

**TOWN OF NORTH EAST PLANNING BOARD
MINUTES
May 10, 2023**

The regular meeting of the Town of North East Planning Board (“PB”) took place on Wednesday, May 10, 2023 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 Chris Kennan, Chris Langlois, Walter Kubow, Domenic Lopane, Hilarie Thomas 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*

*182 Route 44 East LLC (North East Ford)
Site Visit for Site Plan Application @ 8:215 PM
182 Route 44
Parcel #133889-7271-00-739225*

Chairman Culver requested a motion to open the meeting at 7:30PM.

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 April 26, 2023 minutes.

Kish made a motion to approve the May 10, 2023 minutes as amended. Motion was seconded by Sternberg and passed unanimously.

General Business

There was no General Business.

Public Comment

There was no Public Comment.

*McGhee Hill Road Subdivision
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Walter Kubow of LaBella appeared before the PB with an overview of the subdivision. He said changes were made on Lots 4, 5 and 6 regarding grading, septic systems and crossing property lines; building envelopes are on every lot; added an area on Lots 1, 2 and 3 that the owner says no trees will be cleared ever and will be put on the plat.

Farhangi asked how that would be enforceable. Kubow said it will be on the plat. Farhangi said that is something the PB lawyer should consider.

Kubow said all of the lots and the building envelopes in the current plan, with the exception of Lots 1,2 and 3, are laid out in open space. Lots 1, 2 and 3 are utilizing the existing driveway. He said he walked the property on the day of the meeting and did not see any vernal pools. Kubow also said the wildlife report was updated. He said a few trees may need to be cleared along the driveway to allow for emergency vehicles. He said Department of Health approval is not needed on Lots 4, 5 and 6 because they are not less than five acres.

Chairman Culver asked for clarification on the piece of land that had a lot of work done that did not belong to the applicant and there was confusion on the deed.

Hilarie Thomas said the person doing the work did not have the right to use the applicant's land for access. She said the title company believed it was a fraudulent conveyance. The applicant has shut down all access to him.

Kish asked if any agency investigated if there was any environmental damage or were any laws broken. Thomas said the applicant believed the person had a legal right to the property when the damage was done.

Chairman Culver asked Attorney Langlois how far should the PB go other than to make sure that the other piece of property is not addressed on the map and going further with any type of right-of-way, etc. He said it becomes a land-locked parcel that has no access and it should be a non-issue in the future. He asked how much the PB is obligated to deal with it based on what the PB knows and what has been presented.

Langlois said as long what the PB is doing will not result in creating a land-locked parcel with no access.

Chairman Culver referred to Kish's concern that the damage that may have been done by the person not party to the project but was operating from that parcel of land with a fraudulent conveyance, having no right to the right-of-way. He asked what obligation does the PB have to delve into that part of work or damage that was done to the applicant's land but is not part of the project.

Kish said his concern was that the PB had seen maps of the property and an ecological report prior to the incursion on the property. He said he wants to know what has been lost and how that impacts what the PB has to look at from the SEQR point of review. He asked if anything has to be done to remediate the damage. He said he wants to talk to Will Agresta and his biologist for their input.

Langlois said the SEQR review will require the PB to evaluate potentially significant impacts that are associated with the project the PB is approving. It would not require the PB to evaluate or require mitigation of impacts that are unrelated to what the PB is allowing the applicant to do. He said if there were adverse environmental actions taken, not by the applicant and not connected with the project that is up for approval, that would be beyond the scope of the SEQR review. He doesn't think the PB can require the applicant to mitigate environmental harm outside the scope of the application which the applicant didn't cause.

Kish asked who would be responsible if there was significant damage done. Langlois said whichever agency or person that would have standing to pursue that client. The likely candidates would be the State Police, DEC or the property owner.

Farhangi said there have been various environmental reports and asked if the property is different now from the reports and is the information accurate.

Langlois said in order to evaluate the environmental impact, you have to have a baseline.

Thomas said a report was submitted that had earlier photos and the updated one shows the damage. She suggested the updated one would establish a baseline.

Chairman Culver asked Langlois if the PB has photos of before, photos of after and remediation of the culvert should be forwarded to Agresta. Langlois said it would help establish the baseline and determine how to go forward.

Kish suggested requesting at the next meeting to have Agresta's biologist appear on Zoom.

Barrett asked if the Burkhart property was land-locked. Kubow said it has an easement for access and it will stay a separate parcel with an existing easement for access.

Kish asked how is that addressed in the driveway maintenance agreement. Thomas said it's part of the driveway maintenance agreement.

Farhangi suggested that is for Langlois to review.

Chairman Culver said the easement only comes into play to be historical and noted. The property in the back is not part of the project.

Farhangi would like a letter written stating who enforces the no-cut zone and how it is enforced.

Thomas said she would discuss it with Langlois. She said many subdivisions are given with restrictions that are in the deed or there are restrictions that are noted on the plat.

Chairman Culver asked Langlois the correct way to handle the no-cut zone issue. Langlois recommended including it in the deed.

Farhangi said 20 years ago restrictions were in a deed but were not enforceable. She doesn't want to created protections that aren't protections.

Langlois said he would look at it and figure out the best way to make it enforceable.

Sternberg said you can have the deed specifically name the beneficiary.

Chairman Culver asked Langlois to write some language and a process of enforcement and who would bear the burden of enforcement. Langlois said he would look at it.

Thomas said because this is an approved plat, the Town is one that places the conditions and a violation of the conditions would result in the liability to the Town should take it up for enforcement.

Chairman Culver said there are several ways that it will be notated; the PB needs tools on updating enforcement.

Kubow said other departments (fire, town engineer, etc.) need to review the application.

Chairman Culver announced anyone in the audience was welcome to attend the site plan visit at North East Ford.

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Site Visit for Site Plan Application @ 8:15 PM
182 Route 44***

Parcel #133889-7271-00-739225

Lann Rubin said the storage containers and the dumpsters would be moved inside.

Kish asked if there would be signs for EV charging. Rubin said there are apps that drivers use for locations of charging stations.

Barrett asked about the runoff at the back of the property. Rubin said the filtration chambers do more outflow than what they will take in.

Return to Session

Kish said Central Hudson will have to remove a pole for the addition to be constructed. Chairman Culver said Central Hudson may not remove it; it might be removed by the applicant. Kish would like the two poles on the east side of the property that are supposed to remain be replaced with something better.

Barrett suggested Rubin get a good plan from the electrician, Central Hudson and Ford to address the wiring issue.

Chairman Culver said the PB can encourage what they want to see and encourage Rubin to talk to his electrician to see what's possible.

Barrett said Central Hudson won't do anything until an order is submitted to an electrician.

Kish suggested telling Rubin what the PB wants. Kish's idea is any light which is full cut-off and color temperature below 3,000K.

Barrett said the underground vault that Rubin wants to put in will be a demarcation point for Central Hudson.

Chairman Culver suggested encouraging Rubin to see what is possible so the PB can look at what is possible. Then the PB can work towards a plan that works for everyone involved. He said the PB needs to be cognitive of the securing lighting that Rubin needs and his insurance company thinks.

Chairman Culver said he thinks the addition will blend in fairly well.

Sternberg asked about a ZBA application standing. Chairman Culver said Rubin has submitted an application to the ZBA. He said they need a variance for the EV charging stations because they will be close to the setback.

Close of Meeting

Chairman Culver requested a motion to adjourn the meeting at 9:20PM.

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

Respectfully Submitted,

Deb Phillips
Planning Board Secretary

APPROVED May 24, 2023