

ROBERT T. POLITI
SUPERVISOR
LAURIE C. DUDLEY
TOWN CLERK / TAX COLLECTOR
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COUNCIL
BOB MILLER
JAY I. RAND
DEREK DOTY
JACK FAVRO
LARRY C. STRAIGHT
SUPT. OF HIGHWAYS
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TOWN OF NORTH ELBA

2693 MAIN STREET
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EUGENE MARTIN
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CODE ENFORCEMENT
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ASSESSOR
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TOWN COURT OFFICE
523-2141
RONALD J. BRIGGS
ATTORNEY FOR THE TOWN

REVIEW BOARD MEETING MINUTES September 4, 2019

MEMBERS PRESENT

Emily Kilburn
Chip Bissell
John Rosenthal
Andrew Thompson
Jackie Kelly

MEMBERS ABSENT

Bill Hurley
Bill Walton

ALSO PRESENT

Tim Smith, Board Attorney
Mike Orticelle, Code Enforcement Officer
Terry Tubridy, Planning & Zoning Coordinator

Miller, Marcy/Pure Placid (Case #816 Rev) – Sign Review

Ms. Laura Walker present as applicant's representative.

Ms. Walker reviews the sign design and location.

No issues or questions from the Board.

Ms. Kilburn makes a motion to approve the sign, subject to the following condition:

- a. Sign design plans are approved as submitted. Any and all changes or additions to the plans, specifications, materials, or engineering must be submitted in writing for further review and approval by the Review Board.
- b. The existing exterior sign must be removed once the new sign is installed.

Mr. Rosenthal seconds the motion.

All present members vote in favor. The motion passes 5-0.

Case closed.

These minutes were reviewed by the Board on 9/18/2019. Ms. Kilburn made a motion to approve the minutes as written. Ms. Kelly seconded the motion. All present members, except Mr. Walton (abstained due to absence on 9/4/19), voted in favor. The motion passed 5-0.



Emily Kilburn, Vice Chairman
Review Board

RECEIVED	
Date	<u>10/2/19</u>
Town Clerk	<u>Chelsie Heester</u>
Date	<u>10/3/19</u>
Village Clerk	<u>Amita A. Edg</u>

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Bill Hurley
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Mike Orticelle, Code Enforcement Officer
Terry Tubridy, Planning & Zoning Coordinator
Tim Smith, Board Attorney

Ms. Kilburn opens the meeting at 5:35 PM

Thomson-Ardill (Case #1039) – Notice to Neighbors/Architectural Review/Shoreline Overlay

Ms. Kelly Anne Thomson present.

Ms. Thomson recaps her proposal to remodel the main entrance of her house and to build a new two-story detached garage.

19 notices mailed to neighbors within a 200-ft radius of her 120 Victor Herbert Rd and 15 green cards returned. Two responses received, Steve Hovey and Sally & Jack Quinn, expressing no objections to the proposal. Mr. Hovey requests spruce trees be planted behind the garage as screening from his property.

Mr. Smith advises the project is Type II for SEQR and no action is required.

Ms. Kilburn makes a motion to approve the proposal, subject to the following conditions:

- a. Architectural and site design plans are approved as submitted. Any and all changes or additions to the plans, specifications, materials, or engineering must be submitted in writing for further review and approval by the Review Board.
- b. Shade trees must be planted behind the garage as screening from the neighbors.
- c. The Review Board will retain continuing jurisdiction over the stormwater management plan aspects of the project, until one year after improvements have been completed.
- d. This approval does not address or make any findings regarding applicable deed restrictions, covenants, or other title conditions. This approval does not excuse the applicant from obtaining all other necessary governmental approvals, including but not limited to the New York State Building Code, Adirondack Park Agency, New York State Department of Environmental Conservation, New York State Department of Health, and/or Army Corps of Engineers.
- e. Further, this review does not authorize any actual construction. Final plans, specifications, and construction documentation approval must be obtained through the Building Department.
- f. **NO** construction may commence without construction documents signed by the Code Enforcement Official.

Mr. Thompson seconds the motion.
 All present members vote in favor. The motion passes 5-0.
 Case closed.

