

**TOWN OF GAINES PLANNING BOARD MEETING
SEPTEMBER 12, 2011**

7:30 P.M

Present: Chairman Theobert Ahlberg; Vice-Chairman Gary Davy; Members Michael Grabowski, James Theodorakos, Molly Preston, Jennifer Stilwell and Christopher Watt

Guests: Carol Culhane, Raymond Burke, Douglas Syck, Mary Jo Syck, Robert McGaffick, Mary Neilans, Valerie Beam, Jennifer Allchin, David Allchin, James Kirby

Chairman Ahlberg called the meeting to order at 7:30 p.m. with the Pledge of Allegiance to the Flag.

Approval of July 2011 Minutes

On a motion of Member Watt, seconded by Member Stilwell, the following was

Carried	Ayes	7	Ahlberg, Davy, Grabowski, Preston, Stilwell, Theodorakos, Watt
	Nays	0	

The July 2011 minutes are approved as is.

Extension for Septic System for the Motorcycle Club

On a motion of Member Watt, seconded by Member Stilwell, the following was

Carried	Ayes	7	Ahlberg, Davy, Grabowski, Preston, Stilwell, Theodorakos, Watt
	Nays	0	

After a request from John Mack on behalf of the Motorcycle club to extend the permit for the septic system, the Planning Board voted for a six month extension. The extension lasts until April 1, 2012. After that point, if more time is needed than John Mack is to come before the board for an explanation.

Due to a moratorium placed on applications/permits in the Town of Gaines till November 1, 2011, the Planning Board needs to wait before the application submitted by Jennifer Allchin and Valerie Beam. However, Valerie Beam brought up a discussion about Resolution 27-11 (Finding Clarifying LL #1 of 2011) from the Town Boards May 10, 2011 meeting. The resolution stated that the purpose of the moratorium was not to restrict new business from opening and if someone wishes to open a similar business to what was previously there without making significant changes to the existing structure, they qualify as an exception. Jennifer Allchin also mentioned that the Spencer and Hovanesian applications were approved after the moratorium was in place. Chairman Ahlberg noted that these applications were in progress before the moratorium was in place. After a debate on whether or not this new business was similar to the old Berry Barn, the Planning Board made recommendations on changes that need to be made in the application to make it similar to the previous business, including the fact that because the area is a RA district it would have to be qualified as a Seasonal Tourist business that is closed two months a year. Valerie Beam brought up that Ag & Market guidelines state that they only need to be closed a minimum of two weeks. The Planning Board said if they wished to change the zoning regulations, they would need to go before the Zoning Board with a Use Variance. They also noted that if they accepted the terms for the Special Use, they may be putting themselves under a self-created hardship that may or may not affect their chances of getting a Use Variance.

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Lead Agency for SEQR for Allchin/Beam

On a motion of Member Watt, seconded by Member Preston, the following was

Carried Ayes 7 Ahlberg, Davy, Grabowski, Preston, Stilwell, Theodorakos, Watt
 Nays 0

The Town of Gaines will be the Lead Agency on the SEQR for the application from Jennifer Allchin and Valerie Beam application.

Contingent Approvals to Send Allchin/Beam Application to County

On a motion of Member Watt, seconded by Member Grabowski, the following was

Carried Ayes 7 Ahlberg, Davy, Grabowski, Preston, Stilwell, Theodorakos, Watt
 Nays 0

The Planning Board agrees to send the Special Use Permit/Site Plan Review application for a farm market on Ridge Road submitted by Jennifer Allchin and Valerie Beam to the County for their September 22, 2011 meeting as a Seasonal Tourist Business and as long as the following changes/updates are made to their application: the type of business needs to be changed to a permitted use business (not home occupation), the applicants need to show the layout of the driveway/parking lot on the building lot maps, the parking area needs to be adjusted, they need a more descriptive explanation of the business and what it's being used for, the business should be label as a farm business (not retail) and the square footage needs to be fixed.

Also, due to the moratorium that is in place whether or not the application can go to County is contingent on the answer Town Attorney Doug Heath provides. Chairman Ahlberg will talk with Attorney Doug Heath about sending the application to County and whether or not the Planning Board can approve the application after it goes to County despite the moratorium. If Attorney Heath says it can be submitted to County and we can approve it afterwards, a public hearing will be held at the Towns Planning Board meeting October 3, 2011. However, if the Planning Board cannot approve that application due to the moratorium, the public hearing will have to wait till the moratorium is over, and will be tentatively scheduled for the November 7, 2011 meeting.

