

Town of Northumberland Planning Board  
Subject to Correction by the Planning Board  
Monday, November 14, 2016 7:00 pm  
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**Present:** Susan Martindale, Lisa Black, Holly Rippon-Butler, Chad Reinemann, Melanie Eggleston, Brit Basinger, James Heber, Vice Chairperson and Wayne Durr, Chairperson

**Absent:** Jeff King

**Town Employees Present:** Doug Ward, Town Counsel, Richard Colozza, Code Enforcement Officer and Tia Kilburn, Clerk

Wayne Durr, Chairperson, opened the Public Hearing at 7:07 PM.  
All in attendance stood and recited the Pledge of Allegiance

Application #00012-16, site plan / special use permit for Thorobred Feed Sales, Inc - Mr. Paul Bowers introduced himself as representative for this application, a Broker with Berkshire Hathaway Realtors and explained this application is for a site plan review located at 164 Route 4 in Schuylerville, he stated it was originally a 4 acre lot that was subdivided and became the location for Amerigas, he added it is next to Haskell's' storage facility. Mr. Bower then stated it has an existing warehouse, storage shed and an office they will utilize and the property is completely fenced in. Mr. Durr asked Mr. Bower if it would have a shared driveway, Mr. Bower responded yes with Haskell's and indicated where it was located between the properties. He then explained they added items to the site plan map this Board requested, such as the parking and green space he then stated there is also an existing 12 to 16 ft high berm at the road. Caryn Mlodzianowski, Bohler Engineering MA, LLC submitted the sign design to the Clerk; she gave a copy to each Board member. Mr. Bower stated the sign is 2 sided and will be by the road, he added the store sells animal feed and animal products. Mr. Durr reiterated there would be no new construction at this time. Mr. Bower responded and said no not at this time and added they will utilize the existing structures. Mr. Durr then asked if there were any questions or comments, and asked if the sign would be placed on top of the berm, Mr. Bower responded yes it would be. Mr. Reinemann said this is a better layout than what they had to look at previously and asked what the hours of operation were, Ms. Baldes, Controller for the applicant stated the hours are Monday - Friday, 7:30 am - 5 pm except during track season. Ms. Martindale asked if the deliveries would be the same, Ms. Baldes responded yes. Mr. Durr polled the Board for any additional comments or concerns, Mr. Reinemann asked if there are any requirements for the hours, Mr. Durr responded no, Mr. Durr then asked if they deliver to the track during the racing season, Ms. Baldes responded yes, to the track with a trailer and an F350 or something like that truck. Mr. Bower added they have the box type trailers for storage. Mr. Durr stated they would wait a few more minutes in case there are any individuals late to the meeting with concerns. Mr. Dumas stated his address and said that location is in a 55 mph speed limit and asked if they would have signs stating trucks are entering, Mr. Bower said yes they could place them there if that is requested but they will only be able to put them on the property, they do not have the authority to place them on the road. Mr. Dumas then asked if they were removing the berm at the road, Mr. Bower said they do not have any plans for that, they will only be renting the property for now. Mr. Durr asked what the purpose was for the berm, Mr. Ladisemia, the property owner, stated in 1991 the lot was originally designed for use by Amerigas, stone was put on the entire lot and it was fenced in, the berm was placed as a barrier in case of a fire as requested by the Board at that time. Mr. Durr asked if the applicant owed the Board any additional information, none was noted, he then asked if this application had been submitted to Saratoga County Planning, the Clerk stated she had in fact submitted it, however, due to the scheduling around holidays they have not reviewed it yet. She added they will have it on their agenda for review this Thursday.

Ms. Martindale made a motion to close the public hearing,

Ms. Black 2nd the motion,

All in attendance unanimously agreed.

**Action**

Application has been sent to Saratoga County Planning for review at their November 17th meeting. Tabled until the next meeting of this Board, December 12, 2016.

