

**TOWN OF NORTH EAST PLANNING BOARD  
MINUTES  
June 14, 2023**

The regular meeting of the Town of North East Planning Board (“PB”) took place on Wednesday, June 14, 2023 in the North East Town Hall located at 19 North Maple Avenue, Millerton, New York at 8:00PM. Board members Chairman Culver, Scott Culbreth, Leslie Farhangi, Bill McGhee and Dan Sternberg. Also in attendance were Chris Kennan, Chris Langlois, Will Agresta, Hilarie Thomas, Rob Cooper, Walter Kubow, Rich Stalzer 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)  
Continued Discussion/Site Plan Application  
182 Route 44  
Parcel #133889-7271-00-739225*

Chairman Culver requested a motion to open the meeting at 8:00PM.

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

**Minutes**

Chairman Culver requested a motion to approve the May 24, 2023 minutes as amended.

Farhangi made a motion to approve the May 24, 2023 minutes as amended. Motion was seconded by Culbreth and passed unanimously.

**General Business**

There was none.

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

Walter Kubow of LaBella appeared before the PB and said not much has changed with the plan. He said the legal instrument that is necessary to enforce clearing restrictions, building envelopes he would refer to the PB counsel.

Attorney Langlois said at the last meeting the PB discussed including restrictive covenants and deeds and whether that would be an effective way to ensure or promote compliance with the building envelopes and the tree clearing restrictions. He recommended that the PB require restrictions be included any deeds including those restrictions so they can become part of the purchaser’s title and could potentially be enforce by neighbors who take from the same grantor.

Farhangi asked Langlois if the deed would say that it could be enforced by the neighbors. Langlois said the deed would not address who can enforce the restriction. In order to enforce it in court, a plaintiff needs to show that they have privity of estate with the party that they are suing.

Hilarie Thomas said she submitted a draft set of covenants, conditions, restrictions and easements to the applicant for approval. Pending approval, she will submit to the PB and the consultants before the next meeting. She said it addresses the tree clearing, some of the wildlife mitigation measures that have been requested, wetlands, streams, etc.

Kubow discussed the Habitat Survey section from Matthew Rudikoff Associates memorandum dated June 14, 2023. He said the mitigation measures for the bats and bird species were restricting clearing to the winter months. He said they would put a note to try and save as many of the shaggy bark type trees, white oaks and shag bark hickories. He suggested using an isolation fence to protect turtle and other reptiles.

Will Agresta said his main comment was that things were specified in the report but the report won't go along with the drawings. He said he wants to make sure they incorporate whatever the measures are into the plans.

Kubow said with the exception of trying to save what trees the bats roost in, everything else is a construction phase to try and avoid construction vehicles damaging the species. There will be signage for construction vehicles.

Kubow said the one watercourse crossing is called an intermittent stream by the biologists; he said there is no problem using a box culvert. He said every driveway will have a ditch that will be maintained. He said the easements for the driveways are wide enough to encompass both driveways and the drainage ditch. He said any actual storm water management practice by a retention area are located entirely on a lot so each lot owner will be responsible for the maintenance.

McGhee asked if the dispute with a property owner on the west side was resolved. Thomas said locks were put on the gate.

McGhee asked if the property owner had legal road access. Thomas said no; she said the title company that MGHRR, LLC used verified that the property owner does not have access because the property is landlocked so there is no legal ingress or egress from McGhee Hill Road.

Chairman Culver suggested the PB move to circulate for lead agency.

McGhee made a motion for the PB to move to circulate for lead agency. Motion was seconded by Farhangi and passed unanimously.

Farhangi suggested additional mitigation measures for "Open Space: The PB should determine if a reservation of land or payment of a fee in lieu of reservation of land is to be required." (from Matthew Rudikoff memorandum page 3).

Chairman Culver said the fire department emergency service police referral is pretty normal.

Agresta said he thought the applicant's position was to propose a reservation so it would fall to the fee in lieu of and it would be up to the PB.

Farhangi asked how to calculate the fee in lieu of. Agresta said he would look into it.

Farhangi suggested the mitigation measure of planting milkweed to support the monarch butterflies.

Thomas asked about requiring an environmental monitor to review construction. Kubow said a biologist could monitor construction to ensure protection of wildlife.

