

Town of Northumberland  
Planning Board  
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**Planning Board Members Present:** Melanie Eggleston, Lisa Black, Holly Rippon-Butler, Vice Chair Heber, Jeff King, Brit Bassinger, David Williams, Michael Haag and Chair Susan Martindale

**Members Absent:** None

**Town Employees Present:** Dave Brennan, Town Counsel, Michael Terry, Code Enforcement and Tia Kilburn, Clerk

Chair Martindale opened the meeting and addressed all in attendance and asked them to stand and salute the flag at 7:00 pm. Quorum established.

Chair Martindale announced new business **application #: 0009-23, Peter Wells, POA for Joyce Wells, Minor 2 lot subdivision, West River Road, Agricultural District, SBL#: 91.-1-19.11.** She asked Mr. Wells to present his proposal to the board.

Mr. Wells introduced himself to the board and stated he had power of attorney for his Aunt Joyce Wells, who is in assisted living and has outlived her long-term care policy of 20 years, so he would now like to sell some of her property to continue paying for her care. He explained it is approximately 155 acres, Chair Martindale asked how many lots he was proposing, Mr. Wells responded one, the Clerk interjected he is going to make it two lots. Vice Chair Heber asked if they were separate now. Mr. Wells said they are keeping the front with the house and barn and selling the back part. Chair Martindale asked the address, Mr. Wells replied 1313 West River Rd. The Board reviewed the map, the lines on the map for the division were estimated and unclear. Mr. Wells presented a different map showing the acreage currently rented by a farmer. The Clerk stated he will be getting a survey. Vice Chair Heber stated the Board needs to know where the line will be, Mr. Wells was unsure, discussion ensued. Mr. King asked Vice Chair Heber to clarify, there are two big parcels, Vice Chair Heber said Mr. Wells wants to divide across the back of each lot somewhere and keep the frontage on the road. Mr. King asked if the two parcels together would be 155 acres? Mr. Wells said no, there is a natural line across the parcels, a hedgerow. Vice Chair Heber said they cannot land lock it, how will they access it? Mr. Wells said there is a 60' right of way. Vice Chair Heber discussed the division with Mr. Wells and explained to the Board approximately where the line will be so the back of each lot will be combined and have a right of way to it as one parcel and Mr. Wells will keep the front of both lots. Mr. King stated they need a map that show that. Mr. Wells said the Town Clerk had given him a map that shows the right of way, Mr. Peck (farmer renting it now) had it surveyed and said it is 155 acres. The Clerk asked if he could get the survey map from Mr. Peck, Mr. Wells said he didn't say he had a map. Vice Chair Heber pointed out the approximate line and asked where the right of way was. Mr. Wells showed him on the tax map. Ms. Eggleston asked if the lots would be sold separately, Mr. Wells said no just the back the front is left to him. Discussion ensued on removing the line separating the parcels and cutting the back, with the right of way from the front lot with the house and barn. Vice Chair Heber said if they wanted to consider it, it would be a lot line adjustment, it is taking the middle line and turning it sideways, because there are two lots there now and there will be two lots after. Ms. Eggleston said it is the ag district, what is the smallest lot going to be? It was determined, by the map showing all the farm field acreage, it would be 18 to 20 acres left with the house. Vice Chair Heber said he did not think it would be a subdivision, it could be processed as a lot line adjustment. Discussion ensued and Vice Chair Heber reviewed page 34 of the subdivision book regarding lot line adjustments. Mr. Bassinger asked if the same person owned all of it, Vice Chair Heber replied yes. Mr. King agreed it was a lot line adjustment, Vice Chair Heber stated because they are not making anymore lots. Mr. King said it gets easier, but they still need better maps. Mr. Wells asked where he gets them, Mr. King said after the survey and then he can bring that back. Vice Chair Heber said it is up to the Planning Board if they want to waive the public hearing, for the lot line adjustment.

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Mr. King said if it is a lot line adjustment, they need to get maps, with the lots drawn on it and they really can't do much here tonight. The Board agreed. Ms. Eggleston asked if they needed a public hearing, Vice Chair Heber said there is no public hearing, they can waive it for a lot line adjustment. The Clerk asked if there was a motion to waive it? Vice Chair Heber stated they must approve the request for a lot line adjustment. Chair Martindale asked if they needed the maps to do that? Vice Chair Heber said basically he needs approval to go ahead with a lot line adjustment and not a subdivision and he has to come back with the map.

