

**TOWN OF NORTH EAST PLANNING BOARD
MINUTES
November 8, 2023**

The regular meeting of the Town of North East Planning Board (“PB”) took place on Wednesday, November 8, 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, Scott Culbreth, Leslie Farhangi, Bill Kish and Dan Sternberg. Also in attendance were Chris Langlois (via Zoom), Will Agresta (via Zoom) Hilarie Thomas, Rich Stalzer, Lorna Sherman, Michael Rynn and Deb Phillips, secretary to the planning board.

*Norman Jacobskind/Rivendell Millerton RE LLC
Re-Approval for Minor Subdivision/Lot Line Adjustment
182 Quarry Hill Drive and Quarry Hill Drive
Parcel #133889-7271-00-410020 and #133889-7274-00-490056*

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

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

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

Minutes

Chairman Culver requested a motion to approve the September 13, 2023 minutes.

Sternberg made a motion to approve the September 13, 2023 minutes. Motion was seconded by Culbreth and passed unanimously.

General Business

Culbreth mentioned the wildlife biologist visit; Chairman Culver said that will be discussed on the McGhee Road Subdivision.

**Norman Jacobskind/Rivendell Millerton RE LLC
Re-Approval for Minor Subdivision/Lot Line Adjustment
182 Quarry Hill Drive and Quarry Hill Drive
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Chairman Culver said nothing had changed on the application; the reason for re-approval is because the maps were not filed on time.

Chairman Culver asked for a motion for re-approval of the minor subdivision/lot line adjustment for 182 Quarry Hill Drive.

Culbreth made a motion for re-approval of the minor subdivision/lot line adjustment for 182 Quarry Hill Drive. Motion was seconded by Sternberg and passed unanimously.

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

Attorney Hilarie Thomas said Attorney Chris Langlois made suggestions to the declaration of easements, driveway maintenance and storm water maintenance agreement. His suggestion to Section 4 (driveway maintenance by lot owners) was to add: Hereby further agreement acknowledge the Town of North East bears no duty or obligation to maintain the storm water controls. Attorney Langlois clarified that all the suggestions were just from him; the comments also came from suggestions in a memo from Matthew Rudikoff Associates and Planner Will Agresta. Thomas said that she added #2 what MDRA offered that the driveway declaration should be revised to include reference to the open bottom box culvert. She said Langlois asked her to add to the Declaration of Covenants, Conditions, Restrictions and Reservations that it be enforced by the Town of North East although the Town of North East shall have no duty or obligation or be compelled to do so. She said Section 28 and Section 29 were added. She said the final suggestion was that MDRA had pointed out that Section 5 does not prohibit the use of any premise for a short-term rental. She said she doesn't think there is a section in the Town of North East Code that addresses it. She said her client believes that is not necessary in the declaration.

Thomas said that the Town has no responsibility to maintain the road or adopt the road. She said the terms will apply to each lot on the map.

Sternberg asked Langlois if some of the limitations on the ability to amend go to the character of the subdivision in the nature of the some of the restrictions that are intended to be reflected in the plan. He also asked if future owners could amend the Declaration of Covenants, Conditions, Restrictions and Reservations by mutual agreement. Langlois said all provisions would have to be in agreement and any changes would need to come before the PB and approved by the PB.

Farhangi referred to the Occupancy and Use section (paragraph 2) and said that she has seen two uses that cause problems: religious institutions and educational institutions. She suggested adding those two uses be prohibited.

Kish said most of the agencies in the General Prohibitions section (paragraph 22) are lax when it comes to enforcement of an owner disturbing any wetland, etc. He suggested that an owner would need to come to the PB. Chairman Culver suggested it should read: United State Fish and Wildlife Service or New York State Department of Environmental Conservation or United States Army Corps of Engineers and the local zoning code enforcement officer (inserting or between the first three agencies and then adding "and" before the local zoning code enforcement officer. Langlois suggested putting "and/or" instead of just or.

Chairman Culver voiced his concern about tree removal prohibition (paragraph 21) if a tree is considered dangerous or damaged and needs to be removed. Kish said the idea is that the lots remain wild and if a tree dies, let it decompose into the soil. He said if the PB is trying to change this into a managed woodlot, then it needs to be rewritten.

