

TOWN OF NORTH EAST ZONING BOARD OF APPEALS
MINUTES
JUNE 15, 2023

The regularly scheduled monthly meeting of the Town of North East Zoning Board of Appeals, ("ZBA"), took place June 15, 2023 at 7:30pm in the Town of North East Town Hall, 19N Maple Ave., Millerton, NY. ZBA members present were Chairman Julie Schroeder, Vice-Chair Edith Greenwood, Patti Lynch-Vandebogart, Karen Pitcher, Jon Arnason and Judy Carlson, Secretary to the Zoning Board. Also present were Ryan Boyles, Peter Sander, Anna Hill Price, Lann Rubin II, Tina Rubin, Lann Rubin III, Chris Kennan, Rion LaBrutto, Rob Cooper and Dale Culver.

182 Route44 East LLC (North East Ford)

Public Hearing for area variances

182 Route 44

Parcel # 133889-7271-00-739225

At 7:30pm Carlson read the public hearing notice on the application of Lann Rubin II, representing 182 Route 44 East LLC (North East Ford) into the record.

Chair Schroeder asked for a motion to open the public hearing, Pitcher so moved; Greenwood seconded; all voted in favor and the motion passed.

Lann Rubin II of North East Ford gave some background on the project. A summary: In 2021, after meeting with the Town of North East Zoning Board and acquiring a rear variance, North East Ford built an addition which was added to the existing dealership structure. The addition housed space to work on large vehicles and allowed the applicant to service electric vehicles. Since then with the onset of covid, there has been an increase in ordering on-line and pick-up and delivery at the Millerton site. Business and service at North East Ford went up 34% in just two years. Now, with an additional construction of a 5,040 square foot addition off the existing dealership large vehicle maintenance garage, the new addition will allow maintenance to be done on school buses, town trucks, additional electric vehicles, Ford's newest additions to their inventory and all small and large vehicles. They will all work and fit into this location. Everything will be inside of the existing and proposed buildings. They are picking up and delivering from seven counties: Albany, Dutchess, Litchfield, Berkshire, Ulster, Columbia and Orange County.

There has been a shift to the service aspect of the business – service takes up half the lot now and it will be housed inside and there will be a better environmental impact as a result of this project.

Rubin explained that Ford Motor Company issued a grant letter that requires that the final acceptance on the new building addition be finalized by September of 2023.

Peter Sander, staff planner of Rennia Engineering Design, Dover Plains, NY gave an overview of the proposed North East Ford expansion project. He presents the project as: A 5,040 square foot building addition with 9 new public electric vehicle charging stations... With the help of the Planning Board and receiving comment letters they identified four variances: (1) A front yard setback for the level 2 EV chargers (2) A side yard setback for the level 2 EV chargers (3) a rear yard setback for the back right hand corner of the structure itself, and (4) an area variance setback for an existing non-conforming coverage that they want to expand a little.

Since then, they received the Rudikoff memorandum of May 20, 2023 – Rudikoff had identified that there was a little creep in the coverage as sites do when they are not well defined by buildings.

Rudikoff described that in the eastern part of the site plan, the asphalt and coverage crept a little towards the property line. Sander created **Exhibit "A" – an area variance modification exhibit**. With the preparation of exhibit "A", they have eliminated the need for the fourth variance. To mitigate that this does not happen again, Rubin will plant grass and deciduous trees alongside the property line. Chair Schroeder emphasized the fact that there are landscaping requirements in the Town code that she will introduce and go over at a later date.

Sander pointed out why it was important to have the new addition and charging stations at the location where they are designed. (a) It connects the addition to the existing main garage that also received a rear variance. If it was moved to another site on the property it would ruin the traffic flow of the site. North East Ford would not be able to use the existing bay that was approved in 2021. The EV charging stations Sander will place to the side for the following reasons: (1) it allows the person charging the car to be separate from the rest of the area (2) it allows for more vehicle storage and is considered to be the ideal location.

Chair Schroeder stressed the fact that a parking layout and circulation on the site had to be shown.

Greenwood inquired what is meant by creating a firmer edge. Sander replied: When sites are not fully contained by structures, especially larger sites with car uses, they tend to creep over the years... gravel will spill and become compacted and more gravel will spill and before the site owner notices their site expands to well beyond what they were initially intending. When you construct structures you are creating a hard edge. No more gravel will leak out in this direction. It is going to be a building and that is it. This allows for more control over the sheet flow of storm water. Sheet flow would flow off the surface into the wetland. The site will be designed so that the flow is collected and pooled. Greenwood summarized: You will have better storm water management because there is a hard structure.

Chair Schroeder asked if Sander would put the elevation and the measurements of the wetland in the site plan and indicate where the wetland is. The Board will schedule a site visit.