Mr. Brennan asked if they could go through the requirements of a lot line adjustment before they move on? Vice Chair Heber said it was a little confusing, it was something that he had a hand in writing, he said it was simple and then they changed it. He said if they want to read it, it is on page 34 in the subdivision book. Vice Chair Heber said how it was supposed to be, if it was not previously subdivided it could go with a lot line adjustment, but if it was previously subdivided, it has to go through the subdivision regulations. Mr. Basinger asked if it has been 20 years since those lots were subdivided, Vice Chair Heber said it has been more than 20 years, Mr. Wells interjected his aunt is 92 and her mother owned it before that. Mr. Basinger stated he agreed it was a lot line adjustment. Mr. Brennan asked if they could look at the subdivision book, he said it has to meet 4 tests; one of which is the *conveyance of a portion of one parcel to an adjoining parcel*, he said that is not happening, you are not just adjusting one line you are not sliding it over and adding to a parcel, you are flipping the line and completely reconfiguring the lots. Discussion ensued. It was determined based on the reconfiguration of the lots this application would be a subdivision. Mr. Brennan explained it is not really a big deal, they still need a map and another meeting to go through, but it is not a lot line adjustment. He added it will need a public hearing, that doesn't mean the room will be filled but they have to go through it. Vice Chair Heber said the intent when they wrote it was supposed to be easy, he was there when they wrote it and it was meant to be so the farmers did not have to go through the subdivision requirements when they sold or combined land. Mr. Brennan said he has seen a lot of Towns with similar provisions but he has never seen one that radically reconfigures lots for a lot line adjustment, he has seen places that get two lots and freebies with no real process for farmers, if they want to sell road frontage to get some money but he has never seen where you take a perpendicular line and flip it. Mr. King agreed and said he doesn't think they should argue with their attorney, and it should still be relatively the same process. Mr. Brennan said he is not saying it won't pass, he is saying they must follow the regulations. Vice Chair Heber agreed and said whatever the Board wants to do. Mr. Williams read from the subdivision book, requirements for a subdivision.

Mr. Wells said he is getting a survey, Vice Chair Heber stated it will be a minor subdivision, Mr. King said they can move forward with that, and they need the map. Mr. Wells said he will get the survey and give it to the Clerk, Mr. Williams said the subdivision book tells him exactly what he needs, Mr. Wells said the Clerk will help him with it. The Clerk agreed and suggested he come in the office the next day and she can help him.

Chair Martindale announced the next item on the agenda; **application #: 0010-23, Minor subdivision, Gloria Cooney, 1033 West River Rd, Agricultural District, SBL#: 105.-1-25**, she asked Ms. Cooney to explain her application.

Ms. Cooney explained she has 33 acres, and she is proposing cutting off the back of the property, she said she hasn't had it surveyed yet, but she is getting one. She said the plan is to run a line from Peters Road to the southern part of her property, just behind the old cemetery there. She continued there is a 2-acre parcel on Peters Road that is land locked, it was sold out of the property before she bought it. She said there is a 10' right of way to get into the parcel, so what she would like to do is run a line from the western part of their property all the way to the southern part of her property. Chair Martindale asked what she was keeping, Ms. Cooney stated she is keeping where the existing home is along West River Road. Chair Martindale asked how big that lot would be, Ms. Cooney

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minus the 33 acres it would be around 15 acres. Mr. Basinger reiterated her primary access is off West River Rd, Ms. Cooney agreed. He asked the purpose of the 10' easement on the back, Ms. Cooney said for the other people to get into their 2-acre landlocked parcel. Mr. Brennan asked if the line was following the other people's property line, it seems to show a little gap on the map. Ms. Cooney looked at the map Mr. Brennan has and stated that was just an approximate line, it would be just to the west of the 10' easement and goes straight back. Mr. Basinger stated the question he has is the width of the easement, he asked if they had to allow the minimum for driveways, Ms. Cooney stated it was all done prior to her purchasing the property about 50 years ago. He was thinking they need 25' in there and he just wanted to make sure it was ok. Mr. Brennan said it seems to be two different things, the 10' seems to be on the corner, on the tax map it shows an arrow pointing to a little area marked 10, so he thinks they have 10' of road frontage, he added regardless of where she is drawing the line, it looks like she is leaving another access strip next to it to the rear of her property. He said he thinks if they look at the deed for that property for tax lot 24 he thinks there is 10' of frontage, it is not really clear on this map. Mr. Haag reiterated that the corner has access on Peters Road, Vice Chair Heber asked if she must give them another 10', Mr. Brennan said no he does not think she has any obligation to do that. Mr. Brennan said he was just asking if she wanted the line to extend from their western line straight down or if she wanted to leave something to additional access to the rear of her lot, which makes sense. Mr. Basinger asked if the 2 acre parcel has an existing driveway, Ms. Cooney replied yes, that 10' is their driveway. Mr. Brennan asked Mr. Haag if that was shown on the screen shot, he got of the County web site, replied not that he can see. Vice Chair Heber stated it looks like it is going to meet the requirements and the second lot will have enough frontage on Peters Road. Mr. Basinger asked where the cemetery was. Ms. Cooney indicated the location adjacent to her lot, on West River Rd. Discussion ensued on the location of the cemetery. Mr. Basinger said she doesn't own the cemetery, it is not part of her land, and it doesn't have anything to do with what she is trying to do, Ms. Cooney agreed.

