

Town of Northumberland
Planning Board
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Planning Board Members Present: Mary Beth McGarahan, Brit Basinger, Jeff King, Holly Rippon-Butler, Vice Chair James Heber and Chair Susan Martindale

Members Absent: Melanie Eggleston and Lisa Black

Town Employees Present: Dave Brennan, Town Counsel, Richard Colozza, Code Enforcement Officer and Tia Kilburn, Clerk

Chair Martindale opened the meeting and addressed all in attendance and asked them to stand and salute the flag at 7:01 pm. Quorum established. Chair Martindale announced Mr. Colozza's retirement and introduced Michael Terry as Mr. Colozza's replacement as Code Enforcement Administrator for the Town of Northumberland. She asked each member of the Board to state their name.

No new business according to the agenda.

First Item on the agenda; Site Plan Review for application #: 0002-21, Angelo Rosse, Lot 1, Homestead Estates / Virginia Place. Neither the applicant or representative were in attendance.

Chair Martindale refreshed the Board and stated at the last meeting they took a vote and decided not to pursue the site plan review for the permit process. She stated Mr. Brennan had drafted a decision for the Board to review, she asked if the Board had any comments or additions, they would like added? Ms. McGarahan thanked Mr. Brennan for putting together a comprehensive well written decision. Chair Martindale agreed and stated she liked the timeline that was given and it was easy to follow. Mr. Brennan stated he added 1 paragraph after he sent the draft, he read what he added to page 3, beginning with In addition, minutes of the Town Board meeting.... He stated he had copies for anyone that would like to have one. (See the attached) Mr. Brennan explained the reason for adding the paragraph he stated one of the claims was that clustering was not allowed, it needs under Town Law §278 to be authorized by the Town Board and that authorization was never granted, he added he identified the time period and the Clerks went back and found the Town Board minutes where George Hodgson, Counselman presented to the Town Board and the Town Board approved the subdivision, so there is authority granted by the Town Board.

Ms. McGarahan asked if the Clerk had an updated copy, Mr. Brennan stated he had copies and she will have a final after it is signed and adopted.

Vice Chair Heber made a motion to deny application #: 0002-21 for Angelo Rosse, site plan review / special use permit to operate a mine on tax parcel 142.-1-54, also known as lot 1 of Homestead Estates Phase II, Ms. McGarahan 2nd the motion, All in attendance unanimously agreed.

Chair Martindale stated she will now sign the denial Mr. Brennan prepared. The Clerk was given the original to file with the Town Clerk.

Next item on the agenda; Application #: 0007-21, Richard O'Brien / Athena Saratoga, LLC Saratoga RV Park, site plan Phase II expansion. Public Hearing has been closed the water report has been received, looking for a final decision. Chair Martindale asked Mr. Baker if he had a chance to review the report, Mr. Baker replied yes, he has no issues with it, the location of the wells are shown on the site plan and everything will require NYS DOH sign off so he believes what was presented is adequate for the use. Chair Martindale asked the Board if there were any

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issues to discuss or comments from the Board. Mr. Brennan stated the previous month they went through the SEQRA and most of the questions were negative or minor impact, there were a couple of questions left unanswered regarding water and sewer. Ms. Rippon-Butler reviewed the unanswered questions with the Board and completed the form. Ms. Rippon-Butler stated they were looking for Mr. Baker's opinion on the additional use of ground water if it would be a small impact or a moderate to large impact. Mr. Baker stated in his opinion it would be a small impact, the wells are already existing and they are already pumping at a certain rate and they are demonstrating that what is being produced by the wells is capable of suppling the use for the park, he added he does not see it as an additional impact. Mr. Baker stated NYS DEC and DOH are going to monitor how much they can pull out of the aquifer and that is all park of their application being a public water supply so he does not see that as being an issue.

Vice Chair Heber made a motion to declare a negative declaration,
Mr. King 2nd the motion,
All in attendance unanimously agreed.

Chair Martindale asked if there were any additional discussion, none was noted.

Vice Chair Heber made a motion to approve application #0007-21, phase II expansion for Saratoga RV Park contingent upon NYS DOH approvals and Ms. Rippon-Butler added and the developer agreed to 50' of plantings, Ms. McGarrahan 2nd the motion,
All in attendance unanimously agreed.

Next item on the agenda application #: 0015-21 & 0016-21, Laura Fivel, applicant not present no new information. Application tabled.

