description of the Industrial Park District to include the same.*

Page recused himself from the discussion on this matter and stepped down from the Chair position. Self assumes the position of Chair.

Board members expressed concern about the proximity of the industrial park to the existing residences on Wilson Pond in the event that this amendment is passed.

Jim Phippard, on behalf of the property owner of Tax Map 19, Lot 97-5 was present and addressed the potential development of the property. Phippard noted that limitations on development, due to wetlands, limited the development to approximately 2 acres towards the front of the lot. Phippard also noted that the property was not appropriate for single family residential development.

Phippard stated that the property is ideal for industrial development due to the fact that it has water and sewer available. Phippard also stated that it was located within the TIF district.

Board members noted that if the property remained residentially zoned, there would be no limitations against the amount of clearing that could occur on the lot, potentially providing a greater negative impact to the residences on Wilson Pond. Board members felt that if the property was re-zoned to Industrial Park, any development on the property would be subject to site plan review before the Planning Board.

Motion by Barlow that amendment 2 as submitted be placed on the March 10, 2009 ballot, noting that this amendment is proposed by the Swanzey Planning Board. Seconded by Thieme. Vote: All in favor, with Page abstaining.

PROPOSED AMENDMENT #3. Amend Section V.B.1. (uses permitted in the Business District) to include the following:

Function halls

and **add** the following definition to Section XIII (Definitions)

“Function Hall: *A building or part thereof used primarily for conducting activities such as suppers, banquets, receptions, meetings and other functions attended by large groups of people for a single event. Function halls may or may not include kitchen facilities.”*

Page re-assumes the position of chair.

Motion by Barlow that amendment 3 as submitted be placed on the March 10, 2009 ballot, noting that this amendment is proposed by the Swanzey Planning Board. Seconded by Self. Vote: All in favor.

PROPOSED AMENDMENT #4. Amend Section V.B.1. *(uses permitted in the Business District) to include the following:*

Indoor auctions.

Motion by Self that amendment 4 as submitted be placed on the March 10, 2009 ballot, noting that this amendment is proposed by the Swanzey Planning Board. Seconded by Beauregard. Vote: All in favor.

PROPOSED AMENDMENT #5. Delete Section VIII Shorelands Protection District in its entirety and **replace it with the following:**

“A. SHORELAND PROTECTION DISTRICT

The Shoreland Protection District is hereby established as an overlay district which is superimposed over the conventional existing zoning. The uses permitted in the underlying districts shall be allowed only if they meet the minimum standards promulgated by the State of New Hampshire Comprehensive Shoreland Protection Act, RSA 483-B (as amended). Pursuant to authority granted by RSA 674:14, this Shoreland Protection District is adopted by the Town of Swanzey to further protect the public waters of the Town.

B. TOWN OF SWANZEY SHORELAND PROTECTION DISTRICT

includes all those lands defined as “Protected shoreland” in RSA 483-B, XV and as may be amended and any related administrative rules or regulations. As of July 1, 2008 the New Hampshire Department of Environmental Services “Consolidated List of Water Bodies Subject to RSA 483-B, the Comprehensive Shoreland Protection Act” included the following:

4th order streams and designated rivers:

Ashuelot River – Designated Segment;
Ashuelot River – 4th Order;
South Branch Ashuelot River;
Ash Swamp Brook;
Martin Brook;

Lakes & Ponds:

Ashuelot River Dam;
California Brook;
Swanzey Lake;
Upper Wilson Pond; and
Wilson Pond.

C. PRIMARY BUILDING LINE/SETBACK: *No primary structure as defined by RSA 483-B, shall be built, placed or erected within one hundred twenty-five feet from the reference line as defined by RSA 483-B:4,XVII as may be amended.”*

And **delete** existing Section II.A.6. and replace with:

“6. Shoreland Protection District. *The Shoreland Protection District is hereby established as an overlay district which is superimposed over the conventional existing zoning. The uses permitted in the underlying districts shall be allowed only if they meet the minimum standards promulgated by the State of New Hampshire Comprehensive Shoreland Protection Act, RSA 483-B (as amended). Pursuant to authority granted by RSA 674:14, this Shoreland Protection District is adopted by the Town of Swanzey to further protect the public waters of the Town.*

Motion by Self that amendment 5 as submitted be placed on the March 10, 2009 ballot, noting that this amendment is proposed by the Swanzey Planning Board. Seconded by Beauregard. Vote: All in favor.

PROPOSED AMENDMENT #6. Delete Section III.P. in its entirety.

Motion by Self that amendment 6 as submitted be placed on the March 10, 2009 ballot, noting that this amendment is proposed by the Swanzey Planning Board. Seconded by Beauregard. Vote: All in favor.

PROPOSED AMENDMENT #7. Delete Sections III.A.2. and III.A.3. in their entirety.

Motion by Self that amendment 7 as submitted be placed on the March 10, 2009 ballot, noting that this amendment is proposed by the Swanzey Planning Board. Seconded by Barlow. Vote: All in favor.

PROPOSED AMENDMENT #8. Amend Section III.A.4. to read as follows:
No more than one “one-family dwelling” may be permitted on a lot.

Motion by Barlow that amendment 8 as submitted be placed on the March 10, 2009 ballot, noting that this amendment is proposed by the Swanzey Planning Board. Seconded by Self. Vote: All in favor.

PROPOSED AMENDMENT #9. Amend Section III. To include new section III.AA. Accessory Dwelling Unit

“III.AA. ACCESSORY DWELLING UNIT ORDINANCE

Purpose

For the purpose of providing expanded housing opportunities and flexibility in household arrangements to accommodate family members or non-related people of a permitted, owner occupied, one family dwelling, while maintaining aesthetics and residential use compatible with homes in the neighborhood. Accessory Dwelling Units (ADU) shall be permitted by Special Exception granted by the Zoning Board of Adjustment in the Residence, Rural/Agricultural, and Village Business Districts.