Chair Martindale asked if the back of the parcel was used for agricultural, Ms. Cooney stated it is all wooded, undeveloped and the buyer is going to keep it as it is.

Vice Chair Heber stated she needs a survey map and then they can set up a public hearing to have it subdivided. Ms. Cooney reiterated as soon as she gets the survey done, she will contact the Clerk, Vice Chair Heber agreed and said then they can get her on the agenda for the next meeting.

Mr. Brennan stated he was looking at Saratoga County website and the 2 acre lot has 10' of road frontage. Mr. Basinger asked if that was ok, Mr. Brennan said yes, Vice Chair Heber stated it is pre-existing. Mr. Brennan agreed and stated it is not something Ms. Cooney has to fix.

Chair Martindale announced the next item on the agenda, old business, **application # 0012-22, Major Subdivision / Shoreline Overlay for James O'Donnell located at 1439 West River Rd.**

Mr. Basinger recused himself.

Chair Martindale stated the site plan has been reviewed by the County, she asked if anyone had questions regarding the County review, none were noted. She read the comment that was sent by Saratoga County Planning; *The Saratoga County Planning Board is satisfied with the due diligence the applicant has provided in order to respond to their initial January 23, 2023, comment letter. A recent discussion with a representative of the applicant discussed the further need to provide buffering to the historic site in order to respond to recommendations made in an August 17, 2021, correspondence from NYS Parks, Recreation and Historic Preservation. The representative was amendable of providing additional vegetative buffer be represented on the subdivision plan prior to the Town's approval stamp and the map being filed with the County Clerk's office.*

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Chair Martindale asked Mr. Phillips, Attorney for the applicant if the buffer has been added to the maps, Mr. Phillips replied, it has not yet, they just received the comment letter today, but they can set that as a condition of the approval.

Vice Chair Heber asked if Mr. Baker, Town Engineer, comments, and concerns have been met, the Clerk replied yes, he sent a final review letter of satisfaction. Chair Martindale read his letter in part;  
*The subdivision plans were revised to include soil boring information and design information related to the proposed sanitary mound systems. This additional information provides a satisfactory response to our August 17, 2023 comment letter.*

*The only other comment in our previous letter was related to restrictions/conservation easements for each lot to forever protect and preserve the wetlands and associated buffers on each lot. We previously suggested that these documents be submitted and reviewed by the town planning board attorney.*

Chair Martindale asked Mr. Brennan if he has received any review, Mr. Brennan stated he has not reviewed them, but he may have received them. Mr. Phillips asked if he could bring the Board up to date, he stated he prepared a letter today and gave it to the Clerk, she included it in the Board's packet. He stated he wanted to bring the Board up to date as to what has occurred since the last meeting, he said item #4 in his letter, Engineering – Grading and Drainage Plan, it was required by the County Planning Board, that was prepared and the Stormwater Plan of 171 pages. He said also the question was what this was going to look like before and after and it is in a 100 year flood zone, the opinion of MJ Engineering after doing extensive studies, is that there would be no difference between before and after the behavior of the Hudson River. Also in his letter Mr. Phillips stated he mentions item #9, Environmental Design Partnership, LLP letter dated September 22, 2023, Vice Chair Heber asked about that, it looks like it is a final sign off by the engineer, subject to language that will be presented by Mr. Phillips protecting and preserving the wetlands on the subdivision property, to Mr. Brennan for review. He stated he had sent a letter to the Board and he is sure the Clerk sent it to Saratoga County Planning Board which had descriptive language that would alert any prospective buyer that there is wetland at the back of each lot, the wetlands are regulated by DEC, if they want to do anything disturbing those wetlands for any regulated activity they will need a permit from DEC. Mr. Phillips said lastly, item #11, Saratoga County Planning Board approval letter dated September 22, 2023, he stated he was happy to see. He added they have talked about buffering before between lots 1 and 2 so as to provide additional protection for the historic house. He concluded that is what is new since they were here last, at this point since there has been no public opposition, they will be asking the Board to approve this application.