Mr. Durr opened the regular monthly meeting and stated Application#: 0005-16, Primax Properties, LLC., site plan / special use permit and lot line adjustment for the proposed Dollar General was next on the agenda, he added he will leave it up to them if they want to make a presentation, Chris Boyea stated he and Caryn Mlodzianowski of Bohler Engineering MA, LLC are both present as well as Mr. Rob Neill from North Carolina, Primax Properties, LLC.. Mr. Boyea stated he will give a summary of where they are with this application, he said at the September 26th meeting of this Board they had supplied the additional items requested and were asked to allow the Board additional time to review the submissions, he stated he would give a summary of what was discussed at that meeting; the roof screen, goose neck lighting for the sign, he added they removed the site sign completely and only the building sign remains. He stated they were asked to add trees to the area of the dumpsters and they did, he said they discussed an internally illuminated sign and added there is no internal lights in the sign only goose neck lighting which is down lighting for the building sign and he said they added the 4th parapet wall at the request of this Board. Mr. Boyea then stated this Board requested a traffic report which they did have compiled by a qualified 3rd party at the request of the Town; it indicated the additional traffic generated will not be noticeable. He added in addition to the requested traffic study they have now also received written approval from New York State Department of Transportation, he stated they had approval prior to this however; they now have written approval. Mr. Boyea stated they hired a Real Estate Professional as requested by the Town who was also one of the professionals chosen by the Town to evaluate the impact on property values, the Town gave them names of professionals and they chose one, the result by that professional is this project will have little or no negative impact on the residential value and it will increase commercial value. He then said this Board requested a Storm Water Pollution Plan, he stated they submitted that in the binder, he added the Board wanted additional photos taken from different angles, which they did. He stated they have done everything this Board has requested. Mr. Neill reiterated there will be no significant impact on property values or traffic.

Mr. Durr made a motion to close the record for application #0005-16; no further information will be accepted.  
Ms. Martindale 2nd the motion,  
All in attendance unanimously agreed.

Mr. Durr stated he would turn it over to Town Counsel, Mr. Doug Ward to explain the procedure.

Mr. Ward addressed the Board and stated this Board has a few options to consider, if they choose to proceed the path to approval of the project, they will have to;

1st make a motion to consider the EAF, SEQRA, State Environmental Quality Review Form. The Board will complete that form and make a determination if this project has any significant environmental impacts, if it is determined not to have a significant impact you will have to issue a Negative Declaration. If it is determined the project may have an impact you will have to issue a Positive Declaration and proceed to preparing an impact statement. Mr. Ward then stated if they determine there is no impact they can proceed to approval, that approval will have to be accompanied by a findings statement however; he added the appellate court has indicated for approvals for this type of project they encourage written determinations, reaching conclusions and showing the facts for those conclusions, he stated not knowing which way this Board would go on this application he stated he has drafted both written determinations based on the facts he has gathered from his outlines from attending meetings of what this Board might say in terms of tying the facts together with conclusions in the result of an approval.

2nd option Mr. Ward stated if this Board is so inclined to move toward disapprove this application there would be a motion to deny the project and there is no need to comply with State Environmental Quality Review, because SEQR only applies to approvals of project or other circumstances not relevant here. The approach would be to move to deny the project and subject to the finding statement, he said again he has drafted a different resolution for the Board putting together those facts as he has heard tying them together with conclusions for the Boards consideration.

He added this Board may draft a different Resolution, you can change any part of his drafted findings or toss it out all together. He said the Findings of Fact he has drafted are not subject to FOIL. He stated he recommends what this Board wants to do is to tie the facts to the conclusion that is reached by this Board. The next step is to make a motion in one direction or another.

Mr. Durr asked if there were any questions from the Applicant and if there were any questions from the Board, none were noted.

Mr. Durr made a motion to deny Application #0005-16, proposed Dollar General Store and issue a findings statement, Ms. Martindale 2nd the motion,

Mr. Durr stated he would now poll each member of the Board for their vote and the Clerk will record the vote;

Discussion ensued on how to phrase each vote, it was determined an "in favor" vote was actually a vote in favor of the project and a disagreement to the motion, an "opposed" vote would be a vote opposed to the project agreeing with the motion.