Arnason asked if the electric vehicle maintenance garage servicing electric vehicles was an entirely new business. Sander replied that it was an expansion of an existing service. Arnason asked if Rubin would be employing more technicians and Rubin replied that they would be employing technicians as well as drivers and customer relations people to reach out more to the customer.

Chair Schroeder asked if the electric charging stations are accessible 24/7. Rubin explained that they would be available 24 hours. The EV tells you where the nearest charger is so that there is no need for signs.

Greenwood asked: How do you get the power? You are going to need a lot of power.

Rubin explained: Central Hudson provides the power. It comes through the charger and there is a credit card reader on them (some of the things get paid by apps and some things get paid by credit card). It takes a long time to recoup the cost but the government will pay for a little over a 3rd of it.

Greenwood asked if the applicant was considering solar panels for both buildings because they are southern facing? Rubin explained that they were going to do this. He is also making sure that the design of the finished product fits in to the character of Millerton.

Sander asks Chair Schroeder what she thought of the variances. Chair Schroeder replied that the big question is the on-site circulation, a little more definitive plan is needed than what is presented and account for accessibility by the fire department. Chair Schroeder will have Bill Watson give a statement on fire access because of the new truck that the Town of North East bought that fights EV fires. Sander will provide a traffic circulation plan showing access for the fire department so they can get in there and have a sufficient place to turn around. Chair Schroeder would like Sander to also show compliance with the current parking requirements.

The Board discussed the Matthew D. Rudikoff Associates, Inc. memorandum of May 20, 2023. They begin under Zoning and Site Considerations on page 2 of that document -

1. **Site Utilization** - Chair Schroeder started the review by saying that site utilization refers to parcel #1 and parcel #2.

A. survey - **Sander** explains survey done by Wesley Chase. The site plan was based on this survey. The creep of gravel – **Sander** drew in using up to date aerial imagery.

C. Existing site circulation travel lanes and parking demarcation for vehicle storage and employee and patron parking. Site Circulation - parking demarcation - Sander will draw in the parking spots -

D. Several areas of the property beyond the edge of the shown site plan pavement limits appear to also be utilized for commercial storage /parking of vehicles - Sander considers this statement as a non-conforming condition. Sander explains that they are not willing to change anything here. Chair Schroeder asks if second parcel is part of the application. Sander says no - nothing is happening within the second lot. They do not need changes there. Schroeder asked if there was a lease on that...Rubin explained that they are both together parcel #1 and parcel #2. Schroeder wondered if it could be leased or used in some way.

2. **Wetlands-Chair Schroeder asked Rubin if he had spoken with DEC. Sander explains that they are taking the Planning Boards view on contacting DEC - It is a continuation of an existing use on disturbed ground. Chair Schroeder explains that they are building a larger building now and that she will find out what the proper procedure is.**

3. **Variances- b. The applicant should identify what if any alternatives were evaluated which could potentially reduce or avoid the need for the setback and/or coverage area zoning variances.** Sander replied that there were alternatives but, it would ruin the flow of the site and ruin constructability of the building. Pitcher asked if the side yard setback requirement was 30' or 20'. Sander replied 20 ft. Sander - 60 ft. cumulative, but it allows for a 20 ' setback and a 40 ' setback.

Chair Schroeder added - A total of 60 ' with a minimum of 20' - **Greenwood** replied- cut in half - if you do not merge the two lots it plays havoc on the West side. **Sander** added - If lots are merged that causes more havoc because the impervious surface coverage on that lot actually is greater than the one here. So - it contributes to an overall or greater nonconformance to the overall site. - That's what happens when properties get built out for decades.

The Board went over a section in the Town Code (see 180-24 Boulevard Districts)

D. #2 - Any continuous area of a lot consisting of 15 or more parking spaces shall be provided with not less than one shade tree for each 15 cars or fraction thereof, which trees shall not be less than three inches

caliper at breast height. Not less than 8% of any continuous area of a lot consisting of 60 or more parking spaces shall be provided with protected islands or other planting areas reasonably distributed within such continuous area so as to break up the appearance of a continuum of parking, which islands or planting areas shall contain landscaping, shade trees and shrubs and may include the shade trees herein required.

#3 - The area required for parking setback from Boulevard specified in Subsection B(2) above shall be landscaped with lawn, shrubs and shade trees in addition to the trees and landscaping required in Subsection D(2) above and in a manner that protects adequate sight lines for vehicles using driveways to Boulevard.

***Chair Schroeder emphasized that the above should be added to the site plan.**

C.

- **Last bullet -Greenwood asked what is meant by: Retrofit existing storm water drains connected to the original building and paved areas of the site to add runoff treatment controls (related existing systems do not appear to include any treatment other than maybe catch basin sump bottoms.....**
Rubin added...We are adding in the infiltration chambers. Sander stated that allows for a greater volume of storm water to be stored and then treated through natural infiltration into the ground. See cylinders on the site plan.

