

Town of Northumberland Planning Board  
Minutes  
Corrected by the Planning Board  
Monday, August 09, 2011 7:30 pm  
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**Present:** Brit Basinger , Jayme Heber, Susan Martindale, Lisa Black , John DeLisle, Jeff King - Vice Chairperson and Wayne Durr, Chairperson

**Absent:** CJ Lofgren and Kevin Pumiglia

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

Mr. Durr, Chairperson called the room to order and opened the Monthly Meeting 7:29 PM,  
All in attendance stood and recited the Pledge of Allegiance

**OLD BUSINESS**

**Site Plan - Soil Disturbance**

**Application #0002-11**

**Applicant: Timothy Powell**

Location: 346 Grange Hall Rd

SBL#: 144.-1-6.3

Zoning: AG

Acres: 6.62 acres

Status: Public Hearing - remains open

Mr. Powell stated he was here to give the Board an update on his project. He submitted a letter from his Consulting Engineer, attached. Mr. Powell stated he has an opportunity to obtain some shale for use on his property and his Engineer agreed it would work. He then stated he talked to NYS Department of Conservation and they had no problem with him stock piling it on the property. Mr. Heber asked if that was part of the proposal that has not been submitted yet. Mr. Powell said yes it would be. Mr. Heber asked if he had maps they could look at, Mr. Powell responded he has a survey however he did not bring it with him. Mr. King stated he wanted a refresher as to where they were on this application, he said the last he remembers from before Spring was this Board was waiting for an acceptable plan from D.E.C. Mr. Powell stated he thinks he is done with D.E.C., he added he thinks D.E.C closed the file. Mr. King said Mr. Powell stated back in the late winter he needed to hire an Engineer, then at another meeting he stated the Engineer wanted to wait for the snow to be gone, this Board accepted that and gave him some time. Mr. King said this Board has been patient with him, however he feels Mr. Powell is dragging his feet. Mr. Durr stated they need to see a closure plan from Mr. Powell's Engineer before this Board can approve / disapprove or modify it. Mr. Heber added we need to see the site plan maps that show everything. Mr. Powell said he should have one this week or next week. Mr. Durr asked Mr. Colozza if he had talked to D.E.C about a closure plan. Mr. Colozza said no. Mr. Durr asked the Clerk if she had the closure plan or report from D.E.C., she responded no there has been nothing new submitted for this application. Mr. Heber reiterated they need to see the plan. Mr. Powell asked if he could stock pile the shale to be used as rick rack. Mr. Durr stated the Board needs a plan to look at and cannot agree to do anything until that is received. Mr. King stated personally he was disappointed that there hasn't been any progress at all on this application. He added this Board has had this application for months and they have only received promises from Mr. Powell, he said in his opinion there has not been enough progress and something needs to be done. Mr. Durr asked if the Clerk had a copy of the letter submitted tonight (from Mr. Powell's Consulting Engineer,) in the file, she responded no, he gave her the letter (attached). Ms. Martindale asked for clarification on what Mr. Powell intended on doing with the shale, was his intention to stock pile it or use it now. Mr. Powell stated he would like to use it to retain the banks and use if for his closure plan. Mr. King asked what the date was of the survey and if we had one on file. The Clerk stated she has not received one. Mr. Durr stated this Board needs something from Mr. Powell showing an effort, the letter he submitted tonight doesn't prove anything, they need the survey and this Board cannot even consider agreeing to anything including stockpiling material until they receive something from Mr. Powell showing some effort. Mr. Durr then asked Mr. Powell if he thought he would have something by the next meeting September 12th. Mr. Powell stated he did not want to drag this project out and he is trying to cooperate.