Mr. Boyea stated if it is disapproval and there is additional information required they would like to be afforded the opportunity to provide it. Mr. Ward stated he felt it has been exhausted.

Mr. Durr polled the Board one by one;

Jaime Heber	Favor	Lisa Black	Favor
Brit Basinger	Favor	Susan Martindale	Oppose
Melanie Eggleston	Oppose	Holly Rippon-Butler	Oppose
Wayne Durr	Oppose		

Application denied 4-3.

Mr. Durr then stated he would turn it back over to Mr. Ward to read the findings; Mr. Ward stated he would read the Findings in part, he was not going to read them word for word, but they would be given to the applicant with the decision, he then stated he addressed 13 items and said if there is any differences or changes to let him know and they can make them, he then read;

1. Harmony in Scale as a concern and the project will be inharmonious with the pre-existing residential buildings in the neighborhood. He Stated it falls under Article VII(B)(!) and Article IX(G)(1,2&3). He stated in this comparison he is comparing this to the existing residences and this is significantly larger. The façade is almost 2 times larger than the ones on the houses. Based on that it would be the project is out of harmony with the existing structures and could create precedence and change the character of residential use and create a potential strip development area. Looking forward that type of precedence would be contrary to the Zoning Ordinance and Master Plan for this area. Also note, the size of this project was proposed by the applicant and it did not appear the applicant was proposing anything significantly smaller. He added the trend created by this application could be detrimental.

2. Setbacks and Layout, He stated they concluded the design is internally compatible and meets the requirements of the Zoning Ordinance. Due to the size it is nevertheless out of harmony with the residential structures.

3. Harmony of Façade design, addressed in Article VII(B)(3) and Article IX(G)(1&11). The conclusion there is that the façade of the Dollar General Store is almost 2 times the size of the neighboring residential. The applicant did work with the Planning Board to include design features that would ameliorate some of the commercial boxiness of the proposed Dollar General Store. Nevertheless the façade still resembles a "big box" store which is out of harmony with the residential character of the area.
4. Signage, Article VII(B)(4), indicates the proposed signage complies with the dimensional and lighting requirements of the Zoning Ordinance.
5. Traffic & Pedestrian Access and Circulation. Article VII(B)(5) and Article IX(G)(4&5). The Project appropriately meets the Zoning Ordinance's requirements regarding traffic safety and design. He stated they talked about the traffic experts report concluding the increase of trips is well below the capacity of the adjacent Route 32 and that this existing road was appropriately designed to handle the increase vehicular use. There is no design for pedestrian access included as part of the Project.
6. Parking, note that the parking is in compliance with the Town's Zoning Ordinance. He stated also note the scale of this parking would be inharmonious with the other residential uses which have 1 to 2 cars at the most.
7. Buffers and Screening Article VII(B)(7) and Article IX(G)(10). The applicant has worked with the Board and has provided a fencing/vegetative plan which provides screening for the neighbors.
8. Noise, Article VII(B)(8). Noise impacts from the project are properly mitigated.
9. Air Emissions, Article VII(B)(9). The project should not cause air emissions.
10. Lighting and Glare, Article VII(B)(10) and Article IX(G)(11&15). The applicant has proposed operational restrictions/lighting controls as well as buffering which will appropriately minimize any potential lighting impacts from the project.
11. Property Values, Article IX(G)(3). Site the report from Mr. Dean Taylor that evaluation concluded that the proposed project would have little to no impact on residential values however the concern is that the project would increase the commercial values in the area by 20% and has a real potential to act as an anchor store attracting more similar uses, which is a concern.
12. Drainage Facilities, Water and Sewer, Emergency Access and Flooding, Article IX(G)(8,9,12&13). Applicant proposes the adequate water and sewage facilities for the project and complies with the town ordinances.
13. Driveways, Article IX(G)(14). The driveways accessing the project site as proposed by the applicant will minimize the impacts from vehicular traffic on neighboring properties.

