

Town of Northumberland
Planning Board
Subject to Correction by the Planning Board
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Planning Board Members Present: Jeff King, Melanie Eggleston, Susan Martindale, Chair, Chad Reinemann, Britt Basinger, James Heber, Vice Chair and Mary Beth McGarrahan

Members Absent: Lisa Black and Holly Rippon-Butler

Town Employees Present: Dave Brennan, Attorney for the Town, Richard Colozza, Code Enforcement Administrator, Tia Kilburn, Clerk

Chair Martindale addressed all in attendance to stand and salute the flag at 7:00 pm, she then stated the Board would like time to confer with Town Attorney Dave Brennan, Esq.

Ms. Eggleston made a motion to go into executive session to discuss legal matters with Town Counsel. Mr. Bassinger 2nd the motion, All in attendance unanimously agreed.

Mr. Brennan stated to clarify; the purpose of executive session is for the Board to receive legal advice from him. Chair Martindale requested the room be cleared of all none Board members.

Executive session was closed and meeting reconvened at 7:35 pm.

Chair Martindale asked George Story, Irony Alliance, LLC, if there was any new information for the public regarding the project.

Mr. Story responded he had nothing new except answers to the items of concern addressed in the letter from Mr. Walsh and his Attorney, he would like to discuss them to see what he needs to do.

Chair Martindale stated Mr. Brennan will compile a list of items that need to be addressed. Mr. Brennan agreed and asked if Mr. Story had an actual site plan or just a map sketch plan. Mr. Story replied a sketch, explained because the Corp of Engineers will decide what they want for the bridge, can't give an exact design, he stated he has pictures and maps of where it's going but not exact design until they come up with it from the Corp., they wont talk to him until he gets approval from the Town.

Mr. King stated since he doesn't have anything new, the Board could take public comment from the public. Chair Martindale agreed.

Mr. Story reiterated there is nothing new because the Corp needs this Board's approval. Mr. King said there is nothing new, the Board is going to give anyone here an opportunity to express their opinion, then they can discuss the details with Mr. Story.

Chair Martindale asked if anyone would like to make public comment. Mr. Walsh introduced himself and stated he did some research, went to Saratoga County and was told Mr. Story had gone to the department of the highway and they did some work to see the feasibility of traffic on the road, they put down a meter let cars go across and he also told them the cemetery is across the street from the bridge placement and Mr. Story is going to be driving trailers from the island with horses, there is an "S" curve, dangerous curve. He continued When they did the survey on the road, they took it in late Winter, that is not when the road is highly traveled, Spring, Summer and

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Fall is when the road is horrendous with traffic. #2, cars are parked on that road when people are going to the cemetery. #3, that is an "S" curve, he stated he lives at one end of the "S" curve and many times he goes to the end of his driveway, looks both ways, he makes a left turn towards Schuylerville and all of a sudden someone is always behind him, that is a dangerous road, that "S" curve. He stated he is demanding the County go back out and test the road in Spring, Summer and Fall, with a new meter to see what traffic is like, it's horrendous, the truck and trailer coming out of there is even more dangerous. He said he talked to the neighbors and they had expressed they are not happy about it at all.

Chair Martindale asked if there were any other comments.

Amanda Kukle, Esq. introduced herself as representing Mr. Walsh from the offices of Caffrey and Flower. She said she believed the Board is familiar with the letter submitted by her office, she stated she would not go through all the points of the letter however, they do not believe that the application should be approved;

#1, do not believe the application complies with Northumberland's Zoning Ordinances, the lot is undersized, they do not believe it can be merged into Thompson Island as one lot. Zoning Ordinances control the rest of the Zoning Laws. If they combine the tax parcels it will have an impact on the interpretation of the reading of the Zoning Law. They do not believe the two parcels can be considered one under Northumberland's Zoning Laws, therefore it is undersized and the project should not be approved.

Then the adequacy of the application and Environmental Assessment Form, Potential issue of PCB's contamination and the area is historical there is nothing for the contamination and cleanup and based on the sketch plan that they have it's not clear where the supports for the bridge are located, on the bank or in the water. If they are in the water it will disturb the sediment on the bottom. There is an error in SEQRA, State Environmental Quality Review Form that should be fixed and it should warrant a full environmental statement. If it is on the bank, the banks were not dredged or cleaned up and this is in the floodplain, according to Northumberland's Zoning Map. There is a potential issue of contamination and there is no indication if anything can be done to check and see if there is potential contamination and what can be done. If there are plans for how it can be controlled it should be in the application. We believe the other issues addressed in the letter can speak for themselves.

Ms. Kukle stated to sum it up they don't believe it is in compliance with Northumberland's Zoning Codes and it's inadequate under SEQRA review and for those reasons the application should be denied at this time.

