**MONT VERNON PLANNING BOARD**

**Public Meeting**

**April 26, 2022**

**AGENDA**

Times are approximate and subject to change without notice.

7:00 pm Discussion w/ Ray Garbos, Subdivision of 161 Brook Road

Continued Hearing w/San-Ken Properties LLC-Carleton Rd. Subdivision

8:00 pm Other Business

Mail & Announcements

Review of Minutes 4/12/22

9:00 pm Adjournment

**Present:** Jim **Bird,** Steve **Bennett,** Chip **Spalding,** John **Quinlan,** Bill **McKinney**

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

**7:00 PM – Discussion w/Ray Garbos, Subdivision of 161 Brook Road**

**Bird** called the meeting to order and had everyone stand for the Pledge of Allegiance. Ray Garbos was present to continue discussion on a conceptual plan for a 2-lot subdivision at 161 Brook Rd, Lot 7-49. The Conservation Commission and two members of the Planning Board did a site walk of the property. Jay Wilson stated that the Conservation Committee was OK with the plan on how to go through the wetland area. He also met w Ben Crosby, Road Agent to go over the plan for the driveway. The regulation calls for a 12’ driveway with 10’ on either side for shoulders. There is an area of the driveway where he cannot meet the setback from the edge of pavement. They can meet the slope requirement. He is seeking a tentative approval before taking on the cost of going to the NHDES for wetlands permit, etc. **Spalding** noted that it would make things easier if there was a common drive but it’s clear that is not the intent of the owner. **Bird** noted that based upon what he sees it looks like a conditional use permit would be required because they are going to cross some wetlands. **McKinney** noted that it will be an interesting subdivision of this lot because this is the first proposal coming before the Board for the Wetlands Ordinance, but also the Driveway Ordinance for a driveway this long and this steep in grade. **Bird** stated that the Board needs to take the action of figuring out just what is and isn’t allowed within the second 25’ setback part and whatever is, we want to be reasonably specific so we can be consistent in our application of the law. The Board read through the Ordinance. Garbos will move forward on his end.

