Not Approved

**AGENDA**

**MONT VERNON PLANNING BOARD**

**Public Meeting October 11, 2022**

Present: Steve Bennett, John Quinlan, Chip Spalding, Bill McKinney, Dave Hall

Community Members: Dave and Carla Logan

Absent: Zach Johnson, Jim Bird

Called to order: 7:00pm

**7:00pm Logan Conditional Use Permit Hearing:**

Tom Carr of Meridian presents regarding the permit required for an extended driveway through wetlands on their property at Map 4 lot 83. The existing house is going to be razed and a new house will be built in a different spot. Ben Crosby has been given a full set for his review. There are no waivers requested. Wetlands permit has been submitted to DES and the approval is expected within 10 days. The new Septic System Design has been submitted as well, but it won’t be approved until after the Wetlands Permit is approved. Once that approval is received a Building Permit will be filed with the Town. Proposed permanent impacts are 1198 sqft, temporary impacts are 367 sqft making the total wetlands impact of 1565 sqft, which falls within the minimum wetland impact expedited classification. This is the smallest wetlands permit you can apply for. Permanent impacts will be at the driveway and shoulder surface and the temporary impacts will be reseeded and vegetation will be replaced. Although it was not required for this type of permit, there is a 30” culvert embedded 1’ into the ground so the culvert remains a “natural” passage for small animals etc. Overall driveway plans show the driveway will be sheet flowed versus channeled for water runoff. The DES is promoting this technique right now. There are areas that channeling is not avoidable due to being in a cut area, and therefore they are collecting that water near the wetlands buffer and diverting it to a level spreader. A level spreader is a shallow, flat trench and the water will settle into that. If there is any overflow in the level spreader, it sheet flows out. At the actual development site: erosion control measures are being taken. There are no identified vernal pools. **Hall** asks what the difference is between sheet flow and swales. Carr responds that the driveway is elevated, so instead of having a crown on the driveway, the driveway is sloped so that all water sheets off one side in the same direction. The water can return to the natural vegetation instead of being captured in one location. **Hall** asks if there was any conversation with the Fire Department regarding future turnarounds etc. Carr states they have consulted the Fire Department and the cul-de-sac will be designed to the FD required specs. **Spalding** asks if the 12’ cross culvert is sufficient for the water flow and Carr responds that he did not do that portion of the design, but he trusts that it is knowing the engineer (Brad) who designed it. **Spalding** states that if that culvert fails, the level spreader purpose has been defeated. Carr states he agrees, and that culvert maintenance is key. More homeowners should take care with their culverts on property and at the street crossing because of the issues neglect can cause. Carr feels these homeowners will be great stewards of their property and that the look will be great when they have completed their work on the property, but states he is willing to make that a note on the paperwork if it makes the Board more comfortable. **Spalding** asks what size the cross culvert is that goes across Old Amherst Rd to the pond is. Carr states its not on this map because it this is not a subdivision and there is no proposed work in that area, so they didn’t map it. **Bennett** asks how long the driveway is and Carr responds 1750ft. Spalding states there is an intent to raze this but is there a note stating here that no building permit will be issued until such razing is completed and Carr states there is a note on the Septic Permit to that fact, and a conversation has been had with the Building Inspector regarding that as well. **Spalding** asks if a Driveway Permit Application has been filed and Carr responds yes, it is with Ben Crosby now. Spalding asks if they’ve completed their review. Carr does not know, but he’s happy to accept a conditional approval tonight on the condition that the driveway permit is accepted. **Spalding** states that the concern would be that this permit is specifically for the driveway. Carr states they consulted with Ben Crosby from the beginning because the regulations are unclear and respectfully, poorly written, referencing angle changes whereas engineers work in minimum and maximum radius curves and alignment. Ben was onsite and helped make sense of the regulations and how best to plan the driveway. The only thing that has changed from the last meeting was the driveway entrance. **Bennett** asks about site distances and Carr states he believes it is better where it is proposed now. Abutter Matt Schoegler from 34 Old Amherst Rd states that for the record that they have no reservations regarding the plans or changes to the property. **Spalding** asks about the cross culverts again and **Bennett** asks if he would be happier with a note on the plan. Carr states that he can add a note to the Driveway Permit Application, but that it’s not even shown on this map so a note wouldn’t make sense there. Spalding states that this plan and application is very thorough, but that he thinks it will be remiss on the Board to not speak with Ben Crosby regarding his thoughts prior to approval. Bennett asks if there is a motion.