Mr. Walsh stated he had another comment, the bridge, where it is going to be built, the river belongs to NY State so if he attempts to put bridge abutments into the river, he can't because it's owned by NY State and the riverbank is also owned by NY State. He is intending on building a bridge over NYS property and trying to add the land from the road to the island, the States property separates it.

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

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

Chair Martindale opened the monthly meeting and stated a response was received from NYS DEC regarding lead

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SEQRA, she read;

“DEC Position: Based on information provided, DEC concurs with your recommendation that the Town of Northumberland Town Planning Board serve as SEQRA Lead Agency for this project.” And stated it will be entered into the minutes. She then said a letter was received from Saratoga County Planning Board;

“Decision: No Significant County Wide or Intercommunity Impact. “

“Comment: The County recognizes there are several State and Federal Agencies with jurisdiction in the review and permitting of the proposed bridge. The applicant will need to contact the Saratoga County DPW for a County work permit in order to access the proposed Bridge from West River Rd. “also entered into the minutes.

Mr. Brennan stated the next steps from his perspective, there are details that are still necessary for the Board to execute it’s obligations to comply with SEQRA as well as comply with Town Zoning Ordinances in respect to the site plan and application. He added Mr. Story needs to go to the Corp. with a definitive plan on where to build the bridge.

Mr. Story said there are 2 options, he talked to the Corp. and they said before they can get into it and even talk about it , it needs to be ok with the Town and County, the Corp. is short staffed due to budget cuts and they need something from the Town saying as long as he complies with what the Corp and DEC want the Town will be ok with it, the 2 options for the type of bridge are in the file. He stated the Corp may adjust things, he talked to the engineers and they said they don’t know until they get out to the site and look @ it to evaluate what they will want precisely, Mr. Story stated he has an idea but not exact.

Mr. Basinger said somewhere along the line they need a certain level of detail for their approvals and then Mr. Story will have to go through the process with the other agencies to define that plan and he may need to come back to this Board. Mr. Story agreed and stated as long as he can get something that says the Town is ok with it as long as the Corp is ok with it.

Mr. King added the challenge is, this Board does know, there are 2 bridges but they don’t know the details; location, what it will look like the design of it and the construction into the bank. Mr. Story stated there are 2 different designs, would like to keep the options open, the Corp. said they could approve both but only 1 would be built. Mr. Basinger asked where are the landings, are they in the same location for both bridge options, Mr. Story responded yes. Mr. Basinger stated the Board is asking for more detail, they would know exactly where the bridge abutments will be, the Board asks Mr. Story to provide more detail for the site plan to make sure they are covering the application and they will probably have the Town’s Engineer take a look at it and Town Counsel will go into some of the details we need on the site plan. Mr. Story agreed.

Mr. Coseo, Attorney representing Mr. Story stated from what he understood after reviewing the site plan there will only be removal of 3 trees on the mainland side, Mr. Story is going to utilize the current road that goes there, it does not exceed 35’ in width, it is allowed by the Town’s shoreline protection, Mr. Story will have an embankment and it will not be in the river it will be on either side of the ledge. On the Island side, that is all open and there is nothing there requiring tree cutting. On the mainland there is a dead tree that the beavers go to that needs to be cut and another to be cut, Mr. Story will maintain everything else that is there, the Bridge it’s self will be 11’ wide,

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Mr. Story corrected him and said 12' wide.

Mr. Reinemann stated these are the kinds of things they need to see on the site plan with the bridge placement. Mr. King asked if there would be any drainage, Mr. Story replied no, no new drainage.

Mr. Basinger asked Mr. Reinemann if he was talking about an engineered site plan prepared by an engineer based off the survey, not just a plan on a subdivision map, Mr. Reinemann responded yes, he would like to see a site plan showing the width of the bridge, footprint, the extent of the disturbance. Ms. Eggleston added and show the parking, Mr. King said there was just a line on the map and the Board is looking for details. Mr. Basinger said Mr. Story could use the survey and add to it.

Mr. Story agreed to give more details for both options on the map and stated they would both be in the same place, have someone photo shop the bridges in there.

Mr. Coseo, Mr. Story, addressed Mr. Walsh's concerns about getting approvals from NY State to build the bridge, stated it has been addressed in the letter to DEC and it is under Article 15, Environmental Conservation Law, Protection of Waters Program.

Vice Heber stated they should get back to what the Town is responsible for; shoreline overlay district and how its going to effect the Hudson River including visually, the Board needs a site plan showing; driveway, trees cut, sediment control, silt fence, where the abutments will be, parking area and the county driveway permit. He added should have visual pictures of both bridge options included with the site plan. Mr. Story responded they are working on that. Vice Heber stated they need all the facts.