Application # 0017-21, Site Plan Review, John Knotek, 134 Thomas Rd, 47.3 acres, Agricultural District Dave Ingalls, P.E., Ingalls & Associates, LLP Engineering, Environmental, Surveying. Chair Martindale asked if there were any changes to the plan at this time? Mr. Ingalls stated there was discussion at the last meeting so they put together a complete application for site plan and special use permit, as part of the material supporting the application, they did a long environmental assessment form to initiate the SEQRA process, they supplied an agricultural data statement, a full plan including grading and drainage and a full SWPP, Storm Water Pollution Plan as part of the grading and drainage review. He stated they looked at the fire safety requirements, they increased the driveway to 20' to allow fire access to the site and they looped the driveway around to the parking to provide a second means of ingress and egress, they supply a turnaround for the residential driveway and widened it to 20' in width. He discussed the highlights of the SWPP, providing for non-pervious areas. The main barn and arena area will be treated by a retention area there is also a swale that picks up the water and takes it to a 2nd retention area and there is treatment for the residential driveway through a wet swale as well. He stated the reason they did it was there was discussion whether this was exempt through agricultural, they realize this could be construed as a commercial operation. The disturbance is approximately 3 acres, DEC has a threshold of disturbance of 1 acre for non-residential and that is the reason they performed a full SWPP and storm water treatment facilities. They did not meet the concentrated animal feces, they found it is 200 animals, they will have 20 or 25 horses. They supplied a sign detail on the detail sheet. He discussed the onsite septic for the barn and the residential home. Chair Martindale asked if this has been reviewed by the fire department? Mr. Colozza said it really doesn't have to because he did the width to meet the requirement but if they want the fire department can look at it. Mr. Ingalls agreed and said they used the details from NYS Fire Code Requirements. Chair Martindale asked if the Board had any questions or comments, none were noted. The Board reviewed the plan

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Vice Chair Heber made a motion to schedule a public hearing and send to County, Mr. King 2nd the motion, All in attendance unanimously agreed.

Mr. Ingalls asked if they could initiate SEQRA? Discussion ensued Mr. Brennan stated they can label it as a Type II and exempt it from SEQRA due to residential is always exempt and the agricultural operation is as well, so if the Board sees fit, they can exempt it. The reason for the site plan is for general public and fire safety and they are not part of environmental issues. The Board agreed to exempt it from SEQRA.

Next item on the agenda; Application # 0018-21, John Cornell, 165 Beaver St, agricultural district, site plan review. Chair Martindale updated Mr. Basinger and Mr. King Board members that were absent the prior month, she explained that Mr. Cornell had purchased the property and has horses, he is proposing boarding a small number of horses and that is the reason he is in front of the Board to present his project. Mr. Cornell submitted an updated plan and reviewed it with the Board. He explained they are requesting to build a multipurpose building, they breed Thoroughbred horses and it has been a breeding farm for the last 30 years, they have pregnant mares and foals coming due, in the winter it is helpful to have an enclosed building to let the mares' and foals exercise. In addition to that, they ride and have some boarders that ride in the winter it is helpful to have a safe place to exercise the horses. The building will be used for hay storage and machinery. Last month he was before the Board and he came back with an updated survey showing distances to the neighbor and an improved road to access the building per consultation with Mr. Colozza. The road will have 20' sections, and from property line to the building it's 125' so he will have access for a full turnaround for large vehicles. He stated one of the issues they have now is they have a shared easement and the easement is extremely narrow and has tight bends and turns it will be easier, safer and more practical to have an improved road go through the paddock to access the building. Those were the two requests mentioned at the last meeting. Vice Chair Heber reiterated the applicant is putting in a new road, Mr. Cornell displayed a google map and explained the current location of the shared easement goes off Beaver St, takes a hard right then a hard left and he indicated where his property was. He stated it is a difficult driveway for a large firetruck to get down, to make it easier they would like to go straight into the paddock via the easement they have and continue 125' off of the property line, he said it is flat and they will improve it but they are not going to blacktop it and there will be an improved parking area. He discussed the topography of the property. Mr. Basinger asked how tall the proposed barn would be. Mr. Cornell replied 16', Mr. Basinger questioned for the riding arena, Mr. Cornell replied yes, the full building is 85' x 150' x 16'. Mr. Brennan asked how it was set for the inside height? It was discussed and determined the 16' height would be the side wall at the eaves. Mr. Cornell displayed a rendition of the barn indicating the general size and color scheme. Mr. Brennan asked if the proposed driveway will split at the tree line where the first right hand curve is, Mr. Cornell stated there is a gate for access into the paddock so they will utilize the existing gate. Mr. Brennan asked if all the traffic into the property would use the proposed driveway or if they would use the easement. Mr. Cornell said they still have the easement for access to the existing barns in the back, he said they have ample parking and indicated where it was. That is all preexisting that has been used as a horse farm since its existence, a commercial horse farm. He explained there has been horse breeding and leased as a breeding operation, Saratoga Polo was there boarding their horses as well as riding in the field. He said they bought the property in January and they are just continuing operating it as a horse facility.

