

**Mont Vernon Planning Board
Public Meeting Minute
May 14, 2019**

AGENDA

Times are approximate and subject to change without notice.

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| 7:00 pm | Public Hearing – Proposed Amendment to a
Lots 6-16-2-1
through 6-16-2-4 | Recorded Subdivision - Roberge, Map 6, |
| 8:15 pm | Justin Dufoe, 11 Margaret Circle
Discussion on Possible Subdivision | |
| 8:30 pm | Proposed Town Center District Ordinance Review | |
| 8:45 pm | Other Business
Mail & Announcements
Review Minutes from 4/23/19 | |
| 9:00 pm | Adjournment | |

Seated: Bill McKinney, Bill Johnson, Steve Bennett, Tim Berry

Present: Charles Baker, Rebecca Schwarz, Michelle Riesselman

7:00 PM – Public Hearing on Proposed Amendment to Recorded Subdivision

McKinney called the meeting to order and had everyone stand for the Pledge of Allegiance. **Bennett** motioned to open the public hearing seconded by **Johnson**. All in favor. **McKinney** asked to hear from the Roberges. Kim Roberge said that they were here to discuss having their 2005 recorded plan amended so as to not be required to install a sprinkler system on their new build. They want to hear from the Fire Chief. **McKinney** stated that in reviewing our ordinance he found nothing in the Municipal Zoning Ordinances or Planning Board Regulations that requires sprinklers, which leads us to believe that the sprinkler requirement is a fire code requirement. **McKinney** asked Fire Chief Jay Wilson for his position on this. **Johnson** asked when this was approved, was there a requirement for the property to be sprinkled. Chief Wilson said that the state had the requirement at that time. **Berry** asked if there was the option of either sprinklers or a cistern. Chief Wilson said that they would give the option of either sprinklers or a cistern to the developer building the property. If the developer was doing all the building himself it would be more beneficial to put in cisterns. If the developer was just selling off the lots and not developing, they would stipulate that the house must be sprinkled, which is what is currently happening on Purgatory Road and Carriage Circle. Roberge said that they had initially put in for an open space subdivision to try to develop almost all of their property. They submitted to the Planning Board for a 5 lot subdivision. They then backed off to a 4 lot subdivision. She said that it was only actually a 3 lot subdivision because lot 6-16-2 is already a lot of record. Therefore they were only adding 3 additional building lots to that. They could not find anything based on a fire code that was adopted by the state that required sprinklers on something like that. They started their subdivision in 2003 and ended in 2005. They researched the Town of Mont Vernon's Subdivision Regulations which were published in 2004. Between 2004 and 2010 they were revised 6 times. They cannot find what the amendments were back in 2004 while they were going through this subdivision. They also looked at the Appendix A which gives the requirements of major or minor subdivisions to see when possibly that changed. They took note that in the Subdivision Regulations, III605.1(b) Preliminary Phase, #18 states that the preliminary plat(s) shall contain the location of fire ponds, if any; #19 requires access for fire-fighting apparatus. These additions are in a different font; they don't know when they were added. They could not find any other mention in our regulations regarding fire or fire suppression. They feel the safety of all homes in the Town of Mont Vernon is important to them. They just do not believe that they should be nor should have been held to a different level of subdivision or safety requirements then or now. That is why they are looking to remove Note #17 from their recorded plan. (Note #17 states *'All dwellings constructed on lots shown here shall be protected against fire hazards by the design, installation and maintenance of automatic sprinkler systems in accordance with requirements of the 1999 edition of NFPA 13D. Acceptance of the automatic sprinkler systems shall be a condition for issuance of any certificate of occupancy by the Mont Vernon Building Inspector. Further, this requirement shall be cited in the deed for each building lot as an obligation passing the ownership of said lots.'*) Kim Roberge went on to say that the state adopted RSA (2011) prohibits the requirement of sprinkler systems for one or two family dwellings. They do note that a municipality has the ability to set a regulation requiring other means of fire protection, just not a sprinkler system. Kim Roberge made note that at around the same time their subdivision was done, Wallace Lane was done right down the street from them (2002). That subdivision had no notes on the recorded plan stating that their homes had to be sprinkled. Those homes are

