

Mont Vernon Planning Board**Public Meeting Via Zoom****May 25, 2021****AGENDA**

Times are approximate and subject to change without notice.

7:00 pm Tom & Sally Wilkins Discussion on Lot 2-57, Class VI Road

8:00 pm Multiple Dwellings on One Lot / ADUs

Summary Review of current MV Multi Family requirements – J. Bird

Summary of Current Multi Family units in MV – quantity and type

Active/Recent Multi-family cases (54/56 Weston Hill)

Discussion – what’s working, what’s not

8:45 pm Other Business

Mail & Announcements

Review of Minutes 5/11/21

9:00 pm Adjournment

Present: Jim Bird, Steve Bennett, Chip Spalding, Tim Berry, Charles Baker, Chuck Anderson, Bill McKinney

Absent: Rebecca Schwarz, Dave, Hall, Eric Will, Mike Lewis

7:00 PM – Tom & Sally Wilkins Discussion of Lot 2-57, Class VI Road

Bird called the meeting to order and had everyone recite the Pledge of Allegiance. Attorney Tom Quinn was present representing Tom & Sally Wilkins. The Wilkins’s placed several Mont Vernon properties under a conservation easement to the Society for the Protection of NH Forests, retaining the right to create a few house lots to provide options for their family’s future needs. Their son Isaac is planning to build his home on Lot 2-57. The frontage for this lot is on the Class VI section of Second NH Turnpike. The Wilkins’s are requesting permission from the BOS to access a single-family home from the Class VI road in accordance with section III-413 of the Mont Vernon Subdivision Regulations and NH RSA 674:41(letter attached). The BOS is asking for the input of the Planning Board before making their decision. Fire Chief Jay Wilson responded with regards to a Class VI Road and emergency vehicle traffic (letter attached). Attorney Quinn explained that in order to build on this lot, the Wilkins’s need relief from the provisions of 674:41. This statute generally prohibits towns from issuing building permits on property that lack frontage on a Class V road or better. There are exceptions; one is that the BOS can authorize the issuance of building permits in consultation with the Planning Board provided that the Town doesn’t assume responsibility for the maintenance of the road nor liability for damages arising from the use of the road. The applicant would also need to sign a waiver acknowledging that the town is not

going to maintain the road and is not liable in the event of a problem with the use of the road and provided that the waiver is recorded at the Registry of Deeds before the issuance of the building permit. They are not here to subdivide this 31-acre lot; they simply want to take 5-acres and remove it from the Conservation Easement. **Bird** asked if the terms of the easement allow just one house lot, or is it for multiple lots? Sally Wilkins responded that it is for just one lot on this parcel. **Bird** noted that it is between the BOS and the land owner what is or isn't taken out of current use, and between the land owner and the easement holder to determine what is or isn't taken out of the easement. Sally Wilkins explained that they cannot start the work until they have permission from the Society. The Society wants to see the registered document that says they accept the liability of building on a Class VI road and that the Selectmen have authorized a building permit. Attorney Quinn offered to prepare a municipal waiver and submit it for review by Town Counsel in an effort to save time. **Berry** asked if they have any intention of upgrading the road to Class V status. Wilkins responded that they spoke with the Fire Chief who thinks they will need to upgrade the culvert; other than that, they don't propose to do anything to the road. It's very solid gravel. Wilkins asked if the town has a designated culvert maintainer? They can do a permit by notification with the state but it is simpler if there is a culvert maintainer already on the list with the state who does culvert replacements in other parts of our town who would oversee the work. **Berry** will contact our Road Agent, Ben Crosby and explore that option. **Bird** questioned how that is impacted by the mandate that towns are not allowed to maintain Class VI roads? He will call the NHMA and get feedback from their attorney. **Spalding** questioned how this would be recorded; if this parcel was to be sold in the future, does it revert back to the Society or does it remain a lot of record that would transfer to someone else. Wilkins responded that the Society owns the easement in perpetuity; it does not own the lot. The 5-acres will be carved out of the easement, but still remain part of the 31-acre lot. Attorney Quinn explained that the property that will be the building site is approximately 5-acres. It has to be removed from the terms of the Conservation Easement. If sold, it could be subdivided and separately conveyed; the 5-acres would not be subjected to the Conservation Easement but the remainder would be. However, it does not have to be subdivided; you could simply remove the 5-acres and convey the entire 31-acres, but the 5-acres would not be subject to the easement. Once the waiver of liability is recorded, that is binding and runs with the land and on all future owners. The current plan is not to subdivide. **Spalding** motioned to indicate to the Selectmen that the Planning Board has no objections to the proposed house lot going in on a Class VI road, seconded by **Anderson**. All in favor.

