

Town of Northumberland  
Planning Board  
Location; Town Hall  
Corrected by the Planning Board  
Monday, January 24, 2022  
7:00pm  
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Planning Board Members Present: Brit Basinger, Mary Beth McGarrahan, Jeff King, Lisa Black, Holly Rippon-Butler, and Chair Susan Martindale

Member's Absent: Melanie Eggleston, and Vice Chair James Heber

Town Employees Present: Dave Brennan, Town Counsel, Michael Ten), & Richard Colozza, Code Enforcement Officers

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.

Public hearing; Application #0020-21, 2 lot subdivision for JLMR Realty LLC, Gailor and Homestead Roads. Matthew Van Doren, Corner Post Land Surveying, surveyor and representative for the application; he explained the updated maps and stated the Board wanted a short form SEQRA, State Environmental Quality Review Form. Additions to the map are the Right to Farm note and all neighbors across the road were added. He said the wetlands have also been indicated. Mr. VanDoren asked if there were any comments or concerns? Chair Martindale asked if anyone from the public wanted to speak, Ms. Leibowitz, a neighbor she received a letter regarding the application and wanted to come to the meeting to see what it was about, she asked if she could review the map, she then stepped to the map displayed to review. Mr. Higgins stated he is an adjoining owner and asked about the project, Mr. Van Doren stated it is a minor 2 lot subdivision. Mr. Higgins asked if there is a proposal to build homes there, Mr. Van Doren stated the owners' intentions at this time is to divide it and keep the lots relatively big and they do not have any intentions for future development. Ms. Leibowitz asked if they are selling parcel 1 or parcel 2? Mr. Van Doren stated he was unsure; they did not tell him which one they would keep. Mr. Higgins asked where the access to the Gailor Rd lot was, Mr. VanDoren indicated access to the lots on the map. Ms. Leibowitz asked if there would be a roadway? Mr. Van Doren stated not at this time, Mr. Colozza interjected and said if they go down to small lots it will come back to tills Board, for now there are just 2 large lots.

Ms. Connor asked the size of the two parcels, Mr. Van Doren replied parcel 1, to the North on has frontage on Homestead and a little frontage on Gailor as well about 36 acres, parcel 2 with frontage on Homestead Rd is close to that with 35.4 acres. He discussed the property lines with Ms. Connor's property.

Ms. Leibowitz asked where the access to the parcels was in comparison to her property. Mr. Van Doren discussed property lines with her property and the intended access points.

Ms. Connor asked if this was the final review prior to approval, Chair Martindale stated they will discuss that when they get into the regular business part of the meeting.

Mr. Higgins stated he wanted to reiterate they are splitting it into two 35-acre parcels and he asked how many homes would be allowed to be built there? Mr. Colozza stated divided it would only be 2 homes, one on each lot. Mr. Brennan interjected and said if he is asking about more, they would have to build a road and come back to this Board for any future subdivision, so if somebody buys it and wants to build more or a road, they would come back and it would be the same sort of process. Mr. Brennan explained if it gets approved tonight there would be no more process for this here, it would go to the Highway Superintendent for the curb cuts for the driveways and then to the building department for the septic, well and house, if they want to do more than that they would have to come back to the Planning Board.

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Chair Martindale stated the Board decided they will continue with the business part of the meeting for this particular application, they do not have much more on the agenda so they won't be holding anybody else up. She stated the Board had asked the maps be updated with the neighbors, and that was taken care of, the Right to Farm verbiage has also been added to the maps and the SEQRA has been received. She stated the Board has not reviewed that as of yet, Mr. Terry gave the Short Form to the Board. Chair Martindale asked if there were a motion to close the public hearing?

Ms. Rippon-Butler made a motion to close the public hearing,  
Ms. Black 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed.