Mr. Brennan stated this is similar to the last application so his answer will not change on SEQR, he feels it is exempt for the same reasons and the other issue is the prior applicant's engineer identifying the necessary width for fire access which is also a large part of this discussion which he also thinks holds true here. Mr. Cornell agreed and added he will not have bathrooms, no septic it is just a square open building, no apartments. Mr. King said to be clear the only changes you are proposing are the roadway and the barn. Mr. Cornell agreed.

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Chair Martindale reiterated the Board is not the primary business, Mr. Cornell agreed he said it is the breeding. Mr. Brennan asked what kind of horses, Mr. Cornell replied thoroughbreds and some warm bred and there are retired thoroughbreds a couple they have repurposed into working horses.

Chair Martindale asked if there were any questions or comments from the Board, none were noted.

Vice Chair Heber made a motion to schedule a public hearing, Mr. King asked if there were a need for a public hearing, Chair Martindale stated because of the boarding, Mr. Brennan interjected the riding arena is a specific use per the Zoning Law that requires a special permit, he stated he was looking to see if it needed a public hearing and the Town Code does require a public hearing, some codes make it optional but the Town of Northumberland does not. He added if it was not for the indoor arena for safety issues, they would not be having this discussion. It is similar to the last application, it is primarily safety, fire safety, parking and access, he added when they have an indoor riding arena eventually, not necessarily these people but someone will have a show or something. It was determined the public hearing would be scheduled.

Mr. Brennan stated a member of the audience would like to speak. Chair Martindale asked the gentleman to state his name for the record.

Mr. Bob Foreman stood and addressed the Board, he introduced his wife Lisa and stated they are the neighbors, they are opposed to the location of the indoor riding arena due to the adverse impact it has on their dwelling that is only 400' away from the arena, they have already noted the size and height of it and there are other issues to be taken into consideration. He added this will probably be heard at the public hearing but they are new to the process and new to the property and they wanted to voice their opinion. Chair Martindale thanked him for his input.

Mr. Colozza said to inform the Board, the driveway services 3 places, not just those 2 and all within about 60' to 70', there are 2 keyhole lots and another that share the driveway. He explained when you pull up to it there is a patch of grass, very small like the size to the table that separates one driveway from a double driveway. He objects and thinks Mr. Cornell should have his own driveway because it services 2 residential houses and now an arena. For fire access to the whole site he should have his own to protect himself as well as anybody that might be in there that he invites into the site for using it as an indoor arena. There is no reason he can't put his own driveway on his own road frontage and separate it out farther from the shared driveway that you have to go through 2 gates to get to an arena, Mr. Cornell interjected there is only one gate. Mr. Colozza said there were 2 gates when he was out there, to get to the arena with the right hand turns there is no way the fire apparatus is going to make it, it is volunteer fire department and everything is on mutual aid, that means if there is a fire, they have to be able to get water in and out of there as well as several fire trucks, and he thinks they are over crowding a common driveway with so many right hand and left hand turns. Vice Chair Heber stated it looks like he is straightening it out. Mr. Colozza said not really, he is still going to make a right hand turn and a left-hand turn. Mr. Colozza then suggested a site visit so they can see what is there. Mr. Brennan asked the applicant if he minded the Board members on there own time drive in to look, Mr. Cornell welcomed them and stated it is one gate, one access.