7:45 PM

The Board reviewed the minutes from 5/11/21. **Spalding** motioned to approve the minutes as written seconded by **Berry**. All in favor. **Spalding** brought up the requesting of easements for potential work on a narrow road at a future date. He noted that **Berry** has had a very strong opinion at the past three meetings regarding this. It is in our regulations and **Spalding** feels it is in the best interest of the town. It is his opinion that if the Selectmen see no need for this, it undermines the ability to leverage that part in our Planning Regulations. If the Selectmen are all in agreement with the position that this is not a good use of planning for what could happen in the future, then they should strike it out of our regulations. **Berry** feels that it may be a good use and every instance should be treated as an individual case. There may be some cases where it may be in the best interest of the town. He did not feel that the past two cases were instances where it was in the best interest of the town. **Bird** summarized that if we are not going to enforce this part of our regulations, we should take it off the books.

8:00 PM- Multiple Dwellings on One Lot/ADU's

The Board discussed how confusing our present zoning is regarding multi-family dwellings. **Bird** asked for opinions on Section I-310, Housing for Older Persons. **McKinney** feels that the 62 and older limitations are very restrictive and limits the community from developing housing that can address housing shortages for people under 62. The town would benefit from reviewing this and bringing the age limitation down to maybe 50 and older. The target group we are looking at is the "empty nesters". We should be looking at developments that can do 2 bedrooms which would benefit the younger group, who then can have a family and buy bigger; those who own bigger houses can then re-sell and downsize. It's kind of a recycle process but important for the community to start looking at. The Board next discussed Section I-308, Adjacent Dwelling Units. We are not sure how many there are in town; some predate zoning. Roberge stated that about ten years ago, the town encouraged people with undocumented ADU's to apply for an ADU permit based on safety issues through the Fire Dept. with a

minimum application fee. This allowed the Building Inspector to enter to do a safety inspection. There have been some that the assessors have recently picked up that are detached ADU's that the Selectmen have not addressed as of yet; but it is on their agenda to address. **McKinney** noted that by state statute an ADU is not limited to family only members. It can be by law a rental unit limited by square footage. One of the units has to be maintained and occupied by the property owner. **Bird** went over New Boston's Multi-Family Dwelling Ordinance. He will reach out to New Boston for feedback. **McKinney** noted that "multi-family" by the building code of the State of NH is three families or more and falls under the International Building Code and would require sprinkler systems. He recommends we stay away from multi-family because of that. Roberge commented that there is a recent subdivision that went through the Planning Board that was not required to have sprinkler systems. There needs to be some clarification as to what the actual requirements are; not only by the State, but what here in town we are requiring. **Bird** noted that we have always deferred to the Fire Chief. We have always offered sprinkler systems as an option if builders did not want to deal with cisterns. **McKinney** noted that state statute prohibits the requirement by a community to have residential sprinkler systems installed in one- and two-family homes. However, fire protection and water supplies are governed by state fire code, which says you can provide fire protection by requirement of Town Ordinance or by NFPA Code that allows for fire ponds, cisterns, water towers, etc. Fire protection is still governed by the state fire code regardless of the development you are doing. The only thing restricted by state statute is the requirement of sprinklers. Any code adopted by the state is a state minimum. Communities can adopt more stringent provisions of codes above and beyond; but they cannot do anything that is less restrictive than what is adopted by state whether it's the state building code or state fire code. The Board will continue to review the ADU zoning to decide what changes should be made. The Board discussed our soil-based zoning. **McKinney** noted that soil-based zoning has been not supported and sometimes defeated in court cases because of the technology advances in septic systems that allows you to put septic systems in areas where you never would have thirty years ago. We should look at revamping our zoning and get away from the soil-based zoning that calls for 2-and 5-acre lot sizes that just don't make sense anymore; current septic systems can certainly effectively function on smaller lot sizes.

9:00 PM

As there was nothing further before the Board, **Berry** motioned seconded by **Bennett** to adjourn. All in favor.

Respectfully submitted,

Joan Cleary

Administrative Assistant