Mr. King asked where they stood on the SEQRA, Chair Martindale stated they are working on it. Mr. King said one of the pieces of information in the packet says there is an archeological sensitive area, does that show how much of the current lot is affected by that? Mr. VanDoren said the purpose of that was where he got the yes or no answer to the SHIPO question of if there are archeological or historical value, it is more general to where wetlands are concerned so it was only to generate the short form SEQRA. Mr. King asked if they had a National Heritage Letter? Mr. Colozza asked Mr. Van Doren if he completed it through the website? Mr. Van Doren said he downloaded it and filled it out that way, he stated he did not go directly to the website, Mr. Colozza then said if he had it would have kicked it out if there were any sensitive areas, Mr. King asked if there were any endangered animals, Mr. Colozza replied Fish Creek has a fish that is endangered that affects everything within 2 miles.

Ms. Rippon-Butler said she would review SEQRA, she asked if they were waiting for more information? Chair Martindale said he did not follow it all on the website and she asked if they had a National Heritage letter? Mr. Colozza said no, he did not believe so. He added when they do the long form it is already mapped and marked if there is something of concern. Chair Martindale reiterated they do not have a form for this site, she asked if Mr. Van Doren knew what the site was marked archeological for? Mr. Van Doren replied he does not know without looking but it seems there are more archeological areas south of there. Discussion ensued on the fish in Fish Creek. Mr. Van Doren stated it could just be the wet lands that they make a buffer line to protect.

Ms. Rippon-Butler stated at one point they asked what the total acreage of wet land was on the property or a percentage, is that information available? Mr. Van Doren stated it is not on the map in acreage but he highlighted it to graphically show it and he pointed it out on the map, he stated he did not have a number but he thought it would be small compared to the 70 plus acres. Mr. Basinger asked if the two lots within zoning were still buildable. Mr. Van Doren replied yes, there is a 100' buffer from there.

Ms. Rippon-Butler looked for part two for the Board to review, Mr. Brennan stated he had the questions on his computer, he then read the part two questions, discussion ensued and the Board answered the questions. Mr. Brennan explained question number 8 in depth "Will the proposed action impair the character or quality of important historic .. archaeological, architectural or aesthetic resources? ", such as because it is flat could Indians have used it to live on? He stated if the Board was concerned, they could place a condition on it that it will be addressed when a building permit is issued.

Mr. Basinger made a motion for a Negative Declaration, no impact or no significant adverse environmental impact.  
Ms. Black 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed.

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Chair Martindale asked if there were any other comments from the Board for this application? Ms. Rippon-Butler stated she feels it is a good suggestion to require a National Heritage Letter prior to issuing a building permit. Mr. Brennan added they can note for the Building Department in the future that any additional subdivision will require Board review, he doesn't think it would slip the Building Departments review but it is good to have because 3 families have asked so it is good to have in the minutes and the approval.

Ms. Rippon-Butler made a motion to approve application #0020-21 with the addition of notes requiring Planning Board review for any future subdivision and to require a National Heritage Letter prior to any building permits being issued to indicate any archeological or sensitive areas.

Mr. Basinger asked if they could require the National Heritage Letter prior to approval, discussion ensued on prior to approval or prior to a building permit. Mr. Basinger asked if an approval could be contingent upon the National Heritage Letter coming back, Mr. Brennan asked if he meant before the maps are signed? Mr. Basinger said yes. Chair Martindale agreed. Mr. Van Doren reiterated they want a Letter and asked if there was anything they want added to the maps? No Further Subdivision without Board review was discussed. Mr. Basinger suggested if the letter comes back with sensitive areas, they could add prior to development they conduct a Phase 1 A, shovel test prior to construction, he added he thinks Ms. Rippon-Butler's motion covers that.

Chair Martindale asked if there were a 2<sup>nd</sup> on the motion,  
Ms. Black 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed.

Chair Martindale stated the application has been approved contingent upon the National Heritage Letter, once the letter is received and reviewed, they can sign the maps. Mr. Colozza said he will need two mylars and two paper copies minimum, one for the County and one for the file.

Continuation of Public Hearing for John Cornell, application #: 0018-21, 165 Beaver St, Site Plan Review / Special Use Permit. Chair Martindale asked if there were any comments from the public. Mr. Brennan suggested the applicant go first.

