

Town of Northumberland Planning Board  
Minutes  
Monday, August 20, 2007 7:00 pm  
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*Approved by Planning Board with corrections*

**Present:** Patricia Bryant, Chairperson, James Heber, Susan Martindale, Jeff King Wayne Durr and CJ Lofgren

**Absent:** Brit Basinger, Vice-Chairperson , Kevin Pumiglia, Joseph Kowalewski

**Town Employees Present:** Richard Colozza, Town Code Enforcement Officer, Jim Mitchell, Town Engineer, Doug Ward, Town Attorney and Tia Kilburn, Planning Board Clerk.

All in attendance stood and recited the Pledge of Allegiance

Chairperson, Patricia Bryant opened Public Hearing at 7:03 PM, and explained the procedure to the audience.

**PUBLIC HEARINGS**

**Minor Subdivision**

**Application #: 0002-07**

**Applicant: Guy Murphy / Anne Decker**

Location: 401 Colebrook Rd

SBL#: 129.-1-20

Acres: 1.29

Zoning: R-3

Randal Decker came forward and displayed the plot plan for all to see. Mr. Decker explained they have ample room for the well and septic. Ms. Bryant confirmed Mr. Murphy only owned 1.29 acres on the East side of the street. Chairperson, Patricia Bryant asked the public for any comments or concerns. None were noted. The public hearing was left open.

**Minor Subdivision**

**Application#: 0005-05 (re-opened file)**

**Applicant: Jon / Blanche Zuckerman**

Location: Routes 4 & 32

SBL#: 131-1-10.12

Acres: 27+

Zoning: APD

Surveyor: Gregg Beswick

Mr. Beswick came forward and displayed the map for all to see. Mr. Beswick stated for the record this is a 3 lot subdivision and should be listed as a MINOR subdivision and not a MAJOR. Mr. Beswick explained there will be 5.76 acres left for conservation in perpetuity, Mr. Zuckerman will obtain DEC approval for crossing the stream and he will add language for no further subdivision to the mylars and maps. Lots 2 & 3 will have a shared drive.

**Speakers from the public;**

Mr. Jack Foster of Harris Rd, a neighboring property owner, stood and inquired who would be responsible to build the shared driveway for lots 2 & 3. Mr. Beswick answered he was unsure at this time, however there will be specific specifications that will be followed.

Mr. Tom Foster, a bordering property owner, stood and inquired who would be responsible to build over the stream, and wanted nothing would be started until DEC approved and permits were granted. Mr. Beswick responded, that was correct, the permits and instruction must be obtained from DEC first before any construction. Mr. Tom Foster then asked if he could step closer to the map to examine the "AG conservation area". He was allowed to do so. Mr. Tom Foster stated the railcars were tipped over and were a nuisance and would like to see them removed. Mr. Beswick said the railcars would be removed before any construction began.

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Mr. Jack Foster then asked if a survey was performed stating some men were seen on the property and he spoke with them, they had told him they were only looking and not performing a survey at that time. Mr. Jack Foster then stated he believed the "survey pins" were in the wrong place due to being hit by machinery. Mr. Beswick responded with, yes there was a survey he was unsure of the exact date however he believed it was about 3 years ago and the "markers" would be corrected.

Ms. Bryant asked if there were any more questions or comments for this subdivision. None were noted. Ms. Bryant thanked Mr. Beswick and said the public hearings would be left open until 7:30 P.M., when the monthly meeting would start.

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The Board reviewed the July meeting minutes

Chairperson, Patricia Bryant called the room to order at 7:30 P.M.

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Jeff King made a motion to close the Murphy / Decker public hearing.  
Wayne Durr second the motion, Unanimous by all members in attendance, motion passed, hearing closed.

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**OLD BUSINESS**

**Minor Subdivision**

**Application #: 0002-07**

**Applicant: Guy Murphy / Anne Decker**

Location: 401 Colebrook Rd

SBL#: 129.-1-20

Acres: 1.29

Zoning: R-3

Mr. Decker was called back up, there was a discussion among the Board on the barn.

Mr. Heber asked the Town Attorney, Mr. Ward if a second SEQR form needed to be completed. Mr. Ward stated yes, the Zoning Board had completed one, however the Planning Board should complete one as well. The clerk obtained a second copy of SEQR and gave it to Mr. Heber for review.

Mr. Heber made a motion to declare a negative declaration on SEQR.

Mr. King second the motion, Unanimous by all members in attendance, motion passed.

Ms. Bryant asked if there were any additional questions or concerns from the Board. None were noted.

Mr. Heber made a motion to approve the Murphy / Decker subdivision.

