

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

**Members Absent:** Brit Basinger, David Williams, and Michael Haag

**Town Employees Present:** Dave Brennan, Town Counsel, Lindsay Dodd, 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 7:01 pm. Quorum established.

Chair Martindale announced the continuation of the public hearing for **Two Lions Farm, 165 Beaver Street, application #: 0004-23, site plan revision to construct a single-family dwelling, presented by David Cornell.** She asked if there was anyone in public attendance that would like to speak regarding this application, no one in public attendance commented regarding this application.

Vice Chair Heber made a motion to close the public hearing,  
Ms. Eggleston 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed.

Chair Martindale announced the next item on the agenda, new business **application #0005-23, site plan, shoreline overlay to construct a new single-family residence. Applicant Michael Bannon, 674 West River Rd.**

Mr. Rich Nolan of Nolan Engineering representing Mr. Bannon introduced himself and explained the application is for a single-family residence. He stated he dropped off 2 sets of plans earlier in the office, one was the septic plan and the other a home drawing. He asked the Board to look at the septic plan, sheet number 3 of 5, he displayed the page on the easel. Chair Martindale asked if the location was south of Austin Road, the Clerk replied yes, Mr. Nolan submitted a satellite photo of the area. Mr. Nolan explained the Hudson River is to the rear of the property, and he stated he put a box in the area of construction, Vice Chair Heber asked him to point it out to him, and Vice Chair Heber stated basically the house won't be seen by anybody on the river. Mr. Nolan stated Mr. Bannon would like the house more back on the property, about 2/3<sup>rd</sup> of the way back on the property, and the property is about 700' deep, he indicated the location and stated it is a 3 bedroom house, not very big. He explained the property is level and then it slopes down to the river. Vice Chair Heber asked if test pits have been done, Mr. Nolan replied yes, test pits and deep hole and it is clay out there so a raised system is required. Ms. Rippon-Butler asked if there is a trailer there and if he would be moving it. Mr. Nolan stated the trailer is gone and he pointed out the driveway. Chair Martindale stated the property is 5.01 acres in size. Vice Chair Heber said it was part of a subdivision, Mr. Terry agreed and said Paliulis subdivision, across from Paliulis's barn, Vice Chair Heber said a while ago, like 20 years.

Vice Chair Heber asked if there were plans to clear between there and the river, the 100' setback? Mr. Nolan stated he has done some clearing but he has left a buffer for the river, he added Mr. Bannon has not told him he wants to do that, but he would have to follow up with him and get back to this Board. Mr. Terry gave the Board photos he took of the property and said it is up on a hill from the river, the Board reviewed the photos and the plans. Chair Martindale reiterated Mr. Bannon has cleared the land but he has not gone within 35' of the river, Mr. Nolan agreed and stated he was at the property the week prior to this meeting. Chair Martindale stated the plan says it is 100' from the river but it seems to be on an angle, she asked from what point is the 100' measured? Mr. Nolan said he believes the back of the property follows the river, so they off set the line 100' from the shoreline,

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Chair Martindale reiterated it is diagonal to diagonal? Mr. Nolan agreed and said the house will be more than that, about 250' more, they need the 100' separation from the septic so they made sure they had that. Mr. King asked how deep the shoreline overlay was, Mr. Terry replied 500', Mr. King said they have a house and a septic being built in the shoreline overlay, other than that he said he didn't see any other real issues. Ms. Rippon-Butler stated in the regulations it says the frontage is supposed to be 300' for the road, Chair Martindale stated it says it is 300'. Vice Chair Heber read from the regulations, 500' setback from the river.

Chair Martindale asked if Mr. Baker, Town Engineer has reviewed the septic plans, the Clerk replied no, they were just submitted today. Mr. Terry explained there was some miscommunication, that is why some is already cleared, Mr. Bannon came in and he told him to stay back 500', Mr. Bannon misunderstood, and he started clearing the lot. Mr. Terry stated he called him and told him to hold off on any more excavating because he had to come to the Planning Board, Mr. Baker did not have time to look at it because they were received today but he wanted to get him in here so this Board could look at it, he added they will be sent to Mr. Baker and Mr. Bannon will not have to wait another month.

Mr. Kenneth Walker, neighbor to the property asked if he could speak, he stated he also had photos for the Board to look at, Chair Martindale agreed. Mr. Walker said he and Mr. Bannon are disputing property lines right now, but he will show them in pictures that Mr. Bannon has cleared almost the whole property back there, there are hardly any trees left on the property, he said there is a 10' buffer, if that, back to the river. He stated Mr. Bannon has cut on his property and had equipment over on his property, that is why they are having disputes. He said Mr. Bannon is also keeping cows on his 5-acre piece of property and he is not supposed to. He said if the Board is looking at it for somebody that is going to do damage to the river Mr. Bannon has already done damage to his property and the property back there. Mr. King asked where Mr. Walkers property was in location to Mr. Bannon's, Mr. Walker replied 692 West River Rd, it is basically the pen he put up is his front yard, Mr. King asked if he was north or south of him, Mr. Brennan asked if you face the property are you to the right or the left of him. Mr. Walker replied he is to the left of him. Mr. Nolan stated Mr. Bannon talked to him about that and he now has the property marked out, Mr. Bannon told him the landscaper he had working for him did accidentally go over the property and knock down some trees, he admitted it happened. Mr. Walker added they did offer to put down some grass seed.

