

**TOWN OF NORTH EAST PLANNING BOARD
MINUTES
March 23, 2022**

The regular meeting of the Town of North East Planning Board (“PB”) took place on Wednesday, March 23, 2022 in the North East Town Hall located at 19 North Maple Avenue, Millerton, New York at 7:30PM. Board members Chairman Culver, Charles Barrett, Leslie Farhangi, Evelyn Garzetta, Bill Kish and Dan Sternberg. Also in attendance were Hilarie Thomas, Chris Kennan, Will Agresta, Chris Langlois, Jenny Zeckendorf, Walter Kubow and Deb Phillips, secretary to the planning board.

*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 at 7:30PM.

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

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

Walter Kubow of Matthew D. Rudikoff Associates appeared before the PB with the intent of the PB to be lead agency for the subdivision.

Chairman Culver said that is the direction that the PB is going in.

Kish mentioned the Bio 1 area and the northwest corner on the map showed up as a critical habitat on habitats prepared by Hudsonia. He said the driveway adjacent to it is problematic. He asked if the driveway could be moved.

Kubow said they would look at it. Hilarie Thomas said it is a pre-existing farm road dating back to 1894.

Chair Culver asked if there was any delineation that shows access to the rear parcel. Kubow said it’s a faint line. Chair Culver said if it exists and it’s codified in the deed, it should be obvious on the map.

Sternberg asked if the driveway would be blacktopped. Kubow said portions would be blacktopped.

Thomas said culverts were being put in and some are already there.

Agresta said easements need to be updated; they’re not showing pathways.

Thomas said the easement language is essentially it’s a macadam road, a driveway from the back parcel to a macadam road. The right-of-way was pre-existing and not delineated on a map on a meets and bounds.

Agresta said that is a good thing.

Sternberg asked when the new property is acquired if it would be separately deeded.

Thomas said that was one of the incentives to be able to acquire it.

Farhangi said conservation easements and preservation of open space is her issue because they are not enforceable.

Thomas said in the deed it will be restricted to no further subdivision and it will be stamped on the final map.

Agresta said smaller building envelopes may be enforceable on the subdivision.

Sternberg would like the building envelopes be defined in the final plat.

Kubow said it's a matter of how it gets enforced and codified into some documents that could be carried out forever. He said each of these lots has been carved out at the minimal allowable width. Any further subdivision on any of the lots would not be able to happen. You would need to build a road with more frontage.

Kish said the Town is in the process of revising zoning and one of the ideas is to reduce the flag lot issue which may reduce frontage requirements. He's concerned that may be enforceable with today's zoning but in the future it may not.

Thomas said her understanding with the current zoning review commission that they are looking into restrictions on ridgelines and that would further restrict any future subdivision.

Kish said it seems like having the final approved plat indicate the building envelopes and road construction that we would be able to add on the plat that would say the following building envelopes, road construction and other amenities have been approved as part of this subdivision and may not be altered or further construction with PB review as prohibited.

Chair Culver suggested having Chris Langlois speak as the legal advisor.

Langlois said Agresta's suggestions in his comment letter are good options: the benefit of a conservation easement is that it is recorded and easy to find; the challenge of having a note on the subdivision is those documents often get lost or overlooked. In order of preference, the best way is to do a conservation easement and then have a note on the final plat that gets recorded; beyond that, putting in the envelope restrictions on the plat.

19 minutes

Agresta said he would advocate when it goes on the plat that it meets the bounds of the envelopes. You could get it down to an instrument that spells out the details.

Chair Culver said when we have anything restricted, he would like to see that it be on the plat.

Thomas said if the property gets sold, it would come up in a title search as a restriction.

Agresta asked what the reluctance to a conservation easement was.

Thomas said they were not interested in easements. She said in her opinion if the Dutchess Land Conservancy comes in, we would request them to align a ten-lot subdivision and they will come in and tell us they would rather

it be three and they're going to site the building envelopes in locations that is possibly not where the applicant would like to live.

Chair Culver said we can ask them to consider these options but with the zoning and the size of the property, the applicant has every right to discuss with the PB subdividing the property and if they choose to do the conservation easement they can; if they choose not to, we can't force them to. We have to work through what they want try to mitigate all the environmental issues and hope we get the rest of as best we can.