Mr. Foreman stated the easement is on his property and Mr. Cornell has to cross his property to get onto his own land. He added Mr. Cornell is not asking permission he is just telling the Board he is going to make the road way off of the 2nd gate. Mr. Brennan stated this Board is not a court if there is a dispute over the use of the easement the

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Board is not going to address that. He then explained the easement is an agreement between the property owners and needs to be worked out between them. He said they will listen to all comments but that is not something he will advise the Board to make a decision based on.

Mr. Foreman stated it is the location of the barn they are concerned with; Mr. Cornell has 71 acres with plenty of area in the back versus putting it up front near the driveway and his house only a couple hundred feet from there. Mr. Cornell's partner added that they are building the barn so they can utilize their property better during the winter. It is not going to change the flow of traffic; it is so they can get out of the wind and weather and when the ground gets hard it is not good for the horses feet. She stated their pasture is not usable because the neighbors moved in with 12 barking dogs and the horses are scared, she said this is the ideal location for the barn.

Mr. Cornell said that particular area one of the only flat areas on the property, one of the issues they had recently and they had to move horses and move 2 paddocks because the neighbors moved in next to a horse farm and converted their horse paddocks into dog paddocks they have 12 Irish Wolfhounds, very large animals, they run down the paddock next to his horse paddock, he had to move 3 pregnant mares out of the area further away so they were not bothered by that. He would like to use the land now because he can't use it as a horse paddock as a perfect place for the building, he doesn't like giving up the land he has but he did have to move them away from one paddock and he is going to have to do the same in the back.

Mr. Foreman interjected this was all planned by Mr. Cornell before he and his wife bought their house. He said Mr. Cornell went to them and had a meeting with them to ask their opinion about it, Mr. Foreman said they objected then, it is not because of the dogs, he had already met with the contractors, he stated Mr. Cornell can to him with plans the Board has already objected too and now he is using the dog issue.

Mr. Cornell stated it is not necessarily the barking it is the site, like 3 or 4 dogs running together at a time, it is problematic to the horses. Yes they did plan on putting the building there originally and it is much more appropriate now because he can't use that area as a paddock. Mr. Brennan stated Mr. Cornell bought in January and he asked Mr. Foreman when they bought? Ms. Foreman replied September.

Ms. Rippon-Butler asked if they can ask for the site visit now to see the driveway, Mr. Brennan explained there will be a public hearing and he has already talked with Mr. Cornell's attorney and he said Mr. Cornell doesn't want to spend the money to put in a new driveway next to the one that is already there. Mr. Cornell stated they have the easement and it was part of the purchase of his property. To give it up would be difficult for him to do that is why he is proposing to come straight off the easement, as consideration and limit traffic that is closer to his neighbor. Also, according to Mr. Colozza and everybody else the way the easement is a problem for the fire trucks. What they are doing is adding safety to both of their houses, if there were a problem, they could shoot a fire truck straight down the property and get to both houses. He stated on the drawing it looks like there is still a big right and a big left but they do have a ton of property there, it is going to go in an gently turn it is not going to be a right hand turn and a left hand turn, currently it is 2 ninety degree turns and he wants to eliminate the 2 ninety degree turns. He does have easy access from Beaver Street to the back. Ms. Rippon-Butler stated they understand that the question is about they as the Board want to make sure for the future are they going to require any additional access off Beaver St.

Mr. Cornell discussed the topography of the property and the difficulty to build a driveway in a different spot on the property. He stated next summer or spring they would like to build a house up front which will have it's own driveway, now to have a driveway from there all the back would be \$100,000.00, he has an issue with that because

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he owns the easement as part of the purchase of the property. Mr. Basinger asked Mr. Brennan if he could go through the requirement for the riding arena to see what is in this Boards purview. Mr. Brennan read from the list of definitions Stable / Riding Academy: An establishment primarily engaged in providing horseback riding instruction and/ or the boarding of horses, including customary accessory buildings and uses. So there will be an indoor riding arena and stabling some horses, most horses are theirs but they said at the last meeting they do have a few boarders, that is a separate use. When you go into the actual district a riding stable is a special permitted use as oppose to permitted uses being agricultural pursuits, the Zoning Code separately defines use and it falls under that category as a separate use and not general agricultural using just a building permit. What he suggests because it is part agricultural and part commercial and it may not be the current owner Mr. Cornell but a future owner may have lessons, lease out stalls and have shows so there is traffic, the concern is exclusively access to and from it, parking, turn around for fire apparatus and trailers so if the next owner has a horse show, so exclusively a safety issue. Mr. Brennan suggested the Board go and take a look at what is there.

