

Town of Northumberland
Planning Board
Location; Town Hall
Accepted by the Planning Board
Monday, April 25, 2022
7:00 pm
Page 1 of 10

Planning Board Members Present: Melanie Eggleston, Mary Beth McGarrahan, Lisa Black, Holly Rippon – Butler and Vice Chair James Heber

Members Absent: Jeff King, Brit Basinger, and Chair Susan Martindale

Town Employees Present: Dave Brennan, Town Counsel, Charlie Baker, Town Engineer, Richard Colozza, Code Enforcement Officer and Tia Kilburn, Clerk

Vice Chair Heber opened the meeting and addressed all in attendance and asked them to stand and salute the flag at 7:03 pm. Quorum established.

Vice Chair Heber announced the 1st item on the agenda; John Cornell, 162 Beaver Street, site Plan Review / Special Use Permit for an indoor riding arena. Susan Nixon, Esq. represented Mr. Cornell. She explained they submitted an updated site plan, a lighting plan and tech sheet. She stated she has extra large copies for the Board. The Board reviewed the larger copies. Vice Chair Heber asked if Mr. Baker had any comments on the updated site plan. Mr. Baker stated he had a phone conversation with the applicant and he does have a copy of the revised plan, during the phone conversation they discussed the driveway, that addressed one of his comments from a previous letter, he does have an engineer he is working with they designed a cross section of the driveway to support emergency vehicles and he was hoping that the Board would consider a conditional approval of the plan saying there would be no C/O issued for the new building until the certification was written by the engineer. The engineer designed the cross section of the driveway and he would like to see that added to the actual site plan along with the photometric lighting plan, he is not overly concerned that be on the site plan but they should at least show the location of the fixtures on the building on the site plan. The last issue he had that was also in his letter was the amount of disturbance being proposed, the surveyor did certify it is less than an acre, it is about 566 sq ft less than an acre, it is very close and he thinks the project does warrant at least some sediment and erosion control measures, primarily he suggest there be a construction entrance on the new driveway so there is no tracking onto Beaver St. He stated he thinks there should be some sediment and erosion control fencing on the down side of the proposed building to keep sediments out of the natural channel that goes through the center of the site. He does not think it is necessary for them to file a complete and actual SWPP, due to the size he thinks the sediment and erosion control measures would be prudent. Ms. Eggleston asked if those suggestions were discussed with the applicant, Mr. Baker replied no they were not the only discussion they had on the phone was he was going to have his engineer certify the driveway prior to the certificate of occupancy for the building, at the time he had not looked at the updated detail for the site plan.

Mr. Brennan said he heard from the applicants' attorney, a partner at the applicants' law firm and he did raise issues of providing some erosion control measures and details associated with that. Ms. Nixon stated the applicant has a company to provide that information and do erosion control study, and certify that out of the abundance of caution knowing that there is a chance they may be doing something further in the future with the house that may warrant one and while they are in this process, they can get it done, so they engaged an engineer.

Mr. Baker added they also added spot grade topo he had asked for that shows how the drainage will be handled. He said he feels this site plan answers his questions, Vice Chair Heber asked Mr. Baker if he had a written form of his suggestions, Mr. Baker replied he did not prepare a written response, Mr. Cornell said he had original communication that was provided and all the issues have been addressed. Vice Chair Heber said Mr. Baker just mentioned a silt fence and erosion control. He added he would like to address them and then maybe they can move on. Mr. Baker said he can go through the list, Mr. Brennan interjected they can do that, Mr. Colozza has been

Town of Northumberland
Planning Board
Location; Town Hall
Accepted by the Planning Board
Monday, April 25, 2022
7:00 pm
Page 2 of 10

involved with this since the beginning primarily with the driveway use and emergency services, he just wanted to make sure when they are done, they don't skip over Mr. Colozza but make sure they are satisfied with the access issues. Vice Chair Heber asked Mr. Colozza if he had any comments, Mr. Colozza replied basically there is an area that there should be erosion control which would be asked for as they go through the construction. Mr. Brennan asked Mr. Baker what else was on his list. Mr. Baker said he would suggest they add the location of the lights on the proposed building, the actual detail of the lighting they provided should be on the site plan, the driveway detail should also be on the site plan and erosion and sediment control, construction entrance and silt fence. Vice Chair Heber asked if he would do a letter with it listed, Mr. Baker agreed.