Kish said there is a lot of catch basins and other amenities for dealing run-off and flood water. He asked Kubow if they have consulted with a wildlife biologist to determine whether introducing fast-flowing water into these areas that could be harmful to the adjacent wetlands.

Kubow said the purpose of the retention basins and bio-retention areas are to slow down the water. There are going to be two types: one is an empty basin that holds the water and releases it slower and the other is a filter system that allows the run-off to perk down in.

Kish suggested that Kubow pass the plans along to a wildlife biologist. Kubow said he would.

Thomas said they are working on site distances for the proposed driveways. She asked for guidance on the lot clustering.

Agresta said it seems to that you've only been focusing that it only applies when it deals with agriculture;

Thomas said there's a component in there that mentions agriculture which we are well under the threshold as to how it applies in the A5A zone.

Thomas said the Town law gives the power to the PB to approve the lot clustering.

Sternberg said you're looking at the law and saying if we agree to cluster, we're entitled to an incentive.

Kubow asked what is it we have to do to deal with clustering.

Agresta said it's just another means of trying to protect some of the land. It goes toward the building envelope concept.

Chair Culver said the applicant that has said to us they would like to preserve as much as possible and clustering came up. Do we really think that we take someone whose subdivision is this large and make them put the building envelope all together in a group. It's like we're not designing the subdivision; we are asking to preserve land and to keep as much as we can open and to have as many environmental issues. We might want to think about if the siting is there is acceptable or are we starting to think that that is not a bad plan. We can't take this and say you're going to put them all together and that's the only way this is going to happen. They are willing to work with and should listen to why they want things where they are and then figure out the best way the plan can be. We should think what best benefits the community and the overall plan to achieve a successful outcome that be as beneficial to the community with their land.

Kish asked how many acres of woodland will be cleared.

Thomas said it's in the EAF.

Jenny Zeckendorf said they wanted to preserve the larger trees.

Chair Culver asked for a motion to circulate for the PB for lead agency.

Sternberg made a motion to circulate for the PB to be lead agency. Motion was seconded by Garzetta and passed unanimously.

Kish asked about the choice for blacktopping the driveway. He said it is very resource intensive and it's problematic for wildlife. He asked if not paving the driveway was a possibility.

Kubow said that is a consideration for the owner.

Farhangi suggested a permeable surface; Kubow said plowing is problematic for that.

Chair Culver would like to come to a compromise regarding wildlife.

Agresta said there are two choices for a gravel type driveway. He asked what the concern is for a paved driveway.

Kish said a lot of petroleum-based resources are used, blacktop has environmental impacts and they get hot and dry in an area where there are a lot of amphibian species that will have a hard time crossing.

Thomas said plowing is a problem for a gravel driveway and there is gravel run-off during rainy seasons.

Agresta asked about vernal pools on the property. Kubow said he didn't recall seeing any. Agresta said it would be a good idea to visit the site.

Kish suggested having a wildlife biologist visit the site. He asked if utilities would be placed under the driveway. Kubow said yes.

Kish asked what the various instruments the PB were given.

Thomas said in Agresta's prior comments, he has asked for examples for the utility easements and/or driveway maintenance agreements, maybe consumer-to-consumer utility agreements. They are provided for purposes of example only as a sample.

Sternberg asked if the PB would see a Homeowner's Association Agreement.

Thomas said there won't be any but there will be a road maintenance agreement and easements. They are trying to keep it to three access points on McGhee Hill Road instead of having ten; Kubow said those three access points exist in some form.

Agresta said the basins look specific to a lot and others look shared.

Kubow said if the runoff comes from a common driveway, all the owners on that driveway would be responsible for storm water management.

Agresta said ownership and maintenance need to be clear.

Public Comment

There was none.

General Business

Kish proposed revising the Town's webpage for the PB. He suggested sending the Zoning Review Committee and list of concerns.

Farhangi made a motion to revise the webpage. Motion was seconded by Sternberg and passed unanimously.

Minutes

Chair Culver requested a motion to approve the minutes of the February 23, 2022 meeting.

Kish made a motion to approve minutes of the February 23, 2022 meeting. Motion was seconded by Sternberg and passed unanimously with Farhangi abstaining.

Garzetta made a motion to adjourn the meeting at 8:30PM. Motion was seconded by Farhangi and passed unanimously.

Respectfully Submitted,

Deb Phillips
Planning Board Secretary

APPROVED May 11, 2022