

**TOWN OF NORTH EAST PLANNING BOARD
MINUTES
February 12, 2025**

The regular meeting of the Town of North East Planning Board (“PB”) took place on Wednesday, February 12 2025 in the North East Town Hall located at 19 North Maple Avenue, Millerton, New York at 7:30PM. Board members Chairman Culver, Chip Barrett (via Zoom), Scott Culbreth, Leslie Farhangi, Bill Kish, William McGhee and Dan Sternberg. Also in attendance were Chris Langlois (via Zoom), Meg Winkler (via Zoom), Hilarie Thomas, Ray Nelson, Colleen Flynn, Austin Cornell, Rich Stalzer, Lisa Pedersen, and Katie Cariello, planning board secretary.

*Kim Young Choe/Town Gourmet Market
Site Plan Application
122 Route 44
Parcel #133889-7271-00-585220*

*TALLOW/Austin Cornell
Site Plan Application
130 US Route 44
Parcel #133889-7271-00-610232*

Chairman Culver requested a motion to open the meeting at 7:35 PM.

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

Minutes

Minutes were presented at 9:20 pm before the close of the meeting.

Chairman Culver requested a motion to accept the December 10, 2024 minutes. Farhangi made a motion to accept the December 10, 2024 minutes. Motion was seconded by Sternberg and passed unanimously.

General Business

No general business.

*Kim Young Choe/Town Gourmet Market
Site Plan Application
122 Route 44
Parcel #133889-7271-00-585220*

Nelson started by addressing updates and answers to Kish’s notes from the December 10, 2024 meeting. Nelson referred to his applicant’s plans to show the PB all the changes that were made based on the requests of the PB and Kish’s notes.

Nelson stated that Kish asked for more clarification around parking regulations. Nelson went on to say he is under the impression that anything on here [the applicant’s plans] has been approved by the planning board and wanted this denoted in the minutes.

Nelson commented that lights will be shut off between 12 am - 6 pm. Nelson was asked by Kish to correct the lighting models shown in the drawing since there were two different lights listed.

Nelson did not produce a rendering of the metal greenhouse structure. Lighting in the greenhouse will only be for pedestrian walking and will not be used for growing. Nelson also mentioned that invasive plants will be replaced, outdoor dining will have 12 - 16 seats, and pavement arrow markings are now on the plans.

Nelson brought up Dutchess County Department of Planning and Development (DCPD) suggestion to change their lighting to reduce glare. Nelson commented that the lights for the project are between 1.6 - 3.6 footcandles, with most in the 2.2 footcandle range. The light poles will be 20 feet tall.

Farhangi asked Chairman Culver if the PB could discuss Kish's list amongst themselves as well as the recommendations from DCPD. Chairman Culver opened the floor for discussion.

Farhangi began with DCPD's note that parking spaces could be reduced further. Farhangi agrees with DCPD and is in favor of reducing parking spaces. Chairman Culver states that they are using their discretion because they are currently going against the PB code. Ray Nelson asked to make a comment that he is also in favor of reducing more parking spaces. Farhangi suggests doubling the size of the tree islands which would be aesthetically pleasing and reduce parking spaces. Chairman Culver asked Nelson to discuss with his clients.

DCPD suggested removing one of the curb cuts of which there are currently two. Chairman Culver stated that it does not make sense to reduce to one curb cut, especially with additional businesses involved.

Chairman Culver asked for clarification on what the cistern behind the former McDonald's is used for and for clarification around the two businesses agreement about it. Attorney Langlois agreed.

Chairman Culver asked for clarity around what level of EV chargers they plan on installing.

Chairman Culver asked Nelson to discuss DCPD's recommendation to add bicycle racks with his clients.

