

TOWN OF NORTH EAST ZONING BOARD OF APPEALS
MINUTES
SPECIAL MEETING
JULY 5, 2023

A special meeting of the Town of North East Zoning Board of Appeals, ("ZBA"), took place July 5, 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, and Judy Carlson, Secretary to the Zoning Board. Absent were Karen Pitcher and Jon Arnason. Also present were Ryan Boyles, Bill Kish, Peter Sander of Rennia Engineering, Rob Cooper, Lann Rubin II, Lann Rubin III, Tina Rubin, Greg Swinehart, Dale Culver and Ralph Fedele.

182 Route 44 East LLC (North East Ford)

Public Hearing for area variances

182 Routes 44

Parcel # 133889-7271-00-739225

7:30pm -Chair Schroeder opened the special meeting by calling it to order. The first item of business was to establish an escrow account. Chair Schroeder asked for \$3,000.00 initially. Rubin offered a check of \$2,500.00 for the escrow account and it was accepted.

Chair Schroeder entertained a motion to continue the hearing on the application of Lann Rubin representing North East Ford. Lynch-Vandebogart so moved; Greenwood seconded; all voted in favor and the motion passed.

Chair Schroeder announced that the hearing was now in session and that North East Ford had another proposal.

Rubin and Sander addressed the Board with the revised changes by reviewing a new site plan map. Sander explained that initially they were requesting four area variances and with the creation of the new site plan, they were able to reduce them to two. The side yard and back yard setback are all that remain.

This was done by reducing one of the Level 3 chargers (one of the Level 3 chargers was taken out) and by doing this everything was brought back. They also put in more deciduous trees and improved the landscaping. The farthest most point will be behind the front yard setback.

Sander explained by accomplishing the above that leaves a remaining side yard setback of 14.4 ' and the rear yard setback of 31.89'.

Sander continued: "We then went through the Planning Board site plan comments on the project."

1. Parking spaces to be added.
2. Demonstrated emergency vehicle turn-around access.
3. He then reviewed some of the public comments and added the following:
 - a. on the property line they will provide a split-rail fence to give a hard delineation between the North East Ford property and Ryan Boyle's property to the East.
 - b. Modifications were made to the lighting plan so that there would be no light features or windows off the rear side of the structure that would shine into Boyle's property.
 - c. Landscaping was provided for compliance with the parking and landscaping for new improvements.

Chair Schroeder asked what kind of shrubs were designated on the site plan. Sander explained that they were regular shrubs, but they were staying within the 3 inch caliber type and sticking with the deciduous type planting. Rubin added that boxwoods could be up front and inkberries in the back which are used in the shrub planting detail on the site plan around the transformer.

Chair Schroeder asked the question as to whether or not they had considered evergreens in the side yard.

Rubin explained that he did not like the way they looked and he was concerned about his inventory with the needles dropping and he did not like the way they would look on the side and thought that they would take away from the plantings. Deciduous trees are going to be used as they will also provide shade for the customers.

Chair Schroeder was concerned about buffering the mass of cars and suggested several options of what they could do to solve this aspect. She would like to see some trees clustered and spotted along the front.

Rubin explained that the whole purpose of having a dealership was for the "Candy Store Approach" which is having your products show from the road. He feels very strongly about this.

Chair Schroeder went on to explain that there is a requirement about islands in the parking area in the code. Rubin feels this is for new development.

Chair Schroeder replied that she had the 2014 site plan approval and there is nothing on there not even parking that was agreed upon by the Planning Board.

Chair Schroeder would like to see some additional landscaping. Chair Schroeder suggested that Rubin talk to some of the local landscapers as to some options.

Sander expressed his reasoning that a landscaping review was an issue for the Planning Board and Chair Schroeder explained that the zoning issue is the impact that the landscaping will have on the environment. Chair Schroeder went on to say that from the front one will be looking at an 8 bay building and there should be some buffering to soften the structure.

Chair Schroeder asked Bill Kish, a member of the Planning Board to speak on what the Planning Board's views were on the project. Kish went on to explain that the Planning Board has been working and reviewing with the applicant on the property and they feel that the building is a good design and they are satisfied with it. They believe that the chargers are an important amenity for the community and that if we are going to meet our environmental goals we need to get more chargers in this town and having some level 3 chargers is a big plus in favor for that.

He went on to say that there has been some discussion of breaking the application into two pieces ...the building in one application and the chargers in another application. The Planning Board is in favor of doing them both simultaneously in part because Central Hudson is involved. They are also asking Rubin to make remediation's like putting the overhead wires underground and upgrading the lighting so that it is more environmentally friendly. The Planning Board feels that if they can do the whole thing as a unit then they can approve those fixes at the same time.

Chair Schroeder asked Kish if Dale Culver and Kish would send the Zoning Board their lighting recommendations because the lighting also has an impact on the environment. Kish went on to say that by fixing the lighting that is there, which is very poor, there will be a substantial mitigation in terms of some of the other environmental issues that might be considered.

Schroeder asked what the lighting will be on the EV chargers if someone pulls in at 10:00pm. Rubin explained that there are two pole lights already there. Central Hudson agrees to change them to 3,000 Kelvin in temperature. The stanchions and the chargers have no internal lighting, lights are going to be lowered - they will be LED's and they will be recessed. Central Hudson says that the LED'S will be fully dark sky compliant. The lights will be installed according to the manufacturer's instructions.

Greenwood asked if the pole lights will allow the people to read the instructions if it is dark. Rubin and Sander explain the screen is back lit like a phone. Central Hudson has said that the 3,000 Kelvin in temperature would be sufficient for that area.