Ms. Martindale second the motion, Unanimous by all members in attendance, motion passed.

**ACTION TAKEN:**

Negative Declaration declared on SEQR (no significant impact), Subdivision was approved, Unanimously (6-0).

**Minor Subdivision**

**Application#: 0005-05 (re-opened file)**

**Applicant: Jon / Blanche Zuckerman**

Location: Routes 4 & 32

SBL#: 131-1-10.12

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Acres: 27+

Zoning: APD

Surveyor: Gregg Beswick

Ms. Bryant asked for the long SEQR form, Mr. Heber reviewed. Ms. Bryant asked Mr. Mitchell if he had any additional questions on this application. Mr. Mitchell asked about the language for the shared driveways. Mr. Beswick stated the language will be given to Mr. Ward for review and approval. Mr. Beswick then asked Mr. Ward if he had any language he could share he had used before. Mr. Ward stated he did, he and Mr. Beswick arranged obtain to that information from Mr. Ward.

Mr. King asked if the train cars had been removed. Ms. Bryant stated a previous condition was the train cars would be removed before the mylars were signed. Mr. King asked what the time limit was to file, Mr. Beswick responded it was 62 days. Mr. Colozza suggested this Board set a time limit for the cars to be removed. Mr. King asked if 60 days was reasonable to have the cars removed. Mr. Zuckerman and the Board agreed to a 60 day limit to remove the cars. Ms. Bryant stated if they were removed sooner and everything else was taken care of Mr. Zuckerman should call the office.

Mr. King made a motion to close the Zuckerman public hearing at 8:00 PM.

Ms. Martindale 2<sup>nd</sup> the motion, Unanimous by all members in attendance, motion passed

Mr. Heber made a motion to declare a negative declaration on SEQR.

Ms. Lofgren 2<sup>nd</sup> the motion, Unanimous by all members in attendance, motion passed

Ms. Bryant made a motion to approve this application contingent on the following;

- DEC permit approval for stream crossing and storm water pollution prevention plan.
- Railcars removed within 60 days.
- Approval of Language for shared driveways from the Town Attorney.
- Final approval from the Town Engineer.
- Language for *No Further Subdivision* on the Mylars
- Approval from Town Engineer of driveways to Town specifications.
- Approval of conservation easement language from Town Attorney.

Mr. Durr 2<sup>nd</sup> the motion, Unanimous by all members in attendance, motion passed

**ACTION TAKEN:**

Negative Declaration declared on SEQR (no significant impact), Subdivision was approved with the above named contingencies, Unanimously (6-0).

**Major Subdivision Preliminary Stage**

**Application #: 0001-07**

**Applicant: Scot Trifilo**

Location: Loudon Road

SBL#: 155-1-31

Acres: 39+

Zoning: R-3

Surveyor: Joe Bianchine, ABD Engineers

Mr. Trifilo produced maps with a new layout to review with the Board. Mr. Trifilo pointed out he had the 1<sup>st</sup> home moved back to meet the 200' road frontage requirement. Mr. King asked if this was a conservation plan and Mr. Trifilo responded no it was conventional. Mr. Ward discussed the lot line adjustment that is needed between these two parcels. Discussion ensued, the back parcel is land locked without the adjustment. Mr. King stated Mr. Trifilo will have to submit an application for a lot line adjustment. Mr. Ward agreed it was needed for the Towns' records. Ms. Bryant asked if the Board could still discuss the subdivision and Mr. Ward responded yes. Mr. Trifilo asked if both applications could be presented at the same time. Mr. Ward reiterated, he does not have to wait for the lot line adjustment to be approved to continue with the subdivision. Ms. Bryant stated it would be recorded in the meeting minutes for the record

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an adjustment is needed to the lot line. Mr. Trifilo wanted additional confirmation the two procedures could be done concurrently and the lot line adjustment was just a technicality. Mr. Ward confirmed there was no reason to wait in between the applications however two separate applications would need to be submitted. Ms. Bryant stated after the lot line adjustment it would become one parcel, Mr. Ward agreed and added the Board has been looking at it as if the lot line adjustment has already been made.

Ms. Bryant asked Mr. Trifilo if he was aware of the petition that was submitted to the Board by his neighbors. Mr. Trifilo responded no, the neighbors have not contacted him at all, the only contact he has had with his neighbors is with Mr. Kudlacik at the regular monthly meeting of this Board. Ms. Bryant stated the petition was brought to the office and given to Mr. Colozza.

