MONT VERNON PLANNING BOARD

**Public Meeting**

**May 10, 2022**

**AGENDA**

 Times are approximate and subject to change without notice.

 7:00 pm Lot Line Adjustment Pomeroy Lot 2/58 & 2/59

 Continued Hearing San-Ken Subdivision Lot 2-49-1 Carleton Rd.

 8:00 pm Other Business

 Mail & Announcements

 Review of Minutes 4/26/22

 9:00 pm Adjournment

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

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

**7:00 PM – Lot Line Adjustment Pomeroy Lot 2-58 & 2-59**

**Bird** opened the meeting and had everyone stand for the Pledge of Allegiance. Earl Sandford of Sanford Surveying & Engineering presented for the Pomeroy’s. They plan to absorb 6.386 acres of Lot 2-58 into Lot 2-59 (the farm) for agricultural land. Lot 2-59 will then give .69 acres to Lot 2-58 to facilitate being able to stay well away from the wetland at the toe of the slope. There is wetland as depicted. There is conforming open space to accommodate the proposed house. The biggest issue they ran into was getting the curb cut from the state as Amherst Road is a state road. They’ve done test pits to confirm that they can facilitate a septic system. It meets all setbacks. Lot 2-58 will be a 5.504-acre parcel; Lot 2-59 will be approx. 55.897-acres. The Board reviewed the plan and noted that the plan depicts the 25’ buffer line but not the 25’ setback line.

**Spalding** motioned for conditional approval for the proposed lot line adjustment with the following condition that the wetland buffer and setback are clearly identified on the plat and also in the notes seconded by **Quinlan.** All in favor. The Pomeroy’s then did a voluntary merger absorbing Lot 10-62 into Lot 10-61.

**7:30 PM – Continued Hearing San-Ken Subdivision Lot 2-49-1 Carleton Road**

Joseph Wichert, Land Surveyor, was present tonight to go over changes made to the plan to date. They differentiated the 50’ wetlands setback, the 25’ buffer has been added and they put a ‘No Disturb” easement over the farm dump area. **Bird** noted that last week we got an email from Ken Lehtonen stating that he would be on site with a DES representative the next day. **Bird** and **Spalding** attended and met with Lehtonen and Chris Wood of DES. We received the Site Inspection Summary Report this afternoon (attached). Lehtonen took a water sample for testing; we have the results from Chem Serve. **Spalding** noted that there is a state data base called One Stop which collects DES information. Chris Wood’s visit is now on NH DES One Stop. There is a Case # and it is recorded in their data base. Lehtonen had a conversation with Jaime Colby of DES as to what the next steps would be. There is a landfill registration form for old landfills that have been discovered that Lehtonen needs to fill out and turn into the state, which he plans to do this week. Registered pre-1981 landfills are not subject to the NH Solid Waste Rules. She suggested that he remove loose waste if present from the ground surface and dispose of it at an authorized facility. As far as the DES is concerned, once the registration is turned in and recorded with the state, their involvement stops there with the exception of the additional items Lehtonen’s agreed to do for protecting that area. **Bird** asked if we know when the dump stopped receiving waste? Lehtonen stated that their best judgement is pre-1981. They found a 1958 license plate and oil waste cans that look like they are far prior to 1981. There is nothing that showed them it is more recent than that based on what they observed on site and photographed. **Spalding** asked if there will be an AUR put on the area and recorded? Wichert stated that the No Disturb Easement will be put on the plan which will be recorded. Any subsequent deeds to that lot are going to reference that. Lehtonen will check with DES to see if an AUR can be added on top of what they are doing; although what they are doing with the deed restriction and the restriction on the plan runs very parallel with an AUR. **Bird** stated that he would feel better if there was a Use Restriction on it from the state. That also makes another place where it is registered. Lehtonen agreed to make it a condition that if the state feels it is appropriate to be done, he will execute the paperwork. **Spalding** agrees that if the state concurs, it’s appropriate to put an AUR in place. In his opinion, that will be very well documented and we will meet the state’s criteria for restricting uses on that property. **Bennett** asked if the state comes back saying it’s post-1981 or that Lehtonen needs to do more to clean up the area, does he have any issue with agreeing to comply with whatever DES requires? Lehtonen stated that he has no problem; he will make it a condition that he will see this through with DES as they see fit until they are satisfied and give a letter stating that he has complied and no other actions need be taken. **Spalding** wants the NH DES Site # added to the plan. That way whoever ends up owning that property knows that the state has a report up at Concord and that they have started looking at that potential dumping site. **Bennett** feels we should put it to a vote whether to approve the subdivision or not. NH DES has been notified; he thinks we should trust DES to follow up and take whatever action is necessary. The developer has agreed to the condition of complying with whatever requirements DES may impose, whether it’s a pre-1981 or post-1981 site. **Bird** asked for comments from the public. Jeff Naber stated that he questions this being a pre-1981 solid waste dump. There has been discussion here that there were liquids being dumped post-1981. If DES has paperwork filed that states it is a pre-1981 solid waste dump, then DES does not have the information they need to make the right assessment on the area. Jess Pomeroy questioned the ditch dirt that was dumped there during the 80’s. John Morison asked what would the state’s position be if it was found to be a post-1981 dump? **Bird** stated that it would be subject to the full scope of the NH Solid Waste Rules. Morison stated that many of the people here recognize that this dump was active post-1981, which has bearing on the state’s response to the site itself. It’s been proposed that the site be marked as one that should not be disturbed. He stated that the pile is moving and should it fall into the stream, who will be responsible? Will it be the current business owner, the future landowner or the state? **Bird** feels it will be the future landowner. He asked Morison if he has evidence of the pile moving or leeching; the boulders he saw looked pretty stable. He personally would have trouble considering ditch material being dumped on top