Greenwood addressed the improved wastewater processing cylinders (2 infiltration chambers) and the placement of those cylinders. Chair Schroeder asked if they are buried Sanders replied that both are buried and collect any of the roof run-offs and give it a nice void underground so that it is flowing into the chambers and naturally infiltrating. Chair Schroeder asked if they are filtered and Sander replied with subsurface gravel. Greenwood asked if the infiltration system was a better system than what is there now. Sander replied that it is the same system and they doubled it to account for the additional structure. The Board looked at the detailed diagram on the site plan.

The Board continued to discuss the Matthew D. Rudikoff Associates, Inc. memorandum of May 20, 2023. They began with storm water number 6b. Neither the original building roof or footing drains, or pavement drains within the existing paved areas of the site appear to provide any storm water treatment. Greenwood stated that they have an existing one that will remain on the other side, Sander and Rubin replied yes and that nothing is changing. Chair Schroeder stated that it all appears to be collected and simply discharged to surface

outlets near the edge of NYDEC Wetlands MT-12 with no treatment. These existing drains should be retrofitted to provide water quality treatment.

Chair Schroeder asked if they were going to remove the drains. Sander replied that they will re-pipe them into the chamber and those outlets are overflow. If the full volume of these chambers completely fill up it does not back flow up the roof leaders and blow up the roof leaders. It is giving it an emergency bypass just in case.

9. Sidewalks and Landscaping. B. Additional streetscape landscaping as well as some internal and perimeter yard landscaping should be considered, particularly given the added building and site coverage proposed.

Chair Schroeder suggested talking to a local landscape business to get some further ideas.

Chair Schroeder asks if they have made allowance for the sidewalks. Sander replied yes.

5. Dumpsters – Chair Schroeder stated that Sander is going to tear up some of the paved area (the existing asphalt). Sander replied that they are going to take it out and turn it to lawn which increases and reduces the impervious coverage on the site.

Chair Schroeder stated that the fire truck circulation diagram will be referred to the engineer so he can review it.

Chair Schroeder asked the audience if they had any other comments. No comments were offered from the audience.

The Board continued to discuss the Rudikoff Memorandum:

1. Site Utilization - Chair Schroeder - Asks if Rubin and Sander have gotten site plan approval for parcel #2 on the site plan map. Sander says that they got approval in 2021 through the Planning Board because they wanted to do some parking and storm water improvements ...they went before the ZBA for a variance. Chair Schroeder will look into this.

c. Existing site circulation, travel lanes and parking demarcation for vehicle storage and employee patron parking has been shown on the site plan map.

2. Wetlands – a. Chair Schroeder asks if they have contacted DEC. Sander sites that they are taking the Planning Board’s guidance on this. Chair Schroeder explains that clearance from DEC is required. It is up to the applicant to contact DEC.

3. Variances -

c. If determined to be unavoidable, mitigation to offset the proposed setback and coverage area variances should be considered, such as:

- Provide a dense buffer of plantings between the developed areas of the site and NYSDEC Wetland MT-12. Chair Schroeder and Rubin thought that this would be difficult to do because of the dense trees back there and the drop off.
- 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). Sander replies to this statement that what they are doing is collecting any of the new impervious through the roof leaders then through the chambers and they are also removing existing impervious so they are not really showing any net gain in any storm water activity.

4. Proposed EV Chargers -

Chair Schroeder asks if the planning board has dealt with the precast concrete parking bumpers proposed at each of the proposed EV Charging Stations. The Planning Board wants a continuous curb to be installed instead. Concrete bumpers are a significant trip hazard (bumpers should only be permitted in locations where pedestrians do not need to traverse).

Chair Schroeder asked Lynch-Vandebogart how she feels about the split rail fence. Lynch - Vandebogart thought it was a good ideait keeps people from walking over somebody's property. Sander replies that it is going to be a white fence matching the white dumpster fence. Greenwood mentioned that people would probably wander while charging their car and look around....Rubin added that they will look at the car inventory. They also have picnic tables there.

d. Construction Details –

- The detail should specify the prohibition of including any tv/audio advertising

Rubin assured the Planning Board that they would not be doing any advertising. The only sign would be to direct them to the EV Chargers (a sign with an arrow).

The Board and the applicant discussed traffic flow.

5. Dumpster - Rubin and Sander agreed to extend the concrete so the dumpsters will be on concrete.

They have gone through the Health Department - there will be no extra bathrooms or sinks. The foot print is not changing.

SEQR will be discussed at the next meeting. Rubin and Sander will come back with any additional lighting and landscape modifications.

The hearing will be continued on the 20th of July with the intent to finish barring any red tape.

Chair Schroeder opens up the hearing to the floor and asked if there were any other comments.

Ryan Boyles inquires about DEC approval. Chair Schroeder suggested that Boyles contact DEC.

Chair Schroeder agrees with Sander that there is not much change that is going to effect the wetland. North East Ford has agreed that there will be no lighting in the back. There is a lot of vegetation back there and they are trapping the run-off.....not only from the gutters but also the paved surfaces. These things will improve the conditions.

Chair Schroeder entertained a motion to continue the hearing on July 20th at 7:30pm. Greenwood so moved; Lynch-Vandebogart seconded; all voted in favor and the motion passed.

Chair Schroeder replied that the hearing will be continued till that date.

8:25pm - Chair Schroeder made a motion to adjourn the meeting, Greenwood seconded; all voted in favor and the motion passed.

Respectfully submitted,



Judy Carlson
Zoning Board of Appeals Secretary

Date accepted 7/20/23

