

**TOWN OF NORTH EAST PLANNING BOARD
MINUTES
January 12, 2022**

The regular meeting of the Town of North East Planning Board (“PB”) took place on Wednesday, January 12, 2022 via ZOOM at 7:30 PM. Board members Chairman Dale Culver, Charles Barrett, Leslie Farhangi, Bill Kish and Dan Sternberg. Also in attendance were Chris Kennan, Chris Langlois, Will Agresta, Jeanne Vanecko, Beverly Tully, Arthur Zeckendorf, Brian Yarnell, Sam Busselle, Edith Greenwood, Julie Schroeder, Wendy Curtis, Hilarie Thomas, Lloyd Hicks, Meg Winkler, Walter Kubow, Pete Kwiatek, Sara Rigano, Justine Schussler, Joan Binzen, The Yales and Deb Phillips, secretary to the planning board.

*Charles & Kirby Barrett Lot Line Adjustment
Public Hearing for Application for Lot Line Adjustment at 7:40PM
639-641 Smithfield Road and 691-695 Smithfield Road
Parcel #133889-7070-00-864110 and Parcel #13389-7070-00-961052*

*McGhee Hill Road Subdivision
MGHR, LLC
Ongoing Site Plan Discussion
McGhee Hill Road
Parcel #133889-7170-00-414515*

Chair Culver requested a motion to open the meeting of the PB at 7:30PM.

Kish made a motion to open the meeting. Motion was seconded by Farhangi and passed unanimously.

Minutes

Chair Culver requested a motion to approve the minutes of the December 8, 2021 meeting.

Sternberg made a motion to approve the minutes as amended of the December 8, 2021 meeting. Motion was seconded by Farhangi and passed unanimously.

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Chair Culver requested a motion to open the public hearing at 7:40PM with Charles Barrett recusing himself.

Sternberg made a motion to open the public hearing. Motion was seconded by Kish with Charles Barrett abstaining.

Barrett gave a review of his application for a lot line for two properties that are connected to each other. He has a 15-acre piece of property that does not have good access; he would be taking five acres from another parcel and adding it to the 15 acres. The lot line adjustment would be needed for site distance for a driveway.

Chair Culver asked for any public comment on the Barrett application. There was none.

Chair Culver requested a motion to close the public hearing.

Farhangi made a motion to close the public hearing. Motion was seconded by Sternberg and passed unanimously with Barrett recusing himself.

The PB reviewed the SEQR and no environmental impact was found.

Kish requested a motion for a negative environmental impact statement.

Farhangi made a motion for a negative environmental impact statement. Motion was seconded by Sternberg and passed unanimously with Barrett recusing himself.

Chair Culver requested a motion to approve lot line adjustment.

Sternberg made a motion to approve the lot line adjustment. Motion was seconded by Farhangi and passed unanimously with Barrett recusing himself.

Barrett returned to the table at 7:47PM.

McGhee Hill Road Subdivision

MGHR, LLC

Ongoing Site Plan Discussion

McGhee Hill Road

Parcel #133889-7170-00-414515

Hilarie Thomas appeared before the PB with changes to the McGhee Hill Road Subdivision; it was amended to reduce the number of new lots created from ten to nine lots that would range between 8 and 24 acres. The agricultural data statement was updated; 37 acres will be taken out of agriculture but it would be left to the individual property owner(s) to determine whether or not they would like to farm to the extent that they can. Parcel ID numbers were added to the adjacent or nearby farm locations as determined from parcel access. A full environmental assessment form has been included. A bog turtle survey was provided and indicated that there were none present.

Walter Kubow from Chazen Companies showed the PB the full set of plans. The first sheet had the bulk requirements for the two zoning districts and some applicant engineering information and an index of the drawings. The next sheet showed the existing conditions plan survey that was prepared by Chazen. The third sheet was the overall site plan that identified the various lots which have been provided to demonstrate when they meet the minimum lot requirements in each zoning district.

Kish asked about a certain area on the map; Kubow said it is a current area that is being farmed.

