

MONT VERNON PLANNING BOARD
Mont Vernon, NH 03057
MEETING MINUTES –Tuesday, May 24, 2016

AGENDA

7:00PM Mail and Announcements
Review of Minutes from 5/10/2016

7:15PM Review of revised plans for Vibert Subdivision
Map 3, Lot 13

7:30PM Accessory Dwelling Units

8:00PM Ray Shea, Informal Discussion on Wetlands Impact
Map 2, Lot 43

9:00PM Adjournment

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

7:00 PM

McKinney called the meeting to order. McKinney moved Mail & Announcements and the Vibert subdivision to later in the meeting, and stated Accessory Dwelling Units would need to be tabled to the next work session as he'd left the pertinent materials at work. Ray Shea arrived early for his scheduled time, so McKinney opened his discussion. Shea explained he was before the board to discuss a wetlands permit for Map 2, Lot 43, a 22 acre lot on Old Amherst Road. Currently the lot is undeveloped and the owner is looking to build a house on the property. There is a brook that comes down from the north that will need to be crossed by the driveway. Shea stated the brook is about 3 feet wide and dries up some in the summer. Shea stated it would encompass about 500 square feet of work area. There would be a 30 foot long culvert. Shea stated in the past they've oversized culverts and keyed them into the ground so it has a natural bottom; they are considering doing something similar for this project. The design has not been completed yet. Shea stated they would likely ask for the 1:1 mitigation to be waived because the brook is narrow and the only way to create more wetland would be to dig out around the brook which would cause more harm. Immorlica asked why the homeowner needed to come before the Planning Board; Shea pointed to the regulation in the wetlands zoning, II-402 and II 402.1 which states that "streets, roads, and other access ways and utility rights-of-way easements including power lines and pipe lines, in existing or proposed lots." Are "USES NOT ALLOWED WITHOUT PLANNING BOARD APPROVAL IN WETLAND CONSERVATION DISTRICT" Spalding stated that typically these reviews came up as part of a subdivision application, but this is coming up as a single family home. McKinney asked what the overall length of the driveway would be. Shea stated it could be approximately 1100 feet. McKinney stated he'd like to review the driveway for fire department issues. Shea stated he was aware of the NAFTA guidelines for driveways and would make sure it meets requirements. McKinney stated a driveway that long would require a turnaround area and possibly a pull off area somewhere along the driveway. Spalding asked how far along they were in the design. Shea stated they still need to do the drainage calculations, but that what he'd presented in this early design is likely how things will look. Spalding stated the board would want to make sure there is no upland or downstream flooding. Shea stated the sizing of the culvert will be important. Spalding asked if the applicant would need to go to the state. Shea stated there is no mitigation through the state, and no alteration of terrain permit because of the small size. Shea thanked the board for allowing him to present early, and left a copy for the board. Shea stated the formal application would likely be in another month or two.

7:18 PM

Rolf Biggers came to the Planning Board meeting to discuss the issue of his attempt to build a garage at The Mont Vernon at 26 North Main Street. McKinney stated he'd received an email from former Chair Chris Aiston concerning the discussion. A copy of the email is attached to these minutes. McKinney stated the board needed

to take a second look at the property, and determine whether the Planning Board has jurisdiction over the site. McKinney stated at the moment, the property is being used as apartments rather than condos, which means it is a commercial use rather than a residential use. McKinney stated the board understands the intent has always been for a residential use, which means the board has limited jurisdiction. The Administrative Assistant (AA) took out the minutes from a previous discussion with Biggers concerning the garage, back from October 2015. Biggers stated he's looking to build a 2 car garage where a cottage previously stood. The cottage had been burned down over 2 years ago as a training exercise for the MV Fire Department. Biggers wants the new garage structure to be within the setbacks, to stay away from the fire department access lane and the water lines. Biggers explained that the variance he'd received from the ZBA back in 2008 (which allowed for a setback of 12 feet) was originally to add a garage on to the cottage (which now no longer exists). Biggers confirmed he does not want to reconstruct the cottage, he only wants to build a 2 car garage. Biggers asked if the building permits on the Mont Vernon still being active would help his case for the garage. McKinney stated his concern is that the 2008 variance is for an addition to a building that no longer exists, and has not existed for over two years. McKinney explained that when the non-conforming building (built within the setbacks) was taken down, it became a discontinued use. A property owner has 1 year from the date the building was removed to rebuild in-kind, to continue the vested rights for the property. McKinney stated that since it has been well over the 1 year, the vested rights have been discontinued. Biggers stated he's had active permits at The Mont Vernon all along, and hoped the Planning Board would consider it under their purview to allow the garage to proceed. McKinney stated it is not under the board's purview because it is a zoning issue, and the board cannot waive zoning requirements. McKinney reiterated that since it has been more than 2 years since the cottage was burned, it is a discontinued use, and would now need a variance. Biggers again mentioned the active building permit for The Mont Vernon, and asked if the board could interpret that permit as covering the construction of the garage. McKinney stated Biggers does not have an active permit for the proposed garage, and that would not misinterpret the law. McKinney stated he felt like the safest option would be to follow the conditions of the 2008 variance and build a structure 12 feet from the property line. Biggers asked what he would need to do next. McKinney stated he felt that there was more research to be done on vested rights and didn't feel like the board should decide that evening. McKinney stated that personally he felt like Biggers should go before the ZBA again for a variance, since the new setback would be 5 feet not the 12 feet the ZBA approved in 2008. Biggers asked if he should come back to the next meeting. McKinney stated he doesn't feel like Biggers needs to come back, he just needs a written opinion on whether it is legal to continue with his plan. McKinney reiterated he feels that since it is a residential use, Biggers needs to go to the ZBA for a variance. McKinney stated the research needs to be whether the building that's been gone for more than 2 years still has any vested rights. Quinlan asked if the board should just say the best plan would be for Biggers to go before the Zoning Board. Spalding stated Biggers seems to have a very strong case of why he should be able to build a garage 5 feet from the setback. Biggers asked if the board would give an opinion to the ZBA in support. McKinney stated the Planning Board can't sway the ZBA, but that he can give an opinion as to why he needs to go to the ZBA. McKinney mentioned again the discontinued use of a non-conforming structure. Quinlan agreed that Biggers has a strong case. Immorlica pointed out that the 2008 Variance has expired. She pointed to I-502.3(a), which states, "That if construction is necessary, said construction must be commenced within six (6) months of the date of issuance of the exception or variance, and completed within one (1) year of said issuance, or the exception or variance shall expire of its own accord without further action by the Board." Biggers argued that again that the building permit is still active and that phased construction takes place over time. Spalding stated he would need to make the case to the ZBA, since it falls under their control. McKinney stated he will review the land use law and write an official opinion. Quinlan suggested getting on the ZBA agenda for June. The AA explained the deadline to be heard at the June 21st meeting would be next Wednesday June 1st. Spalding asked if the ZBA was open for someone to come in for an informal discussion. The AA stated the Zoning Board currently only meets when an application is submitted. Quinlan asked who the new ZBA chair is. The AA stated it is Sheila Sturm. Quinlan stated it is at the discretion of the Chair as to whether the ZBA could meet for informal discussions. Immorlica suggested Biggers discuss his plans with the fire department to get input. Biggers stated he plans to talk to Jay Wilson the fire chief. Immorlica stated she felt Biggers is safer going to the ZBA to get their legal decision. McKinney stated he would communicate with the Building Inspector so that he knows what the Planning Board has discussed.

