**MONT VERNON PLANNING BOARD**

**Public Meeting**

**March 8, 2022**

**AGENDA**

Times are approximate and subject to change without notice.

7:00 pm Hearing on Subdivision, San-Ken Properties LLC, Carleton Rd, Lot 2-49-1

8:00 pm Other Business

Mail & Announcements

Review of Minutes 2/22/22

9:00 pm Adjournment

**Present:** Jim **Bird,** Steve **Bennett,** Chip **Spalding,** Tim **Berry,** Bill **McKinney**

**Absent:** Rebecca **Schwarz,** Dave **Hall,** Eric **Will,** Chuck **Anderson,** Mike **Lewis**

**7:00 PM – Hearing on Subdivision, San-Ken Properties LLC, Carleton Rd., Lot 2-49-1**

**Bird** Called the meeting to order and had everyone stand for the Pledge of Allegiance. The Board reviewed the application submitted by San-Ken Properties, LLC. **Spalding** motioned to accept the application for Tax Map, Lot 2-49-1 seconded by **Berry.** Jon Rokeh of Rokeh Consulting was there to represent San-Ken Properties, LLC. Chris Guida, Certified Wetland Scientist and Soil Scientist of Fieldstone Land Consultants was also present. Jon Rokeh presented the subdivision plan. They wish to take Lot 2-49-1 and turn it into 4-lots. Chris Guida went out and did the high intensity soils map to determine how many lots they could do on the site. They came up with enough 2-acre zoning soils to be able to do 3-lots and then the remainder has to be a 5-acre lot. They added cross culvert information and added easements to all of the lots. Proposed driveway locations have been added to the plan. They added the tree line to the plan. They verified the conditions of the original subdivision had already been met. The setbacks were all added assuming that the Proposed Wetlands Ordinance will pass at Town Election; the subdivision works regardless with the new ordinance in place. Ken Lehtonen has had discussion with Fire Chief Jay Wilson and is agreeable with putting in 13D residential sprinklers for fire protection. Chris Guida pointed out the different slope designations on the plan. **Spalding** is pleased to see that they have captured the questions that we had at our last meeting. One thing that did come up is the issue of an old farmer’s dump on the property. He feels it should at least be shown on the plan where materials may have been dropped. It is in the northwest corner of lot 2-49-1. Rokeh noted that in the location where it is, there will never be a residential structure anywhere near it. **Berry** stated that there is a water course that goes through there. **Spalding** would like mailboxes shown on the plan same as utility poles. **Bird** noted the list of necessary additions to the plan thus far:

* Sprinkler systems to be put in notes
* Farm Dump too be marked in northwest corner of Lot 2-49-1
* Mailboxes on plan?
* Waivers
* Ben Crosby to review the easements
* Update Wetlands Setback/Buffer distance on plan