as being dump material. When we remediate these sites that is what they tend to do; put material on top. Morison stated that he does not have photographic evidence of it moving but the shingles were covered before; now they are not. Lehtonen stated that there are mature trees, a license plate with a 1958 date, debris that is clearly antique and from the 50’s and 60’s; there is no physical evidence on site of anything being there more recently than 1981. **Bennett** stated that the developer has a right to use the property he bought. We’re hearing a lot of conjecture about what might be there or might not be there. We also have a DES report. It is not for us to guess who may be right. We have to trust the state to make the right call. If they say it is a post-1981 landfill, then the developer is going to be bound by whatever they require him to do. He doesn’t feel it is fair to the applicant the way this is going and for us to depend on information which is at best hearsay. Morison is concerned that the dump is moving and feels that just putting a note on the plan isn’t good enough for the long term. The business owner today is not going to be the person that is responsible for that property in the future. The notice on the plat has to be adequate so that the future owner understands what his responsibility is. **Spalding** stated that the applicant is working with the state. He approached DES on his own; he is doing his due diligence. There will be an area on the plan that says “preexisting farm dump area” and we are going to make certain that the NH DES case # is on it. In his opinion, we are guessing at what’s in there. We can see what’s on the surface and someone from the state also recorded that. We are trying to do our due diligence to make certain that going forward, whoever owns this parcel knows that there was a dump and the state has been out there. To what extent the state goes is unknown, but he doesn’t think that we can stop to wait for the state to come to a conclusion. If the state determines that something has to be cleaned up, whoever owns that property will have to clean it up. That cannot be avoided. **Quinlan** suggested cutting that segment off of the lot. **Spalding** stated that the Planning Board cannot create a non-buildable lot. It is in the best interest to keep this easement that would stay with this lot of record. He suggests that we might put another condition stating that prior to an occupancy permit or a building permit, we would need to have a completed AUR with the State of NH. **Bird** closed the public portion of the hearing. **Bennett** motioned to approve the subdivision application conditioned on:

1. Lot numbering Tax Map 2-49-1-1, 2-49-1-2, 2-49-1-3, 2-49-1-4.
2. Registration form with the DES for the landfill to be submitted.
3. Application for Use Restriction to be submitted.
4. DES Case # to go on cover sheet.
5. Compliance with all DES requirements regarding farm dump on Lot 2-49-1-1 shall be complete before any certificate of occupancy is issued for Lot 2-49-1-1
6. Any deed transferring Lot 2-49-1-1 shall include reference to use restrictions and do not disturb requirements.

**Spalding** motioned to amend that the final plat being submitted to the Planning Board shall also be in DXF and DWG format seconded by **Bennett.** All in favor of conditional approval on the subdivision as amended.

**8:55 PM – Other Business**

**Quinlan** motioned to approve the minutes of 4/26/22 as written seconded by **Bennett.** All in favor.

**9:10 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