These minutes were reviewed by the Board on 9/18/2019. Ms. Kilburn made a motion to approve the minutes as written. Ms. Kelly seconded the motion. All present members, except Mr. Walton (abstained due to absence on 9/4/19), voted in favor. The motion passed 5-0.



Emily Kilburn, Vice Chairman
 Review Board

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Date	<u>10/3/19</u>
Village Clerk	<u>Antal C. Esz</u>

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MEMBERS PRESENT

Emily Kilburn
John Rosenthal
Andrew Thompson
Jackie Kelly

MEMBERS ABSENT

Bill Hurley
Bill Walton
Chip Bissell
Tim Smith

ALSO PRESENT

Mark Schachner, Board Attorney (for Case #1007 only)
Mike Orticelle, Code Enforcement Officer
Terry Tubridy, Planning & Zoning Coordinator

MWH LLC/Hurley Bros (Case #1007) – Conditional Use/Viewshed Overlay

Messrs. Bissell and Smith recuse themselves.

Mr. Mark Schachner present as Board attorney for this case.

Mr. Michael Hurley present as applicant.

Mr. Tom Heslop, Review Board consultant, present.

Ms. Kilburn: explains the process used to select Mr. Heslop as a Board consultant. Decision was based on competing reports and the need for a Board expert. Initial outreach began at the NY State Division of Code Enforcement and Administration office and led to contacting Homeland Security, NY DEC, and Essex County Emergency Services. Essex County identified Mr. Heslop as an expert who advises the County on propane issues. We learned the government relies on propane experts for design and safety issues. Mr. Heslop has agreed to conduct his review at no charge to the Town or Village. The cost of any outside experts would, per our Code, be the responsibility of the applicant.

Please note the public is not allowed to speak during tonight's discussion but written comments may be received by 9/13/19.

Mr. Heslop: reviews his agreement with the Board and reads his report, dated 9/4/19 (see attached).

Ms. Kilburn: announces receipt of documents from MWH LLC/Hurley Bros – LP VFD capabilities letter, LP DPW email re water volume and flow, Ameden analysis of Northeast Energy’s Risk Assessment (with an attachment of an approved similar project in Rhode Island), and MWH LLC’s untitled and undated assessment of traffic impact and fire risk. (See attached)

The Board is still waiting on the Essex County DPW traffic analysis.

Mr. Rosenthal: who certifies installation of a propane site is performed in accordance with NFPA-58 (Liquefied Petroleum Gas Code)?

Mr. Heslop: a certified propane plant expert inspects any installation to ensure compliance with NFPA-58. The applicant’s insurance company will conduct their own inspection. The Board could also hire their own inspector. All installations must use NFPA-58 certified equipment and parts. The requirements are the same for all propane transport and delivery, regardless of the number of tanks or the size of the delivery vehicles.

Mr. Orticelle: the Building Department issues a certificate of compliance once an installation is completed and passes all required inspections.

Ms. Kilburn: this is the same process for any installation requiring inspections by authorities outside the Town and Village. For example, we require an engineer to design and certify the correct installation of stormwater management systems.

Mr. Schachner:

- Explains the requirements for review in accordance with the State Environmental Quality Review Act (SEQRA). The principal form used by the Review Board is the Environmental Assessment Form. Part 1 is completed by the applicant and Parts 2 and 3 are completed by the SEQR lead agency (the Board in this case).
- Part 2 is where the lead agency determines if the impact is none/small or moderate/large.
- Instructions for completing Part 3 are confusing. Part 3 is required to be completed if any item in Part 2 is marked as having “Moderate/Large” impact. However, there is no specific form for Part 3 and there are no objective criteria for determining the extent of a moderate or large impact. It is a subjective process. The Board should identify the specific impact, include any design or measures taken by the applicant to avoid/reduce the impact, and explain how the Board determined an impact was significant or not. A determination should be assessed using the following criteria: setting, probability of occurrence, duration, its irreversibility, its geographic scope, and its magnitude. The potential for short-term, long-term, or cumulative impacts should also be considered. The final determination is if an impact is or is not significant.