Vice Chair Heber stated he would entertain a motion to include the items Mr. Baker suggested, Mr. Brennan said before they make a motion, he would like to discuss a couple items like how they ended up here in front of the Board and discuss comments from adjoining property owners. Some of the comments involved segmentation of breaking the project down into pieces and violating the environmental review process and other concerns that primarily revolve around compliance with the site plan and special permit regulations. He stated he would like to go through what a few of the requirements are and make sure the Board is satisfied, then he will ask for a motion to approve it and subject to Mr. Bakers letter with conditions of approval and then he will write up a formal written decision and the Board can formally adopt it at the next meeting in fairness because it has been a fairly contested application, they are already in litigation over the use of the existing driveway and it is to be expected that someone will get sued over this as well. He prefers after taking it this far they have a formal written decision so they are in the best position to defend the action, a written decision is the best way to document it. Ms. Eggleston stated they had mentioned they have a response to prior concerns, Mr. Brennan said there were concerns regarding headlight beams coming up the new driveway to the house, they mentioned drainage and they mentioned moving the building, the SEQRA question because they talk about there being a new house along the street frontage but he thinks that is not material to what they are doing today, traffic on the driveway was one concern. One letter mentioned that two uses are not allowed on the lot, having a riding arena and the building that is residential in nature is in violation of the Town Zoning Code, but almost every farmer has a house and a barn, there were a list of concerns that were raised and he thinks they need to respond to them in the written decision and the record. He added Mr. Baker has looked at the plans from the prospective of what is to be on the site plan and he is satisfied this is an appropriate site plan for the scope and scale of the development so if we get sued Mr. Brennan stated his assistant will write an affidavit that this is an appropriate site plan, the issues are in the Zoning Book, standards for site plan review and then there are general special permit use standards starting on page 51, he stated there are 15 standards and he read through them and gave his interpretation;

G. General Special Permit Use Standards

1. Adjacent land uses: The Planning Board shall not approve the special permit use unless, in its determination, the proposed use will not have a negative effect on existing adjacent land uses. Mr. Brennan stated the complaint is it is a conflict of use and the use is already there, horse farm and this is an indoor riding arena to supplement what is already there, it was already a common shared driveway, he has heard the Board say that there is no impact on the adjacent land uses.

2. The location and size of the use: The nature and intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to existing and future streets providing access, shall be in harmony with the orderly development of the district. Mr. Brennan explained it is a district that promotes agriculture and this is an agriculture operation and on page one and the last page of the Comprehensive Plan agriculture is promoted and encouraged in the Town.

Town of Northumberland
Planning Board
Location; Town Hall
Accepted by the Planning Board
Monday, April 25, 2022
7:00 pm
Page 3 of 10

3. *The location, nature and height of the buildings, walls and fences, and the nature and intensity of intended operations: These should not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.* Mr. Brennan said the building is being placed where you would expect another agricultural building to go, next to the existing agricultural operation, the stables, the paddocks and turnout areas, in his opinion you would not want it 500' or 750' away from where the rest of the animals are kept, you locate it with the rest of the facilities.
4. *Vehicular Circulation: Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, channelization structures and traffic controls shall be considered.* Mr. Brennan stated they will defer that Mr. Baker looked at that and the access has been improved, there is adequate room to park trailers, turn around and get back out including emergency vehicles.
5. *Pedestrian Circulation: Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience shall be considered.* Mr. Brennan stated he felt it is not applicable as it would be with other uses.
6. *Parking: Location, arrangement, appearance and sufficiency of off-street parking and loading shall be considered.* Mr. Brennan reiterated the parking was just discussed.
7. *Layout: The location, arrangement, size, design and general site compatibility of buildings, lighting and signage shall be considered.* Mr. Brennan stated they have looked at it and the building location.
8. *Drainage Facilities: Adequacy of stormwater management plans and drainage facilities shall be considered.* Mr. Brennan stated Mr. Baker has looked at that and there are 2 existing natural drainage swales where it naturally goes downhill and it is not going to be adversely impacted.
9. *Water and Sewer: Adequacy of water supply and sewage disposal facilities and their compliance with New York State Department of Health requirements shall be considered.* Mr. Brennan stated it is on private well and septic so there is no issue.
10. *Vegetation: Adequacy, type and arrangement of trees, shrubs and other landscaping constituting at all seasons of the year a visual and/or noise deterring buffer between the Applicant's and adjoining lands, including the maximum retention of existing vegetation shall be considered.* Mr. Brennan said there has been some discussion about whether or not to screen this, that is something for the Board to talk about, Vice Chair Heber interjected it is a barn in the agricultural zone, Mr. Brennan agreed and stated it was also an agricultural operation when the neighbors bought the property, he added if they wanted property where there are no other neighbors there are different properties in different locations that would have solved that.
11. *Impacts on Adjacent Land Uses: Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features shall be considered.* Mr. Brennan stated he thinks the Board has said agricultural is not considered objectionable, the lighting has been looked at so there will not be lighting spillage.
12. *Emergency Access: The accessibility of the use to fire, police, and other types of emergency vehicles shall be considered.* Mr. Brennan stated they have talked about that in length.
13. *Flooding: Special attention shall be given to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion, including compliance with Town of Northumberland Ordinance No. 1 of 1987 as amended by Local Laws #6 of 1989 and #5 of 1991 governing the one hundred (100) year flood hazard area;* Mr. Brennan stated it is not in the flood zone.
14. *Driveways: Driveways shall be located and, where possible, relocated to minimize the impact of vehicular traffic on neighboring properties and existing roads.* He stated driveways have been talked about in length.