Ms. Bryant stated the Board has some disagreements on this projects design. Mr. Trifilo said he has done everything the Board wanted. Ms. Bryant responded she did not think this "new" plan is what they had discussed at the last meeting. Mr. King interjected he does not think the three keyhole lots conform to Town specifications. Ms. Bryant stated for keyhole lots there has to be a defined benefit to the Town. Mr. King said the Town regulations discourage keyhole lots unless it is a unique situation. Mr. Trifilo said this is a unique parcel. Mr. King agreed there is not much that could be done with this lot, however Mr. Trifilo could reduce the number of lots in the back. Ms. Bryant stated she is trying to get Mr. Trifilo an answer from the Board on this application. Mr. Trifilo said at the last meeting it was decided to proceed with this new plan he brought tonight. Mr. Ward stated the Board is not designing the project, this is not a negotiation between Mr. Trifilo and the Board, Mr. Trifilo has to make an application as a developer with what he wants to do then the Board can make a decision. Mr. Trifilo stated this is the plan he wants to pursue., it is 4 houses on 40 acres and the big picture is nothing is visible from the road. Ms. Bryant stated it has not been decided if this is 40 acres, due to the needed lot line adjustment. She then added, some members are not in favor of the plan with four houses and she asked Mr. Trifilo if this is the plan he wants to submit to the Board. Mr. Trifilo said the Board keeps sending him back and at the last meeting the Board said this was the plan they wanted to see.

Stricken -  
motion made  
9/17/07

Ms. Bryant said she thought personally this could be the best plan so far but mentioned the extra traffic. Mr. Trifilo said he did not want to do a traffic survey for four homes. Ms. Bryant stated a new traffic survey was not necessarily needed and maybe one could be looked at from one of the other subdivisions off Loudon Rd. Mr. Colozza stated he would look into it. Mr. Trifilo stated one of the subdivisions was 22 homes and the other had 40. Ms. Bryant said she was not convinced this was what the Board wants and Mr. King said it was not approved at this time. Mr. Trifilo responded with, this is the plan the Board told him they wanted so he did it. He stated you can not see anything from the road and it is not affecting the character of the neighborhood. Mr. Trifilo said he could build anything up on that lot but he wants a logical earth friendly plan and he thinks one driveway is better than four. Ms. Bryant agreed this could be the best plan for four houses. Mr. Trifilo asked how could he improve on this plan. Mr. King stated that in by the interest of progress the Board needs to move through the plan and eventually vote on it.

changed  
motion  
9-17-07

Mr. Heber stated all adjoining parcel owners need to be named. Mr. Colozza added anything that touches Mr. Trifilos parcels. Mr. Trifilo asked if that would include Cheslea Dr. Mr. Heber said Mr. Trifilo needs to submit the plan he wants the Board to consider. Mr. Colozza stated due to the location of these parcels, the towns of Saratoga and Wilton would also have to be notified and the specific plan/information needs to be sent to the County.

Mr. Trifilo asked about the perk test. Mr. Colozza said it was needed before approval could be granted. Ms. Bryant stated the information also needs to be on the maps.

Mr. Ward suggested the SEQR form be sent out for lead agency and he would discuss the lot line change and Town Regulations with Mr. Colozza. Ms. Bryant wanted to confirm the Board has the right information to convey to Mr. Trifilo. Mr. Heber asked if it would be a boundary or lot line adjustment. Mr. Ward said he would have to review for clarity.

Ms. Bryant asked if there were any more questions.

Mr. Ward asked if this was the application Mr. Trifilo wanted to submit. Mr. Ward stated the Board needs to determine the significance under SEQR. Is this application going to have possible significance public impact making it a positive declaration or if not a significant public impact it would be a negative declaration for SEQR. Mr. Trifilo said he thought

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it was a negative declaration. Mr. Ward stated that it has not been determined if this has a potential for public impacts, this Board can hold their own informal workshop with the public. Ms. Bryant said this would be like the informational hearing that was held for C & S Construction before their subdivision application was granted. Mr. Trifilo asked when a determination on SEQR would be made. Mr. Ward stated this Board has not heard from the public yet. Ms. Bryant asked the Board if they were interested in holding an informal workshop. Ms. Bryant stated an informal hearing helps the public to bring up information the Board may not have and then the Board can address any issues the public may have.

Mr. Trifilo asked why a public hearing could not be held next month (September 17<sup>th</sup>). Ms. Bryant responded the perk and deep hole tests need to be completed and this application needs to go to the County before a formal Public Hearing can be held. Mr. Trifilo stated this has already gone to the County. Mr. Ward said this particular plan with all the information needs to be sent to the County. Ms. Bryant said a Public Hearing could be held in October if all the information is received, however we can schedule an informal hearing for September. Mr. Trifilo asked if he could speak with his neighbors prior to the meeting. Ms. Bryant said yes he can that was not controlled by this Board. Ms. Bryant asked the Board if they wanted an informational meeting next month. The Board responded yes, none were opposed. Mr. Colozza asked if the notices would go out as general mailings without any newspaper publications. Ms. Bryant responded yes that was fine no publication for that meeting and general mailings.