Ms. Dube-Forman thanked the Board for their time and stated they will bring material to the Public Hearing in support of their case and objections, they would like the Planning Board to consider it is not just the driveway, two things, the first proposal was a driveway coming off from the red gate, the most recent sent to her by the Clerk has a roadway coming off Beaver St, which Mr. Colozza had mentioned there are 4 driveways within a 60' span, her and her husband would like to emphasize the negative impact of the very large building is only approximately 400' from her bedroom window, they purchased for the pastoral experience and privacy for themselves. They are not here to say he can't build it, he has 75 acres, they will bring topo maps for the Board to consider, there are other locations behind the knoll where his existing home is. The proposed driveway to the indoor riding arena with a commercial parking area right next to her land 450' from her house does not access the existing barn, the equipment shed and his home, it dead ends in the parking lot, then there is her fencing along the side so how is the firetruck going to get to that barn if there is ever a fire? She stated her point was as Mr. Colozza pointed out the firetrucks will have to go up the easement driveway, to try to get to the barn. Mr. Brennan asked how would that happen today if there were a fire tonight? Ms. Dube-Forman responded up the easement. Discussion ensued on the length of time it has had the current setting.

Mr. King asked if the fire department has looked at this and given any comment? Mr. Colozza said it is in his fire code and he is actually the fire marshal for the Town. He added if they rather have a statement from Brian Meyers, Fire Chief for Schuyler Hose, he can bring Mr. Meyers out there to look. Vice Chair Heber stated it is actually access to two lots, Mr. Colozza interjected there are 2 keyhole lots and then there is the other house, he recommends the Board go look at it. He said the google map doesn't show it, the Board really needs to go out and look at it. Mr. Colozza stated the entrance needs to widened out and widen the road up. Mr. Brennan asked where the 2nd keyhole lot was, he was only seeing one. Mr. Colozza explained technically each one has a keyhole lot. Discussion ensued on road frontage for each parcel. It was determined Mr. Cornell had 500' of road frontage and there is one keyhole lot. Mr. Colozza stated he doesn't have a driveway on Beaver St, Vice Chair Heber interjected there is a 50' easement for ingress and egress and there is a common driveway maintenance agreement. Vice Chair Heber asked when the agreement was setup, Ms. Dube-Forman replied 2015 she explained Ms. Bongard came in for a subdivision and sold off that parcel, Vice Chair Heber said then it has been in existence. Mr. Colozza said the Board needs to go look at it, if you want to continue a wrong it is up to you but he is asking that it be brought up to the fire code. Vice Chair Heber agreed to make it 20'. Mr. Colozza said they need to look at the 2 gates the

entrance going in and the confusion of getting in there. He added they have to look at how he will get a fire truck in there. Vice Chair Heber said it looks like that is what Mr. Cornell is trying to do and go straight in. Mr. Colozza said Mr. Cornell has a map that still has right hand and left hand turns in it and that has to be changed and he has to show he has the turn outs on there. Vice Chair Heber suggested Mr. Cornell add the radius to the map so the

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Board can see what the sweep is for the right and left. Mr. Cornell agreed and said that is why he did not make it a 90 degree angle.

Mr. Forman stated Mr. Cornell is going to access the easement next to his fence line and he is not using the easement to his property, Mr. Cornell will use the easement, go on his property and then back onto his own property, so the Board is granting Mr. Cornell to crossover his property. Discussion ensued on property lines, the placement of the easement and fence. It was determined the easement and gates are on Mr. Forman's property. Mr. Forman stated his property follows the fence line and extends 5 or 10 foot past the fence, Mr. Cornell said it is his fence, Mr. Forman disagreed and said it was on his property.

Chair Martindale stated the Board is going to follow Mr. Brennan's advice and do a site visit, she stated if Mr. Cornell could show them what he is proposing and where the new road would be, Mr. Cornell agreed. Mr. Cornell then asked if 80% of the continuous fence is on his property and then continues around to where the easement is, does that fence turn into their fence? Mr. Brennan asked who put the fence up, Mr. Cornell they wanted to preserve trees and now it is technically inside his fence line. Mr. Brennan stated he has his attorney here to ask.

Mr. Basinger stated they are not here to argue and this is not part of the Boards purview. Mr. Brennan agreed and said Mr. Cornell's attorney can explain it to him.