Chairman Culver said all of the bulleted points in Section 1d of the Habitat Survey seem reasonable. He asked Kubow if he could map out plans to meet them and discuss at the next meeting.

Thomas asked Chairman Culver if the PB holds up the CO upon the satisfaction of some of the conditions.

Chairman Culver asked Langlois asked the right way to address them and ensure they are complied with. Langlois said holding the CO until they are done makes the most sense.

Agresta said the major improvements would need certification by the engineer.

Agresta asked about not seeing drainage easements on the plot. Kubow said they are the same easements as the driveway easements; they are 50 feet wide so they encompass the driveway and the drainage channels along the driveways and each lot owner would have the responsibility for maintenance. Agresta said it's a bad plan to have a basin at the end of driveways responsible to Lot 1 only when it's shared by three lots; they should all share in that. Kubow said it makes it complicated when multiple parties are responsible for one practice. Agresta said all three lot owners on the major drain should be together in the maintenance.

Chairman Culver asked Langlois to review the issue and recommend the best way to have the situation clarified. Langlois agreed but said the agreements are ultimately between the lot owners. He said it would be good to have them in place and that the Town would not be policing the lot owners to be in compliance with the agreements. He said anytime there are three owners with a shared driveway that is long, it's going to require a fair amount of maintenance.

Kubow said he has no issue in changing the easement to have all three lot owners maintain the drainage maintenance.

Culbreth asked if consideration was given to having a road around the perimeter of the property and the lot owners would sign off on sharing the maintenance of the road. Thomas said the reason for the three driveways was that they were used in the past by the previous owner and it was opted to mitigate the traffic on McGhee Hill Road by reducing the number of driveways. She also said there are also issues with the slope and stream crossings.

**182 Route 44 East LLC (North East Ford)  
Continued Discussion/Site Plan Application  
182 Route 44  
Parcel #133889-7271-00-739225**

Chairman Culver said the Ford application was on the agenda so that PB members were aware of the letter from the Dutchess County Department of Planning and Development and that members had received it.

**Public Comment**

Rob Cooper said as chair of the Economic Development Committee, he is in favor of the expansion.

Chairman Culver said Eoin Wrafter, commissioner of the Department of Planning, said the Department recommends the PB Board rely on its own study of the facts in the case with due consideration of the above comments. Chairman Culver said the project has a lot of merit and the Boulevard has a lot of issues with one

being stagnation and decline. He said if the project comes to fruition, it might encourage the prospective growth to people looking at the other land there.

Cooper said it would create more jobs and be great for the Town. He also said it would look better coming into the Boulevard from Connecticut.

Chairman Culver the PB's interest is to mitigate ways to help the project because the pluses outweigh the perceived negatives. He said a letter was received from Central Hudson indicating they were going to find out what lights are there and they might be willing to make them into compliance with the PB regulations.

Cooper said to look at how many automotive dealers that we've had here and we've lost them all. He mentioned Dodge, Lotus, International and Chevy.

Chairman Culver said the whole Boulevard property and the grand vision of the Comprehensive Plan is where our business development is supposed to be happening. He said actual business grown has occurred is north on Route 22.

Cooper asked how long the process is going to take. Chairman Culver said the building has to be completed by September 2024.

Rich Stalzer said the Conservation Advisory Committee (CAC) reviewed the project and said there are things that should be mitigated. He said he expects the applicant to respond to that. He said his main concern is the encroachment into the wetland buffer zone. He said the current building is in there and the last addition is also in there. Various boards have been improving encroachments but this one is making it very close to that actual wetland. He mentioned getting the Department of Conservation to review because it's in their area of review.

Chairman Culver said the PB has wrestled with the encroachment is currently on used land for the same project.

Stalzer said Ford is doing things that they are not supposed to already by going edge to edge with parking their inventory and they are ignoring zoning. Now, we're allowing them to build outward with the parking.

Culbreth asked if it was just the parking or the building. Stalzer said the building is subject to review but they are using every inch of their lot for inventory.

### **Close of Meeting**

Chairman Culver requested a motion to adjourn the meeting at 9:00PM.

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

Respectfully Submitted,

Deb Phillips  
Planning Board Secretary

APPROVED June 28, 2023