Requirements/Limitations

- 1. ADUs shall be secondary and accessory to a one family dwelling unit.*
- 2. In granting a Special Exception, the Board of Adjustment must find that the ADU is developed in a manner which does not alter the character or appearance of the principal dwelling unit as a one family residence.*
- 3. Only one ADU shall be allowed per lot.*
- 4. An ADU shall only be permitted in a principal dwelling unit in which the owner of record of the dwelling personally resides: except for bona fide temporary absences.*
- 5. Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.*
- 6. Attached ADUs shall be designed to allow for possible reincorporating into the principal dwelling unit.*
- 7. At least one (1) common, interior access between the principal dwelling structure and the ADU shall be maintained. A second means of egress from the ADU shall be provided.*
- 8. The gross living area of an ADU shall not be less than 300 square feet or be greater than 25% of the total floor area of the principal dwelling and ADU.*

9. A building permit for an ADU must be approved and issued prior to its construction. An ADU shall have an interconnected fire alarm system and shall meet all life safety and building codes.

10. Adequate off-street parking shall be provided to serve the combined needs of the principal dwelling unit and the ADU, minimum three (3) parking spaces to serve both the one family dwelling and the ADU.

11. Adequate provision must exist or be made for motor vehicle ingress or egress and turning of vehicles within the site.

12. The existing or proposed septic system must be certified by a licensed septic designer or engineer as adequate to support the ADU and principal dwelling unit in accordance with New Hampshire RSA 485-A:38.

Accessory Dwelling Unit Certificate of Occupancy

If a property containing an approved ADU is conveyed and the new owner wishes to maintain the accessory unit, the new owner shall apply for a Certificate of Occupancy for the ADU. The purpose of this section is to ensure that one of the two dwelling units is owner-occupied.

Procedural Requirements

An application for Special Exception approval under the auspices of this Section shall require that all plans submitted with any application for an ADU building permit denote, describe and/or identify the intended ADU area within the principal dwelling unit as such.

Bill Hutwelker stated while he supported the concept of the amendment, he did not feel it was appropriate that the property owner could reside in the ADU. Hutwelker stated that if the property owner resided in the ADU, the primary use of the structure then became the ADU and not a one-family dwelling. Page stated that he did not see what difference it would make if the property owner resided in the ADU versus in the larger portion of the dwelling.

Motion by Self that amendment 9 as submitted be placed on the March 10, 2009 ballot, noting that this amendment is proposed by the Swanze Planning Board. Seconded by Beauregard. Vote: All in favor.

PROPOSED AMENDMENT #10. Delete Section XI.B. Non-conforming Building/Non-conforming Structure in its entirety and replace with the following:

“B. Non-conforming Building/Non-conforming Structure: A non-conforming building or non-conforming structure may be continued indefinitely and may be repaired or remodeled subject to the following limitations:

1. Restoration, reconstruction, alteration and/or replacement of nonconforming buildings/ structures are allowed, provided that the cubic contents and the footprint of the original building/ structure stays the same or smaller; any nonconforming buildings/ structures that have been destroyed in whole or in part by fire, by other natural disaster, or by voluntary demolition may be replaced within one year of the damage or demolition in the same or smaller footprint and with the same or smaller cubic contents.

2. The relocation on a lot of a structure that does not comply with the setback provisions is allowed provided the new location complies with the setback provisions.

Motion by Barlow that amendment 10 as submitted be placed on the March 10, 2009 ballot, noting that this amendment is proposed by the Swanzey Planning Board. Seconded by Fuerderer. Vote: All in favor.

PROPOSED AMENDMENT #11. Amend Section III.U.6. Home Occupations to read as follows:

“6. Home Occupations may occur within the dwelling unit and/or within an accessory structure subject to the condition that the home occupation does not result in the use of any area greater than 300 square feet.”

Motion by Barlow that amendment 11 as submitted be placed on the March 10, 2009 ballot, noting that this amendment is proposed by the Swanzey Planning Board. Seconded by Beauregard. Vote: All in favor.

B. DISCUSSIONS/OTHER BUSINESS -

1. Future Zoning Amendments - Hutwelker stated that he and some members of the Zoning Board of Adjustment have concerns about the intensity of the multi-family development being directed towards West Swanzey. Hutwelker stated that unanswered questions about the West Swanzey Water Company concerned him. Hutwelker also stated that the negative impact on the school system from multi-family housing could not be dismissed. He encouraged the Board to carefully consider for vote in 2010 restrictions limiting multi-family housing.

Hutwelker also encourage the board to consider limits on pervious surface coverage in 2010.

2. Request for extension of time to complete condominium conversion requested by Tracy and Bruce Butler. Property is situated at 120 Base Hill Road, Tax Map 52, Lot 12. Motion by Barlow to extend approval for one year to December 20, 2009. Seconded by Beauregard. Vote: All in favor.

3. Presentation/Discussion - OSC member Dan Zeh will present a snapshot of a conservation priority area included in the NH *Wildlife Action Plan* (WAP) and solicit input from Board members (including corrections and/or additions) to the WAP. Zeh reviewed information from the WAP, together with information from the Town's Open Space Plan, specifically focusing on the area surrounding Wilson Pond, the airport and the industrial park.

4. Minutes from November 20, 2008. Motion by Beauregard to approve the minutes from November 20, 2008 as submitted. Seconded by Fuerderer. Vote: All in favor.

Motion by Beauregard to adjourn. Seconded by Fuerderer. Vote: All in favor. Meeting adjourned at 9:10 p.m.

Submitted by,

Sara H. Carbonneau
Town Planner