

Monkton Selectboard
Hearing on Planning Document
Monkton Fire Station
October 30, 2017

Members present: Steve Pilcher, Henry Boisse and Anne Layn.

Towns people: Anne Miller and Phil Russell.

Meeting was called to order at 7:01pm. Questions and conversation took place about concerns to the document for 30 minutes.

Anne Miller was interested in finding out the process in which concerns were brought to town and who was the contact person. Phil shared his concerns with two issues.

1. The language of the small lots.
2. The first cut and how it was written.

At 7:30 pm the Board took testimony.

P. Russell referred to Page 45 section 400 (C) Non-conforming lots

Small lots call for a 50 ft setback per document. In the Vermont Statutes Title 24 §4412 states existing small lots with 40 ft. width and depth and at least 1/8th of an acre can be developed. Waivers would be needed (see attached).

P. Russell also testified that first cut provisions were not tied to ownership per previous document and testimony of Ken Wheeling at previous hearing.

Adjourned at 7:39

Submitted by

Anne Layn

(G) Flood or other hazard areas and other places having a special character or use affecting or affected by their surroundings.

(4) To regulate, restrict, or prohibit uses or structures in overlay districts, as set forth in subdivision 4414(2) of this title.—Added 2003, No. 115 (Adj. Sess.), § 95.

HISTORY

Prior law, 1969, No. 281 (Adj. Sess.), § 14; amended 1973, No. 147 (Adj. Sess.), § 6; 1983, No. 249 (Adj. Sess.), § 1.

§ 4412. Required provisions and prohibited effects

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

(A) No bylaw shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under subdivision 4382(a)(10) of this title.

(B) Except as provided in subdivisions 4414(1)(E) and (F) of this title, no bylaw shall have the effect of excluding mobile homes, modular housing, or prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded. A municipality may establish specific site standards in the bylaws to regulate individual sites within preexisting mobile home parks with regard to distances between structures and other standards as necessary to ensure public health, safety, and welfare, provided the standards do not have the effect of prohibiting the replacement of mobile homes on existing lots.

(C) No bylaw shall have the effect of excluding mobile home parks, as defined in 10 V.S.A. chapter 153, from the municipality.

(D) Bylaws shall designate appropriate districts and reasonable regulations for multiunit or multifamily dwellings. No bylaw shall have the effect of excluding these multiunit or multifamily dwellings from the municipality.

(E) No bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

(i) The property has sufficient wastewater capacity.

(ii) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.

(iii) Applicable setback, coverage, and parking requirements specified in the bylaws are met.

(F) Nothing in subdivision (1)(E) of this section shall be construed to prohibit:

(i) a bylaw that is less restrictive of accessory dwelling units;

(ii) a bylaw that requires conditional use review for one or more of the following that is involved in creation of an accessory dwelling unit:

(I) a new accessory structure,

(II) an increase in the height or floor area of the existing dwelling, or

(III) an increase in the dimensions of the parking areas.

(G) A residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another existing or permitted such home.

(2) Existing small lots. Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw.

(A) A municipality may prohibit development of a lot if either of the following applies:

(i) the lot is less than one-eighth acre in area; or

(ii) the lot has a width or depth dimension of less than 40 feet.

(B) The bylaw may provide that if an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot.

under Section 360. For purposes of these regulations, any structural alteration that extends the footprint, height or volume of a structure within any required setback or above the required maximum height (i.e., the amount of encroachment), shall be considered to increase the degree of noncompliance. Any structural alteration of a nonconforming structure that extends the footprint, height or volume of a structure outside of any required setback or below the required maximum height shall not be considered to increase the degree of noncompliance.

3) May be repaired, restored or reconstructed after damage from any cause provided that the repair or reconstruction does not increase the degree of noncompliance which existed prior to the damage, is commenced within one year of the date of the event that led to the damage, and is substantially completed within two (2) years of the damage or destruction. The Developmental Review Board may, on appeal, grant a one (1)-year extension to this deadline upon a determination that the delay was unavoidable and that the owner had acted to substantially complete the repair, restoration or reconstruction within the initial one (1)-year period.

4) Nothing in these regulations shall be construed as allowing the continuation of a use or occupancy of a structure that has been declared by an appropriate governmental authority (e.g., Health Officer) to be unsafe or to pose a threat to public health or safety.

C) Non-Conforming Lots (existing small lots)

In accordance with the Act [§4412(2)], any lot in individual and separate nonaffiliated ownership from surrounding properties, lawfully in existence as of the effective date of these regulations which does not meet the minimum lot size requirements of these regulations, may be developed for the purposes permitted in the district in which it is located if all other applicable requirements of these regulations, including setbacks, are met; however, development is prohibited on existing small lots which either:

- (1) Are less than one-eighth (1/8th) acre in area; or
- (2) Have a width or depth dimension of less than 40 feet.

Section 405 – Maintenance of Non-Conforming Buildings

Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-conforming building provided that such action does not increase the degree of non-conformance

Section 410 – Special Public Use Exceptions

Pursuant to 24 V.S.A. Chapter 117 §4409, unless these regulations make reasonable provisions for any of the following in any of the Zoning Districts outlined herein, the following uses may only be regulated with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-road parking, traffic, noise, lighting and loading facilities and landscaping or screening requirements and only to the extent that the regulations do not have the effect of interfering with the intended functional use:

Monkton
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