

TOWN OF GAINES
PLANNING BOARD MEETING

February 6, 2024

Meeting called to order by Chairman Watt at 7:00 P.M.

Pledge to the Flag led by Justin Kirby

Present: Justin Kirby; Gerald Monagan; Chris Watt; Craig Lane; Doug Bower and Sherman Gittens;
Engineer, MRB Group

Absent: None

Guests: Bob Reynolds; Scott Henning; Bob Brown III; Scott Ceurvets, Esq.; Douglas Mahr, Esq.; Patrick
Woodworth

ADOPTION OF MINUTES

Motion by Mr. Kirby, 2nd by Mr. Bower to adopt the minutes of January 2, 2024 Planning Board Meeting.

Aye5; Nay 0

NEW BUSINESS:

Motion by Mr. Bower, 2nd by Mr. Lane to reschedule the March Planning Board meeting to March 12,
2024 @ 7:00 PM

Aye 5; Nay 0

Reynolds Minor subdivision

Motion by Mr. Monagan, 2nd by Mr. Bower to schedule public hearing for March 12, 2024 @ 7:00 PM for
Reynolds Minor Subdivision at 3088 Oak Orchard Rd; Albion; NY 14411

Aye 5; Nay 0

OLD BUSINESS:

Lake Ontario Fruit Expansion. Mr. Gittens indicated that he went to look at the work that had been
done. Mr. Gittens recommends that the board move forward with part 2 and 3 of the SEQRA. After that,
it is recommended that the board look at the site plan and special use permit requests.

SEQRA RESOLUTION

WHEREAS, the Town of Gaines Planning Board (hereinafter referred to as Planning Board), is also considering a Site Plan approval for the construction of a 28,070+/- SF warehouse building addition to be located adjacent (connected) to the 25,245+/- SF warehouse constructed in 2013. The proposed expansion would bring the total building coverage to be 27% on parcel ID 051.00-01-038.122, located at 14234 Ridge Road in the Town of Gaines, Orleans County, New York, and as described in the Site Plans dated September 13, 2023 and all other relevant information submitted as of February 6, 2024 (the current application); and

WHEREAS, this application is an Unlisted Action and has been subject to single agency review pursuant to SEQRA; and

WHEREAS, a Long form Part 1 EAF was submitted by the applicant, dated October 16, 2023, as part of the application materials;

NOW, THEREFORE, upon consideration by the Planning Board, of all written and oral submissions and testimony by the Applicant and following a public hearing on January 2, 2024, and the Board having given this matter due deliberation and consideration; it is

RESOLVED that the Planning Board finds that the proposed action will not have any significant adverse impact on the environment, and accordingly, hereby grants a negative declaration pursuant the State Environmental Quality Review Act; based upon the following findings of fact:

FINDINGS OF FACT

This Resolution is based upon the materials submitted by the applicant, including the Subdivision Application, dated September 13, 2023.

The Board incorporates into this Resolution the completed short form Part 2 EAF, dated February 6, 2024.

The Board did not identify any significant potential environmental impacts associated with the application.

Any and all potential small to moderate impacts are adequately addressed in the application materials and through conditions of approval.

The above Resolution was offered by Mr. Lane and seconded by Mr. Bower at a regular scheduled Planning Board meeting held on February 6, 2024. Following discussion, a voice vote was recorded:

Justin Kirby
Craig Lane

AYE

AYE

Douglas Bower – Vice Chair	AYE
Gerald Monagan	AYE
Christopher Watt - Chairman	AYE

SITE PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Gaines Planning Board (hereinafter referred to as Planning Board), is also considering a Site Plan approval for the construction of a 28,070+/- SF warehouse building addition to be located adjacent (connected) to the 25,245+/- SF warehouse constructed in 2013. The proposed expansion would bring the total building coverage to be 27% on parcel ID 051.00-01-038.122, located at 14234 Ridge Road in the Town of Gaines, Orleans County, New York, and as described in the Site Plans dated September 13, 2023 and all other relevant information submitted as of February 6, 2024 (the current application); and

WHEREAS, this application was required to be forwarded to Orleans County Planning Board for review and comments were received; and

WHEREAS, this application required and received a height variance from the Town of Gaines Zoning Board of Appeals, January 2024. This is memorialized in the minutes for the Town of Gaines Zoning Board of Appeals.