**Spalding motions to approve the Conditional Use Permit, based on the criteria provided by Meridian Land Services, Second by Hall, no further discussion, all in favor, motion passed.**

 **7:40pm Mellinger Conceptual:**

Gary and Amy Mellinger appeared before the Board to inquire about the possibility of improvements to a property for sale on Old Wilton Rd. They are hoping to subdivide the property for a home-based kennel and boarding business on one lot and a homestead farm on the other with small livestock. The property is in Current Use and has wetlands. The property would require a driveway that runs across these wetlands. **Spalding** states that it’s a good idea to come to the Board before making the purchase and asks if they are planning to subdivide into two lots. Mellinger states that one lot would remain 22 acres and the other would be 5 acres which would be removed from Current Use. **Hall** asks if they’ve spoken with an Engineer, and they state that was going to be their next step. **Hall** states he would suggest that so they can validate septic designs and study sight distances etc. and have a good understanding of the ordinances and regulations. **Hall** asks if the Wetlands Ordinance requires 5 acres of dry land and **Spalding** says if you look at our regs this is a Watershed Area property. District 3 classification, five-acre zoning applies to all land except unbuildable district 4 land regarding its capability. **Spalding** states his interpretation of this is that if there is standing water, it cannot be considered 5 acres of buildable property. This lot would probably not be able to be split into lots of just 5 acres but would have to be large enough to encompass 5 buildable acres, but with a property this size you would absolutely be able to do a 2-lot subdivision. **Bennett** states he agrees with that. **Hall** points out that they should also consider Wetland Buffers, because certain large tracts of land may look buildable, but buffers may preclude building on those pieces.

**Spalding** moves onto Home Businesses: states the property owner must be the business owner as well, but he believes it requires a Special Exception from the ZBA so maybe it would be worth checking with them before. **Bennett** points out that the ZBA does not give advisory opinions. Bennett states that there are limitations on Home Businesses, and the best advice we can give is to review that Ordinance. **Spalding** states there would be a meeting with the Planning Board for a Site Plan review as well. The Board is unsure if it would be a Special Exception or Variance. The question is asked regarding living in an RV onsite while building. **McKinney** responds that Building Code limits that to 180 days. **Hall** asks if this is a State or Town rule, and **McKinney** responds that it is a state rule.

**Spalding** moves to Subdivision Regulations: **Bennett** states there is no real regulations regarding small livestock. **Spalding** recommends that the prospective buyer review the Plat Requirements in Section 3 as well. States that once they have more information about the property and if they still want to pursue the purchase to come back and speak to the Board again. States that anything in Section II cannot be granted lenience but those items in Section III could possibly be waived upon review.

