

MONT VERNON PLANNING BOARD**Public Meeting Via Zoom****February 9, 2021****AGENDA**

Times are approximate and subject to change without notice.

- 7:00 pm Proposed Wetlands Ordinance
- 8:00 pm Discussion Cemetery/Library Site Layout
- 8:45 pm Other Business
- Mail & Announcements
- Review Minutes from 1/26/21
- 9:00 pm Adjournment

Present: Bill **McKinney**, Bill **Johnson**, Steve **Bennett**, Tim **Berry**, Chip **Spalding**, Charles **Baker**, Dave **Hall**, Jim **Bird**

Absent: Rebecca **Schwarz**, Eric **Will**

7:00PM – Proposed Wetlands Ordinance

McKinney called the meeting to order and had everyone recite the Pledge of Allegiance. Present for review of the draft ordinance was Jay Minkarah, Executive Director of the NRPC. His first comment was in reference to Section I-805.1(a) Exceptions. He does not suggest we use the language regarding the 5-year exemption. He thinks we should follow state statute. In Section

I-805.2 Existing Approved Lots, this section imposes a higher standard for additions to structures on improved lots than for new buildings and structures on unimproved lots. He questioned why the former requires a conditional use permit and the latter a variance. In Section I-806.2 Buffers, he assumes our intent is to require buffers, but the language is not clear. In Section I-807 Definitions, he questioned what is the purpose of providing a definition for the term “vested rights”. **McKinney** explained that we have some developers that have pre-existing lots that have technically achieved substantial completion. Their concern is that those lots would now be subject to this new ordinance when they have already achieved substantial completion. The vested rights discussion came up as a result of that. Joanne Draghetti questioned how far this vested rights exemption will go back; it sounds like there is no time-frame. **McKinney** explained that what vested rights does is protect developments that have achieved substantial completion from changes in the zoning ordinance that may limit lot sizes, etc. When you look at the actual legislation on vested rights, changes for the protection of the public health including ground water, surface water, wetlands ordinances, etc. are not included in that vested rights piece. **Bennett** noted that it is very easy to confuse the two standards that you have in 674:39. There is ‘substantial completion’, but the first act is ‘active and substantial development’. If you do that within a 2-year period you are protected from changes to all ordinances except for health and safety changes. When you move to substantial completion, the statute suggests that the only thing you may be subject to in the future is impact fees. Minkarah feels that buffer areas should be more clearly defined; he assumes what is intended is a naturally vegetated buffer. **McKinney** explained the suggestion of a combination of wetland setback and wetland buffer. The buffer is a no disturbance area; the setback could allow for some minimal disturbance depending on what development needs to happen. In Section I-809 Prohibited Uses, Minkarah questioned are these uses prohibited only in wetlands or in buffer areas as well? It needs to be more clearly defined. **Hall** asked of Minkarah,

should a new wetlands ordinance get adopted, and if you have an already existing house that has a wetland in the back yard with the lawn in a defined buffer, how do you reconcile that? Minkarah stated that most communities do allow for changes or improvements for homes or businesses within buffer areas as a Special Exception. Conditional Use permits are allowed but less common. In Section I-810 Conditional Uses, it reads that 'accessory structures, when associated with legally pre-existing primary structures, may encroach in the buffer zone'. This directly contradicts Section I-805.2 which says you need a variance. It needs to be one way or another. In Section I-811.2 Site Plan Information, it reads that 'a report validating compliance with site plan requirements shall be submitted along with the conditional use permit application and site plan'. Minkarah noted that these requirements would apply to any improvements in a wetland buffer, including the addition of a deck or the patching or resurfacing of a driveway. We may want to include a provision for waivers or an expedited process for minor improvements and repairs. In Section I-814 Enforcement, this may be in conflict with NHDES requirements. Alternative mitigation may be required. **McKinney** thanked Minkarah for his comments and time.

8:02PM – Discussion Cemetery/Library Site Layout

Present was Cindy Raspiller, John Quinlan, Jane King, Bonnie Angulas, Jill Weber and Sean Malon of Oak Engineering. He is part of the team who put together the wetland application, the AOT application and the septic permit application. These were all approved late last year.