**ACTION TAKEN:**

Mr. Trifilo needs to submit an application for a lot line adjustment. An *Informal Public Workshop* will be scheduled for September 17, 2007 monthly meeting at 7:00 PM, notification to neighbors will be sent via general mailing. Planning Clerk will gather information to submit to Saratoga County Planning, Town of Saratoga and Town of Wilton. SEQR will be sent out for lead agency.

**NEW BUSINESS**

**Site Plan Review / Shoreline Overlay**

**Application #0006-07**

**Applicant: Jim O'Donnell**

Location: 1439 West River Rd  
Solomon Acres

SBL#: 92-1-2

Zoning: AG

Mr. O'Donnell displayed a drawing and reviewed his plan with the Board. Chairperson, Ms. Bryant asked if there were any issues other than the shoreline overlay. Mr. Colozza stated this parcel was taken out of the previous subdivision. Mr. O'Donnell stated there are restrictions on changing the home due to being historical. Ms. Bryant asked for the plan for the barn. Mr. O'Donnell stated it would be stick built, the clerk gave the Board the barn specifications from the file. Ms. Martindale asked if there would be any business or lessons conducted there. Mr. O'Donnell said no it was for personal use.

Mr. King asked Mr. O'Donnell if he understood the shoreline restrictions. Mr. O'Donnell responded yes, and he would like a slab for the barn. Mr. Heber suggested he purchase a regulations book. Mr. O'Donnell said he had a copy of the regulations. Mr. King asked if he needed a special use permit and a public hearing. Ms. Bryant said Mr. O'Donnell will have to go through the whole process. Mr. O'Donnell asked about the fence. The Board reviewed the regulations book. Mr. King stated a short form SEQR would have to go to the county. Mr. O'Donnell asked if the SEQR was due to the barn or the fence. Mr. Heber responded it was due to both. Ms. Bryant stated it would be application including all proposals, and Mr. O'Donnell needs to add the fence to the map layout he has presented. Mr. O'Donnell added the fence to the map. Ms. Bryant stated the barn should be ok, Mr. O'Donnell is not cutting anything down and a barn was already located there. Mr. O'Donnell said the old barn was at 90° and they turned it.

Ms. Bryant asked for any additional questions or comments.

Mr. King stated the site plan needs to be sent to the County. Mr. Heber told Mr. O'Donnell to add everything he wanted to

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do to the map before sending. Mr. O'Donnell asked if the Board wanted this one redone. Mr. Heber stated that was fine. Mr. King asked for details on the proposed dock. Mr. Colozza stated Mr. O'Donnell needs a letter from the Canal Corp stating there is no impact for the dock and he will need a permit.

Mr. King asked if we could schedule a public hearing. Mr. Colozza stated SHIPO would have to be notified in Waterford due to this is a protected house and we can send a notice with the public hearing notification he is adding a building. Ms. Bryant stated she wanted all the information upfront. Mr. O'Donnell asked who he would get a letter from. Ms. Bryant said a letter from SHIPO was required and Mr. Colozza could help with that address. Mr. Colozza said he would give Mr. O'Donnell the address. Mr. O'Donnell said the deed says only the house is protected, it doesn't mention other buildings. Ms. Bryant said because the house is historical the Board would like the letter for our records.

Mr. Heber asked if SEQR should be a long form. Mr. Colozza said he was unsure. Mr. Heber said he believes because it is agricultural protection district it will need a long form SEQR. Ms. Bryant confirmed this application needs the long form SEQR.

Mr. Durr asked if the dock was to be part of this plan. Ms. Bryant said yes and the fence is too. Mr. King inquired about the type of fence proposed. Mr. O'Donnell said it would be the exact same fence as is already there. Ms. Bryant stated it is ok to repair or replace a fence. Mr. Heber asked if he was installing or repairing the fence. Mr. O'Donnell said the fence has been there and he was repairing/replacing a section that was missing.

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motion  
9/17/07

Mr. O'Donnell said the way the State wants it done is how he is going to do it. Ms. Bryant said and you will do as you are told. Mr. O'Donnell said yes.

Mr. O'Donnell stated he would add everything to the SHIPO letter for future reference. Mr. O'Donnell asked if there was a contact person in the National Registry he could contact. Ms. Bryant said Mr. Colozza would have that information. Mr. Colozza stated they are in Waterford.

