

## Town of Ghent Planning Board

Meeting of 1/6/21

Planning Board Chairman French, Member Barufaldi, Member Machiz, Member Groom, Member Stoner, Member Lazar, Member Ocean, Attorney Matt Cabral and Code Enforcement Officer Keefe.

Called to order 6:00PM by Chairman French via Zoom.com.

Motion to approve the November 4<sup>th</sup> meeting minutes as amended was made by Mr. Barufaldi, seconded by Mr. Machiz, all in favor, motion carried.

### **Public Hearing:**

Fuss  
– Application for Minor Subdivision  
1508 Route 9 (Arnolds Mills Road),  
Tax Parcel ID# 76.-1-21

Fred Haley, the Land Surveyor introduces himself and Chairman French shares his screen of the maps. Mr. Haley states the building inspector had asked him to add notes on the map regarding the health department, which were added.

Motion to open the Public Hearing was made by Mr. Barufaldi, seconded by Mr. Machiz, all in favor, motion carried.

Public Member Dan Gronich asks what the purpose of the subdivision is, Mr. Haley states to separate a conforming lot with the father's house so that it can be sold ("Lot 1") and the two children can keep the remaining land ("Lot 2"). Mr. Gonich asks where the lot line will be for the house as his land is behind there, Mr. Haley states 2 acres will stay around the house (Lot #1) and there is no intention to build on Lot #2. Chairman French states they are creating one buildable lot that is 15.19 acres, Mr. Haley adds the zoning there is Residential/Agricultural, 2 acre minimum. Chairman French adds there were other comments sent in writing by the public that are available in the dropbox on the Town Website.

Motion to close the Public Hearing was made by Mr. Machiz, seconded by Mr. Barufaldi, all in favor, motion carried.

Mr. Machiz asks about the note on the map regarding subdivisions since 1990, Mr. Haley states there haven't been any, Mr. Machiz states the note should therefore indicate that there were none. Chairman French reads aloud Section 156-31 of the Code of the Town of Ghent and Mr. Haley states he certifies that this meets that section; Mr. Machiz asks if that can be added to the notes on the maps prior to signing. Mr. Cabral reads what the note should state on the map to meet the code, Mr. Haley requests the Code Enforcement Officer send to him what the note should state and it will be added to the maps for signing.

Chairman French reads through SEQRA, the Board declares a Negative Declaration.

Motion to approve the application contingent on the map revised to include the statement as outlined on form GPB900 was made by Mr. Barufaldi, seconded by Mr. Machiz and that it meets the Zoning Code and Master Plan, all in favor, motion approved.

Minutes of the December 2<sup>nd</sup> and 16<sup>th</sup> meeting were tabled until the February meeting.

**New Business:**

Chairman French states there has been correspondence regarding the decision by the Town Board to retain one counsel for all town boards. Mr. Cabral states it should be handled in an open meeting format, but discussion of any single person's employment should be avoided. Mr. Barufaldi begins by stating it has nothing to do with Matt Cabral and his competency to work with the Planning Board (PB) and adds that the PB was not included in the decision process to remove existing counsel and retain one attorney for all boards. Mr. Barufaldi reads that New York State allows planning boards the ability to retain their own attorneys or reject the attorney the Town Board selects for the PB and that the PB is within its own rights to select their own attorney assuming they stay within the budget allowed.

Mr. Barufaldi states there are a few items he would like to start the discussion with regarding what to do next. First is whether the PB is interested in maintaining a separate counsel from the Town Board, second is maintaining the PB's counsel for a lengthy period of time and the value of institutional knowledge and if there is a change what the transition process should be. Mr. Barufaldi adds there were also several emails back and forth regarding the change in counsel and would add that those should be entered into the record as well. Mr. Cabral states the Town Law does allow the PB to obtain its own experts which would include counsel although the Town Board, through the budget process, may not see fit to pay for separate counsel for the PB. Mr. Machiz states that he agrees with Mr. Barufaldi's comments and feels that the PB was blindsided by the decision of the Town Board and feels that the timing was extremely bad with the major applications that are in front of them at the moment. Mr. Ocean adds that he had also submitted an email to the Chairman and would like that to be added to the record as well and asks if the Chairman was consulted or given a reason of the decision of the Town Board to retain one counsel for all Boards, Chairman French states he was not.

