

TOWN OF GAINES PLANNING/ZONING BOARD MEETING  
October 23, 2013

7:00PM

Present: Chairman Michael Grabowski, Vice-Chairman Raymond Burke  
Members: Curtis Strickland, Marilynn Miller, George Fleshman (alternate)

Guests: Dave Kast, Kathy Kast, David Snell, Jerry Culhane, Kris Vurraro

Excused: Member: David Thom

Chairman Grabowski reconvened the meeting to order at 7:01PM with the Pledge of Allegiance to the Flag.

**Approval of September 4, 2013 Minutes and transcription**

On a motion of Member Miller, seconded by Vice-Chairman Burke, the following was

Carried Ayes 5 Burke, Grabowski, Strickland, Miller, Fleshman  
Nays 0

The September 4th, 2013 minutes and transcription are approved as is.

**New Business**

**Kast Farms Area Variance**

Chairman Grabowski gave background on granting an area variance in the Town of Gaines and what is taken into consideration. The five factors will be reviewed: Undesirable change in the character of the neighborhood or a detriment to nearby properties will be created by the grant of the variance, whether the benefit sought by the applicant can be achieved by some feasible method other than a variance, whether the requested variance is substantial, whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, whether the alleged difficulty was self-created. Chairman Grabowski stated that area variances are granted to property not the applicant and they don't expire when the land changes hands and secondly, the ZBA will grant the minimal variance. The application being reviewed is for a foundation variance and an occupancy density variance.

Foundation variance was opened up for discussion. Member Miller stated that since the housing will be located so far back that an undesirable change would not be produced. She was not sure what other feasible method could be used except for a slab foundation. It is a substantial variance as of the monetary amount. She does not see that it will not have an adverse effect on the neighborhood but if the housing is removed we need to put something in writing that the foundation would be removed also. She believes it is self-created as Mr. Kast is on the town board who approved the zoning ordinances. Vice-chairman Burke read Resolution 59-11 which was adopted on August 16<sup>th</sup>, 2011 in which Councilman Kast Seconded the motion to adopt. He also stated as far as at the last meeting Mr. Vurraro

discussed about having Mr. Kast having to wear two different hats, being a Town Board Member and being a public servant, and this shouldn't work for or against him as he would hope it would not for anyone else on the board seeking some kind of municipal approval in which they would want their status on the ZBA to be used against them while working in a private capacity. Vice-chairman Burke stated that he felt this was directed at him and wanted it to be made aware that he has worked with the Town Code Enforcers to ensure he has been doing everything correctly, double checking the laws and requirements during this process and even prior to purchasing the property. Wearing two hats has some responsibility and that he is trying to do the best job he can with the house at 104 & 98 and trying to do the best job as a ZBA board member. As far as going through the five steps he agrees pretty much with everything Member Miller stated. Member Fleshman asked if we had received any information of how it would be installed and Roger Kopas explained that we had received a hand drawn frame plan and how it would be transported. Chairman Grabowski explained that Mr. Kopas would have to approve installation which needs to comply with a list of codes to receive the building permit, and the ZBA is deciding if it will allow the use of piers compared to a full foundation as stated in our zoning. Member Strickland stated he agrees with Member Miller's comments and does believe that it was self created. Mr. Vurraro wanted to remind everyone that virtually all area variances are self created and that is why the legislature with respect to area variances carved out the fact that self creation is not an absolute bar to granting area variances. Chairman Grabowski stated the area variance will go with the land and wants to think about the long term, and he understands this is a small part of this parcel. He believes it would change the character of the neighborhood however, he would like to have them take pains to minimize that. He would like to see skirting around the housing if it is approved. He thinks that a full foundation gives a permanence. He believes it can be achieved by another method – a full foundation. He doesn't believe that full foundation or piers would make much difference of an adverse effect on the environment. He has no doubt that it is self created.

Roll call was taken for approval or deny for the use of piers

Member Miller – approved with a clause that skirting will be around the foundation and the piers will be removed when the housing is removed.

Vice-Chairman Burke – not approved

Chairman Grabowski – approved with skirting around the foundation and approval from code enforcer for installation meeting codes.

Member Fleshman – approved with skirting around the foundation.

Member Strickland – approved with skirting around the foundation

Mr. Kast has been granted to use pier foundation as long as skirting will be around the foundation and the piers will be removed when the housing is removed.

Density Variance to have 8 individuals instead of 6 individuals in a single wide trailer.

Member Miller stated the ZBA has an obligation to ensure the health and safety of people living there. The more people living in an area has undesirable change to the area. Mr. Kast could have purchased larger housing or purchased more housing. The monetary value is substantial but with government assistance it could help defray the costs. Believes it is self created. Vice-chairman Burke agrees with Member Miller. Member Fleshman agrees that only six individuals should be in the housing. Member Strickland agrees with Member

Miller but also believes that the requested variance is substantial. Chairman Grabowski believes more than six people would be unfair to them and it was self created.

Mr. Kast stated that in the Town of Murray he has labor housing that health officials have been to visit a few times already this year and they were commended by the authorities on how they had the best quality labor housing around. So when they decided to put housing in in the Town of Gaines he decided to put it in his neighborhood. He and his wife are the closest to the housing and then his uncle and his father. He said he will have to put in more housing and wondered where should he put it in? Put it next to the existing or someplace else? He would like to put it in the best location for the town.

Roll call was taken for approval or deny for eight individuals in a single wide housing  
Member Miller – not approved  
Vice-Chairman Burke – not approved  
Chairman Grabowski – not approved  
Member Fleshman – not approved  
Member Strickland – not approved

Mr. Kast was not approved to have 8 individuals in the single wide housing.

#### **Granting of Time Extension to Mr. Lance Mark**

Chairman Grabowski stated Lance Mark and Dan Spitzer made a mutual agreement to grant more time for Mr. Mark to get information together in regards to Watt Farms Turbine.

On a motion by Vice-chairman Burke, seconded by Member Fleshman the following was carried

Carried           Ayes 5 Burke, Grabowski, Strickland, Miller, Fleshman  
                      Nays 0

To grant an extension of time of 30 days from October 23, 2013 for Mr. Mark to give the ZBA requested information.

#### **Old Business**

##### **Francis Ciesielski & Michael Ducharme Sub division application**

Chairman Grabowski stated back in July Mr. Snell requested a subdivision for Ciesielski and Ducharme, it went to county but they stated they did not have to approve this sub-division. The county recommended the town should take in to consideration that the way the sub-division is laid out it would not be 4 conforming lots as one lot is land locked (does not have 200 foot front footage). It has been through SEQR and a site plan review. Mr. Snell stated that Ciesielski & Ducharme would like to change the requested subdivision from 4 to 3 conforming lots.

On a motion by Vice-chairman Burke, seconded by member Miller the following was carried

Carried        Ayes 5 Burke, Grabowski, Strickland, Miller, Fleshman  
                  Nays 0

To approve the sub-division to have three conforming lots.

With no further business on a motion from Member Strickland, seconded by Vice-chairman Burke the meeting was recessed at 8:10pm.

Respectfully Submitted,  
Carol Claus  
Zoning Board of Appeals Secretary