**MONT VERNON PLANNING BOARD**

**Public Meeting**

**January 11, 2022**

**AGENDA**

Times are approximate and subject to change without notice.

7:00 pm Public Hearing on Proposed Wetlands Overlay District

8:45 pm Mail & Announcements

Review of Minutes 12/14/21

9:00 pm Adjournment

**Present:** Jim **Bird,** Steve **Bennett,** Tim **Berry,** Bill **McKinney,** Rebecca **Schwarz,** Dave **Hall**

**Absent:** Chip **Spalding,** Chuck **Anderson,** Eric **Will,** Mike **Lewis**

**7:02 PM – Public Hearing on Proposed Wetlands Overlay District**

**Bird** opened the public hearing and had everyone stand for the Pledge of Allegiance. **Bird** explained the proposal for the 2022 Town Meeting which is an updated Wetlands Protection Regulation. If passed, this will delete the existing Chapter on Wetlands and insert an Article 8 into the Zoning Chapter. Much of what gets inserted is coming from the existing Wetlands Regulations. We will also be moving one paragraph from the Wetlands Chapter into the Multiple Soil Districts Chapter of the zoning. It has no impact on subdivisions of today; it just moves where this regulation is found. It makes more sense there and is easier to read. It should be noted that between the different town boards, we have been working on this for the better part of four years now. We have had a lot of consultations with the NH Municipal Association and NRPC and we thank them all. **Bird** introduced the members of the Planning Board. The primary purpose of this meeting is to explain the proposed regulation and explain the existing regulation so that voters will feel educated when they make the vote. He gave an overview of what currently exists and what we are trying to do with this proposed ordinance. Our current regulations are pretty thin; there is a 75’ setback for a septic system, which is the same as the state. We want something with a bit more protection before there are actually major threats appearing. We have come up with a solution which we think is a fair balance between protecting the wetlands and the ground water and allowing people fair use of their property. One of the towns that we studied was Weare and their regulation seems to strike good middle ground. Probably the most meaningful changes in this regulation are:

1. There is a 25’ buffer around all wetlands that cannot be disturbed.
2. The next 25’ is a setback which can be disturbed to put in a lawn but you can’t put in any structure or impermeable surfaces.
3. A Conditional Use Permit process has been set up. If someone needs to put in a driveway to their lot that needs to cross a wetland, currently that requires a Special Exception with the ZBA. Now they could get that through a Conditional Use Permit with the Planning Board. If somebody wants to put up a deck that might encroach into the setback by 10’, instead of having to appeal for a Variance they can come in for a Conditional Use Permit. It gives the applicant a little more flexibility.

These are the three biggest changes to put some sort of protection around the edge of the wetlands. **Hall** asked for explanation on how this will affect existing lots of record. **Bird** noted that one of the issues we wrestled with is how do we address the fact that these new laws might render some existing lots as non-compliant. For instance, if a developer has created a subdivision and has been developing one or two lots every few years and still has many lots in inventory that are legal lots that they have invested a lot of engineering time into, is this ordinance going to render those non-compliant? In some cases that may be so, which does not seem fair. We don’t want to encourage developers to develop as fast as they can in order to avoid potential zoning changes. Therefore, existing lots of record will be subject to the 25’ buffer but will not be subject to the 50’ setback. We have a lot of de facto wetlands protection already in this town by virtue of our lot sizes which are 2 and 5-acres and by virtue of the fact that septic systems or leach beds must be at least 75’ from the wetland according to the state. Although some existing lots of record may be affected by this and the landowners may have to come in for a Conditional Use Permit should this regulation get adopted, we feel this is a reasonable balance. Everyone is subject to the buffer but only the newer lots are going to be also subject to the setback. Rather than having to go through a Special Exception process with the ZBA, they will have the option of coming to the Planning Board for a Conditional Use Permit. This Overlay District will cover the entire town. In determining Wetlands Boundaries, we use hydric soils. If there is a dispute between the land owner and the town’s designation, a soil scientist will be hired at the landowner’s expense. Eileen Naber asked how does the town determine the wetland boundary line. **Bird** stated that we have a map that is based on USGS. Although that is the official town map, the data available at the state level from the NH GIS is extremely accurate. Eileen Naber questioned who does the monitoring of dredging and filling. **Bird** stated that generally its being done by contractor’s who don’t want to lose their license; the Building Inspector is responsible for the job of monitoring. David Cleveland asked for clarification between the wetland setback and buffer. He assumes that we have looked at this from a legal perspective and this will not be considered a “taking”. **Bird** responded that in his personal opinion all zoning is a taking of some rights; but it is done for the benefit of the greater good. As far as an illegal taking, he feels we are well within the reasonable range to have a 25’ setback. There are probably only a handful of structures in town right now that violate that and they’d be grandfathered in anyways. **Berry** noted that the original version of our revised Wetlands Ordinance called for 100’ setback. We felt that was onerous and unnecessary. We had a wetland scientist come in, who is also a surveyor, to discuss this. We were very lucky to get him to go over this with us.

**8:05 PM** as there were no further questions from the public, **Bird** closed the public hearing. **Schwarz** motioned to amend the Mont Vernon Zoning Ordinance to adopt a Wetlands Overlay District by (A). Inserting new Paragraph, I-304.5(d) (B). Repealing Chapter II Wetlands Zoning Regulations (C). Amending Chapter I with a new Article 8 Wetlands Overlay District seconded by **Berry.** All in favor.

**8:45 PM**

The Board reviewed the minutes of 12/14/21. **Berry** motioned to accept the minutes as written seconded by **Bennett.** All in favor. As there was no further business before the Board, **Bennett** motioned to adjourn seconded by **Berry.** All in favor.

Respectfully submitted,

Joan Cleary

Administrative Assistant