Kubow said the main difference for the plan is that they have reduced the number of access points to three. All three are existing access points; two of them are for the farming operation and the one on the west is the existing access that goes through the property to the property in the rear. The next sheet showed the topographic information which is quite dense due to the scale of the map and also the slopes. He said the existing access road will have some improvements made. The existing access to the back area will remain. They have done numerous soil tests in various locations for septic systems. They are not done with the soil tests due to weather conditions. Lots 1, 2 and 3 all have access from the westernmost entrance point. There are 4 lots that gain access from the middle entrance that exists in a farming access. Improvements needed for the portions of the driveways will be paving; some of them are common driveways crossing lots with proposed easements. Conceptual locations for the septic systems have been identified; some are in the locations that weren't tested and some have been moved

based on the layout and testing will need to be redone. There is no disturbance plan proposed to the existing stream that traverses the property. On the east side of the stream, there is one entrance point for these three lots with cross-lot easements as needed. Conceptual house, septic and well locations were all shown. The wetland areas were delineated by Chazen wetland biologists. The flag locations and numbers have all been added to the plans. The balance of the plan includes sediment control erosion details and additional erosion and storm water details. They will be preparing a full-blown storm water pollution prevention plan for the next submission. The final page had generic septic system details and a well detail and will be refined as the plan moves forward with additional testing and design.

Kish asked about the topography map. He said the area that the plan pertains to is where the slopes exceed 20%. He asked if a map could be provided that delineates the areas that are greater than 20%. Kubow said that is easy enough to do.

Kish asked what an effective buffer would be regarding the streams and wetlands; how much area would be left undisturbed at a minimum.

Kubow said the goal of the project is to not to disturb any wetlands but there may need to be some. He said the existing road gets really close to a flagged wetland and a little on the opposite side. They are looking to avoid that entirely.

Kish asked for a map that indicates 20-, 50-, 75- and 100-foot buffers around those features to see where the encroachment is.

Kubow said he could do that and all of the wetlands are federally regulated. He will follow up with a wetland report from their biologist.

Barrett asked what type of stream is by the driveway access. Kubow said it is a continuously flowing stream and a Class C that is not regulated. Barrett also asked if any driveways cross the stream; Kubow said there are none that cross. He said the applicant plans to keep it pristine.

Chair Culver asked for any questions from the PB.

Farhangi thought Class C streams could be trout streams. Kubow said some Class C streams come with a T designation for trout.

Kubow said they could go through the letter from MBRA and address any comments.

Sternberg said he has read the responses and suggests it go back to the PB's consultant.

Chairman Culver suggested having PB consultant Will Agresta review it and pinpoint things that need further addressing. All members were in agreement.

Agresta said he did a cursory review of the materials; he will do a detailed review. He also suggested a few points for the PB to discuss.

Kubow said he was referring to a wetlands report from the biologist that did the wetland delineation describing the different characteristics and there are two or three intermittent streams.

Agresta said there was a comment about a more larger scope of things for the site. He mentioned the bog turtle report and the wetlands report. He said there other comments from the responses need to be reviewed in-depth.

He said they dismissed clustering without really seeing what the standards are ; it says the PB can consider lot clustering and then it goes on to talk about if it's related to affecting agriculture. Agresta said it doesn't have to be about agriculture to be considered lot clustering. With regards to open space, he thinks the applicant didn't intend to have open space and the Town has a fee regarding that.

Kubow said they are not intending to do any open space dedication and wasn't aware of any fee related to that.

Agresta said he likes the common driveways, the minimization of impacts were possible. Other than the common driveways, there isn't anything that limits those impacts. He suggested having a map that shows the avoidance of wetlands but that doesn't prevent the landowner from doing anything in the future. He asked if the applicant was willing to commit to no further subdivision on the subdivision. The common driveways are good, they help lessen impact to the road and impact overall. There's a good swath of wetland across the frontage of Lots 2, 3 and 4. He doesn't know how realistic it would be if those lots were to stand alone. He asked the PB for any questions.

Kish asked Agresta to talk more about the PB consideration

Sternberg asked it if it is anticipated that part of this application will be committed to a homeowner's agreement that would establish building sites as being permitted building envelopes so that the placement of the homes ??? if they were moved.

Agresta said they can ask if that is something that the applicant is willing to commit to.

Kubow said as far as the preferred location is selected by the applicant, he's certain there is a way for him to make sure that that is where they go.

Chair Culver said that Agresta is trying to say is that it looks good on paper and the non-disturbance looks good, but if there is nothing put on paper to back it up, it goes away if anyone chooses to make it go away.

Agresta said if there is no defined envelope, deed restriction, development area, specified buffer areas around the plat, then it gives free range to the owner.

Farhangi said if the applicant is going to think about ways to make their plan memorialized, the PB should make sure that any restrictions are enforceable. The PB would need an entity that is capable and willing to enforce the provisions.

Chair Culver asked Agresta if they would need to be deed restrictions that would have to go to the Building Department to get a permit.