Town of Northumberland
Planning Board
Location; Town Hall
Accepted by the Planning Board
Monday, April 25, 2022
7:00 pm
Page 4 of 10

15. *Lighting: The impacts of lighting on adjacent areas and areas within viewing distance shall be considered.* Also talked about in length.

Mr. Brennan explained those are the 15 components of Special Permit Use, he will write up something to address those so there will be a written record of all that has been discussed and then on the Site Plan the standards are on page 84 of the Town Zoning Ordinance, on page 81 is the Site Plan Checklist of what is suppose to be on a site plan and Mr. Baker has looked at that and has determined what is on there is appropriate to the scale and use, Mr. Baker stated there was one thing he forgot to mention; in a previous letter he asked them to show the storage of the manure storage pile and they did show it on the revised site plan and to him it looks very close to the well, Mr. Cornell said that well is no longer in use, he stated the original property was off of that well, he is guessing but about 15 years prior they decommissioned that well and taped a new one that is up the hill closer to where the house is. Mr. Baker said it does say that on the revised site plan and he will add that to his letter. Ms. Nixon interjected that the manure isn't stored on site very long. Mr. Brennan said the answer is the well is not being used and they can provide proof to the building department that it has been decommissioned in accordance with Department of Health regulations. Mr. Colozza said Department of Health will usually make the recommendation and then Mr. Terry will inspect it. Mr. Brennan agreed and added there is a standard for filling it in and capping it, it is possible if it is not being used it should be decommissioned properly so it is not a future source of contamination. Mr. Cornell agreed. Vice Chair Heber reviewed the site plan and said the manure storage is existing, Mr. Cornell agreed and added every two weeks it gets taken off the property. Mr. Brennan reiterated that if that well is not being used it should be properly decommissioned, Mr. Cornell stated the line for that well goes over to the Forman's house, he knows the line is no longer in use because they have their own well, it is from the original homesteading of the property. Mr. Colozza stated the new well is upgradient from the manure pile it is up around the turn, closer to the house.

Mr. Brennan stated he would run through page 85, Site Plan Standards, they are very similar to the Special Use Permit Standards, where they overlap, he will advise.

1. *Aesthetics:*

a. *Site development shall be planned so that it harmonizes with the existing landscape character and blends into the landscape by using existing landforms and vegetation.*

b. *Where new construction or substantial rehabilitation is concerned, the needs of the site for plantings, paving, screening and other landscaping amenities shall be considered.*

2. *Off-Site Impacts:*

a. *Development shall be planned and undertaken so as to minimize impacts upon adjoining and nearby land uses.*

b. *Any noise, odor, vibration, dust, gas or emission of any type that is likely to result from the nature of the operation shall not be hazardous or create a nuisance.* Mr. Brennan stated they have established that.

3. *Existing Topography and Vegetation:*

a. *Existing vegetation, topography and careful siting methods shall be utilized to minimize the visual impact of the proposed development.*

b. *Cuts for roads and other site development shall be stabilized and vegetated with indigenous species to avoid erosion and sedimentation.*

4. *Historical/Geological Forms: Historical, natural or geologic features shall be preserved to the extent possible.* Mr. Brennan said that is being done.