sprinkled, but that is a private road. There were 3 new lots directly across from their existing home that were subdivided as well. The Planning Board notes state that fire safety should be discussed with the Chief. The minutes state that the Fire Wards recommend the houses to be sprinkled and the developer will recommend to the new owners. That did not take place on those 3 homes. In 2004 a 2 lot subdivision was done within 300 feet of these lots. There was no discussion of sprinklers in the minutes, no notes. In late 2005-2006 a 3 lot subdivision again was done on Salisbury Rd. The only notes from the Fire Dept. recorded on the plan are in regard to the width of the driveway for the fire apparatus and they are further down Salisbury Rd. towards Wallace Lane. They are aware that Marden Way homes are sprinkled but that is a private road. Carriage Circle is sprinkled. When Bancroft Circle went through the subdivision process it was a 21 lot open space subdivision. The options on that plan say a cistern or a sprinkler. Purgatory Road has the sprinkler requirement on the plan. Roberge noted that Mont Vernon is 16.91 square miles. The average town in Hillsborough County is 28.78 square miles. Their lots are within 2000 feet of a dry hydrant that was deeded to the Town. This hydrant does not work. Their lots are only 3.2 miles from the fire station with a dry hydrant on Beech Hill Road. There is also one at the end of Salisbury Road that is on the Lyndeborough sub-section of it. They cannot believe that it is not within the norm in Hillsborough County to have approved lots that are not sprinkled that are within 3.2 miles from a fire station. They know that Chief Wilson feels very strongly about this. They've had Meridian work on things for them; they've spent multiple hours with their attorney. They are vested in the community. They believed that this was creating 3 new lots and not considered a major subdivision. In 2011 the Planning Board approved a 3 lot subdivision on the corner of Old Amherst Road and Mason Road. There was no mention of sprinklers being needed. **Bennett** responded that the Roberges have created 4 lots, not 3 lots. Steve Roberge said they took their main lot and subdivided it in half. Then they divided that half into 3 more lots. They discussed possibly doing a lot line merger and pulling Lot 6-16-2-1 back into their original house lot, Lot 6-16-1. **Bennett** stated that he finds it difficult to believe that this is the first time they realized that they had to sprinkle. We have a recorded plan. There is mention in the minutes that the Roberges were present at. Setting that aside, what would be required for fire protection if they were just building a house there now. Chief Wilson stated that if it's a single piece of property being developed they cannot require sprinkler systems anymore. If it's a large scale piece of property, which in this case it is as a major subdivision, that's where negotiations with the Planning Board come into play, same as was done with Orchard Hill on Purgatory Road. That developer was given the option of putting in either a cistern or sprinkler systems. Chief Wilson would recommend to anyone to put sprinkler systems in their home. A second preference would be to put in a cistern Third preference would be to put in a fire pond with 50,000 gallons or more. The NH Fire Code requires 10,000 gallons within 1000 feet of the dwelling. **McKinney** asked Roberge how many feet these lots are from a dry hydrant. Chief Wilson said that hydrant needs to be redone because it wasn't put in properly when the Society for the Protection of Lands did it. That was done privately and never accepted as a fire pond. **McKinney** stated that the Town of Mont Vernon never had a sprinkler ordinance. We rely on NFPA 1 for fire protection for residential occupancies. Chief Wilson said we used to have a cistern ordinance in town which was conveniently lost. He said this is a real issue - while nothing personal against Roberge, once again it comes down to a Selectman forcing their personal agenda to get something done. He understands what the Roberges are talking about and how it affects them. But when you take a position of authority in town you have to abide by the rules set forth. These recorded plans have sprinkler requirements on them. There should be no further discussion; sprinklers get put in, end of story. If they want to option out and put something in such as a cistern that is something that they could talk about. **Johnson** noted that he lives on Carriage Circle which was developed in early 2000 and there are sprinkler requirements there. Kim Roberge stated that has nothing to do with their subdivision. She stated emphatically that they personally did not know that the sprinkler requirement was on their plan. They don't agree with sprinklers; they think it's of no benefit to the town. They think it allows the person who owns the property to be able to pass it on to the builder and then on to the homeowner. It doesn't benefit any other member in the Town of Mont Vernon. There is a dry hydrant there that could benefit the home they purchased and it's not working. They don't understand why. If we allow people to put sprinklers in homes as opposed to putting cisterns in, maybe it's benefitting their house, but there is only a certain amount of gallons in there. Whereas, a cistern could benefit lots of surrounding homes. Again she stated that by doing the lot line merger they are moving into a minor subdivision and therefore, sprinklers would not have been required then or now. **McKinney** asked can she prove to him where it states in the ordinance that sprinklers are not required for a minor subdivision vs a major subdivision. Steve Roberge said he can't find a difference between a major or minor subdivision in anything. **McKinney** believes there is no difference in the view of the Fire Code of a minor subdivision or a major subdivision. When it comes to the Code, it is the distance from fire protection. Whether a community has a sprinkler ordinance, a Planning Board requirement for sprinklers, again by default, if you do not have that you fall back to what the State Fire Code declares. That authority is granted to the Fire Chief who may make those requirements on a subdivision plan. Someone agreed to this and signed and recorded the plan on this subdivision. Some form of fire protection needs to be provided within 1000 feet of this residence in accordance with the Fire Code. Kim Roberge stated that the NFPA is a standard, not a law. It has not been adopted by the state of NH. Chief Wilson stated that the state of NH **has** adopted the NFPA requirements and the codes. He stated that a residential sprinkler system is not a protection system for other people's homes. It is a life safety protection for the occupants of that dwelling so if something goes wrong inside their house they have the chance of getting out alive. Sprinklers save lives. Fire evolvments use to double in size every few minutes; now it's down to every thirty seconds. Fires are increasing in size, toxic fumes are increasing because of what we build with and what we put in our homes today. He reiterated that it's a written requirement on the plan. We should be going no further than to say put in the sprinkler system. He is extremely troubled that town officials are trying to circumvent the rules. If town officials can circumvent the rules, why should any other citizens in this town follow the rules? Kim Roberge said neither she nor Steve are sitting here as town officials trying to circumvent any rule in any manner. The State of NH list of adopted building and fire codes, NFPA 1, is for all occupancies except for one and two family dwellings. **McKinney** stated that we have a site plan. Regardless of how the requirement came about, any of our emergency services departments can request certain conditions be placed on a plan. That goes through the public hearing process where both parties are heard from and decisions are made as to what is going to end up on that plan. In this case, a sprinkler system was requested. It was discussed in a public hearing. It was agreed to by all parties. You have a note on a plan that requires it. We can't waive that. The only way to change that is through a site plan

