

MONT VERNON PLANNING BOARD  
Mont Vernon, NH 03057  
MEETING MINUTES –Tuesday, May 10, 2016

AGENDA

7:00PM Dan Mullen for the Vibert Family  
Subdivision on Hazen Road

7:30PM Chad Branon for Brett Vaughn  
Subdivision on Purgatory Road

8:00PM Mail and Announcements  
Review of Minutes from 4/12/2016 & 4/26/2016

8:15PM Election of Officers

9:00PM Adjournment

Seated: Chris Aiston, John Quinlan, Annette Immorlica, Chip Spalding, Bill McKinney, Chairman  
Absent: Jim Bird

7:01 PM

Aiston called the meeting to order. Aiston stated the board should take care of election of officers before proceeding with the rest of the meeting. Immorlica made a motion to nominate Spalding as Secretary. McKinney seconded. All were in favor, the motion passed. Aiston made a motion to nominate Immorlica as Vice Chair. McKinney seconded. All were in favor, the motion passed. Aiston made a motion to nominate McKinney as Chairman. Immorlica seconded. All were in favor, the motion passed. McKinney took over running the meeting.

7:03 PM

McKinney opened the hearing regarding the Vibert subdivision application. Dan Mullen, from Richard Bartlett & Associates, came forward to speak on behalf of the family. The Viberts own lot 3-13 on Hazen Road, an 80 acre parcel. Their proposal seeks to divide the land to honor the terms of their mother's will. A 5.03 acre lot will go to Calvin Vibert, a 6.8 acre lot for Linda Vibert, and the remaining 68 acres to Kevin Vibert, with a 50 ft. wide access across Calvin's lot. The Viberts intend to call the access road Miscou Lane. All lots have more than 300 feet of frontage. There are currently two existing structures on Lot 3-13, and the subdividing will see each house on its own lot. Mullen stated there are two waivers. Immorlica pointed out the board should accept the application prior to hearing waivers. Aiston asked if all the abutters were notified. The AA confirmed all abutters had been notified, and notices were properly posted and in the paper. Immorlica reviewed the Checklist for Acceptance. Spalding reviewed the application materials to check that everything had been submitted, and stated everything looked in order. Immorlica asked where the wetlands, if any, were located. Mullen indicated their locations on the plan. Immorlica noted the board might want to look at wetlands, since Black Brook goes through the property. Immorlica stated the Checklist for Acceptance was completed. McKinney stated he would entertain a motion to accept the application. Immorlica made a motion to accept the application. Spalding seconded. All were in favor, the motion passed. Mullen continued with review of the waivers. The first waiver applies to Article 6, III-605.1 (a)(ii) Survey Phase and Article 6, III-605.1(c)(i) Final Phase. The Viberts are asking to not be required to provide a perimeter survey for the remaining lot (68 acres) not affected by the proposed subdivision due to the large size of the existing parent lot. Survey of all the pertinent lot lines affected by the proposed subdivision are being provided. The second waiver is for Article 4, III-410.2 and Article 4, III-410.3(d), pertaining to a High Intensity Soils Survey. The Viberts are asking to not be required to provide High Intensity Soils Survey data beyond what is already shown on the current plat, as the proposed subdivision is for three lots and minor in nature. Mullen stated that the waivers they are requesting will not be detrimental to public safety, health, or welfare, or cause injury or damage to other property. Mullen stated they believe the requirements are not appropriate or reasonable because of the large size of the remaining parcel of land, and the requirements would not further enhance what they are doing in the area. Immorlica asked where monuments are

