

# TOWN OF PEACHAM

## Development Review Board Hearing Results for

### Swenson Subdivision, Application #17-20, 5112 Mack Mountain Rd.

#### INTRODUCTION AND PROCEDURAL HISTORY

1. The hearing was to review an application for subdivision of land submitted by Gary and Marjorie Swenson. The zoning application was received at Town Office on December 15, 2020, and transmitted to the Zoning Administrator on December 19, 2020. The application was referred to Development Review Board on December 28, 2020.
2. The warning for this hearing was posted in three places in town plus the town website on January 20, 2021, and it appeared in the *Caledonia Record* on January 21, 2021. A copy of the application and site information was available at Peacham Town Offices. On January 21, 2021 a copy of the notice of a public hearing and the zoning application were mailed to the applicant and to the owners of abutting properties.
3. The subdivision application was considered at a public hearing on February 5, 2021. The application was reviewed under the *Town of Peacham, Vermont Zoning and Flood Hazard Regulations* adopted February 28, 2017.
4. Present at the hearing were members of the Peacham Development Review Board, Marilyn Magnus, Morris McCain, and Rusty Barber, and the Peacham Zoning Administrator, Bob Hansen.
5. Those wishing to achieve status as an interested person were given the opportunity, under 24 V.S.A. § 4465(b), to demonstrate that they met the criteria set forth in the statute. Interested persons were: Gary and Marjorie Swenson.
6. During the course of the hearing the application along with the following exhibits were considered:
  - a. A site survey prepared by Truline Land Surveyors, dated 11/05/2020 showing both parcels of the subdivided land.
  - b. A supplemental plan demonstrating that the house is more than 500' from the new property lines.

#### FINDINGS

A subdivision of property is considered a conditional use and is evaluated in accordance with *ARTICLE 8: SPECIAL PROVISIONS*. Based on the application, testimony, exhibits, and other evidence, the Development Review Board makes the following findings:

1. The applicant seeks a permit to subdivide the 265-acre property at 5112 Mack Mountain Rd., Parcel 03909.000, into two parcels.
2. The property is in the Rural Zoning District.

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3. The newly created parcel with the house will have 47.95 acres with frontage of 252.61' on Mack Mountain Road
4. The remaining undeveloped parcel will have approximately 217 acres.
5. Neither parcel is in an Agricultural Overlay or Well Head Protection District Overlay.
6. Both parcels meet the 2-acre minimum lot size and 200-foot minimum road frontage requirements in *Section 302, Rural District (RD)*.
7. No information was provided indicating setbacks for the house. In referring to the site survey, it appears that setbacks for the house exceed the requirements of the zoning regulations.
8. The existing house on the new 47.95-acre parcel is more than 500 feet from the new property boundaries.
9. No wastewater plan that meets State of Vermont requirements for the unimproved lot has been submitted.

### **CONCLUSIONS**

#### **802.1: General Standards of Review**

##### (A) The Capacity of Existing or Planned Development.

- 1) The project will not result in undue impacts on the municipal water supply.
- 2) The project will not cause other undue impacts on the municipality including but not limited to education, fire protection, emergency services, health services, recreation, waste disposal, and recycling.

##### (B) The Character of the Area Affected.

- 1) The proposed project, by its nature, scale, appearance, or operation, will not adversely change the character of the potentially affected area as it exists or as the area is projected to exist in the municipal land use plan and the zoning by-law in effect.

##### (C) Traffic on Roads and Highways in the Vicinity.

- 1) The project will not significantly reduce the safety of existing pedestrian, vehicular, or recreational uses of the highways affected.
- 2) The proposed use will not exhaust or exceed the physical capacity of the affected highway. In general, the project shall not substantially overburden the municipality in providing adequate highway construction and maintenance services.

##### (E) Utilization of Renewable Energy Resources.

- 1) No renewable energy resources are proposed.

#### **802.2: Supplemental Considerations**

##### (A) Economic benefit.

- 1) None.

##### (B) Minimum lot size, width and building setbacks.

- 1) Requirements for Rural District are met.

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### (C) Air/water/noise/light pollution and soil erosion.

- 1) The conditional use will not adversely affect or exceed the intrinsic or inherent capability of the land to support the use.
- 2) The development will not result in groundwater or surface water pollution or cause an undue impact on air quality nor cause undue noise or light pollution or soil erosion.
- 3) No impacts will be made regarding the nature of soils and topography, proximity to streams, aquifer recharge areas, groundwater table and flood plains and to storm water runoff and drainage. No impacts will be made to the natural terrain, shorelines of lakes and streams, retention of vegetation and erosion control. There is no known potential pollution source that will impact adjacent properties.
- 4) Landscape plan not applicable
- 5) Hours of operation not applicable

### (D) Wildlife habitat, agricultural and forest resources.

- 1) No known impacts to critical habitats was noted.
- 2) No impact to agricultural resources were noted.

### (E) Off-Street parking vehicular and pedestrian traffic.

- 1) Residential off street parking is available.
- 2) N.A.
- 3) N.A.

### (F) Lighting, signs and fences.

- 1) No adverse lighting or fencing proposed.

General Standards of Review in *Section 802.1* and Supplemental Considerations in *Section 802.2* have been met.

The proposed subdivision meets the requirements of (*Section 417: Subdivision of Land*) of the zoning regulations.

## **DECISION AND CONDITIONS**

At the conclusion of the hearing the Development Review Board conducted public deliberations to consider the application.

**Based upon the Findings, and Conclusions, but subject to the condition set forth below, the Development Review Board, by unanimous vote, grants the application.**

The application is subject to the following condition:

No wastewater plan meeting state of Vermont requirements for the unimproved lot has been submitted. If no plan is submitted and approved by the state of Vermont prior to filing of new deed then Vermont law states that any unimproved lot created by an act of subdivision that occurs on or after January 1, 2007 be exempt from a permit provided that the deed that is recorded and indexed, that describes the affected property contains the following language:

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*“Notice of permit requirements. In order to comply with applicable state Rules concerning potable water supplies and wastewater systems, a person shall not construct or erect any structure or building on the lot of land described in this deed if the use or useful occupancy of that structure or building will require the installation of or connection to a potable water supply or wastewater system, without first complying with the applicable Rules and obtaining any required permit. Any person who owns this property acknowledges that this lot may not be able to meet state standards for a potable water supply or wastewater system and therefore this lot may not be able to be improved.”*

The approval of the subdivision will expire 180 days from the date of this decision, unless the approved site survey is duly recorded in the office of the town clerk.

Dated at Peacham, Vermont this 10<sup>th</sup> day of February, 2021.

James (Rusty) Barber, Chair

**NOTICE:** This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s). Such appeal must be taken within 30 days of the date of this decision pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.