McKinney explained to the Board that there will be an access roadway that is going to service the library and cemetery. Under state statutes, when a roadway is constructed that the town is going to own and maintain, it has to come before the Planning Board for approval. This will not technically be a subdivision because all lands stay the property of the town of Mont Vernon, but there is delineation of who the tenants of the town owned land will be. **Bennett** noted that putting the roadway in is not going to subdivide the property. Therefore, the Planning Board has no right to approve or deny as this is the Selectmen's jurisdiction. Sean Malon shared the C001 Existing Conditions Roadway Plan and the Site Plan with the Board. The library itself will be an approx. 8,000 sq. ft building on 10-acres with 33 parking spaces. There will be approx. 9,500 sq ft of wetlands directly impacted. The library will have an onsite septic system and well. The roadway and parking area will have a closed drainage system consisting of catch basins being piped together and then down the hill to a series of storm water basins. This has been designed to lessen the runoff from the site into Carleton Pond. There will be underground utilities. **Berry** questioned if they would run conduit to the far end of the road where the cemetery property takes over and also install a transformer pad. Malon stated that they have designed the underground utilities just up to the library building. **Johnson** asked how the cemetery area would be accessed. Malon showed where the property boundary is and said they would be bringing the road right up to that boundary so that the roadway can be continued in the future. **Johnson** questioned the drainage system where they are collecting through basins as you come down the driveway; are they also crowning the drive to get sheet flow off the road to the side? Malon said yes, they have a crown with a 2% side slope to either side. There is proposed curb around the parking areas and the library location. **Johnson** asked if there was any concern with the quality of the ground water as the property has been used for agricultural uses for a number of years. Malon stated that when the well is drilled it will have to be tested and meet all the state standards. **Johnson** questioned if there has been consideration given to limiting the lighting going up the road as there are residents that live across the street. Malon said that the light posts would be only 15'-16' high; one at the entrance and then spaced out approx. 150'-200' apart. They are not looking to douse this area with light; just to provide some safety lighting. **Berry** stated that if they are going to put in an underground infrastructure to provide power to the library, they should plan on providing power the rest of the way to the cemetery lot line. Cindy Raspiller and John Quinlan agree and feel that this can be included. **Hall** said that given the length of the road, it seems logical that they would need to have a conduit run up to a sector cabinet at the end limits of the library parcel and then come back to a transformer. This would be required by default because you can only run a certain distance from a primary to a transformer. **Johnson** noted that he has seen it done different ways; it would depend on which road engineer you get from the utility company. **Spalding** asked will this be a town road or a driveway going to town spaces? If you look at our Town Ordinances, typically you have setbacks from roads and typically roads have ROW's. ROW's can vary depending on the width of the road, but when you have a parcel, you typically have a setback from the frontage of that road. The language needs to be very clear as to what is being proposed. If this is being proposed as a road then the curb plan being submitted would need a variance for the setback of the building from the road. **Bird** noted that if this plan goes in front of the town and they approve it, then that becomes the zoning for that building and there would be no need for a variance. **Spalding** feels that the town should prepared to explain why an exception can be made for this type of structure without meeting the setback requirements. If this is a driveway, there would not be an issue. **McKinney** noted that it was always the intent that this would be a driveway. The reason that it is at 22' in width is because of fire code requirements for access. Raspiller said that it is a shared driveway for the cemetery and the library. **Berry** thinks it should be called something other than a driveway; he has never seen a

driveway with a closed drainage system, with catch basins, a man hole, 3 retention ponds, etc. He thinks a Public Way would be a better term. **Spalding** voiced his concerns over potential flooding of the proposed closed storm drainage system. The proposed buried utilities are in a segment of an open swale where you are collecting storm water. He feels there might be some best practices that could be applied to this to make it better and not be putting storm water over buried power. Malon agreed and said they could shift the electric out from underneath the bottom of that swale. Joanne Draghetti noted that Peter Tedder, who is on the CC and is a civil engineer, voiced similar concerns and observations. He has concerns on how the drainage system will affect Carleton Pond. **Spalding** noted that the town put a lot of expense into upgrading and making improvements to Carleton Pond. **Johnson** asked if there were sidewalks planned for the side of the road; there will be a lot of foot traffic and bicycles. Malon said there is a proposed 5' wide stone dust walkway along the roadway up to the library area. **Johnson** would like to further review in order to offer up some more informed comments. **Spalding** asked how far along in the project are they with the state? If changes need to be made to prevent challenges for town maintenance of the roadway, do they need to go back to the state to request the permit be amended? Malon said yes; the state permits are all received in hand. Changes to the plan, depending on what it is, may require an amendment to the permits. If there were to be changes that would increase the wetlands impact, that would be a significant change. **McKinney** noted that we will get things finalized and then set a date for a hearing so we can get them some formal opinions on this.

9:20 PM – Other Business

Berry motioned to approve the minutes as written seconded by **Bennett**. All in favor, motion passed.

9:30 PM

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

Respectfully submitted,

Joan Cleary

Administrative Assistant