currently located. Mullen indicated where existing monuments are, and noted the locations where new monuments will be set. Spalding asked if the parent lot is one lot of record. Mullen confirmed it is one lot. Spalding asked if the application meets the setback requirements. Mullen stated that all the requirements for setbacks will be met. Immorlica asked if the applicants had submitted a signed letter authorizing Mullen to speak on their behalf. The AA confirmed the signed notarized letter was part of the application. Immorlica asked if any of the abutters were present. McKinney stated the board would accept public input at this point. Don and Madeline Cote of 64 Hazen Road both spoke and stated that they did not have any objections to the Viberts plan. Immorlica asked if the Farwells were present. Mossey-Farwell, who is an abutter who resides at 95 Crosby Street, Milford stated she has no objections and just wants to know what's happening. Immorlica wondered if granting the first waiver for a survey could cause problems down the road. McKinney asked if there was a clear deed on the last parcel. Mullen explained that the subdivision of the land is part of clearing up the deed. Mullen noted the areas where survey work has been completed on the lot, pertinent to what is happening. Mullen also noted there is a recorded boundary agreement with the Mossey-Farwell abutter since there was an undefined lot line. Aiston asked where survey work has not been completed, and Mullen indicated the Northern side of the lot. Aiston asked if there were any monuments out there at all. Mullen stated there are some pipes out along the boundary. Mullen also indicated where the well-defined boundaries are located. Spalding asked how wide the new proposed access road would be, and Mullen stated 50 feet. Immorlica asked about monuments along the access road and Mullen stated the monuments would be set. Spalding asked if there was a house being proposed on the large lot. Kevin Vibert stated not at this time. Aiston asked how much more work it would be to finish the survey work. Mullen stated it would be quite a lot of work to complete the survey, at significant cost. Spalding stated they have sufficient setbacks, frontage, and acreage, as well as amenable abutters. Immorlica motioned to accept the first waiver. Spalding seconded. All were in favor the motion passed. McKinney noted the waiver is specific to lot 3-13. The board began review of the second waiver. Spalding asked how much wetlands are located in the two front lots. Mullen stated he didn't know the exact area of acreage for the wetlands, but noted where they were located. Immorlica asked where Black Brook was located on the property, and Mullen noted its location in the 3rd larger lot. Immorlica stated she feels very strongly about Black Brook and asked if there was some way the board could acknowledge it. Immorlica stated she didn't feel a HISS was necessary, but thought something could be done to protect Black Brook. Spalding asked if a wetlands survey had been done to identify the limits of the poorly drained soils. Mullen noted Black Brook is not part of the front parcels, so the work they are doing will not have any impact on Black Brook. Immorlica stated this could be an opportunity for protection for Black Brook. McKinney noted no work is currently being proposed on the back piece of land. McKinney asked what Immorlica would want to see for protection for Black Brook. Immorlica stated she would like to see the wetlands delineated around Black Brook, with a 100 foot buffer on either side of Black Brook established on the deed. Spalding asked what advantage there was to doing that now rather than later. Immorlica noted things like this get lost, and it would be nice to have it established. Quinlan suggested the board include a note on the plan stating that if the back lot including Black Brook ever was to be developed, that's the time when a wetlands study would need to be done. Quinlan stated that would solve the problem of someone forgetting about it. Spalding stated a note should also be included which states no further development can happen on the big lot without survey work being completed. Immorlica stated she is willing to vote for the waiver because she feels it would be an imposition to require a HISS for the property, but she likes the idea of including a note. Aiston asked where the note would go. Quinlan stated it would be added to the subdivision plan notes. Spalding motioned to waive the High Intensity Soils Survey. Quinlan seconded. All were in favor, the motion passed. McKinney noted those were the only waivers requested. Aiston asked if a waiver for frontage was necessary for the back lot. McKinney stated no. Mullen explained the 370 feet of frontage is met with the access road. Spalding asked if there were any drainage culverts in front of the parcel, and if they are within the right of way. Mullen noted the drainage locations and stated they are within the right of way. Spalding stated it is a straightforward subdivision. Immorlica asked if the board would expect the access road to be built to town standards. Quinlan asked if the Viberts intended the road to be public or private. Mullen answered private. Immorlica stated that in the past the board has asked for private roads to be built to town standards but leave off the top coat. Immorlica asked how long the proposed road is. Mullen answered around 700 feet. McKinney stated the road would have to be built to town standards to be recognized as frontage, prior to building on the back lot. Kevin Vibert asked what town standards meant, if it meant the whole length, and if it would have to be paved. Quinlan stated yes, the whole length, and that no, it would not need to be paved but it would need to be approved by the road agent. McKinney stated having a road built to town standards aids in fire protection.