WHEREAS, the Planning Board has classified the above referenced Action to be an Unlisted Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, in compliance with NYS Town Law and the regulations of the State Environmental Quality Review Act (SEQRA), a determination of significance and a negative declaration was adopted by the Planning Board on February 6, 2024; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby approves the requested Site Plan with the following conditions:

1. The Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved Site Plan within twenty-four (24) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.
2. The Town Engineer Stormwater Pond Improvement Report dated January 15, 2024 is to be addressed prior to the issuance of Certification of Use of the newly constructed storage facility. Compliance is to be performed by the Code Enforcement Officer and/or the Town Engineer.
3. Prior to the issuance of Certification of Use of the newly constructed storage facility, signage identifying the prohibition of idling vehicles during loading and unloading operations, including waiting to be called to the loading dock.
4. Prior to obtaining a building permit, the applicant is to provide all required contactor documents to the Code Enforcement Officer, including proof of Worker’s Compensation

Insurance.

5. After completion, the Applicant shall provide to the Town of Gaines Code Enforcement Officer a post-construction as-built plan sheet and certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans. This includes survey of the existing stormwater pond to confirm that the pond meets the minimum standards that it was design for.
6. A Special Use Permit granted for the use and operation by the Planning Board is required prior to signatures being affixed to the site plans.
7. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of a building permit.

The above Resolution was offered by Mr. Bower and seconded by Mr. Lane at a regular scheduled Planning Board meeting held on February 6, 2024. Following discussion, a voice vote was recorded:

Justin Kirby	AYE
Craig Lane	AYE
Douglas Bower – Vice Chair	AYE
Gerald Monagan	AYE
Christopher Watt - Chairman	AYE

SUP Approval Resolution

WHEREAS, the Town of Gaines Planning Board (hereinafter referred to as Planning Board), is also considering Special Use Permit approval for the Operations associated with the proposed site plan application to construct a 28,070+/- SF warehouse building addition to be located adjacent (connected) to the 25,245+/- SF warehouse constructed in 2013. The proposed expansion would bring the total building coverage to be 27% on parcel ID 051.00-01-038.122, located at 14234 Ridge Road in the Town of Gaines, Orleans County, New York, and as described in the Site Plans dated September 13, 2023 and all other relevant information submitted as of February 6, 2024 (the current application); and

WHEREAS, this application was required to be forwarded to Orleans County Planning Board for review and comments were received; and

WHEREAS, the Town of Gaines Planning Board has classified the above referenced Action to be a Type I Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, in compliance with NYS Town Law and the regulations of the State Environmental Quality Review Act (SEQRA), a determination of significance and a negative declaration was adopted by the Planning Board on February 6, 2024; and

WHEREAS, on January 2, 2024 in compliance with NYS Town Law, the Planning Board held a public hearing on the current application and completed a formal review of the application; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby approves the requested special use permit with the following conditions:

1. No vehicles are allowed to idle while being loaded or unloaded. Furthermore, idling is not allowed for vehicles waiting to be called to the loading dock, or waiting to make a delivery. Signage regarding such requirements should be installed on site.
2. All NYSDEC SPDES Permit requirements are to be provided to the Town when received. The Town is to be included on all discharge reporting that the NYSDEC requires and any changes to the SPDES permit.
3. A Stormwater Maintenance Plan is to be approved and signed by the applicant identifying the maintenance efforts that will be taken to keep the stormwater facilities operating as designed. Any proposed changes will need to be submitted to the Code Enforcement Official for approval.
4. An annual Stormwater Inspection report identifying maintenance to the stormwater facility and associated practices throughout the year per the Stormwater Maintenance Plan.
5. Per Town Zoning Code §940.B. The Special Use Permit will be subject to inspection every two (2) years to determine whether all conditions of the Special Use Permit are in compliance and no modifications to the equipment or property have been made that violate the conditions of the Special Use Permit.
6. If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Whenever a violation of any condition of approval occurs, any person may initiate a complaint to the Town. The Code Enforcement Officer will accurately record the complaint, file it appropriately, and investigate it. If the complaint is found to be valid, the Code Enforcement Officer will inform the owner of the premises that there is a violation of the condition of approval. The owner will be notified by certified mail and by any other means agreed upon by the Town and the person(s) of contact. The violation will have to be 30-days from the date of notice to correct the violation. Additional penalties may be assessed per violation. If the violation of this condition is not corrected with that 30-day window, this will be cause for revocation of the Special Use Permit after the applicant is notified in writing of the violations and the Town of Gaines Planning Board holds a hearing on same as provided for herein.