Mr. Heber asked if there is a violation and what it was and what could be done about that. Mr. Colozza said a "stop work" order has been issued, he explained Mr. Powell could only use the stuff on the site. Ms. Martindale asked if that meant he

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could not bring anything new in, including the shale. Mr. Colozza stated yes, that was correct no new material. Mr. Basinger said he felt they should review the original application and look for any violations; he added he felt this Board needed to act to protect the health and safety of the public. Mr. Heber reiterated there was a "stop work" order and asked what exactly was that. Mr. Colozza explained nothing new can come into the property, if he did that would mean a penalty could be assessed. Discussion ensued on the next step this Board could take. Mr. Basinger asked if there were any stipulations for the "stop work" order because as it is right now it leaves the land exposed and this will never be resolved. Mr. Durr asked Mr. Colozza what the next step after the "stop work" order was, if there was a time limit. Mr. Colozza stated if this Board decides there has been no progress they can make a recommendation for fines up to \$250.00 a day and jail time. Mr. Heber looked for the remedy in the Zoning Ordinance of the Town, and asked how to proceed. Mr. Colozza stated normally the Board would say they have not seen any action on the plan and sends the applicant on to the court system. Mr. Durr stated they could give Mr. Powell until the September 12th meeting and then they could say there is "no effort". He then added this Board has been lenient with Mr. Powell, he said Mr. Powell claimed there was too much snow and his Engineer would start after it was clear. This Board has not seen any progress and he feels the Board has been clear that they need the closure plan; he added he thinks it is completely on Mr. Powell and they are being more than lenient with giving him to the 12th of September. Mr. Heber reiterated that if they do not see something by the 12th that is it and this Board is washing their hands and sending him on to Court. Mr. Powell asked if they just wanted to see progress or completed. Mr. King stated in his opinion no new material can be brought on to the site until a closure plan is submitted. Mr. Powell asked if he could get a copy of what the Board was requesting. Mr. Durr stated he can get a copy of the meeting minutes.

Mr. Durr made a motion to have a closure plan from Mr. Powell's Engineer by the September 12, 2011 meeting if not before, or this Board will move forward with a "failure to comply" order.

Mr. King 2nd the motion,

All in attendance unanimously agreed.

Mr. Powell asked if he could submit it before the 12th, Mr. Durr said yes and when it is submitted he asked Mr. Colozza if he would forward a copy to Jim Mitchell, the Town's Engineer for review. Mr. Durr then asked if there were any more questions for this applicant. Mr. Powell reiterated they only wanted the plan not the completion by the 12th. Mr. Heber stated a closure plan needs to be submitted and approved first.

Mr. Basinger made a motion to amend the above motion stating the Closure Plan for application # 0002-11 must comply with D.E.C. requirements and the Town of Northumberland's Storm Water Management Plan for Soil Erosion.

Mr. Heber 2nd the motion,

All in attendance unanimously agreed.

Mr. Powell asked for a copy of the requirements the Board is asking for. Mr. Durr stated they will be in the minutes, the Clerk can send them to him and the sooner he gets a copy of the closure plan to the office with the survey the better because the Town's Engineer needs time to review it before the September 12th meeting. Mr. Powell asked the Clerk if she could fax him a copy of the minutes when they are ready, she agreed.

**ACTION**

Mr. Powell will submit a copy of the survey and closure plan before September 12th or as soon as possible to the Zoning Administrator's Office. The Clerk will fax Mr. Powell a copy of the meeting minutes as soon as they are complete. Public Hearing remains open.

See **MISCELLAOUS** section of these minutes.

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**Lot Line Adjustment Site Plan Review / Special Use Permit**

**Application #0012-11**

**Applicant: Dave Dutra**

Owner: DMD Land Holdings LLC

SBL: 104.-1-54.2

Location: 450 Brownville Rd (Tankard's Tavern)