Immorlica stated the road standards are indicated in the subdivision regulations. Spalding noted III-705 details street construction. Kevin Vibert stated that he has no plans for building back there at this time. Immorlica asked if subdivision approval is dependent on having the road there. McKinney stated no, that the back lot only needs right of access at this time. Spalding mentioned that the lot numbering needs to be noted correctly on the plan. The smaller lots will be 3-13-1 and 3-13-2. The large lot will stay 3-13. Spalding asked if there would be a plan showing the entire subdivision with approximate boundaries. Spalding suggested Mullen could include a sheet 2, which would show the back boundaries. Spalding stated tax map distances could be used, and even though they are not survey quality, it would give a rough dimension of what it there. Spalding said the plan as currently drawn looks like a two lot subdivision. The entire parent lot should be shown. McKinney asked Mullen to add a note which states the measurements are not survey quality. Immorlica asked about a site walk for the subdivision, and stated she did not feel one was necessary. Both McKinney and Spalding agreed. Spalding also asked for the exterior points of the 50 foot right of way to have granite monuments set; any place where there is a change in the bearing or distance. McKinney opened the floor for further comments or questions from the public. There were none. Spalding stated he felt that the application hearing could likely be finished up at the next meeting. McKinney suggested the board go over the conditions for approval. Condition 1: there will be a note added to the plan which reads "Prior to any development of lot 3-13 there will be a wetlands survey done with complete delineation of all wetlands". Condition 2: there will be a note added to the plan which reads "Prior to any development of lot 3-13 the Town of Mont Vernon will reserve the right to require wetlands protection buffer for Black Brook, the buffer to be determined." McKinney asked if the property owners had any comments or questions regarding the notes. Aiston mentioned a perimeter survey, if the land were to be further developed. McKinney added that as a condition: Prior to any future development of 3-13, a full perimeter survey would be required. Aiston also mentioned monuments on the right of way. Spalding stated for clarity, it might be easier to show the proposed and existing monuments on the second sheet of the plan. Spalding and Mullen discussed the location of monuments both existing and proposed. Mullen noted that some of the boundary points fall on a tree. Spalding mentioned that sometimes monuments can be offset, since a tree won't always be there. Spalding asked what other options would be. Mullen mentioned that because both the end points are marked, the lot line could be re-calculated using GPS. Mullen stated the trees are the only markers showing where the old lot line's barbed wire fence existed. Spalding stated he'd like to see something more permanent to mark the line. McKinney asked Spalding what specific points he'd like to see marked, perhaps ones that are more primary. McKinney stated he saw the 2 corner bounds and maybe 3 offset pins as being the most important. Spalding asked how large the trees are, Mullen noted their dimensions and stated they are all sizeable trees. Immorlica asked how a boundary would be re-established using the 2 corner points. Mullen explained by locating the two end points, you can calculate the distances in between to re-create the angle points. Spalding mentioned that Black Brook provides a natural buffer. Immorlica asked if the state plane coordinates need to be on the plan. Mullen stated they will be on the plan. Immorlica stated she wanted to note that she agrees with allowing the angle points to remain marked on the existing trees rather than adding new offset monumentation, but wanted to say that decision applies to this case only and does not establish a precedent. McKinney agreed. Immorlica asked what the date would be for continuing the hearing. McKinney stated it would be June 14th. Spalding asked that Mullen get one copy of the updated plans to the board prior to the June 14th meeting so that the board could do a quick review and give feedback if necessary. McKinney asked if it might be possible for Mullen to have the revised plans back to the board prior to the Planning Board meeting on May 24th. McKinney asked the applicants if they agreed on continuing the hearing to June 14th at 7:00pm. The Viberts agreed, and the hearing was continued.