- A SEQRA Negative Declaration is issued if the Board ultimately decides a moderate to large impact is not significant.
- An environmental impact statement (EIS) is required if a potential impact is considered significant. The applicant would be required to submit a draft EIS for review by the Board and the public. A final EIS would involve the Board.
- Refers to a Press-Republican article reporting on his recent explanation of this process to the Plattsburgh City Council.

Ms. Kilburn: confirms the Environmental Assessment Form (EAF) is the correct form to use (per Mr. Schachner).

Mr. Schachner: I understand you have begun reviewing the questions in Part 2 of the EAF. No action is required for any answer of “No”. The Board will need to analyze any majority answer of “Moderate/Large” impact per the process I just described.

Ms. Kilburn: do we vote on this before we go to Step 3?

Mr. Schachner: yes. A majority vote or consensus of moderate or large impact is needed before proceeding to Part 3.

Ms. Kilburn: let’s think about moving forward with those questions and decide if we need to move to Part 3. We will start the process at the next meeting and conduct a formal vote.

Mr. Hurley: Reviews the most recent information submitted to the Board. Nothing has been received yet from Essex County regarding the curb cut or road. You have received information from Mr. Moore regarding the fire department and from Mr. Hathaway regarding the water on Old Military Rd. Notes Ms. Jody Ameden, MWH LLC engineering consultant, worked on a Superior Plus Energy project in Rhode Island in 2017. Mr. Wisely was president and CEO of the company at that time. All the equipment and materials for that project are the same to be used on this project. Mr. Wisely approved that project and I assume it should be good for my company. A driving school and Buddhist temple were near his project site. Also notes a previous board approved a project in Ray Brook that is near two prisons. There have been no incidents at this site.

Ms. Kelly Anne Thomson: does the public get a chance to speak to address their concerns.

Ms. Kilburn: explains the Board had a public hearing in March.

Mr. Schachner: addresses procedures for reopening a public hearing. Reasons for doing so include a major revision to the application or substantial new material or information submitted by the applicant. Information provided by municipal offices is not typically considered new information. An applicant has greater interaction with the Board than members of the public. It is appropriate for the Board to ask questions of the applicant. If answers materially or substantially change the application, we would suggest reopening the public hearing. Any dramatic new information submitted by the applicant could also be reason to reopen the public hearing. The public has a hard time understanding this and is often dissatisfied with this process. We recommend the process not be endless and to not attempt to satisfy every concern expressed by the public.

Ms. Kilburn: asks the Board to review the information submitted by MWH LLC. Mr. Schachner will advise if the new information meets the threshold of a new public hearing. Ms. Kilburn acknowledges it is up to the Board to decide if the public hearing should be reopened. It is something the four remaining Board members need to consider.

End of discussion.

These minutes were reviewed by the Board on 9/18/2019. Ms. Kilburn made a motion to approve the minutes as written. Mr. Thompson seconded the motion. All present members, except Mr. Walton (abstained due to absence on 9/4/19), voted in favor. The motion passed 4-0.



Emily Kilburn, Vice Chairman
Review Board

RECEIVED	
Date	<u>10/2/19</u>
Town Clerk	<u>Chellie Heesler</u>
Date	<u>10/3/19</u>
Village Clerk	<u>Amrita G. Singh</u>

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Tim Smith, Board Attorney
Mike Orticelle, Code Enforcement Officer
Terry Tubridy, Planning & Zoning Coordinator

Board Business

Minutes of 8/21/19

Board notes the need to correct a date reference, under Board Business, from 8/17/19 to 8/7/19.

Ms. Kilburn makes a motion to accept the minutes with the date correction.

Mr. Rosenthal seconds the motion.

All present members, except Ms. Kelly (absent on 8/21/19), vote in favor. The motion passes 4-0.

Meeting adjourned at 6:20 PM.

These minutes were reviewed by the Board on 9/18/2019. Ms. Kilburn made a motion to approve the minutes as written. Ms. Kelly seconded the motion. All present members, except Mr. Walton (abstained due to absence on 9/4/19), voted in favor. The motion passed 5-0.


Emily Kilburn, Vice Chairman
Review Board

RECEIVED	
Date	<u>10/2/19</u>
Town Clerk	<u>Chelsea Deesler</u>
Date	<u>10/3/19</u>
Village Clerk	<u>Amie A. Goff</u>