Zoning: R-3

Acres: 3

Mr. Durr asked the applicant to come forward. Mr. Dutra addressed the Board, he explained he had submitted an application to the State Liquor Authority to allow for an outdoor liquor license, he added many patrons of his business want to take their beer outside to smoke cigarettes and without the outdoor liquor license it will cost him \$2,500.00 per violation. He pointed out the tree line and fences are both acceptable to the Liquor Authority for barriers. He stated he the application is also for a sign permit and picnic tables. Mr. Dutra stated the outdoor area in the side/back would only be used during the day and closed at dark, there would be no lights out there and neither the horseshoe pits or the tables would be used at night there is a section in the front of the building that would be used at night as it currently is. He stated he is following the regulations of the Liquor Authority. Mr. King asked if the tree line was an acceptable barrier for the Liquor Authority, and Mr. Dutra responded yes. Mr. Durr reiterated that this application is basically for permission for them to drink outside, Mr. Dutra said yes. Ms. Martindale asked if there would be waitresses or if people would purchase it then takes it out. Mr. Dutra said most likely there will not be waitresses, it will only be used during the day and would be kind of self serve take out. Mr. King asked if there would be any bands playing outside. Mr. Dutra stated he would like that option; it has been slow this summer, he would like to be able to have benefits or an occasional pig roast and they would only be from about 2 - 6 pm. Mr. King asked how long he had owned it. Mr. Dutra stated they bought it around August and re-opened it a couple of months later after they remodeled. Mr. King asked if there were houses around there, Mr. Dutra stated yes and discussion ensued on the location of the houses.

Mr. King stated there will have to be a public hearing. Mr. Durr asked about the sign, Mr. King asked if that was the fire department sign in the picture submitted. Mr. Dutra said yes he was using it as an example, he wanted to try to make it rustic. Mr. Durr asked the proposed location of the sign. Mr. Dutra stated it would be the same location as in the picture, at the end of Brownville Rd not to obstruct any view. Mr. Basinger stated there are sign regulations including height. Mr. Colozza said yes there were, he then added he would refer this to Neil Petteys, Highway Sup't, because of the roads. The Board reviewed the site plan and proposal. Mr. Basinger asked if there would be any new driveways or just a new sign and barriers. Mr. King asked if there was a sketch of the sign available including the dimensions. Mr. Dutra said it would look almost just like the one in the picture with a 9' x 10' frame holding the 4' x 6' foot sign covered by a roof no taller than 10', he added he choose this design because it is the Fire Departments and he assumes they must have followed regulations. Mr. Basinger asked Mr. Colozza if there were any concerns, Mr. Colozza said no, Mr. Dutra has already closed the egress to Route 32, he would just suggest contacting Mr. Petteys. Mr. Basinger asked if there were any issues with the site distance. Mr. Colozza reiterated that they should use Mr. Petteys because he has more expertise. Mr. King stated they can schedule the public hearing for the next meeting September 12th. Mr. Dutra asked what he needed to do for the public hearing, Mr. Heber stated the Clerk will take care of it, and then he suggested Mr. Dutra have the stipulations and restrictions in the plan and any answers prepared for the public.

**ACTION**

Public Hearing to be scheduled for September 12th, 2011 at 7:15 PM.

Application #: 00013-11 - Major Subdivision

Applicant: Edward Diehl

SBL#: 155.-1-12.111

Location: 109 Homestead Rd

Zoning: Agricultural

Mailed 9/13/2011

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Acres: 31.32

Mr. Diehl described his application as a request to subdivide one parcel into two for single family dwellings. Discussion ensued on determining if this subdivision would be a major or minor due to the fact it was previously subdivided. Mr. Heber stated it would be a major subdivision under the rules of the Town of Northumberland however, the State would consider it a minor. The Board examined the survey map and the original subdivision map. Mr. Heber stated the only difference between the major and minor would be fees and the Board agreed. Mr. Durr asked Mr. Colozza if he could look it up and determine major or minor, Mr. Colozza agreed. Mr. Diehl stated the septic for one of the dwellings has already been engineered. Mr. Heber asked if a perk test has been performed. Mr. Diehl said yes and the results are on the septic design in the file. Mr. Basinger asked Mr. Colozza what the process was in determining a major or minor subdivision, Mr. Colozza responded saying he is not creating any new roads and the fees are different because of the number of lots in the original parent lot before any subdivisions. Mr. King stated 5 lots becomes a major subdivision, he then asked if there were any wetlands. Mr. Diehl said there is a stream on the property. Mr. Heber asked what the contour lines were on the map, 5 or 10 Mr. King said 20. Mr. King asked if it flooded at all this last spring, Mr. Heber interjected probably along the stream corridor but he is not building in that area. Mr. King asked if there was a new State Environmental Quality Review Form filled out, a long form will be required if this is a major subdivision. Mr. Colozza said the Clerk checked the file and in 1990 it was a 4 lot subdivision that makes this the 5th lot therefore it will be a major subdivision. Mr. Heber stated it really doesn't matter because it is just a difference in fees because it is in the agricultural district it will need a long form State Environmental Quality Review Form anyway. Mr. Colozza stated there was a State Environmental Quality Review Form for all the other parcels as well. Mr. Heber stated it will have to have a long form and go to Saratoga County Planning for review. Mr. Basinger asked Mr. Colozza to look at the State Environmental Quality Review Form and see if it needs a National Heritage Letter as well. Mr. Colozza said yes it would and he believed Mr. Diehl had already requested it. Mr. Diehl stated he would have the verbiage for "no further subdivision" put on the maps. Mr. Basinger said they could schedule the public hearing for the next meeting September 12th. Ms. Black asked how many lots there were going to be, Mr. Diehl responded 2 and pointed out the placement of the dwellings on the map. Mr. Durr asked if there were any additional questions, none were noted, he suggested Mr. Diehl have the State Environmental Quality Review Form in by Thursday because of Saratoga County Planning Boards cutoff for their meeting next week.