5. *Construction Activities:* Mr. Brennan stated that is complying with all the requirements for appropriate construction activities. He omitted subsections a – g of this section.

Town of Northumberland
Planning Board
Location; Town Hall
Accepted by the Planning Board
Monday, April 25, 2022
7:00 pm
Page 5 of 10

6. *Drainage*: Mr. Brennan stated that has been talked about and is complying with drainage and erosion control. He added parking has been talked about and the placement of the road and emergency access.

#7 did not pertain.

8. *Sewage*: Mr. Brennan stated it is already in place.

9. *Water Supply*: Is in place.

10. *Emergency Access*: Has been covered.

11. *Impact on Municipal Services*: Mr. Brennan stated there is no impact.

12. *Shoreline Protection*: Not applicable.

13. *Historical Property*: No impact.

Mr. Brennan said if the Board agrees with all that there is one last thing to go through, there has been some back and forth on SEQRA, State Environmental Quality Review Form, whether it applies, he believes it is not subject to SEQRA because it is an agricultural operation. When the house was mentioned, the house would not necessarily trigger SEQRA but if it is a subdivision that would trigger it. He added he would like to go through the short form with the Board, not because they are going to do SEQRA but because he wants to confirm there is no impact. He read the short form, it was discussed and determined the project is in compliance with the Towns Comprehensive Land Use Plan, there is no or insignificant impacts, it is consistent with the uses of the area in the community, there will be no change in traffic or mass transit because it is an existing use with the added amenity of an indoor riding arena, impact on increase in energy use, it is a small or no impact it is an agricultural building that falls outside the standard building code and it will meet whatever code is required. It will not impact a public water supply or wastewater treatment utilities because it has an existing private well and septic, the project will not impact the character or quality of important historic, archaeological architectural or aesthetic resources the new rendering of the barn is consistent with the agricultural architecture. There will be a small or minor impact to natural resources, wetlands, waterbodies, groundwater, air quality, flora and fauna because of the construction and it will be handled with erosion control and the same answer for an increase in potential for erosion, flooding or drainage. There is no indication of a hazard to environmental resources or human health. Mr. Brennan stated he will write it all up in a written decision if the Board agrees and votes, then he will have it for the Board before the next meeting, he asked the Board to vote tonight and he will write it up so it can be formally adopted at the next meeting. If there is a challenge there will be a written decision documenting the facts. Vice Chair Heber stated he would entertain a motion. Mr. Brennan explained it will be a motion is for an application for a Site Plan and Special Use permit approval with contingencies that will be listed in Mr. Baker's letter be included; the construction entrance added to the plan, erosion control measures, standard details and locations, cross section of the driveway be added to the map, lights on the building, lighting detail on the site plan and a note that the well that is not in use will be capped and decommissioned in accordance with the Department of Health regulations. He asked Mr. Baker if he missed anything, Mr. Baker said no.

Ms. McGarrahan made a motion to approve the Site Plan and Special Use Permit application #: 0018-21 contingent upon Mr. Baker's suggestions as listed by Mr. Brennan.

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

Town of Northumberland
Planning Board
Location; Town Hall
Accepted by the Planning Board
Monday, April 25, 2022
7:00 pm
Page 6 of 10

Mr. Brennan reiterated he will write up the formal decision, they will hear it and formally adopt it next month, he will give the Board a copy in advance if there are any changes they can be made and it will document the decision.

Vice Chair Heber announced the next item; Subdivision and Shoreline Overlay for James O'Donnell, application #: 0012-21. He asked Mr. Brennan if he had anything for the Board.

Mr. Brennan stated he spent a good amount of time going through it, however, he would like to get a quick update from the applicant and then he will go through it and he has a couple questions that came up when he was looking at it.