8:07 PM

McKinney opened the continued hearing for Brett Vaughn's subdivision on Purgatory Road. McKinney confirmed that the board had not yet accepted the application as of yet. Chad Branon came forward to speak on behalf of Vaughn. Branon explained he and Vaughn have been in discussion with the gun club concerning noise and safety. A noise study is being completed. Branon explained Vaughn has had time to reflect on the nature of the development, and is considering transitioning the subdivision into a traditional grid subdivision. Branon explained the number of lots would be reduced, but that land could still be preserved. Branon stated he and Vaughn are seeking the board's feedback on considering this other option. Branon reviewed the original proposal before the board (open space subdivision, 24 total lots, 22 new house lots). Branon stated the possible new proposal would be for a 9 or 10 lot traditional grid subdivision, with the lots being much larger. Branon stated

there's been a lot of work done and that they know where the district 1 and 2 soils are located, which means they know where they could have 2 acre lots vs. 5 acre lots. Branon stated they are still proposing to upgrade Purgatory Road and install a cistern, but they are looking at 9 or 10 lots. The plan Branon displayed showed 9 lots, but he stated one more lot could likely be fit in. Branon stated there would be some common driveways. Some of the larger lots are 12.4 acres, 10.3, and a 26 acre lot. Branon stated they may want to revisit some of the improvements on Purgatory road, but that he does believe they could still pave the road up to the cistern. Branon stated they also considered putting covenants on the property from a conservation standpoint. Branon showed a plan detailing what a conservation easement on the subdivision might look like, explaining they proposed about 30 acres of land being part of the conservation easement. Branon stated while it's not required, it would be a nice feature that is consistent with the previous discussions they've had with the Conservation Commission. Branon stated he and Vaughn are very interested in hearing feedback from the board on this possible new proposal. Branon stated that no matter which plan Vaughn goes with, they would continue working with the gun club. Aiston asked for more explanation on the idea of the conservation easement. Branon stated the land is not a separate parcel, but under a covenant that would be listed in the deed of each of the lots affected. Spalding stated for instance, a homeowner could not block a trail through the property. Immorlica stated she would like to see a group or organization taking responsibility for the conservation easement. Spalding asked if Branon was counting frontage on Upton road in the frontage calculations, or if he was just using Purgatory road. Branon stated that he was only using frontage from Purgatory Road. Branon stated 10 lots is the goal for the size of the subdivision. Aiston asked if they'd considered doing an open space subdivision similar to the original land but with 10 lots. Branon explained that marketing larger lots is what makes the new proposal work. Some people are specifically looking for large lots. McKinney asked how they'd come to determine the size of the conservation easement. Branon stated the size of the easement will provide the connectivity to the town own conservation land. Vaughn mentioned he'd been spending time walking the land over the past few months and noted that noise from the gun club could be a deterrent to land owners. Vaughn brought up the discussions he'd been having with the gun club about negotiating a 300 foot buffer for the gun club, with the intention of the club then improving the size and height of the existing berm. Vaughn stated the berm improvements would be helpful from a safety perspective, but also work towards mitigating noise. Vaughn stated this new proposal keeps the house locations closer to Purgatory Road and away from the gun club, which will also help with noise. Branon stated they are waiting for the results of the noise study to determine what the benefits from improving the berm might be. Immorlica asked if Branon and Vaughn planned to seek advance input from the Conservation Commission on the new proposal. Branon stated no, since it was not an open space proposal, but stated that perhaps the Conservation Commission could be asked if they were interested in holding the conservation easement. Branon stated he anticipated the Conservation Commission would support this new proposal based on the prior conversations they'd had with them. Branon stated they would seek Conservation Commission input if that's something the Planning Board would like to see. Branon stated this new proposal would be simplifying much of the process, from a drainage standpoint and an improvements standpoint. McKinney asked about the approximate lengths of the proposed driveways. Branon stated roughly 1000-1100 feet for the longest driveway. Branon mentioned prior discussions with the fire department concerning the installation of a cistern. Branon pointed out the original plan had driveways of similar length. Immorlica asked how the open space on the original plan compared to the new plan's conservation easement land. Branon stated the original plan had about 49 acres of open space, and currently the new proposed plan has 33 acres of conservation easement land. Branon stated it might be possible to get closer to 40 acres. Immorlica stated she'd like to see input from the Fire Department concerning the driveways. Vaughn stated the driveways will need to be approved by the fire department. Randy Wilson, a Fire Department representative in attendance, stated the important issues when considering a driveway are angle of access and width. Quinlan mentioned one advantage to the original plan was the open space design would curtail the possibility of development along Upton Road, which is a class 6 road. Branon stated there are placards which can be placed along the lines of the conservation easement area to indicate the land is under conservation. McKinney stated he is fine with the idea of a conservation easement as long as they don't get carried away with the restrictions of the easement. Quinlan stated the town can make this plan work, but that from a protection standpoint, the other plan was better. Branon stated from a maintenance standpoint, he thought the town might like the new plan better because they aren't proposing a new town road. McKinney stated he likes the new plan with fewer houses and less development. Quinlan stated he thought the new plan is laid out well. Immorlica stated she'd like the conservation easement portions of the lots to be handled so that people would need to run uses by the Conservation Commission. Branon stated typically