amendment, which you have not submitted yet. Therefore we cannot make any decisions here tonight. We can only take under advisement your testimony and the Fire Chiefs. **McKinney** recommends that the two parties get together and negotiate what they are going to do and what they will allow for. Kim Roberge feels that they should not be held to a different standard than anyone else. **McKinney** stated that the current Board cannot answer for what prior boards have done or agreed to or what was approved by them. He can attest to what the Board has done with the past two subdivisions. One is Old Mill Estates where cisterns were installed in accordance with what the Fire Department required. Roberge said those are within 2000 feet of the dwellings, not 1000 feet. Chief Wilson said that Old Mill Estate development started about 15 years ago, before the 1000 foot requirement came into play. **McKinney** went on to say that the other subdivision is Orchard Hill Estates. The requirements were cisterns in accordance with the Fire Department or residential sprinklers. The Developer elected to install residential sprinklers and the Board required that be put on every deed. The reason for this is so that the message doesn't get lost; the purchaser of the property knows that they have to sprinkle. **McKinney** went on to say that the RSA that prohibits residential sprinklers in one and two family dwellings was amended in 2012 to recognize that in lieu of sprinkler systems, fire protection had to be provided whether thru cistern, fire pond or by offering sprinklers. It is very clear in the state statute that fire protection is required. How you achieve that fire protection is still left up to the home builder. There is precedence there that says that in residential developments fire protection has to be provided. **Berry** asked are we better off to revoke this subdivision and have the Roberges start all over again? They're talking about changing the number of lots and manipulating things around which may be foolish because it seems that there is a requirement to have fire protection regardless of how many lots there are. **McKinney** noted that the tough part with trying to revoke this subdivision is that there is a building permit and building already on one of the lots. Revoking the plan would mean revoking the building permit that is in place now. The best solution here would be a compromise between the Fire Chief and the land owner that all can live with. Kim Roberge said that they don't want to go to the expense of having Meridian move lot lines and absorb one lot back into the mother lot to then come back here and have this Board stand on a different standard than they have in the past, which would be not requiring sprinklers. **McKinney** stated that we are not holding them to any different standard than anybody else other than what is agreed to on their plan. The Board is bound by that signed recorded plan. **McKinney** asked if we have a completed application for the subdivision amendment. **Johnson** reviewed the application and noted that we do not have the 5 copies of a revised plan required 20 days in advance of the hearing. The application is incomplete and the submittal requirements are incomplete. **McKinney** concurred. He stated that as they are incomplete the Board can vote to take a position on this now, or at the request of the applicant, we can continue the hearing to a later date. The Roberges asked for a continuance. The date of July 9, 2019 was agreed on for the continued hearing. The revised plans and all information will need to be to us by June 19, 2019. **Bennett** motioned to continue the hearing to July 9, 2019 seconded by **Johnson**. All were in favor the motion passed.

8:25 PM Proposed Town Center District Ordinance Review

McKinney tabled this until next meeting.

8:30 PM Other Business

Mike Fimbel is planning on resigning as the Planning Board Rep to the NRPC. We will need to nominate a new representative. The Select Board has requested that we elect Tim Berry as our representative. The actual procedure is for the Planning Board to first nominate someone and then the Select Board appoints that person. The Planning Board will need some form of resignation in writing from Mike Fimbel. **Johnson** motioned to nominate Tim Berry as the Planning Board Representative to the NRPC seconded by **Bennett**. All in favor, the motion passed. The Board reviewed the minutes from April 23, 2019. **Bennett** motioned to accept as written seconded by **Berry**. All were in favor, the motion passed. **Schwarz** gave the information from the subcommittee on the Master Plan Facilities chapter. **Schwarz** questioned if we want to pull the Village School into this chapter. The Board agreed that we should incorporate it into the chapter. It is part of the town wide Master Plan. **Berry** and **McKinney** want it added that there was a comprehensive study done in 2017 on the town buildings and a major renovation is being planned. It was recommended for the Town Hall that for better efficiency, all town business offices should be under one roof, including the Town Clerk. The McCollom Building will be converted primarily to a Police Department. The Library was purchased by the community to be used for meeting room space and business offices, to be determined at a later date.

8:45 PM

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

Respectfully submitted,
Joan Cleary