Mr. Phillips, Esq. representing Mr. O'Donnell displayed maps, Mr. Brennan stated it is the proposed subdivision and the issue that came up was whether there was in the past history of this subdivision, whether this lot was prohibited by future subdivision by virtue of a conservation subdivision from 2006. He asked Mr. Phillips if they had the conservation subdivision on a board? Mr. Phillips replied yes, the original 11 lot subdivision and displayed it, Mr. Brennan explained that it was the original subdivision that was filed in the County Clerks office on July 11, 2006, this was a conservation subdivision that had both conservation land and open space land, it started over at lot 1 in the back, the question is whether the "house lot" was part of the original subdivision, there are notes on the map that said there was not further subdivision except for lot 2, that is the issue the Board is confronted with. Mr. Brennan stated the question he came up with is When Stonybrook bought the land it seems there are 2 deeds that came in from the Estate of Alfred Solomon, what did the lot for the Colonel house look like when it first came and was purchased by Stonybrook? The reason he asks that is there is a map reference that talks about a lot line revision for that parcel that pre-dates this subdivision, so what did the lands surrounding the Colonel's house look like in 2006 when Stonybrook bought this from the Solomon Estate? Mr. Phillips stated he could not give an authoritative answer to that question, because he has not researched the title that far back, he can surmise that there were two basic properties, one property on River Rd and the other property on Mott Rd in between those properties there was the retained drainage area in favor of the Canal Corporation so that drainage area and wetland was separating one property from the other as a physical separation, he does not know if it was a deed separation. Mr. Story stated the original deed with the house was 15 acres with the house on the corner of Mott and West River Roads, the remainder of the 300 acres was behind it and South of it, some of it was South of the house and some was West of the house. Mr. Phillips interjected South of the house along West River Rd, and West up Mott Rd. Mr. Story stated the 15 acres with house was on the corner. Mr. Brennan stated what he saw was there were two deeds out of the Estate into Stonybrook and then Stonybrook hired Brian Holbritten and there is a map reference to a boundary line adjustment by Brian Holbritten dated February 1, 2006 that pre-dates this subdivision, he said he is trying to understand what was that lot line survey because then there was a deed that went from Stonybrook to Stonybrook that set up the 15-acre parcel for as we see it today. Mr. Story stated the 15 acres was a separate deed in Solomon's name, and the 280 acres was also in Solomon's name two separate tax maps and two deeds, Mr. Brennan agreed, Mr. Phillips stated that is basically what created the 11 lot subdivision beyond the wetlands. Mr. Story agreed and said and the "other lands of Stonybrook" wasn't in the subdivision, 25 acres it was left out of the subdivision, Mr. Brennan asked if the 25 acres was with the house, Mr. Story replied yes. Mr. Brennan reiterated they are saying the original Colonel's house had 15 acres and then they did a lot line revision to make it the 25? Mr. Story said yes, but that was out of the subdivision, the subdivision was to the West and was 11 lots. Mr. Brennan stated he understood that part but he is trying to understand is how the 25-acre lot on the corner came to be? He asked if that was the same lot in the deed from the Solomon Estate or Brian Holbritten references a lot line adjustment survey, so was there a lot line adjustment done to add 10 acres? Mr. Story stated no, it was all part of the Solomon Estate but there were two deeds with it, the 25 acres is part of the 15 and part of the 280 acres.

Town of Northumberland
Planning Board
Location; Town Hall
Accepted by the Planning Board
Monday, April 25, 2022
7:00 pm
Page 7 of 10