Chair Martindale asked if there was anything new to submit at this time, Mr. Cornell stated they submitted a response to what was submitted previously and a lighting plan. He asked if the Board had the package, Chair Martindale responded yes. He stated one of the comments the Board had was in regards to the lighting plan, Ms. Rippon-Butler said they saw it in email form, they do not have paper copies. Mr. Cornell stated they have paper copies for the Board. Mr. Brennan said there was also a rendering of what the building would look like. Mr. Cornell agreed and said a rough idea because the Amish people do not have CAD drawings, they have stamped plans if they are needed. Chair Martindale asked if there were any comments from the public.

Stephanie Farradino, Esq., she stated this morning she emailed the Town and the Town Attorney, she said she understands they may not have had time to review it so she summarized it;

The applicant has not provided compliant plans, they are not building a shed, it is an expansion of a commercial business with a large commercial structure that should be treated as such. It is similar to the way this Board evaluated the Knotek riding arena, it is a similar structure and almost identical in size that had fully engineered plans that were submitted consistent with the requirements of the code. The site plan requirements require you have documents submitted by licensed professionals and that enables this Board to fully evaluate the project.

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The requirement has not and should not be waived by this Board. It should be treated the same as an identical application that is located in your Town that submitted and has complied with the rules. The site plan regulations have a check list to make it fairly easy for the applicant to understand what is required for your site plans. There are 20 standards on that checklist and the plans that were submitted don't meet 13 of them, it does not meet 1/2 the requirements for the Town and she doesn't know how it is possible for this Board to evaluate something that doesn't comply with your standards.

She continued; if you turn to the special use permit standards, she found it instructive to read the language within your code because you can tell what the Town Board's intent was when you read the language they were very, very, very focused on adjoining properties just as this Board has been in the past. There are two criteria in the special use permit section that are virtually identical that deal with the treatment of adjacent properties, she read them;

#1, and it is #1 so it is clearly important to the Town Board when they adopted the legislation, called adjacent land uses; It says the Planning Board shall not approve a special use permit unless the proposed use will not have a negative effect on existing adjacent land uses, this language is mandatory not predatory and your Town Attorney can explain to you the difference. She stated she has submitted 20 pages of documents of the negative impact this property will have her clients.

Look at #3 of the special use permit; Location of buildings she quoted, "it should not discourage the appropriate development and use of adjacent land." This has and she stated they provided documentation of that.

Special Use permit criteria #10; Adequacy of land scaping, again she quoted "constituting at all seasons of the year a visual and or noise deterring buffer between applicants and adjoining lands." She asked if anybody has seen a buffer offered in any of the plans given to you? It is a specific requirement to get a special use permit

#11, a duplicate one, Impact on adjacent land, protection of adjacent or neighboring property against noise, glare, unsightliness or other objectionable features. She stated they keep highlighting them, explaining them and documenting them.

#14, Driveway shall be located and when possible, relocated to minimize the impact of vehicular traffic on neighboring properties

#15, Lighting, impact of lighting on adjacent areas and you keep hearing adjacent neighboring, in areas within viewing distance.

There are questions on prior decisions this Board has made, this Board has been reviewing a solar application on this street, the Board considered and ultimately found the project could not move forward because of the impact on adjacent neighbors. The applicant in that project downsized, changed the location, did efficient buffering landscaping and it ultimately did not move forward. This project does not have a public benefit like the last one, but it is not being treated the same, with the concern about adjacent property owners. She stated that is why they are before the Board tonight.

She said if they go to the next part of her letter and she understands they aren't going to read it tonight; SEQRA, State Environmental Quality Review Form does need to occur, the Town Attorney was correct with his advice to you that the action was not subject to SEQRA but at the last meeting (she stated she wasn't present but she listened