*****Chair Schroeder added that the engineer will have to review.**

4. Proposed EV Chargers - Greenwood asked if level 3 EV chargers have a different look than Level 2.

Sander and Rubin gave the following explanation: Level 2's have only 1 charger and Level 3's have 2 chargers on either side to charge two cars at a time. They have a sleek physical pedestal structure. Like a fuel pump with 2 nozzles. Greenwood asked the question if the charger needs a generator or a box behind it. Sander replied that the unit is just the unit. They are proposing a utility transformer for the new EV chargers that is just to convert the existing tower so that it can be charged. They are planting box woods around it to screen it.

The Board reviewed C. Precast concrete parking bumpers...Rudikoff describing them as a tripping hazard. Sander disagreed with Rudikoff memorandum on this. He felt that the concrete parking bumpers were fine.

Arnason - So you are suggesting that the response to his comment is...that they are not in locations where pedestrians will need to traverse.

5. Dumpster Enclosure - Sander believes that gravel provides a storm water benefit. Rubin explains that there will be an improvement in the storage of garbage from the site: shipping containers etc; will be stored inside not outside. Everything will be encased and enclosed.

Dumpster is going to be placed next to transformer off to the side and vinyl fencing will be provided. Tires will be stored outside and everything else is inside.

6. Storm water - Sander explains that the reports are not necessary. The storm water pollution prevention plan is not required. In NYS law it is only required for disturbances over an acre. Sander explained that the Engineer Storm water report was supplied.

7. Lighting - Some highlights - LED fixtures used and a decrease in the height of lighting.

8. Building Architecture - Sander will submit floor plans and expand the cupolas.

9. Sidewalks and Landscaping - were discussed (will follow Town Code)

- a. Sander** - They will be designating a sidewalk area for when Millerton works its way up the Boulevard.
- b. Streetscape** - will be in compliance with landscaping.

10. General Site Plan revisions were covered again.

Chair Schroeder opened the floor for public comment.

Ryan Boyles, who owns the land to the east and rear, His concerns: 1. Where the EV chargers are going- maybe thicker landscaping and a privacy fence should be installed 2. There needs to be an improvement in how the garbage is contained. 3. Lights on the back shine out and trees are in order to block some light. 4. Parking - concerned that it is going to get too crowded. Chair Schroeder: That is why we want a parking plan. There are requirements for employee parking in the code. 5. Snow Removal is a concern: The snow is plowed to where the building is going to be and where is the snow going if there is a building there? Chair Schroeder went over where the new building would go.. On wetland map the new building is in the buffer, not in the wetland.

Rion LaBrutto - Director of operations of Harney Tea presented a letter in support of the project from Michael and Paul Harney. They believe that the variances requested are reasonable and the project should move forward. They hope that these chargers are just the beginning of the inclusion of public chargers in the town and this project and will help build on the Town of North East's Climate Smart Community Bronze Certification.

Rob Cooper - Chair of the Town of North East's economic development committee and owner of a business in the Boulevard District. The Boulevard needs help, it needs more traffic and more vibrancy, needs something that appears inviting, this project supports the fact that we are a vibrant climate smart community, it will create more jobs. North East Ford has invested so much by making their business the center of activity at the Boulevard and this project will supply 9 EV chargers which will be available to anyone in the community. North East Ford will be able to sell and service more electric vehicles helping to reduce air pollution and reducing greenhouse gas submissions. We should do everything we can to support this project.

Lann Rubin the III- Speaking for his generation as it pertains to electric vehicles. Importance of core density in regards to the revitalization of the Boulevard District. His generation is eager to drive electric vehicles, but one of their biggest concerns is the distance the car can go without having to get charged again. With the addition of the chargers, they would usher in the new generation of EV drivers into Millerton. It would show that Millerton welcomes and cares about EV drivers. Young people tend to go to communities that support their passions.

Anne Price - an environmentalist from Stanfordville whose concern was the wetlands. She spent four years on zoning and planning boards in Colorado, she believes you should be bound by the constraints of your property, her concern is the wetlands behind the dealership - the run-off - toxicity a concern what would run into the wetlands .The quality of the run-off should be checked. Before the Board says yes or no DEC should have a say.

Chair Schroeder stated that there is going to have to be a letter from DEC stating that they are not concerned.

Chair Schroeder made a motion to continue this hearing on July 5th at 7:30p.m. and a site visit will take place June 22 at 3pm., Greenwood seconded; all voted in favor and the motion passed.

Greenwood made a motion to accept the minutes of January 19, 2023 as written, Pitcher seconded, all voted in favor and the motion passed.

8:45pm Chair Schroeder made a motion to adjourn the meeting, Lynch Vandebogart seconded; all voted in favor and the motion passed.

Respectfully Submitted,



Judy Carlson
Zoning Board of Appeals Secretary

Date accepted 7/20/23