Mr. Colozza asked Mr. Story if he had done a lot line adjustment with Mr. Ferenczi the owner of the island? Mr. Story replied yes, on the other side of the road, Mr. Colozza said but it was still part of that lot. Mr. Phillips interjected looking at the maps he does remember that he explained in that Solomon title there was also land on the East side of River Rd, up in the area where Mr. Ferenczi has the access to his island property, so to round off the Ferenczi property on the East side of the road as he remembers seeing it on the maps it was to let go off that property on the East side of the road and merge it with the Ferenczi island property. He asked Mr. Colozza if that was correct, Mr. Colozza said yes. Mr. Brennan stated that is not showing on these maps, he asked Mr. Colozza if that came to the Planning Board for a lot line adjustment? Mr. Colozza stated they weren't creating a new lot so it could have bypassed the Planning Board, all they were doing was exchanging a parcel of the land that was separated by the road, they had done it before and West River Rd divided it anyway and the river divided it from going any further. Mr. Brennan stated he would like to see the map that Brian Holbitter did, going forward in 2006 there is the 253 acres of the 11 lots and there is the 25 acres along West River Rd. It comes before the Planning Board for a conservation subdivision, the map in front of us, it was subdivided, then it comes back in front of the Planning Board months later to do a lot line adjustment, he said in Mr. Phillips letter he was saying it was a Subdivision but when he looks at it the Planning Board approved putting 5 acres around the Colonel Berry house and adding the balance of 20 acres to lot 1, basically what happened was the Planning Board approved what is called a lot line revision squaring off 5.02 acres and adding the rest to lot 1, he asked Mr. Phillips if he had that map on a board? Mr. Phillips said yes, he added he didn't believe it was added to lot 1, he pointed out the lot line adjustment with Mr. Ferenczi and stated what the Planning Board did with this map SA-27, they called it a boundary line adjustment and the boundary line was around the historic house because originally Mr. O'Donnell who now owns all the 25 acres was just going to buy the house lot, so the Planning Board authorized the subdivision of the 25 acres so he could buy the house. Mr. Brennan interjected it says area 35.25 acres revised. Vice Chair Heber stated it has to be a lot line adjustment. Mr. Phillips asked if he had the original acreage? Mr. Brennan replied yes like 9 acres, Ms. Black stated on the map it says 15, Mr. Brennan said 15 plus 20 is 35. Vice Chair Heber said to get the approval they would have to do that for a lot line adjustment or else it would have been a subdivision. Mr. Brennan stated it says it is a boundary line adjustment and the minutes reflect it and the lot area is reflected in it as 5.2 acres and when you add the balance to lot 1 you get 35.25, it was a lot line revision and, in the minutes, it says with that with that lot line revision it says there will be no further subdivision of this lot shall be allowed, see note 11, and now the whole thing says no further subdivision, Vice Chair Heber and Ms. Black agreed. Mr. Brennan added because the house was going to be purchased by Mr. O'Donnell that falls through and four months later, they come back in and the Planning Board un-does it, approves and files a new map putting it back to what it looks like on this map. Ms. Eggleston asked when that was? Mr. Brennan stated the 1st lot line was in September or October of 2006 and then February of 2007 they come back in and in the minutes, it says the County Clerk cannot undo a filed map unless they get a new map, now there is a new map called 827B. The Planning Board in February 2007 undoes that lot line or does another lot line adjustment to put it all back to where it was, so now it is back to 15 acres and it stands alone. He added there was a period of time it said no further subdivision but it was associated with the lot line adjustment that was then subsequently reversed. Ms. Eggleston reiterated the house parcel is not separated out now? Mr. Brennan pointed out on the map the house parcel's lot lines and it is back to being 25.79 acres, he traced it through and that is where we are with it. Ms. Black reiterated it is no longer part of lot 1 with the restrictions. Vice Chair Heber stated the Planning Board may not have undone the no further subdivision; they may have undone the lot line adjustment but did they undo the restriction? Mr. Brennan stated he thinks they undid the whole thing, because the applicant came in and said the deal fell through and they want to undo that lot line adjustment and it was put back to the way it was done previously, the original no further subdivision related to the 11 lots remains for lots 1-11 except lot 2. Mr. Brennan stated he would like to hear the Clerk's and Mr. Colozza's take on it because they researched it, he stated he went through all the maps, all the minutes and all the deeds, he pulled up additional maps and that seems to be the story that is told in the records

Town of Northumberland
Planning Board
Location; Town Hall
Accepted by the Planning Board
Monday, April 25, 2022
7:00 pm
Page 8 of 10

and minutes. Mr. Colozza stated basically how it ended up is this was the contiguous land to the major subdivision when they did the APD subdivision all the way up Mott Rd, this was considered the contiguous land, it was all owned by the same landowner, the Board took that into consideration with the entire subdivision that is one of the major things to look at. He added he didn't see anything special in the minutes about it but that is how it got reviewed and how things got labeled, this was one of the 1st APD subdivisions the Board had done, they are extremely large parcels with a few smaller 5 acre parcels, but there were no perk test done it was done with the idea keeping it agricultural open space all the way up Mott Rd all the houses had to be placed in the hedgerows away from using the open space.