Kish presented notes and comments:

- Kish asked about the copper material. Nelson presented a sample which led to discussion on the patina of the material and whether it could come already distressed. Nelson said it would look fake and would not be real copper.
- PB did not make a decision on the final parking space number since there was the ask to remove additional park spots.
- Kish asked if they finalized the greenhouse they plan to install. Nelson said it will not be built right away and they do not have one picked out yet. Chairman Culver asked the clients to bring the PB the renderings when they are ready to build. Nelson made a note that it would come back to PB for approval.
- Nelson agreed to replace the current note found on the photometric plan to read an approximation of 'Approved lights will be installed, any substitutions require returning to the Planning Board.'
- Kish asked for note on "Signage point #5" to specify that new signage requires planning board approval for the Building Department's signage permitting team.
- Nelson agreed to make a note that the fence between the building and brook would be installed 6 in above the grade.
- PB discussed that the parking lot lights be shut off at 12 am, with wiring done for dimming the lights, so dimming can happen at any time after they are installed.
- Nelson is asked to denote which of the lights on the outside of the building will have motion sensors and which will not.
- Kish asked about "LD" lights that seem to have no purpose but to illuminate the building. Nelson responded it is because they will illuminate product under the canopy.

- The building is expected to be painted cream. Kish made a note that the Ford building that is painted white reflects a lot of light, and that Nelson's clients might want to reduce the brightness of their lights due to the color they plan to paint it. Nelson responded that the lights in that area will be 1.5 - 2.9 footcandles and does not believe it will be as bright as the Ford garage doors.
- Nelson specified that, "MH" is the mounting height.
- Kish asked who controls the lighting spaces outside the tenants spacing, is it the landlord or the tenant? Nelson said he assumed it was the landlord and light all together. Nelson said he would make a note stating that all the lights on the face of the building are being lit by the owner.

Chairman Culver asked if there were any other comments to be made regarding what they had just heard from Nelson. There were none. Chairman Culver then asked if Nelson planned to return to the next PB meeting and he said yes. Nelson asked if his clients could start work on the inside of the building. Chairman Culver said they could work inside the building.

Chairman Culver asked the board members if there was anything pressing that Nelson had to address or bring forward before the next meeting? As long as Nelson brings back what was discussed at the February 12, 2025 meeting to the next, the board is close to setting a public hearing for them. Chairman Culver said it would put Nelson on track for March approval.

TALLOW/Austin Cornell

Site Plan Application

130 US Route 44

Parcel #133889-7271-00-610232

Cornell shared some personal information about his interest in regenerative farming and the idea behind TALLOW.

Cornell presented his site plan which had been shared with the PB other than the photometrics, which came in after the submission deadline.

Cornell presented his landscaping of arrowwoods, highbush blueberry plants, and sugar maple trees. Cornell briefly discussed replacing the current metal and wood fence with reclaimed wood.

Cornell presented the photometrics and said he'd share them with the board after the meeting. He stated that the lights he chose are Dark Sky approved, 3000k, and plans to have minimal footcandle lights. The lights have a min. .3 footcandles, average of 5, and a max of 44.

Cornell presented the signage for the building, which would include painted wood entrance/exit signs and a business name sign, that would be 20 sq ft and 7 ft tall, with a marquee letter board for messages. Cornell confirmed that the marquee is not internally light. Cornell found upward facing lights to illuminate the sign, but asked for the board's opinion on how to illuminate it from above without obscuring the sign. Kish recommended a fascia with an LED strip to wash the sign in light. Chairman Culver said downward lighting is more likely to get an applicant approved than upward facing lighting.

Cornell stated that parking lot lines and handicapped parking symbols would be repainted, as well as repairing asphalt.

Farhangi commented that sugar maples are slow growing and might not be the best tree to use if the purpose is to quickly shade the parking area. Culbreth added that arborists are no longer recommending them in our area due to climate change. Cornell asked for recommendations, and he was encouraged to speak to the chair of the conservationist advisory council who was present at the meeting.

Kish asked if Cornell was planning on removing the invasive plants. Cornell said yes and that he is planning on integrating regenerative farming methods on the property with native plants to combat pests.

McGhee asked if Cornell planned to use the outdoor refrigeration that is currently on the outside of the building. Cornell said no. McGhee followed up to ask how and when deliveries would be taking place. Cornell answered that they plan to pick up from the farms, or have the farmers deliver to the building on Tuesday and Saturday mornings.