**ACTION TAKEN:**

Mr. O'Donnell needs to present a letter from SHIPO, Long form SEQR, Letter from National Registry, all intentions of his plan on the map (drawing).

**Minor Subdivision**

**Application#: 0009-07**

**Applicant: John & Donita Martindale (Story)**

Location: 658 West River Rd

Acres: 32 ¼

SBL#: 118-1-9.11

Zoning: AG

Surveyor:

Board member Ms. Martindale recluses herself on this application.

Mr. King asked to see the maps. Ms. Bryant stated shoreline overlay and asked are we on the water here. Mr. & Mrs. Martindale said yes.

Mr. & Mrs. Martindale reviewed the maps and discussed the proposal with the Board. Mr. King wanted confirmation of the parcel Mr. & Mrs. Martindale were keeping. Ms. Bryant asked about the 10' right of way. Mr. Heber stated it is suppose to be 25' . Mr. Martindale was unsure of the size of the right of way.

Mr. Colozza asked if Mr. & Mrs. Martindale had an elevation certificate to determine this area in not in the 100 year flood plain, there are special requirements to be met. Mr. Martindale said this is above the flood plain. Mrs. Martindale stated it was two feet above the flood plain. Mr. Colozza stated you have to show you are above the flood plain for the septic. After review of the requirements, as stated in the Subdivision Ms. Bryant stated it is within the Local Law #1 of

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1995, Mr. Heber asked what it was, Ms. Bryant stated they did not have the Law, but she read from the subdivision book .... *A structure should be designed and anchored to prevent floatation ... and lateral movement in flood water related.... resistant to flood damage ....* Mr. Heber asked what does that mean. Ms. Bryant said her guess was it was describing how you can build in a flood plain but you can build in a flood plain. Mr. Heber then stated yes, you can build in a flood plain, but it's how you build it. Mr. King stated the flood plains are not an issue, its how you build it. Mr. Colozza said supposedly it is above the flood plain issue and if they have a separation distance they are all set.

The Board discussed the 25' setback requirement. Ms. Bryant asked what they currently own, and is it conceivable to do 25' for the frontage. Mr. Martindale said there is water there and they will have to build a bridge. Mr. Heber stated that doesn't mean the access has to go there, they could own the frontage but you can access from anywhere. Mr. Martindale asked if it had to be actual road frontage. Mr. Heber responded yes. Ms. Bryant asked can you gain 25' road frontage from here. Mr. Martindale said maybe he could. Ms. Bryant stated it has to be 25' frontage, she was trying to gain the 25'. Mr. & Mrs. Martindale discussed the right of way needed "25' frontage" and the barns with the Town Engineer, Mr. Mitchell and the Board. Mr. Colozza stated they need 25' road frontage for the driveway.

Mr. Durr asked how many feet are they from the shoreline. Mr. Heber stated there is 500' and a dotted line on the map showing it. Mr. Mitchell discussed the septic with Mr. Colozza, Mr. Colozza said they could get a septic in this area.

Mr. King wanted to discuss the road frontage further. Mr. Colozza asked about who will own the barns. Mr. And Mrs. Martindale said they are keeping the barns. The possibility of a variance was discussed for the lack of the required 25' road frontage. Mr. Heber suggested going around the barns. Mr. Colozza stated they would lose the barns. Mr. Colozza said they needed 15' more for the requirement. Mr. Colozza said to be careful not to create substandard lots. Ms. Bryant agreed. Review and discussion ensued how to gain the 25' of road frontage. Mr. King said they have to get by the road frontage and the flood plain issue before continuing. Ms. Bryant said Mr. Martindale wanted to get conceptual approval before he went further with elevations. Mr. King said it sounds like there needs to be some land negotiations. Ms. Bryant asked if the Board would do conceptual approval without the elevations. The Board was not in favor of conceptual approval. Mr. Heber said there is no such thing as conceptual approval, Mr. Colozza said the Board could be comfortable with the plan but not give an approval. Mr. Martindale stated he did not want to pay for a survey and all that stuff and then have the Board say no.

Ms. Bryant stated she thinks the Board told them what the issues are, he needs to get 25' road frontage once he gets over that hurdle she said Mr. Martindale seems to be comfortable he has enough area to build on, and she doesn't know if anyone is opposed to the subdivision if Mr. Martindale can meet the requirements. Mr. Durr stated he was not sure if the septic can go in there, however he could not find it written in the regulations at this time. Ms. Bryant said they should find out. Mr. Mitchell said he thought you could put a septic there as long as the guidelines for it were followed. Mr. Mitchell then said he would be more concerned with where the elevations are for the flood plain. Mr. Martindale said it was two foot above. Mr. Colozza said it needs to be a delineation of 100' from the river. Mr. Heber said they could make it 2' above the flood plain if they added fill. Mr. Colozza said they would have to get a permit from DEC to fill a flood plain but is that what you want to do.