Vice Chair Heber asked if all the lot line adjustments were done after the original subdivision? Mr. Brennan replied yes, the original subdivision was approved June 19th of 2006, then it was filed and sitting for 3 or 4 months, then the lot line revision came in October. Vice Chair Heber asked what the original subdivision says about development, does it say no further subdivision? Ms. Eggleston says except lot 2. Mr. Brennan said what they are saying is when Stonybrook bought this in 2006 there were 2 deeds from the Solomon Estate and he would like to confirm one deed was the house parcel and one deed was the 11 lot parcel and when it came in it was labeled "other lands of Stonybrook" and it has a deed book page of 136 and the other was deed page of 140, they are saying they bought it on 2 different deeds and the house parcel was not part of the subdivision and that is why it does not have a number on it on the map of 1-11 lots. He added there are references in the minutes that says the Colonel Berry home has a deed restriction that was placed that says the parcel is not to be touched due to the historical nature of that parcel of land. When it was sold from Stonybrook to Mr. O'Donnell there is a deed restriction using the language proposed by SHIPO, but when it says not to be touched it deals with the exterior of the building, SHIPO requirement basically said unless it burns down the exterior of that building will be maintained; shutters, wooden doors and cornices, architecture will be maintained and it says it will be conveyed subject to that.

Mr. Brennan said he would like to see the tax maps from 2006 that the parcel of 25 acres labeled "other lands" is what was conveyed in a separate deed and if that is the case, he is not seeing no further subdivision that was in there would apply, that lot was talked about a little but it was not talked about as no further subdivision as part of the 11 lots. Ms. Eggleston asked what is the purpose of the Board right now? Mr. Brennan said they have a separate map, with lots 1 & 2 and "other lands of Stonybrook", the Board reviewed it, Mr. Brennan stated they have submitted an application for the "other lands" to subdivide into 5 acre lots, Ms. Eggleston asked where is the existing house and how much is staying with the house, Mr. Brennan replied 5.05 acres, it is consistent with what was originally proposed and three or four more 5 or 6 acre lots. He explained they have an application for that subdivision and it has basically been on hold to determine if it could be subdivided based upon the prior subdivision, he will look at it but he is not seeing the Board has a strong argument that there is a restriction put on it. He said the applicant doesn't want to go through months of subdivision review to hear they can't subdivide. They still have to prove on their own whether or not they can develop this property because it can have some physical constraints.

Mr. Brennan then addressed Mr. Phillips and asked if they could get the Holbritter lot line map just to see what is there, he doesn't feel there is but he will look, and something to show which deed went to which parcel, and to confirm that one of the parcels that they took was separate "other lands". Ms. Eggleston asked what was on all the other properties, Mr. Brennan replied all 11 of them were provided deeds and each deed has a lot number in it and all 11 sold quickly in 2006, all those deeds are on file and all have the restrictions listed in them, no further subdivision except for lot 2.

Vice Chair Heber stated to move things along they need to get the original deeds, Mr. Brennan agreed and said he

would communicate if there are any questions after the meeting, he said he has the deeds, he just cannot read and translate what is in them because they are talking about "the oak tree on the corner" kind of stuff. But he will look and see which one belongs with which and make sure this 25-acre parcel is on a separate deed as a parcel, not part of the subdivision, he believes that is the case. Ms. Eggleston asked about the letter preserving the house didn't indicate the whole property it only was trying to relate to the house, Mr. Brennan stated the predecessors to this Board did agree to carve it off onto 5 acres but the trade off to that was the other 20 acres went to lot 1 and there was not further subdivision, that was keeping it consistent with what the book is. He said moving forward it is a different dynamic, he is not willing to concede to what SHIPO did or didn't say, on his list of things he wants to see what the Historic Nominee Registration says, he has seen a couple and they will say what are the contributing factors to the listing. It may say or reference the farmstead and not just building and buildings clapboards and shutters but the historical setting of the agricultural importance of the parcel in the History of the Town. He stated what he is saying he doesn't think he can say in good faith that there is no subdivision available but is not convinced that there are no issues with the subdivision and they will get into that when they get to review the subdivision, there is the shoreline protection district, the flood plain, floodway and the SHIPO issue and a letter about archeological sensitivity and then there are standard things to go through. He is not saying it is a done deal but he is saying that the Board cannot throw it out and said it was sold off for the other 11 lots, he cannot substantiate it in the minutes or in the back and forth, particularly with the lot line revision that put some into the no further subdivision and then undone. Ms. Eggleston asked if the inner lots had road access? Mr. Brennan asked what she meant and she indicated a line on the map, Mr. Brennan stated that was a wetlands boundary. Ms. McGarrahan stated it is the shoreline overlay, half of each of the lots except for lot 5 is in the shoreline overlay district. Ms. Eggleston asked if perk test have been performed, Mr. Brennan stated there was one deep hole test and they said they hit water at 7' 4" with no modeling, he would like to see Mr. Baker or Mr. Terry witness it because it is kind of a surprise. Mr. Colozza reiterated there was a perk test done? Mr. Brennan said not perk but a deep hole test done by MJ Engineering, he doesn't know the date but there is a letter in the file. Mr. Colozza interjected they did it on one of these lots they are proposing, because the flood elevation is at 128' and the highest point on the whole lot is only 130'. Mr. Brennan stated it surprised him to hear the depth to ground water was only 7 feet. Ms. Eggleston asked if there were a cemetery on the property, Mr. Story replied no. Mr. Phillips stated that elevation that Mr. Colozza mentioned is the 100-year flood elevation, Mr. Colozza agreed and stated everything has to be above that, Mr. Phillips agreed and said in terms of buildability, Mr. Colozza said it depends on the time of year they did the deep hole test, the time is supposed to be March when you start them according to the Department of Health. Mr. Brennan stated they will not be able to build a septic system unless it is above the base elevations, Mr. Colozza agreed, Mr. Brennan stated they can look into all the details as they go through it.