Mr. Ward then stated they only omitted one irrelevant standard relating to "office parks".

He then asked if there were any discussion, Mr. Neill stated they are frustrated because they feel they did what was asked of them, he stated they hired the independent appraiser, they hired the engineer for the traffic study and all the professionals they hired all said little or no impact. He added it seems that decisions were made in opposition to this for some length of time and part of the frustration is that the professionals cost money; it was expensive to do what was asked. Mr. Neill then stated the Board is not listening to the professionals that they asked them to hire. He added they

have the right to vote in favor or not but feel they did what was asked of them and cost 10's of thousands of dollars and it hasn't changed anything. Mr. Boyea stated the only comment he heard in the findings was the size, he stated he would be happy to table it and try to go back and see if they could make a smaller building, he added it was not talked about very much. He stated nobody said they wanted them to come back with a smaller building. Ms. Black interjected yes it was, several times. Ms. Rippon-Butler stated they were told that subsequently that was not on the table. Mr. Neill stated he recalls from the Public Hearing that there was a comment but not from the Board, public comment yes, but he said he did not recall the Board ever saying, he thought they did everything asked of them. He does not recall the Board saying we have to come back with a smaller building; Mr. Durr stated it was very early on, it was a conversation where they asked if they have a smaller scale or smaller model besides this, he said it was definitely discussed, they can share the minutes with them. Mr. Boyea said they did talk about that and it would require more deliveries to stock a small store and he added it never went anywhere, Mr. Durr agreed and said Mr. Boyea's response was it was not an option. Mr. Boyea said he had stated he would look into that and at the next meeting someone asked if really mattered if the store was 2,000 sq ft and the use, he stated he would like the opportunity to go back to the Dollar General, he added they addressed everything. Mr. Heber asked what it would entail to cut it down 2,000 sq ft, if it would be removing 40' from the end, Mr. Boyea responded basically it would be a slightly different building and that is if they are willing to do it. Mr. Reinemann stated for the record he would like to say he was unable to vote tonight because he is an alternate, but he is in favor of the project and feels it meets the Zoning Requirements and protects open space of the community by placing a retail store in the Hamlet Zone.

Mr. Durr stated the next step is to make a motion to adopt the findings in relation to the denial of the application 0005-16  
The proposed Dollar General Store;

Ms. Martindale made a motion to approve the findings,  
Ms. Eggleston 2nd the motion,  
Mr. Durr asked if all were in favor,  
Mr. Heber stated he was opposed.

Mr. Durr then stated the findings are approved and that concludes the Dollar General Application.

#### ACTION

Application denied.

Mr. Boyea asked if they will get a copy of the findings and Mr. Ward responded yes there are some changes made to the draft and it will be filed in the Clerk's office with the decision and they will be provided a copy.

#### MISCELLANEOUS

Ms. Martindale made a motion to accept the September meeting minutes,  
Mr. Heber 2nd the motion.  
All in attendance unanimously agreed.

Mr. Heber made a motion to accept the October Meeting minutes,  
Ms. Martindale 2nd the motion.  
All in attendance unanimously agreed.

Mr. Heber made a motion to accept the August workshop minutes,  
Ms. Eggleston 2nd the motion.  
All in attendance unanimously agreed.

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Mr. Durr then stated they need to schedule a joint meeting with the Town Board for the Solar Law, discussion ensued and it was determined this Board would suggest to the Town Board they meet at 6 pm, prior to the next monthly meeting December 12th, 2016.

The Clerk will send a memo to the Town Board.

Ms. Martindale made a motion to adjourn the monthly meeting at 7:50 PM.

Mr. Heber 2nd the motion,

All in attendance unanimously agreed.

Respectfully Submitted,  
Tia Kilburn, Planning Board Clerk