**Bird** opened the hearing up to public comment. Kevin Pomeroy has real concerns with the farm dump on the property. He thinks there is more buried there than just old trash. He knows that there is asbestos in there. Beyond that he is not sure; the farm was an apple orchard and a chicken farm. **Bird** does not know what authority we have on this but, that being said, capturing that knowledge is good. **Bennett** stated that it will need to be noted on the plan so that the prospective buyer is given full disclosure that it’s there. Jay Wilson wants to make sure that this plan is sent out to all the town departments for review; Police, Fire, DPW & Conservation Comm. He went on to say that growing up in that area, he recalls that dump before it was covered up with debris and foliage as it is now. It was much larger than what shows now; there was a lot of stuff including canisters dumped there. He thinks it’s ‘buyer beware’ that this area should not be disturbed. If you open it up, you’re right next to a water line; you start digging you could contaminate the seasonal brook. Lynda Derby noted that there was still dumping going on there as recent as a couple years ago - not just furniture; it was liquid stuff. Wilson asked if they could do a core soil sample to make sure there is not anything petroleum based in there. John Morison asked if the current owner, before purchasing the property, had engaged an engineering firm to perform a Phase I Environmental Site Assessment. This is something that would have answered the question raised in terms of buyer beware. There usually is an obligation on the part of the seller to disclose any anomalies with the property to the buyer. The buyer should protect themselves by having at least a Phase I Assessment done in which case part of Phase I is to ask the abutters if they know of anything on site. He assumes that was not done and certainly should be done. Usually, a Phase I results in a Phase II Assessment if they find out that there is knowledge of something having been deposited there, which is being indicated today. It should at the very least be marked on the map as a hazardous sold waste material area. Future buyers who are going to buy should be made aware of it as the current buyer should have been made aware of it. Mr. Carleton and his agent Mr. Norwood both were aware and apparently declined to disclose it to the current buyer. These types of situations should be brought to the attention of the local community and should be resolved either through the Selectmen, the Fire Dept or the Planning Board so that the issue is resolved. Failing that, the next step is to report to the NHDES and file a complaint with the Solid Waste Management for them to come in and have that type of analysis performed. He feels this is a serious problem and we need to find out what is there and how it should be handled. If there is more there than asbestos, we need to know that because you shouldn’t be disturbing the area either in terms of leech fields or potential wells. He spoke personally about this with Joe Carleton and asked if he was going to disclose it because it has a direct impact on the value of the property for any future buyers. Joe Carleton chose to ignore the conversation. Chris Norwood also chose to ignore the conversation and stated that he was under no obligation to disclose it to any future buyers because it was a commercial transaction. The assumption in that case is that the commercial purchaser is going to do due diligence in the acquisition of the property and determine if in fact it is contaminated or clean. That did not happen in this particular case and the town has an obligation to establish just what is there and what should be done with it. **McKinney** noted that when we last met with the applicant, we inquired on a Phase I and were told one had not been done. **Bird** wants to call the NHMA to find out what authority we have to compel the applicant to do a Phase I Assessment. Ken Lehtonen of San-Ken Properties called in to speak with the Board. He questioned if we have anything in our Zoning Ordinance regarding this. He had a similar situation with a construction dump he dealt with and he went through testing with an asbestos abatement company, had to remove it and then the state had to clear it. He is willing to do a similar type of thing here as far as inspecting what’s there and following best management practices for dealing with it, whether it’s not disturbing the area or removing it as deemed necessary. He feels it’s far enough away from the potential building site being proposed. **Spalding** stated that now that we know that there is potentially this issue, we’re going to do our due diligence to better understand what we need to do. We cannot make a decision at this meeting but what we can do is take action to better understand what are the next steps; whether it be to work with the applicant or with the state. We need to get the information to make an informed decision. Lehtonen is more than willing to make a condition that the dump site will be inspected by the appropriate environmental people and then either clean it up or mark it as a no disturb area if it’s deemed that is the proper action step. **Bennett** stated that as far as conditional approval, they cannot record the plan or sell any of the lots until that is done. Lehtonen feels that is proper. **Bird** stated that we will come up with wording for a note that captures that an environmental assessment will be done on the dump and will be addressed as indicated based upon the findings, be it capping or removing. Morison argued that what we are being asked to do is to approve the development before we know if the land is developable. If there is in fact more there than just asbestos - liquids don’t turn into aerosols and just go away. In some cases, it’s just not possible to clean up, which means it’s not possible to develop that land. Lehtonen disagrees. He feels if we were dealing with a ½ acre lot with a dump on it he could understand the concern. When you’re dealing with 5-acres and there are several hundred feet separating the build site from the dump site, he doesn’t feel that will change whether the site is buildable or not. In his experience he doesn’t see any findings that could make it non-buildable. It’s just going to be a matter of using best management practices depending on what is discovered; either capping it in place or removing it. Morison disagrees because all four of those lots are going to require drilled wells. If there are chemicals in the ground going towards the aquafer all those wells will be subject to contamination. Lehtonen countered that there are already wells in the vicinity. If there was a problem affecting wells it would have affected the adjacent house which is also the same distance away from the potential dump site as the new construction will be. He went on to say that as part of the building process he has to turn in a satisfactory water test in order to get occupancy so the risk is on him if there are contaminates in the water. **Bird** stated that we have to follow our procedures and the applicant has indicated he is amenable to starting the process to assess what is there. At this point that is all we can ask. If we move forward and we believe that whatever cleanup is required has taken place, and the applicant drills wells, we will look at those results. Jay Wilson feels that preventative maintenance is always better than reacting to it. We have that issue already in the center of town. There is that underground plume; it’s now been thirty years and it’s progressing down Grand Hill Road. Testing and mitigating first is important. Lehtonen will keep the Fire Chief notified as things go along. Morison asked if they will be applying for an AoT permit. Rokeh responded that they will not be required to as they will not be disturbing more than one acre at a time. The Board discussed the waivers requested:

* Article III-410.3(c) Location of Proposed Detail
* Article III-605.1(c)(ii)14 Drainage analysis and map
* Article III-605.1(c)(ii)10 Corners at every change of direction

**Spalding** motioned to approve a waiver from Article III-605.1(c)(ii)14 seconded by **Berry**. All in favor.

**Berry** motioned to approve a waiver from Article III-401.3(c) seconded by **Spalding.** All in favor.

**Spalding** motioned to approve a waiver from Article III-605.1(c)(ii)10 seconded by **Bennett.** All in favor.

**Berry** motioned to continue the hearing to 4/12/22 at 7:00pm seconded by **Bennett.** All in favor.

**9:00 PM – Other Business**

The Board reviewed the minutes of 2/22/22. **Bennett** motioned to approve the minutes as written seconded by **Berry.** Three in favor; one abstention. **Spalding** brought up the Library Road Bond; we need to be prepared to answer questions that may be posed tomorrow night at Town Meeting. The Board reviewed and had discussion on the revised plan.

**9:30 PM**

As there was no further business before the Board, **Spalding** motioned to adjourn seconded by **Bennett.**

Respectfully submitted,

Joan Cleary

Administrative Assistant