Mr. King stated there is a 188' dimension on the plan, a wavy line that crosses in front of the proposed house, Mr. Nolan replied that is the ground elevation. Mr. King said they are going to need dimensions of the entire parcel. Mr. Brennan asked why the well was on the property line, hanging onto the setbacks of the southern neighboring lot? Mr. Nolan stated the 1<sup>st</sup> setback is 10 or more feet, so it looks like it is 30 or more feet away from the property line, he said that is not put in. Mr. Brennan said what he didn't like was the 100' setback, if the neighbor wants to build something there then you have a 100' setback on the neighbors' property, you have enough so you could put it where the 100' setback stays entirely within its own lot. Mr. Nolan agreed and said the well is not in yet so they can move it to where it makes more sense. Vice Chair Heber stated it should show where the neighbors septic is so the Board knows the separations. Chair Martindale agreed it should be on the map. Ms. Eggleston interjected the surrounding wells and septic. Mr. Walker stated there is plenty of room from his. Vice Chair Heber stated he didn't know where it is and then they have problems with the septic, he said they don't know what is on the north side and asked if that was an empty lot too. Ms. Eggleston stated he is to the north; they don't know what is to the south. Mr. Brennan asked what was across the street, Mr. Nolan said it appeared to be a cow farm. Mr. Terry said there is a barn on 5 acres, Chair Martindale asked if that was owned by Mr. Bannon, Mr. Terry replied no it is owned by Mr. Paliulis. Mr. King stated the proposed septic is closer to the southern property line, he reiterated they are asking him where the adjacent property both well and septic are located. Vice Chair Heber agreed, and added they should be on the map. Mr. King stated he would like to see the distances on all property lines.

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Mr. Nolan asked if the Town had on file the adjacent property surveys that show the wells and septic, they are sometimes hard to get. Mr. Terry stated the only thing with the southern lot, he stated that was purchased too and he believes they are going to knock the house down and build a new one, so he doesn't know how that will affect it in the future if everything gets moved. Mr. Brennan suggested Mr. Nolan speak with Mr. Walker in the hall on the way out and ask if he could see where the well and septic are. Mr. Walker agreed and said Mr. Nolan is more than welcome to go over and see where they are. Mr. Walker said there is more than enough room, his well and septic are out front and he is building out back there is a huge separation.

Mr. Brennan suggested sometime after this meeting in the intervening time Mr. Terry go out and walk the property and see with respect to the cutting of the 100' setback. Mr. Terry said he did go out the Friday before and Mr. Bannon did do some clearing but it is hard to tell if it is within the 100' because the bank to the river is very steep, that is one of the things with the shoreline seeing it from the river, if the house is going to be staying where it is, it will not affect the view from the river, he said they just have to worry about drainage or runoff. Mr. Brennan said if he took trees out of the 100' setback there is a provision in the code for putting them back in. Mr. Terry agreed and Vice Chair Heber suggested he speak to the neighbor about putting something back he took from there, better than grass seed. Mr. Walker said he doesn't need anything, he doesn't want him over there, he doesn't want anything from him he just wanted to touch base with this Board, he wants his property left alone. Mr. Terry said he sent a letter about the cows, Mr. Walker said they did move them because they escaped last night, but they will be back after he fixes the fence. Mr. Terry said he can't issue the building permit to Mr. Bannon if the cows are still there, and Mr. Bannon is working on it. Mr. Nolan stated Mr. Bannon said the cows have to go so he is aware of it. Mr. Brennan stated he has to submit a final plan to submit to County Planning.

Vice Chair Heber made a motion to accept the application and submit to Saratoga County Planning and schedule a public hearing,

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

All in attendance unanimously agreed.

Mr. Nolan asked if he provides what the Board has asked for and there is a public hearing next month will that be the end of it or will there be something after that. Vice Chair Heber explained he gets the stuff they asked for and it will go to County Planning for review because it is on a County Road, he has to get the information in to the building department so they can send it to the County before they have their meeting, the Clerk said she believes it has to be submitted by the 2<sup>nd</sup> Wednesday of the month and electronically is better. Mr. Nolan agreed.