Mr. Coseo asked if they were looking for visual from the river or from the road, Vice Heber replied both, it's not really navigable waters besides canoe or kayak. Mr. King stated DEC says it is navigable and that's why they have jurisdiction and the Army Corp. He added they talked last month about getting a visual overlay.

Discussion on photo angles, it was decided all angles; from the river and each direction of the road.

Vice Chair Heber stated that is what the Board is responsible for, the overlay district, he added there are other agencies, DEC permit, Army Corp permits and County permits, this Board needs a site plan that shows everything on it. Mr. King agreed and stated show every area used.

Mr. Reinemann stated he personally would like to see a site plan with visual impact and conditional approval so when the finalize the bridge design this Board has a change to review it again.

Mr. Basinger stated they are trying to work together with the applicant, they need all the I's dotted and T's crossed from a regulatory perspective and technical application perspective, need some kind of site plan and the other agencies will need something with detail. Mr. Story agreed.

Mr. Reinemann added and the maximum height the piers will be and show where the bridge will be and when they finish the design this Board will have a change to look at it.

Mr. Brennan stated a visual is needed, this Board is lead agency for SEQR, the majority of visibility of the general

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public will be from the road but some is from the river and this Board wants to be able to say something intelligent about it or have a simulation of what it looks like.

Mr. Story stated the photo he submitted of the suspension bridge shows the bridge going to the bank and its going got be almost exactly like that, he stated he can take a picture of it over there. Vice Chair Heber stated he needs to clarify, the Board wants someone in a canoe going down the river and take a picture of the photo shopped bridge, Mr. Coseo stated coming down the road it will show the trees, Vice Chair Heber said yes and that is what the Board needs to see.

Mr. Basinger agreed with simulation where the bridge can be seen from the Road and River.

Mr. Brennan asked who was the engineer doing the site plan, Mr. Story said right now it is Matt Steves of VanDusen & Steves out of Glens Falls, he did the survey and topo and I will have him do the footprint of where the bridge will be. Mr. Brennan asked if they were engineers or surveyors, Mr. Story responded both.

Mr. Brennan asked who prepared the EAF, Mr. Story stated he and his wife. Mr. Brennan said at some point Mr. Story would have to hire a consultant, there is a lot of work to be done. Mr. Story said Ted Zolly, Engineer will come up with the bridge design for the Corp to approve. Mr. Brennan stated he is not so much concerned about the bridges structural design. Mr. Coseo interjected he is looking for the site plan, Mr. Brennan agreed and stated he didn't want the full bridge design before they have the permits they need, that would be a waste of someone's time and money and would not be fair to the applicant. He added if they are going forward Mr. Story will have to start spending money, he needs to hire a consultant and give this Board what they need for review if he wants an approval. Mr. Story said that is what he is going to do but he needs to know exactly what the Board wants.

Mr. Brennan stated they are going in circles, he added they don't have an engineer, but 3 lawyers in the room, Mr. Story needs technical people, he needs a professional engineering office to go out and look at the site, questions are being raised by neighbors, are there endangered species in the area, he needs a professional, Mr. Story stated an engineer is not going to know, Mr. Brennan said it's a biologist, they need to look at the area for archeological sensitivity. Mr. Story can hire someone to do that or have a consultant submit a letter of request to SHIPO and get a letter from SHIPO stating they do not have any concerns. Mr. Story said they have already applied to SHIPO. Mr. Brennan asked if they have issued a no effect letter, Mr. Story responded not yet. Mr. Coseo said in regards to the species mentioned, the Bald Eagle, does the Board want a biologist to go there and say they looked and there are no Bald Eagles there today? Mr. Brennan said the EAF says they are in the area and DEC letter says you need to consult the National Heritage Program. Mr. Coseo said they are waiting for that; they did receive a letter that says it could take 3 or 4 weeks. Mr. Brennan stated in his experience it will come back and say you have sensitivity, and they will give a list, once they says it's potentially in the area for this Board to execute under SEQRA and say it's not going to impact it, he needs something say so. Mr. Brennan stated most of the concerns are pretty easy to answer. In regards to the PCB's they need something to say if it is an issue or not from a technical person, someone in the different agencies is going to raise the issue. Mr. Story said it is not going to be in the river, it is all on the ledge so there will be no PCB's there. He stated he has worked with DEC on it and he has maps to prove the PCB's are not there and never have been. Mr. Brennan said that is the kind of stuff the Board needs to answer questions. Mr. Story added that is why he wants to go through the list of objections to see exactly what the Board needs.