Mr. King stated in his opinion there is a proposed change in use to the property for the indoor riding arena so they need to get into a public hearing. He added if there is a change to property, he feels it is the proper time to analyze what that change will mean as far as the fire code, so whoever the proper Town Authority is they can give them a recommendation on that it would be beneficial. Mr. Baker said it is a potential change to the property, there was an easement that was written and granted, he read it briefly and it refers to a map that was created in 2006, he asked if it made sense to look at that map and see what is show because that is what the easement was written and based upon, if there is a change to that how does that affect that easement. Mr. Brennan said he can look at that but from what he has read it is not changing the easement, it is 50' and on the survey map, now whether the driveway is inside or outside the 50' is shown, the easement is what it is and he is not sure if they want to look into the change in use if it has an impact on the easement, there is another area of Law on that topic. He stated he feels they should focus on the access and the fire code.

Ms. McGarrahan asked if they should designate a person to co-ordinate a site visit, Mr. Brennan said if they want to pick a single date that is fine, they don't have to do a group visit, each member can go and visit by themselves if a Board is to meet as a quorum meaning 4 of you observe, you listen and then you come back and discuss it at the public meeting, you are there to see where the turn is, where the barn is and where the proposed arena will be, you don't go and have discussions in the field. Due to the Holidays, it was determined each member would go for a site visit at their convenience.

Mr. Cornell asked if there is anything he needs to prepare for the next meeting on the 27th of December? Mr. Brennan said no, they have a preview of everyone's opinion on this, they will have a public hearing, listen to everyone and then the Board will make a decision. He added they are not doing the SEQRA, for the same reason

as the last applicant, there will be a public hearing just like the previous applicant the difference is the Board knows someone has an opinion on this one.

Chair Martindale; next item on the agenda Application #: 0012-21, James O'Donnell, major subdivision /

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shoreline overlay 1439 West River Road, Mr. King recused himself.

Kim Bender, Realtor and representative for the applicant. Vice Chair Heber asked if the lots and no lots, subdivision and lot line adjustment has been straightened out because he didn't want to proceed and 3 months from now decide they can't subdivide it. Mr. Brennan said they had gone through all that and then there was a filed map, Vice Chair Heber said when there is a filed map that says "no further subdivision", how can you file another one that says you are subdividing, he added legally he wanted to make sure it was all set, not to go through it all and end up with a denial. Mr. Brennan stated all applicants have the right to get to a decision, so he asked to hear the update.

Ms. Bender said for the update they have performed a new wet land delineation, she met someone from DEC they walked the wet lands to make sure they were accurate, there is a letter DEC put together saying they validated the wetlands and they signed off on the map. One of the other things was to send a jurisdictional letter to the Army Corp of Engineers, they did and they have not received a response as of yet. She then discussed and described the wetlands on the map displayed.

Ms. Bender stated another thing brought up is the note on the map for land that was released by the Canal Corp. and flowage rights retained, she stated they researched it and contacted the County as well as the Canal Corp., they provided a map that shows the entire section of the lands that were released and flowage rights retained. Mr. Brennan asked what does flowage rights retained mean? Mr. Phillips, Attorney for the applicant explained, the Hudson River in the Spring when the level of the River goes up, the river actually backs up into various areas along the river road, the river backs up into those areas and creates a ponding kind of thing, it is a combination pond and vegetative area. It flows so the State of NY has retained the flowage rights for the backup of the Hudson River into that area. The flowage area coincides with the wetland area, the flowage area is bigger, he stated he drove by the area the day before and there is already quite a bit of water and the river is not at its peak right now. Mr. Brennan reiterated the house sites are outside the flowage area, Mr. Phillips agreed and said there are so many lines on the map it is hard to read so he color coded a map to display and explain, he then pointed out the 100' setback and the building sites, he stated each building site is approximately 250' from the wetland, the requirement is 100', the average from the flowage area is a little less than 250'. Mr. Basinger asked if they have performed perk test for the septic fields, Mr. Phillips replied not yet, he wanted to ask the Board because it was raised at the last meeting. Each of the proposed building sites the 100 year flood level is at 129' on average the elevation of the area around each of the sites range between 126 – 128 feet, so for the fill that has to be brought in will be an average of at least 4' of fill to get that above the 100 foot flood level, that ties into what he wanted to ask about the engineering work that has to be done with the deep hole test pits and the archeological work they have to do on the site. He wanted to ask the Board that if they drive by it, the area outside the wetland is a field and the general area of the field is not going to be disturbed, with the engineering that has to be done for the soil analysis and the perk test, is it acceptable to this Board in regards to the archeological study if while they are digging in that area to look at the soils and test pits where they are going to have the proposed foundation for a house and sewer systems, is it acceptable that the archeological study be limited to that area? There is already an archeological study that covers a larger site now they are getting site specific as to where the best building sites would be. He stated he is trying to