Cornell mentioned that it is awkward to enter where the drive through exits. His recommendation would be to turn the entrance into an exit and let people going through the drive-thru turn right and go onto Route 44.

Cornell commented that he plans on reaching out to the Choes and Nelson to discuss TALLOW guests coming into the shared driveway and let that be the one entrance. Kish commented that Cornell can't force that to happen. Farhangi commented that guests might see the restaurant building and not follow signs demarketing entrance/exit signs, she mentioned she has seen people disregard the signage at CVS as an example.

Cornell commented that there is currently a "Do Not Enter" sign that is pointed inward and that if they get approval to switch it to an exit, he wants to make sure the "Do Not Enter" sign will face oncoming traffic in both directions. Chairman Culver says that Cornell will need to discuss the matter with the Department of Transportation (DOT).

Cornell says the business could open by mid-April if all is approved. Farhangi states that the PB likes to work with businesses, but that they have procedures they must follow and those can take time.

Cornell mentioned that the vendor whose lighting he plans to use did not get him over the proper report before the submission deadline, so it was not included before the February 12, 2025 meeting. Kish commented that the lighting is problematic for all the reasons that the PB normally talks about, such as being too bright, the surrounding area too dark and the contrast will be off. Kish says they need to review it.

Chairman Culver commented that it needs to be distilled out more in line with what they normally look at with photometrics overlight and footcandles. Chairman Culver brought up the 44 footcandles mentioned at the top of Cornell's presentation as being far beyond what the PB has approved. Cornell agreed that it seemed very high. Cornell asked what the board would like to see as the average max. footcandles.

Kish brings up what DCPD said for the supermarket site, they suggested the footcandles not exceed 5 footcandles with an average of no greater than 2 footcandles, and that for the PB that is bright.

Cornell let the board know that the restaurant hours will be 11 am - 8 pm to start, and then they will add in breakfast, which will open the restaurant from 7 am - 8 pm. Every other Sunday they will host a 6-course dining experience, which will keep the restaurant open later.

Kish asked about the menu board. Cornell says that it will be behind the building and will not be seen from the street. Cornell said it will be a single display with a post and a speaker to allow for ordering.

Kish says that the current zoning says that you are not allowed to have any electronic displays on the outside. Chairman Culver adds that current zoning also says we do not allow drive-ins. Thomas commented that there is a distinction between a 'drive-in' and a 'drive-thru.'

Farghani says that she does not see how the applicant can have a drive-thru food business without an internally lit sign. Kish says he hopes there will be new zoning rules in the near future that would allow for an internally lit

sign. Farghani asked if Cornell will need a variance. Chairman Culver says it would be a good question for Attorney Langlois.

Attorney Langlois says that if the current code doesn't allow it, the PB cannot approve it. It would be an issue for the Zoning Board of Appeals (ZBA). Attorney Langlois asked if there's a workaround with external lighting that would be sufficient, if not, the applicant would need a variance from the ZBA.

Cornell commented on why this specific board will matter is because it needs to be dynamic, so that they can switch out items since they will be working with seasonal foods. It will be 55 inches diagonally.

Chairman Culver agrees with Attorney Langlois that the applicant needs to go to the ZBA for a variance. Kish agrees and says the PB should also circulate for lead agency.

Thomas asked about protocol, if the applicant needs a letter of denial from the PB. Chairman Culver says it should not be hard to get a letter of denial from Ken. Chairman Culver says the PB can refer it over to Ken and that the PB sees a need for it [letter of denial] and that it's his purview. All PB members agree.

Chairman Culver goes back to the drive-thru itself. Thomas comments that she anticipated this conversation and spoke to Eddie Greenwood regarding Mavis/Dunkin, and said that the ZBA found there was no obstruction to Dunkin having a drive-thru, which can be found in the minutes from 2017.