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Mr. Brennan said if the Board wants to approve this, they need to do it right and need to answer the questions, it's a pretty big project for them and some will be easy to answer, a letter from SHIPO will cure 3, areological, historical and habitats. He stated until he can write a resolution to address the issues, they are at a standstill. Mr. Brennan added he didn't think at this point the Board can say yes build it. Mr. Story stated if the Board will go through the list and tell him what they want he will bring it to the next meeting. Mr. Brennan state his is a project the Board wants to refer to the Town Engineer that's where technical scrutiny is and have the right answers to what they really need; PCB's, endangered species, that stuff, it's a letter saying a consultant has looked at this or it's a letter from DEC saying it's not there, the problem with DEC letter is they say it's not there then there is a paragraph that says they haven't studied everything. There is a court case that threw out an approval that relied on that letter, he stated he is not trying to give Mr. Story a hard time, just need to craft a decision that is sustained. He added he will work through it and give Mr. Story a more detailed list for all the questions raised, he needs answers to say something intelligent as part of the approval.

Mr. Basinger said they will ask the Town Engineer what is technically required, he stated they don't want to ask the applicant to do things that may not be required, however, he added Mr. Story can advance the site plan with the two bridge options and advance the visual simulation with the parking area, the abutments and trees. He said they are asking he put it on the survey and not just the plot map. Mr. Brennan stated there are other things Mr. Story can work on, concerns for traffic he said he is not saying a traffic study but site distances with the turn and driveway can be put in, he stated the County should have information on site distance and visibility. Mr. Story stated the County has been there and say it's fine, they will give an approval when he gets a final approval. Mr. Colozza interjected that's what the County is looking for a site plan of where the driveway is going to be.

Mr. Brennan stated in his experience they go out and set up equipment, check the speed of vehicles and the stopping distance, so if the County Engineer said it's ok, get a letter from them saying it's ok, this Board needs pieces of paper. Either your surveyor goes out, measures it and puts it on the plan or a letter from the County saying they looked at it and it's ok or if they have to put up a sign "driveway ahead", need pieces of paper for the record. This Board needs to make a decision under SEQRA and the site plan and one issue is the driveway location and site distance needs to be on the site plan.

Mr. Basinger stated they need the appropriate materials for the application.

Mr. Brennan said there is a comment in one of the letters about the 100-yr. flood plain, basically that can be solved by showing flood elevations and an engineer saying the bridge is above it. Mr. Story said it will be 2' above the 500-yr flood plain and about 4' above the 100-yr. flood plain. Mr. Brennan added they need the proximity of historic resources, a letter from SHIPO will cure and areological SHIPO will cure that. In addition there are comments there are errors on the Full EAF, he stated he hasn't looked at it yet and doesn't know if there is, however, they will need an updated EAF. They need a level of detail about disturbance and erosion control plan. Mr. Story stated he is not changing anything, Mr. Brennan said he is building something next to the river and needs an erosion plan.

Mr. Story asked about the agricultural protection listed on page 7, what does he have to do about that, Mr. Reinemann stated the visual impact covers that.

Mr. Story asked about the lot width minimum, Mr. King stated he was reviewing the Zoning Ordinance and the APD requires 300', Vice Chair Heber said that is if he builds a driveway, Mr. Colozza said he needs 25' for the

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driveway. Mr. Brennan said Mr. Colozza has already determined that. Mr. Story stated the agricultural protection will be on the site plan. Mr. Brennan asked about the Town Comprehensive Plan, Mr. Story said he will be working on that and the disturbance of sediment. Vice Chair Heber said that is what the erosion control is for.

Discussion ensued on the placement if there is anything in the water, on the river bank or back away from the water.

Mr. Story stated he is not doing anything requiring erosion control, Mr. Brennan said he is building in the flood plain, he needs erosion control. He then said he will get something from DEC regarding PCB's, the traffic he will get the permit however, in the meantime he will have them write something up, the noise will be like building a house. Mr. Brennan said in the EAF there is a small narrative that says the construction will take however long to complete along with the days of the week and hours of work details about the construction. Mr. Story replied it will take a month & a half or maybe more like a month. Vice Chair Heber stated they need it on the site plan.

Mr. Story stated for the visual it will be photo shopped and he is working on the wildlife with National Heritage.

Mr. Brennan said the Board does not need a listing of nonendangered mammals, they need something on the endangered if they are there or not, if they are there Mr. Story may need another permit.

Mr. Basinger stated when the letters from the other agencies are received Mr. Story may need to do something more, however the Board doesn't want to make Mr. Story do anything more until the letters are received.

Chair Martindale stated the next item on the agenda is the June minutes.

Vice Chair Heber made a motion to accept the June minutes as submitted.

Ms. Eggleston 2nd the motion,
All in attendance unanimously agreed.

Vice Chair Heber made a motion to adjourn the monthly meeting at 8:25 pm,

Ms. Eggleston 2nd the motion,
All in attendance unanimously agreed.

Respectfully Submitted,
Tia Kilburn, Planning Board Clerk