

**TOWN OF NORTH EAST PLANNING BOARD
MINUTES
December 14, 2022**

The regular meeting of the Town of North East Planning Board ("PB") took place on Wednesday, December 14, 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, Bill Kish and Dan Sternberg. Also in attendance were Peter Sander, Chris Langlois, Rob Cooper, Edith Greenwood, Julie Schroeder, Rich Stalzer, Camilo Rojar and Deb Phillips, secretary to the planning board.

*Robert Cooper/Suburban Propane LP
Application for Minor Subdivision/Lot Line Adjustment
Route 22 and 6180 Route 22
Parcel ID# 133889-7272-00-063335 & 133889-7272-00-057307*

*Brooklyn Zen Center (Ancestral Heart Zen Monastery)
Site Plan Application
87 Kaye Road
Parcel #133889-7272-00-479805*

Chairman Culver requested a motion to open the meeting at 7:35PM.

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

Minutes

Chairman Culver requested a motion to approve the October 26, 2022 minutes.

Kish made a motion to approve the October 26, 2022 minutes as amended. Motion was seconded by Farhangi and passed unanimously.

General Business

No General Business.

**Robert Cooper/Suburban Propane LP
Application for Minor Subdivision/Lot Line Adjustment
Route 22 and 6180 Route 22
Parcel ID# 133889-7272-00-063335 & 133889-7272-00-057307**

Rob Cooper appeared before the PB for a lot line adjustment of 58 feet south of the current line that is near the existing office/showroom/warehouse. He is purchasing the north property (Lot #1) that Suburban Propane owns (Lots #1 & Lot #2). He said there was a change of the separation between the loading dock and the existing property line to be 18 feet instead of 25 feet.

Chairman Culver said an easement allows Suburban to use the existing driveway.

Cooper said his survey can prepare the language for the easement.

Chairman Culver asked Attorney Langlois what should be done about the easement. Langlois said he would like to see the easement document at the time of approval. Chairman Culver said he would like to see it beforehand.

Cooper said he could have Suburban prepare the easement wording. Chairman Culver said that Cooper and Suburban should review it and be comfortable with it after whoever creates it.

Kish said there are a lot of things to think about since it is an existing non-conforming use; what the use is and what it could be, the setbacks and how to look at the overall site as it will be developed. He asked if it needs to get variances or should the PB ask for variances. He had spoken to Building Inspector McLaughlin and asked what the PB should do. McLaughlin said because this is such an unusual situation, the PB has a lot of leeway to ask for a lot of different things.

Langlois asked if the new proposed lot line was going to result in an 18-foot setback from the new line to the loading dock or a 25-foot setback. Cooper said it would be 18 feet. Cooper said he wanted 10 feet but Ken suggested 18 feet.

Chairman Culver asked Langlois since we are in a gray area and the code requires 50 feet, the lot is non-conforming, where does that leave us with 18 feet.

Langlois said there are lots of deviations on how the improvements are laid out from your code requirements. The only you're doing that's new is you are creating a new side yard by moving that lot line. As a result of moving that lot line, you're going to have an 18-foot side yard between the new line and the loading dock. If Cooper was coming to the PB with a clean parcel, it would be 50 feet between the line and the loading dock. That's the issue that McLaughlin was settling on. There are two issues: Why have the side yard minimum; one aspect is acquiring emergency access and the other issue is the aesthetics vs. neighboring parcels. Cooper would be creating a line and the new lot, which for that particular aspect, would not comply with the minimum side yard setback. Cooper would have the option of sending it to the ZBA and getting permission to decrease the side yard setback from 50 to 18 feet.

Chairman Culver asked about the future of the loading dock building. Cooper said it's probably going to come down and then they would be 150 feet away from anything other structure that is there. Cooper said the small propane tanks near the road will be removed.

Barrett asked if there are any emergency safety requirements on the large tanks. Cooper said they have built-in halo systems. Chairman Culver said because of their size, they have to be inspected regularly and meet certain requirements.

Farhangi asked if it makes sense to about put language in if and when the loading dock is removed that any new structure not be grandfathered with the 18-foot setback. Chairman Culver said a new structure would not be grandfathered in. Kish said if the building was replaced in-kind, there might be a grandfather issue. Cooper said if Suburban Propane needed one, they would probably fix that one and they do not deliver small tanks there anymore.

Chairman Culver suggested that Cooper have a discussion with Suburban Propane about the future of the loading dock and to get a letter that covers there is no intent to replace it. Cooper agreed to get the letter.

Kish said if the PB is not required to send this to the ZBA, the PB has the right to ask that this will come to the PB for site plan approval. Cooper agreed.

Chairman Culver asked the ZBA chairs if they had any objections. Julie Schroeder asked about the size of the resulting lots. Cooper said a little over an acre; Kish said 1.87 and 1.25.

Kish said he would like to add a stipulation that in saying that we're not asking for variances, we are talking specifically about the lot lines and not about the use.

