

**TOWN OF NORTH EAST PLANNING BOARD
MINUTES
December 8, 2021**

The regular meeting of the Town of North East Planning Board (“PB”) took place on Wednesday, December 8, 2021 at North East Town Hall located at 19 North Maple Avenue, Millerton, New York at 7:30 PM. Board members Chairman Dale Culver, Charles Barrett, Leslie Farhangi, Evelyn Garzetta, Bill Kish and Dan Sternberg. Also in attendance were Chris Kennan, Chris Langlois, Will Agresta, Peter Sander, Sam Busselle and Deb Phillips, secretary to the planning board.

*Charles & Kirby Barrett Lot Line Adjustment
Application for Lot Line Adjustment
639-641 Smithfield Road and 691-695 Smithfield Road
Parcel #133889-7070-00-864110 and Parcel #13389-7070-00-961052*

*Brooklyn Zen Center (Ancestral Heart Zen Monastery)
Discussion of Referral from ZBA
87 Kay Road
Parcel #133889-7272-00-479805*

*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.

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

Public Comment

None.

*Charles & Kirby Barrett Lot Line Adjustment
Application for Lot Line Adjustment
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Parcel #133889-7070-00-864110 and Parcel #13389-7070-00-961052*

Barrett recused himself temporarily from the PB as he is the first applicant on the agenda.

Charles Barrett appeared before the PB with an application for a lot line adjustment to add a five-acre parcel to a 15-acre parcel for more horse pasture and to include a pond. He said in the future, he would like to sell the upper farm consisting of 27+ acres which is currently 32 acres. He said the County did a driveway cut in the upper farm in the event that the upper farm property was to be sold.

Chair Culver suggested having the PB lawyer review the application. Attorney Langlois did not see any issues with the application.

Chair Culver said Barrett would pay the attorney’s fees directly and no escrow would be needed.

Chair Culver requested a motion for a public hearing for the Barrett lot line adjustment on January 12, 2022 at 7:40PM.

Sternberg made a motion for a public hearing on January 12, 2022 at 7:41PM. Motion was seconded by Garzetta and passed unanimously with Barrett recusing himself.

Barrett returned to the table at 7:40PM.

Brooklyn Zen Center (Ancestral Heart Zen Monastery)

Discussion of Referral from ZBA

87 Kay Road

Parcel #133889-7272-00-479805

Peter Sander appeared before the PB representing the Brooklyn Zen Center. He said the Zoning Board of Appeals referred the application to the PB. He gave a brief recap: Proposal of three bunkhouses, workshop, conversion of an existing residence, creation of the zendo in Phase 2 and the Abbott's residence. The zendo will be two stories with a meeting hall on the second level with the dormitories on the first level. He said more grading plans, lighting plans, etc. need to be developed. He is unclear on where the application stands; if will it be reviewed by the PB or the ZBA.

Chair Culver said pieces of the application will be reviewed by both parties. The site plan will be reviewed by the PB. He said the special use permit goes to the ZBA and the discussion tonight will be about lead agency.

Langlois agreed with Chair Culver about the site plan gets reviewed by the PB and the special use permit goes to the ZBA. He said the ZBA is requiring to obtain a recommendation from the PB. His understanding is that the ZBA decides the special use permit application. There are three types of recommendation for approval: (1) recommend approval, (2) recommendation for disapproval, (3) take no action in which case the ZBA can proceed after 30 days from the referral. His impression is that one of the reasons why it's on the agenda tonight is that the ZBA referral time-frame may come into play.

Agresta said is he not sure why the ZBA did that already. The ZBA's intention was to be lead agency. He said the PB should have received a EAF site plan application.

Langlois said he has a December 1, 2021 letter in a packet of material from the ZBA chair saying that they wish to be lead agency and they are looking for an advisory recommendation from the PB.

Sternberg asked if the applicant has made an application to the ZBA based on the materials that the PB has.

Sander said he submitted the first round to the ZBA, then attended the PB meeting and another ZBA meeting. He has kept the plan uniform because he wanted direction on which board he should present the application to.

Chair Culver asked Agresta if they were looking for declaration of lead agency.

Agresta said the ZBA has received the application and declared that they wish to be lead agency as a special use permit is required.

Agresta said the first thing to be discussed is lead agency; after that, you should have the application, site plans, and the EAF that the ZBA has. He is in the process of reviewing it with the ZBA.

Chair Culver asked Agresta if the PB has not received all the materials that he has.

Agresta said the focus of the special permit with the ZBA is the over arching use of the property. The details of the site plan do overlap. He said the PB should be looking at the special use permit whether you find it consistent with zoning, consistent with the Town's Comprehensive Plan. In addition to that referral, as an involved agency, you should consider any environmental issues that are necessary to be addressed.

Kish asked if there is any information on how close this development is to neighboring residential properties.

Sander said there is one residential unit to the south. He pointed out two other residences on the map.

Sternberg said he is familiar with the property and said there are more residences that what Sander is indicating.

Kish said from the standpoint of a special use permit, he thinks the impact of this project on the neighboring properties is something important to consider.

Chair Culver said the PB can't give a recommendation without accurate information.

Sternberg asked Sander if he will be making a presentation to the ZBA that addresses the kinds of issues that might be relevant to a special use permit as opposed to the details of a site plan or environmental review.

Sander said his intention is to provide a complete SEQRA narrative addressing environmental issues, use issues, fully developed site plan including grading, lighting, landscaping. He said he would submit that to the PB first.