Chair Martindale announced the next item on the agenda; old business for application # **0002-23, applicant Tracy Mauran, Owner James Pentaudi located at 13 Leonard Street, in the hamlet district.**

Vice Chair Heber asked to be brought up to date on the last meeting; Ms. Eggleston explained it is a church, they reviewed parking and screening. Mr. Terry stated they were hung up on the screening, Ms. Eggleston added and the neighbor's driveway. Mr. Terry said that is a 2<sup>nd</sup> driveway, Mr. Terry said it's not supposed to be the driveway.

Vice Chair Heber reviewed the site plan and stated it looked like he had everything laid out, there may be a problem between him and the neighbor. Mr. Terry said yes, he explained when it was changed to the theater there was required screening which was to be put up around the perimeter of the parking lot and that never happened. He said it remained a theater a few years and it was 2021 when Mr. Mauran started having services there, Mr. Pentaudi said it was ok, it went well for a while but now the neighbor has concerns about the parking lot, so he told Mr. Mauran to come in and get it changed from a theater back to a church. Mr. Terry explained there is required screening in the zoning, but this is an existing substandard lot, a church is supposed to have an acre and

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this is only about .04 of an acre. Vice Chair Heber said it is all pre-existing, Mr. Terry agreed and said it is substandard, so do they put in the 6' buffer, or just a fence to screen it, that is where it was left. Discussion ensued on where it was left off at the last meeting, definition of screening and buffer.

Mr. Mauran stated Mr. Terry visited the property and said he could put a fence 18" off the property line, Chair Martindale said he needs to maintain it, both sides, Mr. Terry agreed and said he can put it 18" to 24" off the property line and get back there to cut the grass and maintain it and then as it comes up to the front he could put a couple of small shrubs to keep the property line there without affecting the view, or a 4' fence. Mr. Mauran said he had no problem with that.

Vice Chair Heber reiterated this is a site plan review, and basically if he puts that on the site plan that would be it. Mr. Terry agreed and said if he drew fences in and they can make it an official site plan if the Board approves it with the 6' and 4' stockade fences.

Mr. Brennan asked what section of the ordinance they were looking at, Mr. Terry said page 43, items 6 & 7. He asked if the neighbor was going to accept this if it comes back for the public hearing next month. Mr. Terry said he has invited the neighbor to come and voice concerns and this is his biggest one, privacy, if they put up a fence and everyone is ok with it. Mr. Terry said the neighbor may want plants on his side, they can find out at the public hearing. Discussion ensued on part of the driveway being on the churches land. Mr. Mauran said the neighbor wanted it surveyed so he got it surveyed and then the neighbor realized he had lost his driveway. Ms. Eggleston said if he puts trees or shrubs there he still has to maintain it so if he puts them there he is losing out on his space. Mr. Brennan said his thought is you don't have to put a fence 2' off a property line, you put it on the property line, you put the good side of the fence out, you don't need to get on both sides of the fence you can take a panel down to maintain it or fix it. Mr. King said they were following the book, but for a substandard lot he would be ok with putting a fence right on the property line. He said they were following the parking provisions and screening for parking lots, page 43 and it talk about screening area shall be at least 6' densely planted, Chair Martindale added they were trying to work around that because of the substandard lot. Mr. Brennan said the Planning Board is encouraged to require adequate buffer and screening for commercial and business uses within the Hamlet district as part of the site plan. He reiterated it says encouraged it doesn't say shall, the Board agreed. Vice Chair Heber stated Dollar Generals is right on the property line. Mr. Brennan said it says commercial or business use and he is not sure a church qualifies as a commercial or business use. Mr. Brennan asked the Clerk if this had to go to County Planning, the Clerk replied yes, he suggested sending it to County Planning and scheduling a public hearing next month and see what happens, he said it is a small thing to put up a fence, but he doesn't not think you need to give someone 2' of extra property to add to their back yard. Vice Chair Heber instructed Mr. Mauran to put the fence on the site plan so it can be sent to County Planning.

Vice Chair Heber made a motion to accept the application, submit to Saratoga County Planning for review and schedule a public hearing for the next meeting,  
Ms. Eggleston 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed.

Ms. Rippon-Butler asked Mr. Mauran if he had talked to the neighbor about putting the fence on the property line, Mr. Mauran said he has tried to, Ms. Rippon-Butler said if he puts a fence there the neighbor will not be able to use his driveway, Mr. Terry interjected he wouldn't put a fence there because it is too close to the road, as the property line goes back it goes at an angle, the driveway is straight and the property angles. Mr. Mauran said it is not the primary driveway, the primary driveway is on the other side of the house.

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Chair Martindale; return to **application 0004-23, site plan revision for construction of single-family residence at 165 Beaver St, Two Lions farm, John Cornell**. She stated during the public hearing the neighbor spoke of concerns regarding the manure storage, Saratoga County Soil and Water Conservation Service performed an inspection of the property and determined the procedures and location for manure storage are within the realm of the requirements. Mr. Brennan stated previously that the Town Supervisor went out during the site plan for the riding arena, and he found it to be satisfactory.

