

**TOWN OF NORTH EAST PLANNING BOARD
MINUTES
January 24, 2024**

The regular meeting of the Town of North East Planning Board (“PB”) took place on Wednesday, January 24, 2024 in the North East Town Hall located at 19 North Maple Avenue, Millerton, New York at 7:30PM. Board members Chairman Culver, Charles Barrett (via Zoom), Scott Culbreth, Leslie Farhangi, Bill Kish and Dan Sternberg. Also in attendance were Chip Barrett (via Zoom), Chris Langlois, Chris Kennan, Hilarie Thomas, Walter Kubow, Chris Mayville, Lana Morrison, Andrew Stayman, Rich Stalzer, Jim Perotti, Dominic Lopane, Petrina Lopane, Mike Rynn, Camilo Rojas, Peter Zekendorf and Deb Phillips, secretary to the planning board.

McGhee Hill Road Subdivision

MGHR, LLC

Public Hearing for Major Subdivision at 7:40PM

McGhee Hill Road

Parcel #133889-7170-00-414515

Perotti Homestead Farm LLC

Application for Minor Subdivision

5-15 Homestead Farm Lane

Parcel #133889-7069-00-953630

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

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

Minutes

Chairman Culver requested a motion to approve the January 10, 2024 minutes.

Culbreth made a motion to approve the January 10, 2024 minutes. Motion was seconded by Farhangi and passed unanimously.

General Business

Chairman Culver announced that PB attorney Chris Langlois was present and they would discuss attorney-client privilege after the main meeting.

Chairman Culver said at their last meeting, the Town Board appointed Chris Mayville to fill an empty seat.

Kish said he had a question about the Highway Department letter. He said Highway Superintendent Bob Stevenson said the driveway cuts would be determined when the driveway cut permit is issued. He asked if they could potentially move around from where they are on the plat. Chairman Culver said Stevens said there are plenty of spaces and places for driveways to be put with adequate sight line. He said the PB is not going to pre-determine where the driveway is going to be; the PB would pre-determine that there is plenty of sight line to make additional driveway anywhere it is needed.

McGhee Hill Road Subdivision

MGHR, LLC

Public Hearing for Major Subdivision at 7:40PM

McGhee Hill Road
Parcel #133889-7170-00-414515

Engineer Walter Kubow gave a review of the subdivision of 148 acres with approximately 103 acres wooded, 38 acres is farm fields and the balance being streams and water. He said 95 acres are in the A5A zoning district, the other 53 acres are in the R3A district. The proposed subdivision consists of 10 lots ranging from 7.5 to 25 acres with 3- to 5BR single-family homes, there are three proposed driveways entrances at the existing farm entrances that would serve as common entrances, all lots would be served with private wells and septic systems, proposed clearing of trees is just under 10 acres (most of which is on lots 1,2 and 3), a 10.2-acre area in the front of the lots to have no clearing that would be on the deeds and the plat. He said there are no wetland impacts, the wetlands have been delineated with flagging by the survey, no excavation is proposed in the wetlands, two different biologists have investigated the steeper slopes on the back for bog turtles and no habitat was found, no endangered species were found other than the potential for northern long-eared bat, any tree clearing for that area would be restricted to winter months (Nov. 1-March 31), temporary construction fencing and silt fencing will be along the disturbance area, overall with the driveways and homes, an estimated 5 acres of new (?) and impervious area will be created, a pollution prevention plan had been prepared and the applicant is not requesting variances or waivers from the zoning code. He said the density is significantly less than what is allowed in those districts.

Chairman Culver requested a motion to open the public hearing.

Farhangi requested a motion to open the public hearing. Motion was seconded by Sternberg and passed unanimously.

Rich Stalzer, chair of the Conservation Advisory Committee (CAC), said he had submitted written comments to the PB. Chairman Culver said the PB did receive them but had not reviewed them yet.

Culbreth said while he was reviewing the plans, he noticed the building envelopes for Lots 8 and 9 are situated on a DEC-identified wetland emergent area. He asked Kubow if he was in collaboration with the DEC. Kubow said he did look at DEC maps and did not see any DEC wetlands mapped in that location; he had their own biologist look for wetlands. He said there are small pockets that were identified. Culbreth said on the DEC map that they were identified as wetland engagement area.