Chair Martindale asked what was planned for the vegetative buffer on lot 2, Mr. Phillips stated it is a vegetative screening plan, they are talking about planting evergreen trees, they have talked about that before and he stated he believes there are some visuals of that in the file from Saratoga Associates.

Vice Chair Heber stated they do not have a final map with the notes and everything else on it, Mr. Brennan agreed, the Clerk said they sent an electronic copy, she printed it however, it is on regular paper and is too small print to read, she added Mr. Baker reviewed it and signed off. Vice Chair Heber stated they need a large map they can review, Mr. Phillips replied he understood that, so they are asking for a preliminary approval subject to the final map being presented. Vice Chair Heber and Mr. Brennan agreed with that.

Mr. Brennan stated he was looking through Mr. Phillips letter from today and he sees they issued a negative declaration on the State Environmental Quality Review Assessment and had the public hearing even though Mr. Phillips did not state that in his letter. Mr. Phillips agreed and said they did have the public hearing and there was nobody in opposition.

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Chair Martindale asked if there were any additional questions or comments before they take a motion and roll call vote? Mr. King said he would like to express his opinion, he stated previously he has recused himself because of their formal rental of the property, but now it has been a few years since they have used the property, so now he thinks it is appropriate for him to participate in the discussion. They no longer rent the property so in his opinion he thinks the Board is missing the mark, the historical value of the house that is there, he thinks they are allowing a number of houses to be pushed into place, yes, they have met the engineering requirements, but he thinks that some of the initial communication from Saratoga County called out the historical significance of the house that is there and to him, simple screening of trees doesn't accomplish what he thinks they should be thinking about for the property. He stated his comments may be coming too late down the road, but he wanted to make them known. He feels the Board could have thought about it with more in depth about how the nature of the property will end up.

Chair Martindale asked if there were any other comments? Ms. Rippon-Butler said in her opinion she feels 4 lots is too many, it probably should have been discussed much further back in this process, but she feels 4 would be too many and out of character.

Mr. Williams asked what the distance was from the lot line between lot 1 to the house for lot 2? Discussion ensued; distance was not marked on the map. Mr. Phillips stated the map they are looking at is an engineering map.

Chair Martindale asked what was the size of the proposed homes? Ms. Bender, Realtor for the applicant replied like average 2,000 – 2,500 sq ft, and they are all going to be built similar to the existing house.

Vice Chair Heber stated he would make a motion for preliminary approval, Mr. Williams asked about the screening concern(s). Vice Chair Heber said this would only be preliminary approval, he wants to see a map with the screening and everything on it including the notes prior to voting for final approval.

Vice Chair Heber made a motion to preliminarily approve the application for a 4 lot subdivision contingent upon final map submission with all requirements discussed shown on the map, including screening and notes.

Ms. Eggleston 2<sup>nd</sup> the motion,

Chair Martindale stated they have 8 members available to vote and need a majority to pass a vote, Mr. Brennan explained both of the alternates were appointed at the same meeting of the Town Board so there is not a 1<sup>st</sup> and 2<sup>nd</sup> alternate, one of the alternates will not be voting, that decision is up to the Chair, Mr. Williams voluntarily abstained from voting.

Chair Martindale asked for a roll call vote;

Vice Chair James Heber	yea	Melanie Eggleston	yea
Lisa Black	yea	Holly Rippon-Butler	nay
Jeff King	nay	Michael Haag	yea
Chair Susan Martindale	nay		

Motion passed, 4 – 3

Chair Martindale stated they need all the final details on the map, Mr. Phillips thanked the Board and added to the extent that there are concerns about screening of vegetation between lots 1 and 2, they will gladly cooperate with the Board with what you want to see, he said he thinks what he is hearing people say is the extent of the screening. He added the applicant apologizes for not being here tonight due to the weather in NYC.

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Chair Martindale asked if there were meeting minutes to approve, discussion ensued and July minutes were tabled, there was no meeting in August, lack of agenda.

Vice Chair Heber made a motion to adjourn the meeting at 7:57 PM,  
Ms. Eggleston 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed.

Respectfully submitted,  
Tia Kilburn  
Planning Board Clerk