Chairman French states the Board needs to make a decision on how to proceed with the Nexamp application at this point; does it get tabled until a decision is made regarding the attorney or continue with the situation now. Mr. Machiz asks if the attorney fees are funded by the applicant, Chairman French states it is. Mr. Barufaldi states he feels the Board needs to move forward with the Nexamp application as it is now. Chairman French states if the Board is in agreement the applicant can go through the application and they have received the items that were requested at the last meeting. Mr. Cabral states he has reviewed the Decommissioning Plan and made some revisions to it regarding the final bond format and approval. Mr. Barufaldi states he would like to have a decision on the next steps the Board is going to make regarding counsel prior to moving forward on this application. Mr. Groom states he feels the Board should move forward with the application as it is not the applicant's fault or

the Board's that they are even in this predicament. Chairman French states he will draft a letter to the Town Board to allow the Planning Board to retain their own attorney.

**Old Business:**

Nexamp Solar

–Application for a Special Use Permit/Area Variance

NYS Route 9H

Tax Parcel ID# 91.1-4.100

Mr. Machiz states he would like to request the applicant extend the 62-day deadline on the decision on the application after the public hearing is closed if it is needed due to the issue of counsel. Mr. Auerbach, the applicant's attorney, states they have accepted the redline issues with the Decommissioning Plan as well as the landscaping issues which they will address tonight, however the Planning Board is the one that makes the decision on the application, not the attorney, and if an issue arises that requires input from the attorney they don't anticipate forcing the Board to make a decision if more time is needed.

The Board refers back to the discussion of retaining a separate attorney from the Town Board and moving forward with the Nexamp application. Mr. Cabral suggests setting a special meeting for the Board to continue the discussion of retaining their own attorney. Mr. Groom suggests continuing the discussion of the application tonight as does Ms. Lazar. Mr. Barufaldi asks Mr. Cabral if they get to the 62 days and have not made a decision on the application what would happen, Mr. Auerbach states it is a default approval of the application.

Mr. Stout, the landowner's attorney, begins by stating they revised the landscaping per the suggestions of Mr. Ocean as well as making the Decommissioning Plan revisions. Mr. Thomas, the applicant's landscape architect, then shares his screen and explains the landscaping changes.

Mr. Machiz asks about the two separate parcels and two separate permits and a discussion ensues. Mr. Cabral states that once the subdivision occurs each property will have its own permit and decommissioning plan as separate entities. Chairman French states the Board's role is limited to zoning issues and the ownership is not a zoning issue. Mr. Groom suggests the Board focus on the Decommissioning Plan. Mr. Auerbach states they could certify that they are within the thresholds to avoid triggering the Decommissioning Plan. Mr. Machiz asks if the discount that Ghent residents receive is also tied to the output, Mr. Auerbach states it is, but the discount is not tied exclusively to this facility. Mr. Auerbach adds that they would certify that if at anytime the facility does not produce capacity for 12 months there would be an automatic obligation to decommission. Mr. Cabral asks if they would add a line stating upon request that a certification that output above the threshold would be provided, Mr. Auerbach agrees.

Mr. Barufaldi asks Mr. Jurkowski if NYSEDA is able to provide data on Nexamp's production at this facility for the purposes of knowing when decommissioning might trigger due to loss of

electricity production, Mr. Jurkowski states he would have to look into that, Chairman French states there is a map of solar farms but it does not provide output data. Chairman French states there was also a submission of public marketing, Mr. Barufaldi states this was for the prioritization of Ghent residents, commercial and municipal entities. Mr. Curlin, Nexamp Director, confirms they will help sign up Ghent residents and will work with the Town on the prioritization with a 45-day exclusivity period. Mr. Barufaldi states they are confirming that Ghent residents will be guaranteed the ten percent discount, Mr. Curlin agrees as well as 12.5% discount for municipal and small business accounts. Ms. Lazar asks if the two parcels have shared access, does this need an access agreement, Mr. Cabral states that is advisable, Mr. Stout states easements are indicated on the plans. Mr. Curlin adds that could be an acceptable part of the conditions.

Chairman French states on the landscaping drawing C1-10 is where the plant species were modified, Mr. Thomas states it is and the quantities remained constant and a note was added for maintenance for the life of the project. Chairman French adds that should one parcel go under and the other continue the landscaping in the easement should be maintained, Mr. Thomas states there is planting on the plan for parcel A that is actually on Parcel B. Mr. Morrison, the applicant's engineer, states Mr. Stout should modify the easement area and provide meets and bounds descriptions. Mr. Jurkowski asks if the Army Corps has been out to the site yet, Mr. Morrison states they have not yet due to Covid. Mr. Jurkowski adds that if the landscaping is not maintained they would be in violation of the Permit.

Discussion ensues regarding the need for an extension. Mr. Barufaldi requests applicant grant an extension. Applicant indicates they will not at this time, but will not unreasonably withhold an extension at the next meeting, should the need arise.

Meeting adjourned at 9:45PM.

Respectfully submitted,

Erin Reis

Secretary