Also, it was noted that eventually the Planning Board will need to know the hour of operation.

At this point Member Watt excused himself from the board, sitting in the audience and did not participate in voting or discussion as a board member for the rest of the meeting.

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The Planning Board members all had copies of the site plans for all 3 applications (Kast, Kirby, and Watt) and all 3 site plans for the wind towers exceeded the setbacks required in the Town of Gaines “Wind Energy Law” and Agriculture and Markets guidelines, which is one and half times the tower height (140 feet) or 210 feet. After clarification on the Towns Wind Energy Law, it’s been noted that all turbines 120 ft. and over need to have a Site Plan Review and go before the County Planning Board. However, due to grants that the following farmers (Kast, Watt and Kirby) are receiving, time is an issue. The time it takes going through the process for their Site Plans could cause them to lose their grants and possibly result in lawsuits against the Town. Also, the applicants did not know a Site Plan Review would need to be done until after they had submitted their applications (Kast and Watt had already received their permits), so the fact that they were not already done is through no fault of their own. Therefore, Chairman Ahlberg read Article X Section 1001c of the Town of Gaines Zoning Ordinance which stated that the Planning Board can waive a Site Plan Review if they deem it necessary and recommended the board do as such. Also, according to Ag & Markets, a Special Use/Site Plan Review is not permissible. After a discussion on possible consequences of doing and not doing a waiver, Chairman Ahlberg stated that there would not be any consequences because it is within the Planning Boards right to do it. It was also mentioned that providing these waivers is not based on the recommendation of Town Attorney Doug Heath and the deadline for the turbines to be completed by in order to receive the grants is December 31, 2011. It was noted that Christopher Watt was on a tighter deadline due to the fact that his turbine is already up and running and the necessary inspections have been done.

Site Plan Review Waiver for Kast

On a motion of Member Preston, seconded by Member Stilwell, the following was

Carried	Ayes	5	Ahlberg, Grabowski, Preston, Stilwell, Theodorakos
	Nays	0	
	Abstained	1	Davy

The Planning Board grants a waiver for the Site Plan Review for a wind turbine for David Kast.

Site Plan Review Waiver for Watt

On a motion of Member Preston, seconded by Member Theodorakos, the following was

Carried	Ayes	6	Ahlberg, Davy, Grabowski, Preston, Stilwell, Theodorakos
	Nays	0	

The Planning Board grants a waiver for the Site Plan Review for a wind turbine for Christopher Watt.

Site Plan Review Waiver for Kirby

On a motion of Member Preston, seconded by Member Stilwell, the following was

Carried	Ayes	6	Ahlberg, Davy, Grabowski, Preston, Stilwell, Theodorakos
	Nays	0	

The Planning Board grants a waiver for the Site Plan Review for a wind turbine for James Kirby.

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Approval to Send Updates to the Town Board

On a motion of Member Stilwell, seconded by Member Preston the following was

**Carried Ayes 6 Ahlberg, Davy, Grabowski, Preston, Stilwell, Theodorakos
 Nays 0**

Updates that were handed to the Planning Board members (and on file in the Town Hall) will be presented to the Town Board at their September 20, 2011 meeting. Changes made to the Wind Energy Law include the following: on 728 E (120 ft. was changed to 140 ft. for total height), a blurb about Ag & Markets guidelines was also added to 728 E, 728K 4B (80 ft. changed to 140 ft.) and on 728K 7 (728K conflicts with 728A).

Lead Agency for SEQR for James Kirby

On a motion of Member Grabowski, seconded by Member Theodorakos, the following was

**Carried Ayes 6 Ahlberg, Davy, Grabowski, Preston, Stilwell, Theodorakos
 Nays 0**

The Town of Gaines will be the Lead Agency on the SEQR for Agricultural Wind Towers for James Kirby. It is a Type II Action, No Impact.

With no further business on a motion from Member Grabowski, seconded by Vice-Chairman Davy the meeting is adjourned at 9:53 P.M.

Respectfully Submitted,

Mary Pettit
Secretary, Planning Board