

# **TOWN OF NORTHEAST ZONING BOARD OF APPEALS MINUTES OF MARCH 18, 2021**

The regularly scheduled monthly meeting of the Town of North East Zoning Board of Appeals, ("ZBA") took place on Thursday, March 18, 2021 at 7:30PM in the annex of the North East Millerton Library, 28 Century Blvd., Millerton, NY. ZBA members present were Chairman Julie Schroeder, Edith Greenwood, Jon Arnason and Judy Carlson, Secretary to the Zoning Board. Absent were Karen Pitcher and Patti Lynch-Vandebogart. Also present were Lann Rubin II of North East Ford, Tina Rubin, Heather and Ryan Boyles, Chris Kennan, and Peter Sander of Rennia Engineering Design of Dover Plains, NY.

7:30PM – Chair Schroeder opened the public hearing by reading the public hearing notice on the application of 182 Route 44 East LLC for a reduction in the required rear yard of 50 feet from the rear property line to 43.8 feet in order to construct a 2,432 square foot addition to an existing building located at 182 Route East, tax parcel # 7271-00-739225 in the BD-5 Zoning District of the Town of North East.

Peter Sander, staff planner, of Rennia Engineering Design, Dover Plains, NY, representing the applicant, Lann Rubin II of North East Ford, gave an overview of the proposed project. It involves two parcels – one parcel being 2.53 acres for which the variance is sought, the other parcel being 0.67 acres. Both parcels are located in the BD-5 Zoning District of the Town of North East.

The applicants would like to erect a 2,432 square ft. addition off the backside of the existing dealership building. This addition would be on an existing concrete pad located on the south side of the building. The addition will house space to work on large vehicles and will also allow the applicant to service electric vehicles. Presently, the large vehicles are serviced outside on the existing concrete pad. There will be asphalt milling around the site, electric charging stations for new electric vehicles and improvements to the storm water management system. The building design requires a variance of 6.2 ft. or a reduction of 12.4%.

Sander summarized some key points as to why the applicant feels this variance is a reasonable request. The proposed variance will not cause a change in the existing area or neighborhood. Since the addition is located at the rear of the structure, one

cannot see it except from an angle from Route 44. The surrounding parcels themselves will not be affected by this addition. There are wetlands to the south, a car dealership/repair shop to the east and a retail television shop to the west. The addition will prove to be nearly invisible and will not affect surrounding property.

Sander compared it to another method that could be used to accomplish the same objectives. They could reduce the building size, but doing this would cause a tighter space to be created. They could make the building L-shaped and thus interrupt the general traffic flow on the site. The addition would be highly visible from the road and be detrimental to the on-site traffic flow.

In the applicant's opinion this is a small variance request and not a substantial request because it would not affect any of the neighboring properties. The neighbors, in this case are, the DEC designated wetlands to the rear and an auto-repair shop to the east. Because of the location of these wetlands, and the fact that they are undevelopable, the proposal will not have an impact on that parcel.

The applicant believes the variance will have a positive impact because of the planned reduction of impervious surface area, allowing for better infiltration of storm water with the installation of storm water infiltration chambers. The chambers will collect roof run-off from the addition and it will allow for more absorption time and thereby reducing the overall site run-off.

The variance will allow the applicant to continue the separation of the pedestrian and repair maintenance uses of the site. The two uses will be separate and safe. The location of the repair area in the rear, separated from the pedestrian -traveled uses of the site, will keep the area safe.

Greenwood asked how much of a drop-off there would be in the rear. Sander explained that it was about five feet and tapers off from three to two feet off to the side.

Chair Schroeder asked about the cross-hatching on the map. Sander explained that the cross-hatching is the area that represents the embankment that is currently out there. It is boulders mixed with dirt. It will be seeded and planted to make it a more uniform and stable embankment, adding soil to even the area.

Arnason asked what does the term "existing asphalt millings to be paved" mean. Sander explained that asphalt milling is what happens when asphalt is broken up

and used such as gravel is used; however, asphalt millings can be sold separately as a non-hot surface and compacts better than regular gravel. It sticks together better than gravel because of the tar aspect of the asphalt. It creates a flat surface and a less erodible surface.

Arnason asked if this project had gone to the Planning Board. The applicant had presented the site plan for both parcels and had a meeting with the Planning Board earlier in the month. The Planning Board had questions on the lighting which will be addressed during the site plan approval process.

Sanders added that once they get the variance then they can go to the Planning Board for site plan approval. That is where all the storm water features and other relevant factors will be addressed.

Greenwood asked if the addition will fit on the existing concrete pad. Sanders stated that there is some overhang but it is not a concern. It is really inches they are talking about.

Chair Schroeder said her only concern was protecting the wetland. Sander commented that Rennia Engineering added additional infiltration to protect the DEC wetland.

Robert Boyles, adjoining property owner, asked if any of the property lines had been surveyed. He stated that the last survey done was in 2006 of the DEC wetland. Sander stated that all property lines had been surveyed from a certified surveyor. Sander validated this comment by looking at an approved DEC map. Indeed, the DEC wetlands were last validated in 2006. Sander explained that wetlands tend to grow when they are flat in area and because of the embankment he is assuming that the wetland will have stayed the same and will not have expanded northerly.

Arnason asked if the sign complied with our sign law. Schroeder replied that such was not relevant to the granting of this variance and that the Planning Board had previously approved the existing signage.

Chair Schroeder stated that this application was referred to the Dutchess County Department of Planning and on March 17, deemed the project one of local concern. The Town of North East Zoning Board was free to act.

Arnason asked if since this project is located on a US Federal Highway is there involvement of the federal government. Chair Schroeder replied that as far as she knew, it was a County issue and a local planning issue. Sander replied that the project would only need the approval of the federal government if the project was in the federal right - of - way.

Chair Schroeder made the motion to close the public hearing; Greenwood seconded; all in favor and the motion passed.

Chair Schroeder made a motion to open the meeting; Arnason seconded; all in favor and the motion passed.

Chair Schroeder suggested that the board grant the variance as applied for. The board had no concerns.

Chair Schroeder reviewed Part I of the Environment Assessment Form and suggested that the board classify the application as a Type 2 action as per Section 617.5 #16 referring to set back variances, and therefore exempt from further review.

Arnason made a motion to accept the SEQR decision; Greenwood seconded; all in favor and the motion passed.

Discussion ensued about the building addition extending 43.8 ft. away from the rear yard. Chair Schroeder asked the applicant if it was adequate or did the applicant want a little lee-way.

Rubin and Sander agreed that a little adjustment would be helpful.

Chair Schroeder made a motion to grant the application as applied for and to authorize the chairman to file a decision so stating -

Arnason added an amendment that the variance be an additional foot longer, a 7.2 foot reduction rather than a 6.2 foot reduction. Greenwood seconded; all in favor and the motion passed.

## **Minutes**

Greenwood made a motion to approve the minutes of November 19, 2020.  
Arnason seconded; all in favor and the motion passed.

8:20pm - Greenwood made a motion to adjourn the meeting; Arnason seconded;  
all in favor and the motion passed.

Respectfully Submitted,



Judy Carlson  
Zoning Board of Appeals Secretary

ZBA 3/29/2021

RECEIVED  
APR 29 2021  
TOWN OF NORTH EAST  
TOWN CLERK