**7:30 PM – Continued Hearing w/San-Ken Properties LLC – Carleton Rd Subdivision**

Jon Rokeh submitted a revised plan with the changes we have asked for thus far. He noted the pre-existing farm dump area, he noted the abutter’s mailboxes, he added the granted waivers, he added the note for residential sprinklers and the 25’ wetland buffers. He will add the 50’ layer onto it. Ken Lehtonen spoke to the report turned in from CJW which was a Summary of Limited Subsurface Assessment Report with a Report of Analytical Results. They did find asbestos board which has been removed. **Bird** asked if DES has been involved in this at all. Lehtonen stated that he believes the company they hired works directly with DES. They are a licensed asbestos disposal company and they track where they brought it to dispose of it. **Bennett** stated that he looked at the report which was based on what they tested which was 0-12 inches deep. He questioned the concentration of arsenic in one sample that was in excess of the limits. Lehtonen said that the licensed geologist determined that arsenic is naturally occurring and rock formations in that area can have arsenic. The lack of lead in the test indicates that it is naturally occurring. If it was associated with some sort of pesticide, lead would be present. **Bennett** questioned what would DES require if this was reported? Would you have to dig it all out or cap it? **Bird** stated that he would feel better if he just knew that DES had looked at it and found it to be reasonable. He doesn’t know if that is standard procedure. Lehtonen called Joe Jammallo on the phone for a conference call. **Spalding** pulled from the NHDES an Application for Activity and Use Restriction. He feels this would be a reasonable starting point to get this correctly documented and recorded. That way, for anyone in the future, it will not only be captured at the Town level but at the County and State level as well. **McKinney** questioned if we are blowing this a little out of proportion. We have arsenic which is a naturally occurring event and can be neutralized. **Bird** noted that we fear the unknown; we just don’t know what’s there. For his piece of mind, he feels that having DES brought in is the right thing to do. **McKinney** asked why they only went to a depth of 12 inches to test; if it’s been a dump for 40 years, we could be looking at 25’ of buried materials. **Bird** asked Joe Jammallo via phone if he has ever filled out an Application for Activity and Use Restriction for DES and if so, would that be a reasonable thing to fill out for this site so that going forward we have documented what we found and what our plan is. Jammallo has not done one in NH but has done many in MA. He feels that the results of the investigation do not warrant it. The only thing they found over any DES standard was arsenic and he concluded that it is naturally occurring. Under the regulation he doesn’t believe it would be required, but that doesn’t mean it could not be done. Putting a notice on the deed for that particular portion of property would require some specific surveying of that particular area and putting the appropriate documentation together to get it to the Registry of Deeds and also to NH DES. **Spalding** noted that in Jammallo’s report, the conclusion notes that he recommends placing a physical barrier such as a layer of clean soil over the impacted area, placing a notice on the deed restricting the noted area from certain uses and a list of uses that should be restricted from that area. This is somewhat in line with the Activity and Use Restriction that NHDES has. Jammallo said these recommendations are not required by the DES but it can be done assuming everyone agrees with it. **Bird** stated that one of our desires here is that whatever is decided is documented in something more than meeting minutes and ideally at the state level. This AUR seems like, if not perfect, at least an effective mechanism for achieving that. Kevin Pomeroy stated that a lot of fill had been brought in there over the past 60 years and that the dump is at least 20’ deep. He does not feel that a one-foot-deep test is adequate. Jon Morison marked up a plan on what he thinks the actual dump size is. He thinks it’s substantial in size. He feels the plan submitted is incorrect because it shows the soils where the dump site is as being glacial till. Anyone who actually did a soil sample there would know that the fill material is not glacial till. He produced photos of what is there which show the wetlands involved. He estimates the site to be 80’x100’. Based on the contours shown, it goes about 20’ deep. This would give about 80,000 cubic feet of material. It’s not a small site. The site has begun to encroach on the stream bed. There are 55-gallon drums in there; there’s mercury motor oil there; there are asphalt shingles there. An engineering study needs to be done by an approved environmental engineering firm to come up with a solution to the situation. Lehtonen stated that there is no possible way in his mind that building a house 300+ feet away from a potential farm dump could have any kind of impact on that farm dump. We’re talking about a dump that has been there for 50+ years. It is his understanding that two of the abutters made offers on this property knowing that there is a potential farm dump. All of a sudden it becomes a major issue to them because there are four homes proposed to go in there. He has pretty much extended financially what he is prepared to do. He hired asbestos abatement to remove what was seen on the surface. He is willing to cap the 50’x75’ area site where they did the testing with one foot of soil; he’s willing to put the deed restriction and the restriction on the plan that there is no soil disturbance and no building in that area. At this point he feels that is more than fair on his part and he is going to ask for a vote on this subdivision plan the way it’s proposed with the stipulations in place. He is not willing to do an AUR; there is a 90-day obligation period, then a 30-day acceptance then another 30-day period; that’s a five-month process for that application and unfortunately that’s time that he does not have to give up. It’s essentially very similar to what they are already offering to do. It will be on the plan and in the deed for everybody to view from this point forward. **Spalding** stated that we are not experts; he would feel more confident moving forward with some type of oversight or review from the state. **Bird** agrees. **Spalding** asked if there is a way that we can approve the three-lots but not the fourth. **Bird** will reach out to the NHMA for guidance to see if there is a way to give conditional approval so that Lehtonen can move forward with the south 3-lots and we could put a restriction of some sort on the north lot until it is blessed by DES. Jay Wilson strongly hopes we are not taking a vote until we receive feedback from the state. Lehtonen stated that he as the landowner has already spent in excess of 10K on testing and cleanup. He is willing to do everything that the Board sees fit as far as placing the larger restrictive area on the plan, restricting the deed and filing the AUR with the state. He has given and done quite a bit to try to go with what the abutters and the Board want, but at the end of the day he does have property rights to build on this property and he’d like the Board to make sure they weigh that as well. **Spalding** thanked him for taking the initiative to do the testing. He also thanked the abutters for providing information. He feels that in this case we need a bit more time to do our due diligence. The Board will reach out to both the NHMA and the DES for guidance. **Bennett** motioned to schedule a site walk on Thursday, 4/28/22 at 7:00pm at Lot 2-49 Carleton Road seconded by **Quinlan.** All in favor. **Bennett** motioned to continue the meeting to May 10, 2022 at 7:00pm seconded by **Quinlan.** All in favor.

**9:15 PM – Other Business**

**Bennett** motioned to approve the minutes of 3/8/22 as written seconded by **Spalding.** Four in favor; one abstention. **Quinlan** motioned to approve the minutes of 4/12/22 as written seconded by **Bennett.** All in favor. The Board discussed terms of members. **Spalding** was reappointed. There are three alternates that have not been present. **Bird** will reach out to see if they still wish to remain on the Board; otherwise, we will seek new members to fill the spots. **Quinlan** wants the Planning Board to authorize a Planning Board subcommittee to deal with the Master Plan and the Capital Improvement Plan. The Selectboard would like both completed by the end of the year. There are a lot of long-term projects the Town needs to deal with and it has not done a proper CIP in the last ten years. There will need to be one member of the Planning Board sitting on the committee. The Selectboard feels that the one biggest failing the town has had for a while is long range planning and it has not been happening. We’ve got departments at each other’s throats arguing about resources. We don’t want that happening anymore. We need to get the town on a long-range plan and these two documents together will help us do that. The Master Plan feeds the Capital Improvement Plan. He would like to be able to go in front of the people next March and present a completed long-range plan. The Board discussed updating our soil map with NRPC and obtaining some lidar maps.

**9:40 PM**

As there was no further business before the Board **Quinlan** motioned to adjourn seconded by **Bennett.** All in favor.

Respectfully submitted,

Joan Cleary

Administrative Assistant