Mr. Phillips said in the deed to Mr. O'Donnell, in addition to restrictions relative to SHIPO, the deed also says also subject to the following restriction that shall run with the land and bind the parties of the 2nd part and their successors; #1 Any new homes constructed on the parcel in the future shall be single family residences, stick built, modular and not less than 1800 sq ft excluding garage areas no single or double mobile homes shall be permitted. That is in the deed of the 25 acres that they are talking about, he stated he did not do that deed it was done prior to him joining the project, the deed was 2007. He added he thought that was further evidence of the intent, looking at the record as a whole he thought that was significant in the record as well even the deed into Stonybrook said any new construction has to be at least 1800 sq ft, Mr. Brennan asked if it was a deed from Stonybrook to Mr. O'Donnell, Mr. Phillips replied yes. Mr. Brennan stated he saw it and did not give it as much weight as Mr. Phillips, he said he will give it some credibility that they thought it could be subdivided but after that it is self-serving because they are putting limits on what it could be used for.

Town of Northumberland
Planning Board
Location; Town Hall
Accepted by the Planning Board
Monday, April 25, 2022
7:00 pm
Page 10 of 10

Mr. Brennan stated he would clarify to Mr. Phillips the things he wanted to look at. Mr. Phillips asked if he wanted them to produce the deeds even though Mr. Brennan said he had them, he said they can have the engineer plot out on the map where the two, Mr. Brennan interjected and said yes he would like to see the two deeds with the legal description and what land each covers and in particular that there was 25 acres associated with the Colonel Berry house when Stonybrook got it. And he would like to see the deeds and he can call the County Clerks office for the tax maps from 2005 and 2006 to see what the tax maps show at the time of the conveyance. Mr. Story and Mr. Phillips discussed a map and deed, Mr. Brennan asked which map it was, Mr. Phillips stated it is a map from 2020 of Mr. O'Donnell's property similar to the proposed subdivision map. Mr. Brennan asked if he could get an email copy of that as well. Mr. Phillips agreed and added they will attempt to match up the two deeds with the properties on a map. Ms. Black discussed items on the map that appear to be survey monuments, Mr. Phillips then proceeded to show where the original concrete monuments were on the property. Mr. Brennan asked Mr. Phillips to show the history of how that original property line got to this lot, particularly where it came from and whether it required Planning Board review, even if it was a lot line adjustment between two parcel owners.

Mr. Brennan stated the Clerk has sent around at least 2 sets of minutes to approve, he stated he had a question about one set, on page one it referenced 1 acre and he believes it should be 10 acres, it was confirmed to be a typo.

Ms. McGarrahan made a motion to accept the February minutes with the correction of 1 acre changed to 10 acres on page one,

Ms. Eggleston 2nd the motion,

All in attendance unanimously agreed.

Ms. Eggleston stated she was absent at the March meeting and the minutes reflected she made a motion. She abstained from a vote to approve tonight. The Clerk explained they cannot make a motion regarding those minutes because if she abstains, they will not have a quorum.

The Board agreed to table the minutes for March and Vice Chair Heber asked for a motion to adjourn.

Ms. McGarrahan made a motion to adjourn at 8:15 pm,

Ms. Eggleston 2nd the motion,

All in attendance unanimously agreed.

Respectfully Submitted,

Tia Kilburn

Planning Board Clerk