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to the audio), in two separate occasions at minutes 5 and 59 of the audio, the applicant clearly stated his intent for future plans to build a residence, it takes the project out of the agricultural exemption, triggers SEQRA review and if you don't do the SEQRA review there is probably a claim for improper segmentation. She stated they need a long form, evaluate the project, evaluate the current structures and the project impacts. The new driveway or roadway they are offering, they are appreciative of the applicant and the Boards consideration of utilization of a new entry. They want to highlight differences and problems from the last meeting of the location of the driveway. She stated photos #6 and 10 in the packet she submitted tonight, they have a suggestion for where a proper roadway would be, it would run straight back to the property and enter the wooded knoll. In picture 3 there is a natural clearing in the wooded knoll where the driveway could go right through. Photo 1 the site plan submitted by the applicant, lines drawn on it and those are the path that headlights will take in the curves along the proposed roadway that was offered at the last meeting, unfortunately they go directly into her client's house. They are color coded on the plan to show where the headlights turn into the neighbor's house, if they do a straight driveway that would not occur and there would not be the light spill that is not allowed by your special use permit regulations,

Other impacts of this project on her client, her clients moved here not even a year ago, it took them three years to find the property, this particular property, this property is so unique in part because it is not located on a public roadway. She discussed the Irish Wolf Hounds her client owns and how they are in paddocks and if it were on a public roadway would attract the public, creating an attractive nuisance, they have worked very hard to protect these show dogs and find property that was not located on a public road. The roadway that is proposed will bring a lot more people than are currently coming to this site, past the site on a regular basis affecting the dogs and causing an impact to them. These are valuable creatures and there is a concern about theft or interference with their training. All these things are being brought to the site by the roadway that comes within 10' of the paddocks. Creation of the driveway that is being proposed will be in direct conflict for the purpose for which this property was purchased. Changing the location of the roadway and the arena can elevate all of that, they are not against the project they are against the location and impacts it will have on their property. If they move it to a different location within the 75 acres almost everything goes away. They understand that he took action on his property that was at his own risk, but you are considering this just as if it were on paper, you cannot consider the fact that it has already been done on the site. If it were any other applicant like the solar rays you would say you don't like it there, put it over there or in the back, maybe you should utilize the natural features of the woodland berm so no one on this street can see this structure and it doesn't impact the adjoining neighbor.

She continued stating SEQRA, once you start the process, will require you to consider alternative locations, today it doesn't appear you have done so and they hope this Board starts that process soon.

Look at photos 7 and 8, they have taken the riding arena and placed it in two different locations they think it would be significantly less impactful. The advantage is that it clusters all the buildings with the new structure it is still the same distance from the water it would be hidden behind a natural existing wooded area that would help shield it from view of anybody up and down Beaver but also from the most impacted neighbor. Significantly reducing the impact on the adjacent property is required by your special use permit standards. Alternate location would alleviate all the impacts raised in their submission and avoid the expense to all parties, the Town, the applicant and them for litigation which is going to delay everything and it is going to cost everyone money that no one wants to spend. An alternate location will decrease the impacts on one property it affects, it will allow them to meet the compliance standards within your code and it will alleviate the need for expensive landscaping because part of your requirements they can't have a light spill and there needs to be a dense vegetative buffer between their property and her clients. She discussed a project for a solar array she had done prior and it cost that applicant \$450,000.

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Items that are to be provided, at the last meeting the Board asked for a storm water plan and they haven't seen that, you asked for a lighting plan, there was something drafted by the applicant but not engineered, you asked for a rendering of the structure and what you got was something that seemed aspirational, not that it is what they are building and it wasn't done by a professional She stated the Board needs to get a site plan that is in conformance with the regulations and satisfies the 13 criteria that are missing and they believe you need a long form EAF. She asked if there were any questions, and they are happy to share any alternate locations the Board so chooses.

Mr. King asked if they are still in the Public Hearing, are they still taking comments or are they moving on? Chair Martindale stated she did not believe they are ready to close the public hearing at this point, she stated they are finished with it for tonight. They will move on to the old business section of the agenda, she asked if there were any comments or questions.