limit the cost of the archeological study because the only disturbance they will have is in those areas where construction will take place. Vice Chair Heber asked if that wouldn't be decided by the people doing the archeological study? Mr. Phillips asked if the Board would be satisfied if the archeological people are, Mr. Colozza stated he doesn't think they will perform the perk test.

Vice Chair Heber stated he noticed there are docks on the map, he asked if each lot would have river front? Mr.

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Colozza said they ignored what was put on the map before about no docks only canoe and kayak access, now they have a dock with 2 pontoon boats on it from when they did the other subdivision. Vice Chair Heber asked if that was the area where the float-planes are, how is 5 docks with people going in boats going to converse with the air planes? Mr. Colozza said the original subdivision said it was only supposed to be carry in boats and carry out, now they put a dock in. Vice Chair Heber suggested someone do some research.

Mr. Colozza said this was considered the non-buildable area, it is considered Historical, it is the only lot out of the major subdivision that had any historical value as noted in the report that came in and why they wanted an historical dig performed. You should research before they spend more money on it, the archeological dig and engineering, Vice Chair Heber agreed. Mr. Colozza added there are Federal wetlands, State wetlands, archeological digs because of the historical value and the major thing is it is stamped on the map "no further subdivision". In the flood plain and shoreline overlay district, the houses are going to be raised 4 feet in the air.

Mr. Baker stated there are a lot of things to be done, they have to show if they put any amount of fill in there what it will affect, Mr. Basinger agreed and said the theory it you can't add fill to the flood plain, so if you are adding fill you have to take it from somewhere else. Mr. Colozza stated what Vice Chair Heber is saying before you add more engineering fees are you going to change your mind and say this is buildable now or not, that should be your first step. You don't have to put them through the expense if you are going to say no you already determined it was not buildable when you did the major subdivision because this is a preserved area, that is cut and dried. If you are not going to do that they will spend some serious money and they have to determine if the amount of fill needed will disturb the flood plain area. Mr. Basinger agreed and asked if they can put septic in the flood plain area, Mr. Baker stated structures have to be at the elevation above the flood plain, Mr. Basinger reiterated they need to be above the flood plain and you will have to put that fill in the flood plain so they will have to make excavation in the flood plain to get no increase. Mr. Basinger asked if someone could refresh him on what Mr. Colozza is saying about no further subdivision? Mr. Colozza explained when they did the 10 lot subdivision up the hill, they did some lot line adjustments they used property and swapped property, Vice Chair Heber interjected when they did the lot line adjustment that note fell off the map, Mr. Colozza agreed, discussion ensued on if it is legally subdividable.

Mr. Phillips said in light of what the Board did before and allowed this property to be subdivided (lot line adjustment) even though that was abandoned, that would be the indication that the prohibition against further subdivision related to the other subdivision that was approved as opposed to these remaining lands, that is the counter point of view. Mr. Basinger stated this is not lot number 2, Mr. Colozza said that is what they are trying to say, it is not lot number 2, but that is why lot #2 is listed and if you go back in the minutes, it specifically listed because of the historical value, there was no historical value on any of the rest of the lots. This Board labeled this lot as no further subdivision, they had taken land from here and added it to the other 10 lots going up, lot line adjustments and the Board finally said it cannot have any further subdivision. Ms. Bender ask if when the Board said no further subdivision is Mr. Colozza talking about the note that doesn't pertain to this, Mr. Colozza said it is considered lot 2 and yes, Ms. Bender said it says this lot is considered "other lands", that note #2 didnot pertain.