restrictions are against further subdivision, cutting anything other than for forestry management, or building structures. Branon stated passive recreation is typically allowed. Branon stated all that language regarding the easements would become part of the new proposal. Spalding stated that looking at the plan it feels very similar to an open space subdivision. Vaughn stated he felt this plan would be safer and quieter, keeping everything close to Purgatory Road. McKinney stated he could well imagine all the complaints about the gun club that might happen with the original plan; and that a lawsuit against the gun club could eventually come. McKinney mentioned how something similar had happened in Hollis and he hoped Mont Vernon could avoid that. Spalding mentioned the retention pond that's proposed to be built in the land on the south of Purgatory Road, and how a restriction would need to be placed on that land. Branon stated Vaughn still owns that land on the south side of Purgatory road. Branon also mentioned originally the retention pond was slated to be along Purgatory road but that they'd prefer a more "out of sight, out of mind" approach, keeping it tucked away helps keep kids from playing in it. Branon stated they'd already put in the road to where the retention pond will be located and that maintenance would be done by the DPW. Vaughn mentioned that the newer plan would have less runoff, meaning less maintenance. Branon stated a retention pond might not even be required with the new proposal. Immorlica stated she prefers this new less intensive plan, and hopes the conservation easement could be monitored by a 3rd party. Quinlan stated he felt the 3rd party monitoring would be going too far. Vaughn stated he felt that this new proposal felt more like the rest of Mont Vernon. Spalding made a suggestion for possibly making the conservation easement area an open space area. Spalding stated the lots would be smaller, but there could be common land for all the subdivision owners to access. Branon said he'd considered a modified open space idea, but stated they would need a waiver for curb cuts per the open space regulations. Branon stated they'd also have to add 3 or 4 more lots to offset the reduction in acreage. Immorlica asked since the town does not require a building envelope to be placed on the lots, what would prevent someone from buying a lot and putting the house 8 acres back. Spalding also mentioned someone might even want to put the driveway off Upton Road. Branon stated the conservation easement on the back of the lots bordering Upton Road would prevent both of those situations. Branon mentioned that the economics of a long driveway might also keep the homes close to Purgatory Road. Immorlica stated she liked the new proposal and agreed with Vaughn's comment about the new proposal looking like Mont Vernon. Quinlan gave the Selectmen's point of view. Quinlan stated the Selectmen are fine with development along Purgatory Road, but that they are concerned with the lands along Upton Road. They don't ever want to see development along Upton Road, and hope to see that land isolated and left alone. Quinlan mentioned again the original plan is a cleaner solution, since the land along Upton Road would be open space that could be owned by the Town. Branon stated the Selectmen could hold the conservation easement in the new proposed plan. Spalding mentioned the curb cuts again and stated that the regulations concerning curb cuts are in the Zoning Regulations, so a variance would be needed rather than just a waiver. Branon stated he thought he remembered receiving a waiver for curb cuts in the past. Branon stated that would take the open space option out of this discussion. The board discussed the relative size of lots, and whether a 5 acre lot is considered a decent sized lot. Immorlica disagreed, and stated if she were spending \$500,000 on a house she'd be much more likely to do so on a 10 acre lot, as opposed to a smaller lot. McKinney stated it will be good to have the conservation easement to help provide protection for Upton Road and protection for the gun club. McKinney stated the gun club is part of Mont Vernon and people have a right to enjoy that. Immorlica reiterated that she likes the new proposal and that she would like to have the new proposal reviewed by other town organizations. McKinney asked other members of the board for their opinions. Aiston stated he likes seeing fewer homes, but agreed with Spalding that the lot proportions seem odd. Aiston also stated that he doesn't have a problem with the new proposal. McKinney stated he prefers this proposal, with less impact and less density, and that he wants to see the protections provided for Upton Road and the gun club. Immorlica asked the AA if she had an opinion on the new proposal. The AA stated that when they'd moved from Milford, they wanted a larger lot; having space was important to them. The AA stated she could understand Vaughn's intent to market larger lots. Branon requested a continuance of the hearing. Immorlica asked Branon to get copies of the new proposal into the board prior to the next hearing date. Branon asked how things would be handled concerning submitting the new plan. Aiston stated that changes to the plan are considered a natural part of the process, so new information can be submitted and still be considered part of the original application. Aiston stated the changes need to be submitted 20 days prior to the hearing date. McKinney offered July 12 as a possible continued date. Branon asked if June was a possibility, and requested to continue to June. The AA stated that if they do plan on changing the design, the new plans would need to be submitted by May 25th to comply with the 20 days. Branon stated that if they choose to change the plan they will likely request another