Agresta gave two examples: One could be a conservation easement given to a third party who would be the enforcer of the conservation easement that would have a defined boundary, that would be on the subdivision plat that gets recorded. When somebody buys it, there would be a title search and it would be spelled out what the owner could or could not do in that area. Similarly, if you wanted to do something less than that, like having a special development envelope which was not the building setbacks, it would define the buildable area within the lot and there would be more or less free range in that area. The other areas would be left in their current condition. The key is that these kinds of things are on the plat in the deed.

Kubow said they would regroup with the applicant and come up with another suggestion.

Chair Culver asked the PB for questions or comments.

Barrett suggested that there should be a registered homeowners' agreement in regards to the shared driveway.

Agresta said there could be a common driveway agreement that spells out the responsibilities of each of the owners. It gets recorded on the land records.

Kish suggested having the engineer look at the engineering data on the last few sheets.

Agresta said the engineer doesn't have to get involved to understand the project. The main thing that he is probably going to be looking at is the storm water pollution prevention plan. Kubow said that would be submitted with the next submission.

Agresta said the other areas that need help are the slope and the driveways and the Town engineer would look at those. There are wetland issues there and engineering issues.

Thomas returned to zoom to mention the wetland delineation report.

Chair Culver asked if the PB is to the point where Agresta will review and come back to the PB and hold off on the engineer until there is a storm water report for him. All were in agreement.

Chair Culver asked Kubow if he wants to come back to the next meeting. Kubow said it will depend on the storm water prevention pollution plan report and it may take a month.

Public Comment

Sam Busselle asked for designation of where the 37% of the open space farmland that isn't restricted would be eliminated. Kubow showed on the map where the land in question was. Busselle asked what percentage is 37 acres. Thomas said 148 acres is the size of the actual parcel and there are only 22 acres that will be disturbed by creating driveways where they don't exist currently or including a septic system and/or building envelopes. Busselle said he is interested in percentage of 37 acres of tillable land that is being parceled out and what percentage is left of the open space or tillable land.

Kish said all of that farmland will become part of the house sites and there will be no space for farming.

Busselle said maybe protected space would be the other issue that is supported in our Comprehensive Plan.

Thomas said there are only 22 acres that are being disturbed and recommended taking the farmland out of the equation of 148 acres. There will be 126 acres left as is in its natural state.

Farhangi said the 126 acres will be left in its natural state if there is some protection for it.

Thomas said the slopes don't really allow for a lot of additional development.

Kubow said if each lot has one house on it, he doesn't know what the Town's zoning would allow other than maybe a small accessory building.

Brian Yarnell said he never heard of the project and they live across the street. She asked for a timeline on the project and any direct impact on the neighbors.

Chair Culver said the timelines depends on the flow of information coming back to the PB. For the impact, there will be a hearing and discussion on it.

Agresta said the potential impacts are minimizing driveways and that is a positive thing. Traffic isn't going to be much of an impact with just ten lots. Visual impacts are possible, depending on where the houses are sited. It is a lot of land for ten houses. Timeline is the review time for approval. The construction and development timeline would be longer and be market driven.

Kish asked Chair Culver if members of the public want to review the maps, can they email the PB office and get a link. Chair Culver said yes.

Kubow asked if they are at point where the PB could declare its intent assume lead agency under SEQR.

Agresta said they need to review the EAF.

General Business

Kish had three questions: (1) If there are any updates on the Zen center project; (2) any request or suggestion for the Zoning Review Committee; and (3) the PB webpage on the Town website.

Chair Culver said there have been no further updates.

Kish asked if there was anything scheduled on the Zoning Board of Appeals; ZBA Chairman Schroeder said their next appearance is the third Thursday in February (February 17)

Chair Culver said he doesn't think any review by the Zoning Review Committee has been done yet. He suggested having that for review at the next meeting.

Kish said Meg Winkler spoke to him about different towns having PB pages on their website. He suggested there would be improvements on the Town's webpage. He asked if it would be okay for him and Sternberg to come up with some suggestions to make improvements.

Chair Culver said he is fine for new ideas. All were in agreement.

Kish and Sternberg said they would come to second meeting in February with their ideas.

Chair Culver requested a motion to adjourn the meeting at 8:39PM.

Farhangi made a motion to adjourn the meeting. Motion was seconded by Sternberg and passed unanimously.

Respectfully Submitted,

Deb Phillips
Planning Board Secretary

APPROVED February 23, 2022