Chairman Culver asked Culbreth if he had a map handy; Culbreth said no and that it was online. He asked Kubow if he would have to get a permit before development. Kubow said if there is a DEC wetland, any disturbance within 100 feet would require a permit. Kubow said their wetland people flagged three smaller wetland areas and they are DEC jurisdictional and those would be federal jurisdiction. He said he has the wetland report was submitted approximately a year ago.

Chairman Culver asked Kish to bring up DEC maps on his computer.

Culbreth said it's a mandate from the EPA (Environmental Protection Agency) that pushed through the state to the municipality to enforce the Clean Water Act. Kubow said he didn't know if they require the municipality to enforce anything like that. He said if there is a state-regulated wetland, you have a 100-foot regulated area outside of the wetland. He said their biologists researched the maps and went to the site and flagged the areas that they saw were wetlands. He said they were small and the DEC doesn't take jurisdiction over small pockets of wetlands.

Culbreth said he noticed in the grading schedule for item #9 that it states that you have to get a permit or you're going to get a permit from the DEC or the Army Corps of Engineers. Kubow said there are no required permits.

Kish asked Culbreth where he found the map; Culbreth said New York State Department of Environmental Conservation. Kubow asked if it was called Environmental Resource Mapper and Culbreth said yes.

Culbreth asked if the concrete box culverts usually had six-inch walls. Kubow said for a small driveway crossing, yes.

Kish brought up the map that Culbreth referred to. Kish said the hydrologist did not find an actual wetland there. Culbreth asked if the biologist was a private company; Kubow said it was their own biologist.

Chairman Culver said the PB's biologist was also out to the site.

Kish asked Kubow if he had made any changes to the map since the last PB meeting; Kubow said no.

Culbreth asked about obtaining permits. Kubow said the note on the site plan is a generic one that is usually on plans. He said they did look at this specific site where wetlands were and they were avoided so there are no permits required. He said unfortunately the note did carry over but it does say all required permits, there are none required.

Kish asked Kubow if he said he had read the CAC report. He said he did and there is nothing that hasn't been covered in the last two years. Kubow said he offered updated tree clearing prohibited area that is a little over 10 acres.

Kish said the forest clearing is of more concern. Kubow said most of the trees in the forested area are on very steep slopes; the ones in the back of lots 4, 5 and 6 are on undevelopable land. He said the building envelopes are close to the front where there are open fields. Kish asked Kubow if he would be willing to add that restriction. Kubow said they have gone back and forth with conservation easements. Kish said the PB said doesn't have a way of enforcing the tree cutting. Kubow said an easement puts it into someone else's hands.

Attorney Hilarie Thomas said the memo on page 2 indicates there would be a loss of 41 acres of ?? (couldn't understand her word) forest habitat in Lots 1, 2 and 3. She said the entire acreage for Lots 1, 2 and 3 is 55.13 acres and they do not proposed to eliminate 41 acres of forest in that area. She said the building envelopes have been limited to the size that they are. She said according to Kubow's notes, the total area of disturbance for houses, driveways, septic and storm water in Lots 1, 2 and 3 would be 8.93 acres and that the memo exaggerates the acreage that would be subject to any kind of clearing. She said they have a 10.2-acre area of no disturbance, or tree clearing which is down closer to the road that was offered in good faith. She said there will be 55.13 acres minus the 10.2 acres which is the no-clearing restriction equals 44.39 acres and only 8.93 acres of that would be subject to clearing.

Stalzer said we are inflating forest with core forest. He said core forest would be interior forest removed from any human disturbance. He said the idea in core forest is 300 feet away from where you cut is where the core forest starts. He said if you look at all the areas of disturbance, start drawing lines 300 feet from the edge of any disturbance, the roads, the septic, the entire construction zone. He said the effect is much bigger than just the trees that are cut and you're isolating the downhill trees in Lots 1 through 3, removing them from the larger tract. He said he was counting core forest; the impact would be less if considering the forest.

Thomas said the core forest continues across the street, according to Stalzer's memo. Stalzer there is another large tract of forest and Thomas asked if they weren't all connected if lines were drawn. She said that forest would be part of the same forest. She said the actual houses that exist currently weren't shown on Stalzer's map. She said trees were taken down at that time and the forest survived. Stalzer said there is forest behind the built areas on the north side of road.

Chairman Culver said his concern about ending the hearing was if anything else needed to be presented in the hearing format. He asked the audience if there anything they wanted the PB to consider.

Kish said he would like to see the next revision of the plans that include the changes that were discussed at the last meeting before the public hearing is closed.