Chairman Culver asked Langlois about the language; we want to state language for what we are not asking for (not that a variance will never be needed on this property). On this particular item, the PB is not seeking a variance. Langlois agreed. He said the only issue you're deciding on in terms of a variance is that side yard of 18 feet, you're not blessing the property or exempting it from any compliance issue that may be that existing that you're not talking about.

Kish said right now it's basically a storage building or warehouse. If Cooper ever wanted to get walk-in business there, it would have to be blessed by the PB. Cooper said the use will be what the building was built for.

Chairman Culver said the property is still owned by Suburban Propane and they still do business out of that site; the site is not defunct.

Chairman Culver asked Langlois if the current owner continues to operate as an entity, how much use of the property do they have to demonstrate to maintain the use of the property as long as they continue to use the property.

Kish said in his opinion 20 years ago the building was used a showroom. Since then, it has been used a storage building. He is concerned with Cooper turning it into a retail store without a variance.

Langlois asked if the question was at what point does Suburban lose the retail use, non-conforming use if they stopped using it for that purpose. Chairman Culver asked Langlois if this issue was for him and McLaughlin to review. Langlois said the code says that a non-conforming terminates if it's discontinued and not maintained for more than a year. He said whatever has been going on there is probably a McLaughlin question.

Chairman Culver suggested getting \$250 escrow from Cooper and have Langlois and McLaughlin get together to review and have them come back to PB to discuss it.

Langlois said he has seen an issue resolved in the past is for the applicant to submit a letter request to the Building Inspector describing what the applicant wants to do with the property, the history of the property and to verify and make a determination agreeing that this is a continuation of a pre-existing, non-conforming use. If the applicant disagrees with Ken's determination, he can appeal to the ZBA.

Chairman Culver said that is the direction that the PB will take.

Langlois suggested getting independent legal advice on the contract document regarding the easement for access. He said it should include who are the parties to the easement, what easement rights are being granted the area defined enough so people know where it is and have it signed and notarized.

Chairman Culver requested a motion for \$250 escrow. Farhangi made a motion for \$250 escrow. Motion was seconded by Barrett unanimously.

Brooklyn Zen Center (Ancestral Heart Zen Monastery)
Site Plan Application
87 Kaye Road
Parcel #133889-7272-00-479805

Peter Sander appeared before the PB with updates on the site plan application for Brooklyn Zen Center. Modifications include the bunk houses being consolidated and moving further north to more away from the neighbors; the parking area was denied get an access easement from NYS Parks for the parking area away from passing by the neighbor.

Three phases of development are being proposed: Phase 1: conversion of the existing three-bedroom residence into the monastery structure to be used for housing the monastics that will live there; a dining area extension (converted from a garage) would be for day worshippers; a proposed workshop/garage for yard maintenance and equipment; and a new development for a yurt platform. Phase 2: Moving 30 or so units of bunkhouses to the northern side with short-term stays; access road for emergency services. Phase 3: The Zendo (meditation hall) will be on the second floor with the dormitories (17 units) for long-term use on the bottom floor; and the Abbott's residence.

Sander said each phase has been designed so that utilities can be installed separately. Each phase will have its own septic system. He said the new submission is to update the Boards and to resolve some of the Rudikoff comments that were received. He said in the comments, the monastery use was a big concern; if an accessory use proposed falls under a religious use. He mentioned Buddha Fields that is in an A5A district in the Town of North East.

Farhangi suggested screening the parking lot and asked about using pavers. Sander said the zoning code requires an asphalt surface. He said there would be four feet of lift on the wall around the parking lot with a split-rail fence to prevent cars from going over the edge.

Barrett asked about lighting. Sander said he will work with the PB on lighting.

Sander said his hope was that the meeting was a joint review with the PB reviewing site plans as they are submitted and special use permits being reviewed by the ZBA. ZBA Co-Chair Schroeder said the special permit has to come first. Sternberg said the PB has to provide comments to the ZBA regarding the special permit that will have a different time table than the site plan. Schroeder said the ZBA is doing a coordinated review.

Sternberg asked what the maximum occupancy would be. Sander said approximately 75-80.

Chairman Culver asked about the proposed parking spaces. Sander said there are 41 spaces; many would be coming from the city so they would be carpooling. Kish suggested asking for a variance on the parking.

Kish asked if the electric utilities will be underground. Sander said yes.

Barrett asked if there would be any larger gatherings. Sander said they would be kept modest if there were any.

Chairman Culver suggested additional escrow since there is \$434 escrow left from the initial \$1,000.

Sander would like the escrow amount to be raised. Chairman Culver said the PB has to vote to raise the escrow.

Chairman Culver requested a motion to amend the Brooklyn Zen escrow account from \$1,000 to \$2,000.

Farhangi made a motion to amend the Brooklyn Zen escrow account from \$1,000 to \$2,000. Motion was seconded by Sternberg and passed unanimously.

Chairman Culver asked PB members if they want to review the references to the ZBA and email each other back and forth to create a final document. He asked to have emails in by December 16, 2022 so he and Kish can prepare a draft for review and then submit a final draft to the ZBA.

Public Comment

There was no public comment.

Close of Meeting

Chairman Culver requested a motion to adjourn the meeting at 8:35 PM.

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 8, 2023