continuance. McKinney stated the hearing date for June would be the 14th. McKinney asked Branon that if they decide to change the design to please contact the AA ahead of time so they could be removed from the June agenda, that way abutters aren't showing up for the meeting and getting frustrated because the applicant doesn't come. Branon asked what the deadline would be to submit plan changes for the July hearing. The AA stated plan changes would need to be in by June 22nd for the July 12 meeting. McKinney officially continued the hearing until June 14th. Branon and Vaughn thanked the board for their time.

9:15 PM

Immorlica asked Wilson from the fire department if he would be changing his recommendation on the cistern construction, based on the new proposal. Wilson stated he still didn't like the concrete design, and it didn't matter how many houses were proposed. Wilson would like to see the design be consistent with other already installed in Mont Vernon. Immorlica stated part of her reason for pressing on protecting Black Brook; she mentioned a lot on Dow Road that backs up to Purgatory Brook where a previous homeowner had clear cut all the way to the Brook. Immorlica stated much of the vegetation had grown back but that the current homeowner had cut it back again. Immorlica would not want to see something similar happen to Black Brook. McKinney asked for review of mail and announcements. The AA stated the NH OEP Spring Planning and Zoning conference is Saturday June 4th, and that registration is open until May 27th. The Planning Board covers the cost for the conference. The agenda for the day is available online. Immorlica asked if the event would be appropriate for the Zoning Board as well. McKinney stated there were Zoning topics slated to be covered that day. Quinlan asked the AA to mention the conference to the Zoning Board. The AA notified the board that former AA Jessica Weisberg is willing and able to take minutes for the two June Planning Board meetings.

9:21 PM

The AA told the board there were two meeting's worth of minutes to review. Immorlica told the AA she did not need a printed copy of minutes to review during the meeting because she reads them at home. McKinney asked if there were any amendments to the April 12 meeting. Spalding stated the minutes show him as being seated but that he was not there, so he asked for that amendment. Immorlica motioned to accept the minutes of April 12, 2016 as amended. Aiston seconded. All were in favor, the motion passed. Spalding abstained. Immorlica asked if there had been any further interest from new members. The AA stated she would send an email to the person she knew who had expressed interest. Immorlica stated she was concerned about there being only three people on the board. McKinney stated he would put another message out on Chatter on Facebook looking for new members. Quinlan motioned to accept the minutes from the April 26th meeting. Spalding seconded. All were in favor, the motion passed. Aiston abstained. Immorlica asked if when she reads future meeting minutes by email if she is able to reply with amendments. Quinlan stated she could mention the amendments by email but that no decisions could be made via email. McKinney stated that he would have information regarding accessory dwelling units ready for the next Planning Board meeting, since that's something the board will have to address this year. McKinney stated accessory dwelling unit regulations need to be reviewed to be in compliance with the new state regulations which go into effect July 2017. Spalding stated Mont Vernon currently calls accessory dwelling units "In Law Apartments". The board briefly discussed some of the likely necessary changes to the regulations.

9:45 PM

McKinney motioned to adjourn the meeting. Immorlica seconded. All were in favor, the motion passed.

Respectfully submitted,  
Amy Wyman  
Planning Board Administrative Assistant