Ms. Bryant asked what is in that area now, trees. Mr. Martindale responded with corn. Ms. Bryant asked if all you see from the river is corn. Mr. Martindale stated you cannot pass through by way of the river in that area. Ms. Bryant then stated then there is no public access. Mr. Martindale said no it is between the dams. Ms. Lofgren said she can see that area from the river on her canoe. All she sees is corn. Ms. Bryant stated it is important to take into consideration what the people see from the river. Discussion ensued on what was visible from the river and the importance of it. Mrs. Martindale stated there are some trees. Mr. Heber and Ms. Bryant said they have to be left alone. Ms. Bryant then stated that is what the Board needed to know, and you are going to see the house from the river.

Ms. Bryant stated they need to see the house, well and septic layout specifically then asked Mr. Mitchell if he had any further questions. House placement was discussed.

Mr. Colozza asked for a copy of the National Heritage Letter. Mrs. Martindale gave a copy for the file.

Mr. Martindale asked about the 25' road frontage, if it had to be 25' all the way back in. Mr. Colozza stated it is suppose

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to be road frontage and it is not suppose to decrease it is suppose to increase as you go back in.

Ms. Bryant asked for additional questions or comments. None were noted.

**ACTION TAKEN:**

Mr. And Mrs. Martindale need to show they can meet the 25' road frontage requirement and present an elevation certificate to determine this area in not in the 100 year flood plain. Also need the layout of the house, well and septic .

**Site Plan Review**

**Application#: 0010-07**

**Applicant: Adam Kolasienski**

Location: Route 50

SBL#:

Acreage: 13

Zoning: Commercial /Residential

Surveyor:

Board member Ms. Martindale rejoined the Board.

Ms. Bryant asked the exact location and what exactly Mr. Kolasienski wanted to do.

Mr. Kolasienski and his son Adam came forward to discuss the proposal with the Board. Mr. Kolasienski displayed a layout and discussed the location of the project on Route 50. He wants to clean up the area. Currently there is a car sales business in that location, he would like to add a Kitchen Cabinet showroom and offices. The garage in the back would be used for storage of the vehicle and cabinet storage. Mr. Kolasienski's realtor introduced herself and stated she could answer questions for the Board. Mr. Kolasienski stated Mr. Biss (the current owner) does not want to close his business he just wants to move everything across the street. Mr. Heber confirmed all Mr. Biss wanted to do was sell this lot. Discussion pertaining to the acreage. Mr. Kolasienski stated it is 13 acres. Mr. Heber said this lot goes out behind the log cabin. Mr. Kolasienski said there is another 419' on the south side. Mr. Colozza asked if the Board had a copy of the survey. Ms. Bryant asked for another map besides the small one. Mr. King said they are going to make a store then asked what the zoning was. Ms. Bryant said it was commercial / residential. Mr. Kolasienski stated there would not be a lot of traffic, most of his business was done by appointment. Mr. King asked what is the business. Mr. Kolasienski responded it was kitchen cabinet design retail. Ms. Bryant asked if the parcel went all the way around, and if the trailer was on that parcel. Mr. Kolasienski said yes, it a life lease. Ms. Bryant stated she thought Mr. Biss gave those people the trailer. Mr. Kolasienski stated no, he has the right to live there until he passes according to what Mr. Biss has told them. Ms. Martindale asked if he is choosing to stay there. Mr. Kolasienski said yes and he is not in very good health. Ms. Bryant said so that will stay until he passes. Mr. Kolasienski said yes and then they are going to remove it and not replace it.

Ms. Bryant asked if the house will become the showroom. Mr. Kolasienski stated no, his son Adam would live there and the garage would house the business. Ms. Bryant wanted clarification what would stay and what would become the business she then asked about the existing business *American Muscle Car*. Mr. Kolasienski said the business is already there and rents the location for the car sales, he will let him move his office inside. Mr. Kolasienski stated the building he is in looks bad and he wants to clean it up. Mr. King said he thought it was a shed. Mr. Kolasienski responded exactly it is a shed, and he wants to get him inside the building. Mr. King asked who is he. Mr. Kolasienski said Shane, he is the one that owns that, he is a renter. Ms. Bryant asked if it was going to have Shane's business and the cabinet business. Mr. Kolasienski yes he will give Shane an outside entrance to his and give an inside door for the use of bathrooms for customers. Ms. Martindale stated it is one building with two purposes. Ms. Bryant said you are still going to sell cars. Mr. Kolasienski responded yes and he would make Shane clean up some of the trailers and stuff he parks out front. Then he added it would be hard to evict Shane because actually he is Mr. Kolasienski's cousin.