The above Resolution was offered by Mr. Monagan and seconded by Mr. Lane at a regular scheduled Planning Board meeting held on February 6, 2024. Following discussion, a voice vote was recorded:

Justin Kirby
Craig Lane

AYE
AYE

Douglas Bower – Vice Chair
Gerald Monagan
Christopher Watt - Chairman

AYE
AYE
AYE

Attorney Ceurvels asked for clarification in case a violation occurs at a time when due to weather or other factors, it is not fully curable within the 30 days, but a temporary mitigation is done within the time, is that acceptable. Mr. Gittens indicated that communication is the key. Once the resolutions are signed, Mr. Gittens will send an electronic copy of the resolutions. Since seeding of the ground cannot occur until the weather improves, Mr. Gittens inquired if there has been any straw put in place to at least help prevent erosion in the event of melting snow or rain. Mr. Henning indicated that have not done that yet, but they would be willing to do it. Mr. Gittens indicated that either loose straw or a straw mat, whichever is easier, would be acceptable. Chairman Watt suggested that if loose straw is used, netting should be put over it to prevent it from being blown away in the wind. Attorney Ceurvels asked when they would receive the Special Use Permit and Mr. Gittens stated that the signed resolution is the Special Use Permit.

Discussion about Uderitz Solar project. Chairman Watt reported that this project is mainly settled. Mr. Gittens reported that he received an email from Janet Ward's attorney regarding the remaining issues, per the letter from the Code Enforcement Officer. Mr. Kirby asked what a preconstruction meeting requires. Mr. Gittens explained that a third-party contractor will review who we contact if there is an issue, who do they contact if there is an issue and make sure they have all their paperwork. Mr. Gifaldi, the Codes Enforcement Officer, will set up monthly meetings with MRB Group if the project is less than 5 acres. If it is over 5 acres, then it is every 2 weeks, per the DEC. Mr. Gifaldi, Mr. Gittens, and a representative from the Planning Board need to be in attendance. Mr. Gittens keeps minutes for the meeting. Town Attorney, Douglas Heath will need to review and approve.

Discussion about Pescara Solar project. No one from CVE attended the meeting tonight. Mr. Gittens provided an evaluation of the decommissioning estimate. It appears that there are several discrepancies in the calculations. Mr. Kirby inquired where the board goes from here. Mr. Gittens asked if the board would like to give them a list of insufficiencies to put the matter back in their hands. The board could advise them that the price needs to be adjusted by at least 30% and the deficiencies that have been identified. Chairman Watt stated that the revenue from scrap needs to be removed and then the expenses need to be increased by at least 30%. Chairman Watt also indicated that when we send this back to them, we need to tell them that we have reviewed it and they need to provide the number of hours of labor, broken down by classes of labor. They also need to show the cost of all insurance and Social Security costs. Additionally, they need to be specific about exactly what type of equipment and attachments will be used for every aspect of the project. There needs to be a breakdown of the number of people who will be doing the work. The tree removal rate that is listed is very low based on prevailing rates. There is nothing that indicates how many truckloads are needed for removal, the supply of dirt to fill holes and compress the dirt. Mr. Gittens suggested that the details about the labor and the sequence of decommissioning be specified since they have proven that they do not meet the mark. Chairman Watt believes that this should be the absolute last chance, if it isn't right this time, they will need to start the process all over again. Mr. Monagan indicated that at this point, the entire piece is useless as submitted. Mr. Gittens also stated that when it is resubmitted, it needs to be put in a different format. Mr. Lane also pointed out that there are no formulas included, for example the pole removal, showing how they arrived at their figures. The Board should not have to do any calculating, it should be in the paperwork that they submit. Mr. Gittens stated that it appears that they like to lump all the costs together. If they fail to meet the requirements, there will probably need to be a resolution stating the

deficits and special use permit. There should be a conversation with Town Attorney, Doug Heath for a detailed resolution.

ADJOURNMENT

Motion by Mr. Kirby, 2nd by Mr. Bower to adjourn meeting at 8:24 PM.

Aye 5; Nay 0

Respectfully Submitted,
Janet Cheverie, Town Clerk