Sternberg said there are three distinct concerns: The environmental review, the site plan and the special use.

Chair Culver said the PB has to weigh in as to what the PB thinks as lead agency. He said it seems like the PB is dealing with a recommendation with a time limit and lack of detail as to the outside peripheral piece. He said it's important to the PB to make a recommendation about whether the PB thinks the special use is warranted.

Kish asked if the PB makes no recommendation to the ZBA, is there any aspect of site plan that the ZBA can take away from the PB in their special permitting.

Agresta said not necessarily. They have to meet the zoning regulations. In some respect, the PB can override the ZBA. Agresta said the referral is premature due to the application being incomplete.

Kish asked Agresta if the PB sends the ZBA a response that says the PB thinks it's premature to start the shot clock, does that reset the shot clock and is there a way the PB can do that.

Langlois suggested sending a letter to the ZBA asking them to withdraw the referral at this time.

Chair Culver asked Langlois if he would write a letter to ZBA saying that the request for the time limit to start is premature based on that it doesn't meet the PB's standards and that the application is supposed to be complete before a referral is made.

Chair Culver asked the PB if they agree to have Langlois write the letter to have the ZBA withdraw or for the PB to request an extension. All agreed to have Langlois write the letter.

Chair Culver asked the PB's preference on which board should be lead agency; there is a lot of complexity to the application.

Barrett said the special use permit and anything to do with zoning should go to the ZBA and the PB should do everything else; doesn't have a problem with ZBA lead agency.

Kish said it depends on how much time each board is going to be spending on the application. If the ZBA thinks they can work it out in one or two meetings, then the PB should be the lead agency. If the ZBA thinks it's going to be a complex special permitting process, the ZBA will have a valid point.

Chair Culver thinks the PB would have 70% and the ZBA would have 30%.

Kish agreed that the PB should be lead agency.

Agresta: The ZBA needs to review a fully detailed plan to make their determination for the special use permit.

Kish said the site plan portion falls on the PB and thinks the ZBA should be concerned with the number of residences on the property, the visitors on the property, the noise, hours of operation, etc. whereas the PB would be concerned with footprints and placement of the buildings, the elevations of the buildings, the impact on the land, etc. He asked wouldn't it be possible for the ZBA to complete their special permitting without actually knowing what the final site plan looks like.

Agresta replied no. The impact of the land and the impact on the neighbors is a SEQRA issue. It's also a special use permit issue; not a site plan issue unless it's specific to the code.

Agresta said to go through the plan and identify issues that the PB would change or modify.

Sternberg is comfortable with the ZBA as lead agency.

It was suggested to have a PB member attend ZBA meetings related to the application.

Chair Culver is okay with the ZBA as the lead agency but the PB needs to have communication with detail. The letter from Langlois asking the ZBA to withdraw needs to go out soon.

Chair Culver asked for a motion to allow the circulation lead agency from the ZBA to be their purview.

Garzetta made a motion to allow the circulation lead agency from the ZBA to be their purview. Motion was seconded by Barrett and passed with one opposing.

Agresta said it should be recorded in the minutes that there should have been a form in the circulation page that we check the ZBA to be lead agency and return to them.

Langlois said he would send the letter to the ZBA on December 9, 2021.

Kish requested that all PB members be informed by e-mail of any regarding ZBA meetings relating to the application.

Chair Culver will have Lorna Sherman send out e-mails of ZBA meetings regarding to the application.

Sander said he doesn't have enough time to prepare a set of detailed plans before the December 16, 2021 meeting. His goal is to attend ZBA meeting and discuss proceeding from here on out. Subsequent meetings would have detailed information.

Chair Culver reminded the PB that more than one member can attend the ZBA meetings as long as there is not a quorum.

Farhangi agreed to attend the December 16, 2021 meeting.

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

Chairman Culver said the McGhee Hill Road Subdivision asked to be on the agenda and then asked not to be on the agenda. Culver left it on the agenda because the PB revised the agenda.

Chair Culver said the McGhee Hill Road Subdivision plans to be at a January 2022 meeting.

General Business

No general business.

Minutes

Chair Culver requested a motion to approve the minutes of the October 13, 2021 meeting.

Kish made a motion to approve the minutes of the October 13, 2021 meeting. Motion was seconded by Sternberg and passed unanimously.

Chair Culver requested a motion to approve the minutes of the October 27, 2021 meeting.

Kish suggested adding in the October 27, 2021 minutes that he was asked to preside at the meeting in Chair Culver's absence.

Farhangi made a motion to approve the minutes of the October 27, 2021 meeting. Motion was seconded by Garzetta and passed with Chair Culver abstaining.

Chair Culver would like to have a zoom meeting with Agresta regarding training. Sternberg and Barrett would like to discuss what was talked about at tonight's meeting, referring to applicants bouncing back and forth between PB and ZBA.

Chair Culver suggested sending a letter to the Zoning Review Committee detailing a couple of points that the PB constantly deals with. While looking at the review of the code, if those were cleaned up, it might help the PB and the ZBA operate in a more professional manner.

Chair Culver said the PB should be learn about special permits because the PB is sometimes asked to give a recommendation. He asked for PB members to bring their frustrations to the January 12, 2022 meeting and then send them to the ZRC. In the meantime, he will send an email to Agresta about training for special use permits, etc.

Chair Culver requested a motion to adjourn the meeting at 8:45PM.

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

Respectfully Submitted,

Deb Phillips
Planning Board Secretary

APPROVED January 12, 2022