Ms. Bryant asked what the hours of operation would be. Mr. Kolasienski responded basically he is open 9 AM to 5 PM Monday, Tuesday and Friday, closed Wednesday to go out and measure, Thursday is his late day and ½ day on Saturday. Ms. Martindale asked late meaning 9 PM. Mr. Kolasienski said 8 PM. Ms. Bryant stated he is going with the existing business and not building anything new. Mr. Kolasienski stated he had rendered drawings of what they wanted

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it to look like.

Mr. King asked about the boundary line adjustments. Mr. Kolasienski said that was taken care of, his attorney made sure of it. Mr. King asked if that should have come before the Board as a lot line adjustment. Discussion ensued if that was part of the prior subdivision. Mr. Heber responded he could do it without the Board looking at it because wasn't within the subdivision. Mr. Colozza stated it was recorded with the subdivision. Mr. King asked for a lot line the Board doesn't have to see it at all. Mr. Heber said not unless it was within a subdivision. Mr. King asked if that predated. Ms. Bryant stated yes its probably been 30 years.

Mr. King asked what the Board has to go through. Mr. Heber stated a site plan review. Mr. King asked if it would require a special permit. Mr. Colozza stated it's a special permitted use, yes they need a special permit. Mr. King wanted confirmation of what it is currently being used for. Mr. Colozza asked legal or illegal, it is considered residential commercial and it is considered residency and it grew into a rental of the business. The problem is if you approve a site plan review with the car business there, it is not an allowed use in a c/r district. He then said the cabinet shop falls within an allowed use, under special permitted uses, the auto deal is not. Mr. King asked Mr. Kolasienski if he was aware of that. Mr. Kolasienski said he has spoken to Mr. Colozza. Mr. Colozza stated Mr. Biss had his cars over there and then it grew into a car sales and the problem is c/r district does not address car sales anymore in that aspect. Mr. Colozza said they were actually discouraged. Mr. Durr then asked because of multi-use it could not be approved. Discussion ensued how long the business (Mr. Biss) has been there.

Mr. King asked what has to be done to move on. Mr. Kolasienski asked how can he close on this property so he can move in. Mr. Heber stated that the grandfather clause does not go along. Ms. Bryant said the Board can do a site plan review for the cabinet place. Mr. Durr stated not for the existing business there. Mr. Colozza said the problem is if the Board is going to address this as both being there Mr. Kolasienski has to show he has adequate parking, loading doc, there is a lot of requirements in the site plan review that he has to go through. Mr. Colozza discussed the requirements for parking and the car business. Ms. Bryant asked if the Supplemental Regulations was what Mr. Colozza was talking about. Mr. Colozza said under the Supplemental Regulations and then in the Zoning Book, performance standards, parking standards and design. Mr. Kolasienski stated every 200' of retail needs 1 parking space. Ms. Bryant pointed out the loading design. Mr. Colozza stated they have to consider that as two businesses. Ms. Bryant reviewed the Regulations, one principal use of a building per lot, which is where they run into problems. Mr. Heber said the first thing is to look up the grandfather clause. Ms. Bryant asked where is the grandfather clause. Mr. Heber said it has to be in the regulations. Mr. Colozza stated the determination of the grandfather clause is 18 months, if it out of there for 18 months it is no longer there, this is an illegal use (car sales) for the district. Mr. Heber and Mr. Colozza discussed if Mr. Biss's business has always been there on that side of the road.

Mr. King state they need to address a couple of issues use regulations and go through for a special use permit. Mr. Heber said they are not going to allow the cars on there, so they will have to kick someone off. Mr. King agreed, and stated it is not a defined use for the zone. Ms. Bryant stated they can proceed with his application but there is no way to approve this so he can have both. Mr. Colozza stated if they call it a grand fathered use the Board cannot expand the grand fathered into Mr. Kolasienski's use. Ms. Bryant stated they are not calling it grand fathered, Mr. Colozza has said it was an illegal use so the Board is ok with the residence and the cabinet place. Mr. Colozza said yes that is an allowed use. Mr. Heber stated the only way to keep the car there is to get a variance. Ms. Bryant said yes he could apply for one, and that would be the ZBA, Zoning Board, this Board cannot do that. Mr. Kolasienski said that shouldn't effect him, that would effect the car lot. Ms. Bryant stated he has to tell the Board the cars are going unless he is going for a use variance. Mr. King stated they would not get a variance for the cars then put the cabinets there too. Ms. Bryant stated Mr. Kolasienski would have to do it all together and this Board could not tell he would be granted the variance. Mr. King stated the ZBA would have to look at it as one big package. Ms. Bryant stated this Board has no control over that, the ZBA could ask for a recommendation. Mr. Bryant said if Mr. Kolasienski wants a residence and the cabinet business this Board will look at that. Mr. King reiterated the car business does not conform.