She stated she went through the whole thing last time and if you add up the acreage, Mr. Colozza interjected the confusion comes into that, regardless of how you are determining it was for the historical value, this is the only piece that is listed as having historical value when they did the research on it, they are recommending DO NOT BUILD ON this because of the historical value. He said they are saying it is just the house with historical value, so you have a historical house and modern homes that are going to surround it and that is why they recommend the historical value to it, it is not to be subdivided, that clarified where lot 2 was and lot 2 had nothing to do with it. It was when they took the land that was hooked to this Mr. Solomon's house and starting breaking it off and using it

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with lot line adjustment, they changed the lot lines on the 1st lot of the subdivision and that was lot 2 but there is no historical value there, so they were referencing this one on the map that said no more subdivision on this lot because of the historical value. Ms. Bender did not agree, she stated there is historical value to the house, Mr. Colozza disagreed and said West River Rd is the Revolutionary Road, this was a farm that this Colonel lived in, so where is the farm? He stated she got the report that said they recommend not to build on this site they didn't say the house they said the site. So it is not only the house but they were considering the entire farm. Ms. Bender stated she did not agree with that. Vice Chair Heber said there is going to be a disagreement so they need to find out. Ms. Bender said she thought in the last meeting that was all clarified. Vice Chair Heber said that was their side but did anybody research it on the Town side? Mr. Brennan said whether they agree or disagree if there was a decision of no further subdivision by the Planning Board in the past regardless they still have the issue of what's the Planning Board's opinion even without that and you were to go forward, what is the opinion on it now, he is hearing there are still reservations whether the Planning Board previously constituted put that restriction on it or they are looking at it now and the National Registry Listing says that a contributing factor to the historic nature of this house are the farm fields that constitute the setting of the listing of the farm house and the farm makes them think that a subdivision is not appropriate anyway. He said it is a 2 step decision, if it can be subdivided and even if that were not there the 2nd is, is it a good idea to subdivide based on the same set of circumstances. Mr. Basinger agreed with the Vice Chair and said they need to decided if they want to go back on an original decision, Mr. Brennan said he can dig through it and come up with an opinion of whether it is listed as no further subdivision and then you are going to get a request to reconsider that, you are going to say no for the same reasons he is getting to, so it needs to get past this point now. Chair Martindale stated she did not think it was a good project to begin with.

Mr. Phillips stated he can provide the Board with a written submission of their interpretation of what happened, with respect to the Mr. Colozza who is advocating against it. He added if they can provide the property owners point of view, he would appreciate it. Mr. Basinger said he was trying to remind the Board of a decision they made previously and they will investigate it. Mr. Colozza said it is the expense they are looking at, there are things that need to be clarified so they can either move forward or cut to the chase. He said he agrees with the Vice Chair but the Board needs to feel comfortable with it one way or another. Mr. Basinger told the applicant if they put their information together Town Counsel will review it and he can give the Board his own opinion on the subject of an approval. Mr. Brennan said he is going to get something with all the maps he will review it with Mr. Colozza and then fast forward, they are going to say there are no restrictions of no further subdivision it was not imposed by the Planning Board and it is not there and he is going to be asked with Mr. Colozza whether they agree or disagree with it. Regardless if he agrees or disagrees with them they are still going to come back and either proceed if it is not there or if it is there they are going to ask if the Board will reconsider. Mr. Brennan explained they need to examine the regulations and procedures for subdivision the Board needs to decide whether they like the idea or not and list for what reasons, they can come back at the next meeting and the Board can tell him, if they don't like it he can write it up for the reasons they give and it will be done and they can decided if they want to go to Supreme Court to discuss it with someone else. Mr. Basinger asked if they have performed any preliminary engineering on

this, Mr. Phillips stated they have a proposal from an engineer that knows all the facts and he stated he believes it is acceptable to develop in a flood plain.

Mr. Brennan asked Mr. Phillips what his timeline would be to get him the information, Mr. Phillips stated they need to go back to the applicant and give him a briefing on this meeting and let him know what the Board is asking for and it appears to him they are focusing on a threshold question, of what did the Planning Board mean by putting the note on the initial subdivision map that said no further subdivision of this property, once they have the answer to that they know how to proceed on a forward basis. He said as far as putting together the information it

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could be for the December 27th meeting and at the latest the January meeting.

Vice Chair Heber made a motion to adjourn the monthly meeting at 9pm
Ms. McGarrahan 2nd the motion,
All in attendance unanimously agreed.

Respectfully Submitted,
Tia Kilburn
Planning Board Clerk