The PB asked for guidance from Attorney Langlois about the pre-existing drive-thru window at 130 US 44. The window has not been used for a longer period of time than normally would allow it to be grandfathered in. Chairman Culver asked if the applicant needs to parse it with the ZBA to make it okay to use in regard to the PB code, so the PB doesn't set a precedent. Attorney Langlois responded that because the applicant is going to the ZBA already for one variance [for the menu display] that he should also ask for a variance to use the drive-thru window. Attorney Langlois said he would not be comfortable with the PB approving anything until the applicant has gone to the ZBA for these two variances.

Farghani asked if the PB will refer the application to DCPD. Chairman Culver said the application has to be sent to DCPD, but PB can ask for an expedited review since it is not a new build, similar to the review for the supermarket.

Discussion continued regarding next steps for the application, which included the PB reviewing the lighting plan. Discussion then turned to the curb cuts at the site and the applicant getting approval from DOT to turn an entrance/exit into a singular exit. Attorney Langlois suggested the applicant reach out to DOT regarding the proposed change. Cornell said he has not been successful in reaching a DOT representative. Chairman Culver suggested that the applicant send a certified letter with return receipt requested to DOT, that way if the applicant does not receive a response he could be in better standing if the applicant does change something without DOT approving it.

Chairman Culver asked if there's a current agreement, or needs to be, for the shared driveway of the [supermarket] lot if TALLOW is looking to send guests in that way. Attorney Langlois responded that the applicant should have a written agreement between the applicant and the business neighbor regarding shared use of the rear entrance and exit lot. Cornell said he spoke with Bob about a previous written agreement and would follow up to get a copy of it and also speak to the Choes about the agreement.

Barrett brought up Salisbury Bank and Millbrook Bank and how their drive-thrus/drive-ups were approved. It was commented that Salisbury Bank falls within the Village of Millerton and not in the purview of this board. Chairman Culver commented that the New York State Banking Department was involved in how the drive-up

would be set up for Millbrook Bank, and this could have been a gray area for the PB and that they should nail it down with the applicant now so there are no issues later on.

Cornell asked how to know if the drive-thru will be an issue. Attorney Langlois responded by saying the applicant should assume it is and might as well apply for both the drive-thru and menu display at the same time. Attorney Langlois asked if the PB plans on referring the applicant to the ZBA as opposed to having the applicant take an appeal from something Ken issues? Chairman Culver responded that the PB is willing to write a letter, but things might go quicker with a letter of denial from Ken. Attorney Langlois responded that Ken's letter would presumably address both issues, or that Ken might decide that drive-thrus are permitted, or it's grandfathered in.

Chairman Culver asked Cornell what he believed his next steps were in the process. Cornell responds that he is going to give them the proper photometric report with much dimmer light settings, a revised sign with lights pointing down, a written letter to DOT with the directions, and the ZBA request for variance on the menu board and drive-thru window. Farghani added that the applicant also needs the written agreement regarding sharing the entrance and exit of the parking lot.

Cornell asked about a prefabricated fireplace and asked if there would be any issues with the exterior portion of it. Chairman Culver said the PB does not have anything to say about a chimney being built. Chairman Culver said he should check with the building department to see if there is any paperwork with fireplaces. Barrett said he most likely will need a permit through the building department for a wood burning fireplace.

Cornell brought up the storm water/drainage issue that was discussed with Nelson and asked if he needed to do anything regarding it. Chairman Culver said it was Nelson and his client that needs to find out what it does and how it might affect TALLOW. Kish said it would be helpful if Cornell could also follow up with Bob and his contractor to find out what its purpose is.

Kish asked Cornell to verify if 130 US 44 has a septic tank or is using the sewage treatment the supermarket has. Cornell was asked to put it on the property plan.

Public Comment

No public comment.

General Business

Kish asked about approving minutes. Chairman Culver commented that he had asked at the beginning of the meeting and they were not available. Kish had a copy and passed it around to the other members for review.

Close of Meeting

Chairman Culver requested for a motion to adjourn the meeting at 9:20 PM.

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

Respectfully Submitted,

Katie Cariello
Planning Board Secretary

APPROVED 2/26/2025