The Realtor asked if one way or another, if Mr. Kolasienski didn't buy this, the car business would still have to go. Ms. Bryant stated yes. She then wanted to confirm that it is not Mr. Kolasienski's problem with the cars currently it is Mr. Biss's problem and he will have to deal with it. Mr. Kolasienski's realtor then said the issue is in order for Mr. Kolasienski to get financing he needs a letter stating this is an allowed use. Mr. Colozza said Mr. Kolasienski still needs to show he can meet the requirements, side setbacks and front setbacks. Ms. Bryant stated Mr. Kolasienski needs to

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look at all that. He responded he believes he has enough room. Mr. Heber stated he needs to show the parking spaces and sizes. Ms. Bryant said he may have it but he has not shown the Board he has it. Mr. King said the Board needs to have a bigger layout showing everything. Ms. Bryant to see the building, parking and street. Mr. Colozza told Mr. Kolasienski to bring a bigger map.

Mr. Kolasienski realtor asked for a letter from the Town for his bank stating this is an acceptable business, not saying as of tomorrow he can open , but that it is an acceptable business. Ms. Bryant asked if that was all the bank wanted. Ms. Bryant asked Mr. Colozza if he would be comfortable giving them a letter stating it is an allowed use. Mr. Colozza responded he has to give him idea what he plans on doing with the other place. Mr. King said you can't give him a letter saying it conforms with the zoning. Mr. Colozza responded no not at this point.

Mr. Durr stated Mr. Kolasienski has to identify everything on the map then go to the ZBA and return to this Board. Ms. Bryant said only if he wants to keep the car business.

Mr. Colozza asked how fast he wanted to do this. Mr. Kolasienski still has to do the map and the plan showing what he wants to do, and a map showing exact footage showing he has the room for everything and handicap, lights and a loading birth. If you are going to do the other business you are going to have to do the same layout showing how many cars are going to be parked, all the setbacks have to be shown, sides, back and front. Ms. Bryant said that is why she wants him to show it so he knows what he has to do and the Board can look at the plan and say its ok or not ok. Ms. Bryant suggested he follow the Book and he should be fine. Mr. Kolasienski stated basically, he cant have any parking in front of the building. Mr. Colozza said he has to show he can meet the setbacks. Ms. Bryant agreed Mr. Kolasienski needs to measure it all out.

Mr. Kolasienski stated he wanted to be out of his location in South Glens Falls by September 1<sup>st</sup> and out of his location in Queensbury by February. Mr. Heber stated the site plan wouldn't take to long. Mr. Colozza said if he gets all the information he could be on the agenda.

**ACTION TAKEN:**

Mr. Kolasienski needs to show all setbacks are met. Determine what will be done with the illegal business currently there.

**MISC.**

Mr. Durr made a motion to approve the Reduction in the Performance Guarantee Bond for DiSiena for \$330,000.00 to \$98,375.00 submitted to the Town Board.

Ms. Martindale asked why are they requesting a reduction, Ms. Bryant stated they have work already finished and Mr. Mitchell has looked at it.

Mr. King second the motion,

Mr. Heber stated usually when this Board makes a motion on a Bond they reference as approved by the Town Engineer and the Town Board.

Ms. Bryant asked to amend Mr. Durr's motion to;

motion to approve the Reduction in the Performance Guarantee Bond for DiSiena for \$330,000.00 to \$98,375.00 contingent on approval by the Town Engineer and the Town Board.

Mr. King second the motion,

Unanimous by all members in attendance, motion passed.

**Minutes**

Mr. King made a motion to approve the July Planning Board minutes with a correction to the start time changed to 7:30 PM .

Ms. Lofgren second the motion.

Unanimous by all in attendance.

**Corrections to these minutes, see September 17, 2007 minutes**

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**FUTURE MEETINGS**

Monday, September 17<sup>th</sup>, 2007 Agenda Meeting at 6:30 PM, Informal Public Informational at 7:00 PM.

Mr. Heber made a motion to adjourn the August monthly meeting at 10:45 PM

Ms. Bryant 2<sup>nd</sup> the motion and all in attendance unanimously agreed.

Respectfully submitted

Tia Kilburn, Planning Board Clerk