Planner Will Agresta said that in some instances, tree management (without harvesting) can be dropping a tree and letting it rot in place that will then be of value to the habitat. The PB agreed to leave the wording as is.

Thomas reviewed the memo from (Matthew D. Rudikoff Associates (MDRA) and said the Habitat Survey is available. She said and her client agreed to the environmental monitor and said it should be code enforcement officer.

Agresta recommended that enforcement comes back to the PB. Chairman Culver said that the PB has no mechanism that allows the PB to enforce anything. Kish suggested the PB have the ability to see the reports and have them submitted to the zoning enforcement officer and copies to the PB.

Agresta said the report is something that the PB can accept as written or can question the report.

Chairman Culver asked Langlois where he stands. Langlois said he is not arguing having an environmental monitor and he likes the idea of submitting reports to the code enforcement officer and copies to the PB.

Chairman Culver asked Agresta how often the reports are done. Agresta said they could be done monthly and it's about building the common driveways, the storm water drainage improvements and the other mitigations overall that are proposed. He said the PB has the power to monitor the approval.

Kish asked how the intervals get defined. Barrett said usually when there is a construction site, it gets divided into sections and then gets signed off on by the building department.

Farhangi asked Agresta about having the environmental monitor sign off.

Kish proposed that the applicant make a suggestion to what the intervals should be and if the applicant comes back with answers, then the PB could approve it.

Chairman Culver said for the applicant to come back with suggestions and have Agresta review it so an agreement can be reached. Agresta agreed.

Thomas said her client rejected the comment of planting milkweed. She said the applicant would consider plants that would attract butterflies.

Chairman Culver said he has no problem encouraging what to plant but the PB can't mandate planting milkweed.

(Kish wants to enforce what the owners can plant.)

Langlois said it revolves around the environmental impact. He said after reading the updated rare and endangered species report, there is not currently a significant habitat for the monarch butterfly. He said the issue is of disturbing an existing habitat. He said creating a new habitat that doesn't currently exist is beyond the scope. Chairman Culver asked Langlois if it would be acceptable to the PB if the PB encouraged more native grass. PB members agreed.

Chairman Culver said the PB is trying to protect the environment by taking steps to encourage the more property left undisturbed.

Chairman Culver asked Langlois to work with Thomas on appropriate language that is enforceable. Langlois said he can discuss language and ultimately come up with a statement encourages native grasses.

Chairman Culver said some of the topography will encourage the land to be left alone. Thomas said the building envelopes have restrictions.

Thomas said a second site visit has been requested that her client is not opposed to but her concern is the expense. She asked if the one-hour visit include the site visit, the biologist's travel time, conference and memorandum preparation, and what is sought that hasn't been found in the last few visits. Chairman Culver said the one hour can't include travel time; the PB is looking for one hour on site.

Kish said the visit is not to block SEQR or a public hearing; it's a measure to walk the streambed and have the biologist explain his concerns about which areas are sensitive, what types of animals will be affected by the development, how the development of the driveways will impact that wildlife. He also wants a clear understanding of how the damage that was done to the area has affected the wildlife and whether it needs to be mitigated. He wants to do that in person.

Chairman Culver said he doesn't see a hold-up to a public hearing after the visit. And the hearing should progress shortly after the visit. He asked Agresta about possible dates for the visit. Agresta said the biologist maybe not be available because of some health issues. He asked if the PB would object to the applicant's biologist.

Chairman Culver asked the PB members if it is acceptable for the Board and the applicant to communicate by e-mail or phone calls instead of waiting for the next meeting.

Thomas said she will discuss with her client if the Town's biologist is not available.

Agresta said he will check with the other biologist because he is further away.

Public Comment

There was no public comment.

Close of Meeting

Chairman Culver requested a motion to adjourn the meeting at 8:40PM.

Barrett made a motion to adjourn the meeting. Motion was seconded by Culbreth and passed unanimously.

Respectfully Submitted,

Deb Phillips
Planning Board Secretary

APPROVED December 13, 2023