**8:20pm Selectmen’s Update:**

Selectmen **Quinlan** comes before the Board representing the Library Trustees and Library Building Committee to ask some questions that were brought forth by the Fire Chief and the Building Inspector regarding their updated plans for the new building. The Building Inspector asked a question regarding Wetlands. There was a DES Wetlands Permit obtained by the library in 2019, but the Town has since passed its own Wetlands Ordinance. Does the Library need to comply with the current Ordinance, or are they exempt because of the prior State approval? **Spalding** states that the Town does not have to meet expectations of the Town Ordinances. **Bennett** asks if the Town is exempt from their own rules and **McKinney** states that the Town never adopted an Ordinance that states it must comply with its own regulations. **Hall** asks if the library is part of the Town or is it considered its own institution. **Quinlan** states that all the land on the site is Town land, and that when the project is finished the Town will own the whole thing. **McKinney** states the Wetland impacts will be the road to the library and **Quinlan** states that’s all the impacts there are. **Hall** asks what entity holds the permit, is it in the name of the Town or the name of the library? **Quinlan** states he does not know. **Spalding** states that that is a very important question. **McKinney** states that regardless, it will be a Town road that serves the library and the cemetery both, so there is a permit in place. **Spalding** asks is the Town funding the library project? **Bennett** says he believes that the Town will be asked to fund the project in part. He believes the Town is going to be asked to fund just under a million dollars. **Spalding** states that the Daland Trust is a private entity, and **Quinlan** state that yes, but the new building will be a Town building on Town land. Just because the library trustees are raising the funding doesn’t mean it belongs to them, it belongs to the Town entirely. **Bennett** asks who owns the current library and **Quinlan** states that was changed within the last five years and that the Town owned the land and bought the building from the library trustees. **Quinlan** states that the Daland Trust still plans on maintaining the building, but that it will be completely owned by the Town. **McKinney** states it sounds like the same agreement that we have with them now and **Quinlan** agrees. **Quinlan** states the permit is on the proposed road accessway, so it is all Town land. **Spalding** states that suggest that they don’t have to comply and **Spalding** states that if we did have to apply our current Zoning, it would not be allowable. **McKinney** states it is a tricky situation because the library moved on the project so far ahead of everyone else when what we really should have done was a whole comprehensive plan through the Planning Board and gotten it all laid out. **Spalding** asks are they planning on sticking to the original building site and design and **Quinlan** states it’s really the only viable site. **Bennett** asks are they planning the same road as we saw before and **Quinlan** states pretty much. **Spalding** disagrees and states it’s a shame. He knows there was a lot of concern at the last Town Meeting regarding why the library wasn’t working with the other Town agencies, like the Planning Board etc. Quinlan states we’ve been here twice already this year. Spalding agrees but states there was discussion that this really wasn’t the best plan and **Quinlan** states yes, and they went back to the engineers to discuss it and they are still discussing it. It’s just the opinion that what they’ve settled on is just the best choice. **McKinney** states that any way they go there will still be wetlands crossings and rocks and ledge etc. **Spalding** says the point is that the whole thing was just poorly planned. **McKinney** agrees. **Quinlan** disagrees and states that the Town purchased this land in 1997 and should have done a study on it then, but didn’t, and they let the Post Office go in there which messed up the entire parcel and they were left with the lesser of the parcel, and they left it alone until ten years ago. **McKinney** states the smart thing to do would have been to plan the Post Office around that being the main roadway to service the Post Office and the other buildings going in there. **Quinlan** says the Post Office never should have gone there and should have been located somewhere else in the Town. **Bennett** asks if they put the road right at the edge of the Post Office parking lot would there still be these issues? Both **McKinney** and **Spalding** say no. **Quinlan** says he thinks there is still some wetlands on that side. **Spalding** states that for the parking lot itself, it is a very odd plan; to make the parking lot they are filling in wetlands, so to **Quinlan’s** point yes, there are impacted wetlands that way as well. **Quinlan** states that if the Post Office wasn’t there, the library would be going somewhere right along the road between the Post Office and the pond. That was the best spot of land on the parcel, and they gave it away. **Bennett** asks if anyone has checked with the owner of the property to see if they want to get out of it? Quinlan states the Post Office doesn’t even own the land, they lease from a private owner and he doesn’t know who the owner is.

**8:35pm Accessory Dwelling Units:**

**Bennett** states we have been dragging this out long enough and he’d like to get it squared away. **McKinney** passes out copies of the Peterborough ordinance which he feels is a better example than the Litchfield one discussed at the last meeting. **Bennett** states owners should be required to record their ADU and it should be clearly stated that it cannot be turned into a condo for sale etc. ADU’s should not be larger than the primary residence. The big question is do we want to allow detached ADU’s? **Hall** states that he sees ADU’s as a means for families to offset health costs and/or taxes. He thinks 2- and 5-acre zoning would aid in avoiding a detrimental appearance even by having a detached ADU in a barn or other separate structure that is consistent with the size and style of the primary structure. **McKinney** states he thinks an ADU should be located only on the side or back of the main home and that it should not stand out from the main home in appearance/size. **Bennett** states it is written that way in the Peterborough ordinance. **Hall** asks if a detached ADU could be allowable by Conditional Use Permit from the Planning Board. At least one residence on the property should be occupied by the property owner. **Quinlan** asks isn’t the primary concern with ADU’s is that they can be turned into rental units? **McKinney** states yes, and there’s no way to prohibit it. The bigger concern would be both units becoming rental units. **Bennett** states that could be limited by the requirement of one of the units being occupied by the primary owner. **Quinlan** states that is corollary to the fact that we have a dedicated B&B in town now, where no one lives. **Bennett** asks Board members to review these ordinances and be ready to discuss at the next meeting. **McKinney** states he will do his best to have something typed up and ready for edits.

**8:45pm** The Board discusses a complaint by a resident on Horton Rd regarding an unregistered business (an AirBNB) operating on Horton Rd. **McKinney** states AirBNB is a different type of entity. Unless the Town has an ordinance that restricts them in some way, there’s not much that can be done. **Quinlan** states that should be a warrant article for 2023 then. **McKinney** states that the State has been struggling with this for at least 5 years, there is legislation that exempts Airbnb’s from rooms tax, so they’re not treated as hotels and motels.

**9:05 Rules of Procedure review:** Bennett will review the current rules and update with HB-1661 changes for review at the next meeting.

**9:15pm Review of Meeting Minutes September 27, 2022:**

**Quinlan motions to approve the minutes as amended, second by Hall, no further discussion, all in favor, motion passed.**

Quinlan motions to adjourn, second by McKinney

Meeting Adjourned 9:20pm

Next meeting: October 11, 2022

Respectfully submitted,

Rebecca Schwarz

Admin