Chairman Culver said he would like to see maps at the continuation of the hearing at the next meeting.

Kish said his concerns are the new plans and protecting some of the interior forest.

Kubow said changes from the previous meeting were to make sure that there is a bright orange construction fence around the lower storm water area and the need to settle on an environmental monitor. Kubow asked what is the purpose of extending the public hearing.

Chairman Culver said if Kubow has the updated drawings, the PB can stand behind the fact that the hearing was open for the final drawing.

Langlois said these are specific modifications that the PB is requesting the applicant to agree to. He suggested adding a tree-clearing prohibited area on Lots 4, 5 and 6 south of the building envelopes.

Kish said the hearing would be closed with the application is complete.

Langlois said when the application is deemed complete and ready for public hearing and the public hearing is closed, that's what starts the 62-day clock for the PB to issue an approval, modification or disapproval. He said there a couple of threats that need to get resolved. He suggested at the public hearing continuation to limiting comment to just new information received.

Chairman Culver requested a motion for a continuation of the public hearing on February 14, 2024 at 7:35PM .

Kish made a motion for a continuation of the public hearing on February 14, 2024. Motion was seconded by Culbreth and passed unanimously.

Thomas asked for clarification on the continuation of the public hearing if comments would be about the entire project or the last few things that needed to be tightened up.

Chairman Culver said comments would be limited to the pieces that are changed from tonight's meeting. The rest of the discussion amongst PB would constitute the entire project.

Langlois said the PB had raised questions about the language on the environmental monitor. His recollection was that the monitor would be on site and submit reports. The question was how often the reports would be submitted, where they would go and who would be the appropriate party to receive the reports,

Chairman Culver said he would like monthly reports to go to the Building Department and cc'd to the PB. He believes the PB doesn't have a mechanism for enforcement.

Kish would like to get real-time copies of the reports when they are submitted.

Langlois said whatever the standard is for reports is to have the monitor follow that schedule.

Kubow asked for clarification on what the environmental monitor needs to watch. He suggested if there has to be an environmental monitor that they watch construction that is within the proximity of a wetland. He said if there is any clearing happening at the top of the hill as far enough away from any wetland, there would have to be storm

water inspectors once a week, making that storm water controls and erosion controls are in place. He said is required by the state and could be the same person. He said wetland areas are one that are delineated on the plan.

Chairman Culver asked if this was a question for the planner to be discussed at the next meeting. He said the PB would get more accurate information from the planner.

Langlois said Planner Will Agresta had included in his October 6, 2023 memo information about an environmental monitor. The note said “an environmental monitor shall review areas of proposed construction just prior to and during construction to ensure protection of wildlife with reports to the PB.” He said Agresta had suggested additional details to be fleshed out including qualifications of the monitor, approval of the monitor by the PB, the applicant to bear the costs for the monitor and how long to be monitored throughout the construction, schedule and interval of reports to the PB, content of report and final review prior to acceptance.

Chairman Culver suggested having Agresta’s help with a checklist of what the PB is looking for.

Thomas asked if the checklist could be submitted to Agresta prior to the next meeting.

Chairman Culver suggested that Thomas create points that she thinks should be the monitor points and send to Agresta and a copy to the PB.

Kish asked Langlois what are the enforcement mechanisms if the environmental monitor finds a problem. Langlois said there is the ability for a stop work order and withdraw site plan approval.

Chairman Culver said the PB agreed that the applicant submit points to Agresta for the PB to review at the next meeting.

**Perotti Homestead Farm LLC
Application for Minor Subdivision
5-15 Homestead Farm Lane
Parcel #133889-7069-00-953630**

Jim Perotti appeared before the PB with updated maps for the proposed minor subdivision. He said the parcel is on both sides of Perotti Road and it is proposed to divide the west side into two lots, ending with three lots total on the parcel.

Chairman Culver said Highway Superintendent’s email said there are plenty of spaces for driveway cuts on the west side.

Kish asked for an amended environmental statement regarding the wetlands.

Chairman Culver requested a motion for a public hearing on February 14, 2024 at 7:45PM or as soon thereafter as possible.

Farhangi made a motion for a public hearing on February 14, 2024. Motion was seconded by Sternberg and passed unanimously.

Public Comment

There was none.

Close of Meeting

Chairman Culver asked for a motion to adjourn the meeting at 8:30PM.

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

Respectfully Submitted,

Deb Phillips
Planning Board Secretary

APPROVED February 14, 2024