Ms. Rippon-Butler stated she thinks it was addressed in the submission but she asked why the applicant choose this location? Mr. Cornell stated he has not seen the other locations that are proposed but with his excavator and builder they didn't look at the entire property and places to build. He stated he did not have a topographical map, however the ones that have seen the property, the front 25 acres has a significant drop and going straight up that property is almost impossible going up the final hill, it would not be appropriate because of the slope, he stated he does not have the facts and figures if it is 9% or 20% grade, but it is pretty steep. He added it would take an enormous amount of excavation to go straight back. He said if you go over the mound and into the back there is no drainage back there, the front area has proper drainage a natural drainage area and very simple to excavate and help with the drainage and tile around the building to help with the flow, but in the back it is sloped they did look at other locations, the location they choose has natural drainage and it is flat, there is no drainage in the back and it would require a significant project to put drainage back there and a roof of that size in the area back there would be problematic. The waterline is right there so they can connect. The excavator and the builder decided on that spot with them, they can move 100' or 135' but there is a flat rectangle that is good for building right there.

Ms. Rippon-Butler asked if they have a stormwater plan as part of what was submitted? Mr. Cornell replied he did not do a full stormwater plan and he apologized. Mr. Basinger asked if the impact would be more than an acre, Mr. Cornell replied no and he stated they had DEC look at it and they gave them an ok on the location as well as the amount of the disturbance. Mr. Brennan stated his notes reference a plan for drainage not necessarily a SWPP or a full stormwater plan. Mr. King said he did not talk about a full SWPP but he did want a drainage plan included.

Mr. Cornell stated he spoke with Mr. Terry about the building permit and if he was able to move forward so he wanted to prepare himself to move forward, the contractor did provide a stamped architecture plan of the building. He stated he did not feel the rendering was appropriate and that is why he didn't bother with it. And he reiterated he has full stamped architecture plans of the building; the building department has a copy and an electronic copy as well. The Board reviewed the plans. Mr. King stated he would appreciate time to read through the comments and read through the regulations again so they can respond appropriately to the concerns that have been brought forward. The Board agreed.

Chair Martindale stated the Board has looked at the driveway and they are trying to keep the agricultural aspect of the property intact, so moving the driveway straight up the middle would split it, this is an agricultural Town and agricultural is the number one business, the applicant was aware of that and he took that into consideration when he placed his driveway.

Ms. Ferradino stated that is fine but now to comply with the regulations he has to a SWPP, Chair Martindale said that is part of what the Board needs to look at. Ms. Ferradino stated if they decrease the impacts, they are content.

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She added they also said they don't have topo, it is required in the site plan regs and it is one of the things that is missing in the 13 items. If we had the topo then we could trust the information that the applicant is saying about the land.

Chair Martindale asked Ms. Rippon-Butler if she went and looked at the property, Ms. Rippon-Butler replied yes and she agrees that seeing a topo map would be helpful, she could look it up but seeing it with the building site overlaid with topo lines would be an advantage.

Chair Martindale stated they are keeping the public hearing open and they will address it at the next meeting.

Ms. Rippon-Butler stated it doesn't have to be anything fancy with the topo and she believed google maps has a topo version.

Ms. Ferradino asked how they get past the clear regulations that say your plans need to have these 20 things? Chair Martindale replied they haven't finished the review yet, Ms. Ferradino said they should ask them to prepare them because if you require site plans that are compliant with the check list he needs to provide it or they will still have this round and round, she will come back every month but it seems a waste of everyone's time. She added you can't evaluate the impact because you don't have the plan to do it. Chair Martindale said they will take the comments into consideration.

Chair Martindale stated they will move to comments from the Board on Local Law extending the Moratorium on certain solar energy systems. Mr. Brennan explained the Town Board is extending the Moratorium for six more months so the Town Board can consider changing the regulations in respect to the experience this Board had with one project, the Town Board things there are some changes but they are not ready to put it into an amendment to the Zoning Law so they need a little more time. Because it is a Moratorium which is considered a Zoning change To the law it has to be referred to the Planning Board for comment, it is a procedural step.

Mr. King made a motion to send a note in support of extending the Moratorium,  
Ms. Black 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed.

Chair Martindale stated the next items are recommendations for Chair and Vice Chair for the Planning Board to the Town Board which are done on an annual basis.

Ms. Black made a motion to nominate Susan Martindale remain Chair and James Heber remain Vice Chair of the Planning Board,  
Mr. Basinger 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed.

Ms. Black made a motion to adjourn,  
Mr. King 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed.

Respectfully Submitted,  
Tia Kilburn