Vice Chair Heber asked why they need a site plan for construction of a house, Mr. Brennan replied because it is on the existing site plan for the riding arena, he stated they have already been in court once, so he coordinated with Mr. Cornell's attorney, and they agreed this was the best way to proceed. He explained they went to court and won and in the process of the site plan review there was talk about building a house, originally it was to be out by the road frontage, but he assumes Mr. Cornell thought about having to drive back to the barn and has decided to put the house back by the barn, it is not really a site plan issue but because there is a site plan there they decided to make a minor amendment to it. Chair Martindale asked if there was a copy of the original site plan they could review. The Clerk stated it was in their packet, Mr. Cornell displayed a copy on the easel.

Mr. King stated they have looked at and discussed the site plan and, in his opinion, he is ready to move forward. Chair Martindale stated during the public hearing for this application there were concerns regarding items that were incomplete on the original site plan; Mr. Terry stated 3 topics were the manure pile, the well which was taken care of, we have seen pictures of the manure pile, it is put by the dumpster, put in the dumpster and the dumpster is hauled away and the third thing was a turn off for the road going to the riding arena, Mr. Terry said he went there today and checked it, talked to Mr. Cornell and he has the two required turnoffs within the road and then it goes up to the parking lot where everybody can turn around. Chair Martindale asked about the drainage concerns were fixed. Mr. Terry replied there is nothing that Mr. Cornell did to affect that, what happened was they needed to move an electrical service so they dug up part of the driveway and he doesn't think they filled it in properly, there is no runoff from the riding arena affecting the driveway, when they put in the trench for the new power they did it substandard and it is falling in. Chair Martindale reiterated everything that is on the original plat that had to be done has been taken care of. Mr. Terry agreed. Mr. King added her house is uphill from there, Mr. Terry agreed and explained there is a fork in the road and there is a trench where it is washed out, the final turn going to the neighbor's house.

Vice Chair Heber made a motion to approve the amendment of the site plan to construct a single-family residence, Ms. Eggleston 2<sup>nd</sup> the motion,

Chair Martindale asked if there were any additional discussion before there is a vote, Mr. Brennan stated he would like to note as a single-family home it is exempt from SEQRA, State Environmental Quality Review.

Chair Martindale asked for all those in favor, all in attendance unanimously agreed, motion approved.

Chair Martindale stated under the miscellaneous section of the agenda there are two new members listed; David Williams and Michael Haag, she asked if they were alternates, the Clerk replied yes. Chair Martindale asked if there was any background on them. Mr. Brennan stated he believes Mr. Haag previously served on the Zoning Board or something and David Williams is a retired State Trooper, and he lives on Route 4 N, Mr. Terry added he lives down by Schuylerville on the river. Mr. Brennan stated they published notice for openings, they applied and Michael Haag's wife, Ann was appointed to the Zoning Board of Appeals.

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Meeting minutes approval;

Vice Chair Heber made a motion to accept the March minutes,  
Ms. Black 2<sup>nd</sup> the motion  
All in attendance unanimously agreed.

Mr. Brennan stated he took the March minutes, because the Town got sued by the neighbor regarding the pedestrian bridge so he is defending that, he stated he took the minutes and put them into the SEQRA negative declaration, he will be defending in litigation if the Town loses, we will come back and fix whatever was not done correctly.

Ms. Eggleston made a motion to accept the April minutes,  
Mr. King 2<sup>nd</sup> the motion  
Vice Chair Heber abstained from the vote; he was not in attendance at the April meeting.  
All remaining members in attendance unanimously agreed.

Chair Martindale stated they also got a copy of the new local law for solar, Vice Chair Heber asked where it was, the Clerk stated it was not the complete copy of the law, Mr. Brennan said it is the amendments to the local law. Vice Chair Heber stated they have a zoning book, and it doesn't have half of the stuff in it, he suggested adding to the zoning book so it is in one place. Mr. Brennan stated he just did that for another Town, they went forward from the zoning adoption and pulled every amendment that had been adopted so they were all in one place. Vice Chair Heber agreed and said if he has a question he goes to the book because it is impossible to remember all the changes and amendments to the law.

Mr. Brennan stated Ms. Lindsay Dodd, Counsel from his office, was in attendance a couple of meetings prior and he wanted to let the Board know she will be in attendance more often to take his place when he cannot attend.

Chair Martindale asked if there was any other business for the Board, none was noted.

Mr. King made a motion to adjourn @ 7:47 pm,  
Vice Chair Heber 2<sup>nd</sup> the motion,  
All in attendance unanimously agreed.

Respectfully submitted,  
Tia Kilburn  
Planning Board Clerk