**ACTION**

Public Hearing to be scheduled for September 12th, 2011 at 7:15 PM.

**MISCELLANEOUS**

Additional conversation for application #0002-11, Timothy Powell, Site Plan Review

Mr. King suggested they be prepared to have the Town's attorney present at the next meeting to address Mr. Powell's "failure to comply". Mr. Heber stated the enforcement of the regulations is the Town Board's responsibility. Mr. Durr explained if this Board decides Mr. Powell failed to comply then it would go to the Town Board. Mr. Colozza stated that the sump pump Mr. Powell has in a hole on the site is not a solution to the drainage problem and he needs to have his Engineer include the shale as rick rack, Mr. Powell should not just assume it is ok to use it. Wayne stated the last time Mr. Powell attended a meeting he said the snow was the problem, but they still haven't seen any progress. Mr. King stated this Board really needs to push the issue of the need to see an engineered plan as soon as possible, he then added he did not believe that a little rick rack and topsoil is not going to solve the problems. Mr. Colozza added that it is easy for an Engineer to design the plan, and Mr. King stated may be they should require a time frame to completion. Discussion on the regulations and the storm water affecting the neighbors. Mr. Colozza suggested asking an average company what a reasonable time frame for this type of project was and then request Mr. Powell's engineer add that to the plan. Mr. Basinger then asked Mr. Colozza if when he gets the plan if he would forward it to Jim Mitchell the Town's Engineer as soon as possible.

Mr. Durr confirmed with Mr. Colozza he would forward a copy of the closure plan to Mr. Mitchell as soon as possible, and Mr. Colozza stated he would ask Mr. Mitchell to attend the next meeting either way. Mr. King asked if they received the plan sooner than the 12th if they could hold a "special" meeting or an agenda meeting to speed the closure, because he would like the project to be completed before fall weather in the interest of the neighbors. Mr. Colozza agreed they could call a special meeting. Mr. Durr asked Mr. Colozza to let the Board members know when the plan is received.

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Mr. Basinger made a motion to amend the earlier motion made for this application # 0002-11 to include the completion date on the Engineered Closure Plan.

Mr. Heber 2nd the motion,

All in attendance unanimously agreed.

The Board reviewed a new "Site Plan Application" designed by the Clerk (attached). No changes were suggested at this time.

Mr. Heber made a motion to make a positive recommendation to the Town Board for the acceptance of the new Site Plan Application,

Ms. Martindale 2nd the motion,

All in attendance unanimously agreed.

Mr. Heber made a motion to approve the July meeting minutes as submitted.

Ms. Martindale 2nd the motion,

All in attendance unanimously agreed.

Mr. Durr made a motion to adjourn the monthly meeting at 8:45 PM,

Mr. DeLisle 2nd the motion,

All in attendance unanimously agreed.

**FUTURE MEETINGS:**

Public Hearing September 12th, 2011 - 7:15 PM, Monthly meeting to follow

Respectfully Submitted,

Tia Kilburn,

Planning Board Clerk