7:54 PM

Quinlan asked how the Zoning Board hearing the previous week had gone. The AA stated the applicant was

granted the special exception. Quinlan asked for a copy of the Zoning board minutes. The AA stated she would leave a copy with Laurie Brown at Town Hall. McKinney asked the AA to get the revised Vibert plans so the board could review them. Spalding noted they'd included the second page with the total site map. McKinney stated one of the notes was not worded in the way the board had discussed at the previous meeting. McKinney stated the note mentions subdivision, but that it should indicate development, not just subdivision. McKinney asked the AA to send a message to Mullens and ask for the correction from subdivision to development. The AA stated she would send the wording from the minutes again. The AA read the conditions from the last minutes, "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" Condition 3: "Prior to any future development of 3-13, a full perimeter survey would be required." Immorlica asked if there were any other comments other than correcting note 8, and herself noted that the Registry of Deeds usually only wants plans submitted in black. Immorlica asked the AA to tell Mullens he needs to meet the registry of Deeds plat requirements for submission. Immorlica noted there was a correction to the minutes, because lot lines cannot be determined by GPS, which is what was mentioned in the minutes. Spalding asked the AA to let Mullens know the board will need an electronic copy of the final plan to send to NRPC. Immorlica also asked for Mullens to bring a Mylar copy for signing. Immorlica asked about the Vaughn subdivision application, and wanted to know if Vaughn would need to go before the Conservation Commission again if his plans do change. Spalding noted the board still does not have an accepted application, and once that does happen things will proceed from there depending on what the submitted plan ends up looking like. The AA mentioned she planned on sending an email to Chad Branon, reminding him that if Vaughn need to ask for a continuance, to please let her know ahead of time so that the agenda can be correct. The AA reminded the board she would not be attending the two June Planning Board meetings and that Jessica Weisberg would be taking minutes. Immorlica asked if anyone else was attending the NH OEP Spring Conference. She stated she and her husband, Zoning Board member Tony Immorlica, were planning on attending. Quinlan asked if registration was still open, and the AA confirmed it was open until the 27th. The AA proceeded with other mail and announcements, and stated there had been an email from Matt Schwoegler concerning the board's prior discussion over expanding the Historic District. Schwoegler was concerned if his property on Old Amherst Road was included if it would affect their ability to have chickens and goats. McKinney offered to reply to Schwoegler's email. Immorlica stated she'd seen McKinney's request on Mont Vernon Chatter for more Planning Board members. Immorlica asked if McKinney was attending the NRPC transportation event and if he wanted Planning Board feedback. McKinney stated he is attending the event on June 9th. Quinlan stated he doesn't feel like Mont Vernon will have any concerns in the meeting, and that it will likely all be about plans for Nashua and Merrimack. Quinlan stated it might be worth mentioning the idea of having 122 continue through Amherst and Mont Vernon to tie into other state roads out in Franconstown.

8:42 PM

The board reviewed the minutes. Immorlica noted a correction. Spalding motioned to approve the minutes as amended. Quinlan seconded. All were in favor, the motion passed. McKinney asked the AA to formally set up the second meeting of the month as a work session, and keep appointments with people for the first meeting of the month, as the board has a lot of work to do between the Mixed Use zoning and the necessary adjustments required in Accessory Dwelling Units (In Law Apartments). The AA made note of McKinney's request. The board briefly discussed Accessory Dwelling units. Immorlica asked the AA to start including a task list on the bottom of the agendas again, to help keep the board on track. Immorlica mentioned the Vaughn subdivision again and noted that if the plan does change, the AA will need to resubmit requests for an engineering review. Immorlica also asked if the board wanted to ask the Conservation Commission about having a trail making day for the trails off of Bancroft Circle, because that trail is currently impassable. McKinney stated he thought that was a good idea. Spalding asked if that land was deeded to the town. Immorlica stated yes.

9:00 PM

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

Respectfully submitted,
Amy Wyman

Planning Board Administrative Assistant