

TOWN OF GAINES PLANNING/ZONING BOARD MEETING  
JULY 17, 2013 7:00PM

Present: Chairman Michael Grabowski, Vice-Chairman Raymond Burke  
Members: David Thom, Curtis Strickland, Marilyn Miller

Guests: Gary Davy, Connie Mosher, Andy Schels, Lucy Dori, Tibbs Ahlberg

Chairman Grabowski called the meeting to order at 7:02PM with the Pledge of Allegiance to the Flag.

**Approval of July 16, 2013 Minutes**

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

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

The July 16, 2013 minutes are approved with the following changes requested by Member Burke. Where stated in the minutes under Public Hearing for Ray Burke it should read Burke gave a quick overview of selling upper scale art and crafts. Not just art. Also under Ray Burke Special Use Permit discussion the days are Friday – Sunday not Monday – Friday. Oded Kalir stated there will be no women living in the migrant housing.

**Opening of Public Hearing Kast Farms Labor Housing**

Chairman Grabowski read the public hearing notice at 7:09pm:

PLEASE TAKE NOTICE that the Town of Gaines Zoning Board of Appeals will conduct a Public Hearing to review the application for area variances for Kast Farms Farm Labor Housing located at 2824 Densmore Road Albion, New York. The Public Hearing will be held on Wednesday July 17<sup>th</sup>, 2013 at 7pm. at the Gaines Town Hall 14087 Ridge Road Albion, New York 14411. All persons attending will be heard for or against the application.

Dated July 3, 2013

Carol L. Claus  
Secretary  
Zoning Board of Appeals

The public was asked if they had any comments or questions. Chairman Grabowski stated that these are use variances not area variances. He reviewed for the public that Kast Farms has two variances they are requesting; one increasing the amount of workers living in farm labor housing from six to eight per home, our zoning allows for six; and to allow for the mobile homes to be installed using piers instead of full foundations, our zoning requires a full foundation. Chairman Grabowski stated this site plan has been approved by the county and zoning board and we are here to discuss the use variances. Andrew Schels asked where these homes would be located. Chairman Grabowski reviewed the site plan and also stated they are to be set 324' 8" off of Densmore Rd and about 3/4 of a mile south of 104. The public was informed that H2A workers would be there from approximately

September 1<sup>st</sup> through November 15<sup>th</sup>. One house may have workers prior to the month of September. There were no more questions or comments from the public.  
Closed at 7:21pm

### **Review of Kast Farms Use Variances**

Section 665 of our zoning laws states conditions of migrant housing, which Chairman Grabowski reviewed. The first application to be considered will be increasing the number of farm workers from six per unit to eight per unit. For the record, during the site plan review we have already done the SEQR part of this application and we don't have to do it again. Chairman Grabowski reviewed how the applicant needs to show justification for the variances. The justification must demonstrate unnecessary hardship that would result if the application was denied. We look at uniqueness, reasonable return, self created hardship and character.

Chairman Grabowski reviewed the applicants application responses. Gary Davy also commented that the housing is built to accommodate eight workers. He also stated there will be no women living here as of now.

The self created hardship is did they not know that they could not have more than six workers per unit. Chairman Grabowski asked Gary what they would do if only six people were allowed to live there. Gary stated they would probably eventually put in more units. The board went through all four steps of the use variance test to see if it would pass with the following results: Uniqueness requirement met: Strickland aye, Burke aye, Grabowski aye, Thom aye, Miller aye. Reasonable Return requirement met: Strickland nay, Burke nay, Grabowski nay, Thom nay, Miller nay. Hardship Self Created: Strickland aye, Burke aye, Grabowski aye, Thom aye, Miller aye. Character requirement met: Strickland aye, Burke aye, Grabowski aye, Thom aye, Miller aye. Chairman Grabowski stated by definition this has not passed the requirement test.

On a motion of member Thom, seconded by Vice-Chairman Burke

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

The use variance permit is denied.

The question was asked by member Strickland if we could table this until more financial information could be given. Chairman Grabowski stated that he could reapply for the permit but we had to go with the application that has been given to us.

Roll call was taken by Chairman Grabowski to deny the use variation permit: Strickland aye, Burke aye, Grabowski aye, Thom aye, Miller aye.

The second use variance application is for using a pier foundation. Chairman Grabowski reviewed the applicants application responses in regards to the justification. He then reviewed section E656 of our zoning for mobile home placement on a permanent foundation. Gary stated that other towns have moved to the pier system due to a full

foundation has become an issue of supporting the mobile homes properly. Roger Kopas stated who ever designs the foundation would have to be a certified structural engineer and a certified installer would have to install it to the engineers exact specs. Roger Kopas has an inspection company that does supply special inspections. The special inspectors would be held responsible if something were to happen.

The following was discussed for reasonable return: Gary stated it would be about \$4000 - \$ 5000 more per unit to put in a full foundation compared to using the pier system. AJL Homes gave him this estimate and they are doing the installation. Gary also said they would probably not remove a full foundation if the homes were removed. He stated AJL Homes recommends the pier system. Member Miller said it would have been helpful if he had brought in the estimate. Gary stated they believe they would get about 25-30 years of use from the mobile homes.

Member Miller said she doesn't believe he is not going to get a reasonable rate of return and she does not think he has proved this would be a problem. For the record Uniqueness requirement met: Strickland aye, Burke aye, Grabowski aye, Thom aye, Miller aye. Reasonable Return requirement met: Strickland nay, Burke nay, Grabowski nay, Thom nay, Miller nay. Hardship Self Created: Strickland nay, Burke aye, Grabowski aye, Thom aye, Miller aye. Character requirement met: Strickland aye, Burke aye, Grabowski aye, Thom aye, Miller aye. Chairman Grabowski stated by definition this has not passed the requirement test.

On a motion of Vice-chairman Burke, seconded by member Miller

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

The use variance permit is denied

Roll call was taken by Chairman Grabowski to deny the use variation permit: Strickland aye, Burke aye, Grabowski aye, Thom aye, Miller aye.

With no further business on a motion from Member Strickland, seconded by Member Miller, the meeting was adjourned at 8:37PM.

Respectfully Submitted,  
Carol Claus  
Secretary, Zoning Board of Appeals