

# SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on October 31, 2019

Applicant: Ferrell Gas LP represented by Marks Engineering

Variance No: #101019 - SUP

Address: P.O. Box 247, Ovid NY 14521

Zoning District: HB

Telephone: (607) 869-2341

Published Notice on 10/15/19 DM

Property Location: 877 Route #364, Middlesex, NY 14507

County Planning Approval 10/24/19

Applicable Section of Town Zoning Code: Sect. #402, Schedule I, (D)

Planning Board Site Plan Approval 10/02/19

## NATURE OF REQUEST

Requested Action: Pursuant to Sect. #402, Sched. I (D), Applicant requests a Special Use Permit (Sec. 501.0) by the Zoning Board of Appeals for a Commercial Propane Storage and Distribution Center proposed to be located at 877 State Route #364, home of "364 Powersports, Inc." an existing Commercial Business in the Highway Business Zoning District.

## 502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes X No \_\_\_ Reasons: Applicant has provided clear documentation of EPA and NYS Safety Guidelines that indicate the proposed tank and site will be constructed with appropriate ballard fortification and operated within the most optimum safety regulations to include local emergency safety training with the Middlesex Hose District on an annual basis. The installation will be located in an open field to the rear of the existing "364 Powersports, Inc." which is approximately 84 ft. off the highway.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes X No \_\_\_ Reasons: The operation is proposed to be installed, and operated in consideration for the surrounding neighborhood businesses and residences and will include extensive landscape buffering, tank fortification, traffic egress and ingress for deliveries off the State Road, noise, lighting, and operation to be consistently maintained to create minimum impact without substantial injury to the value of neighboring parcels.

502.1.3 That adequate landscaping and screening is provided.

Yes X No \_\_\_ Reasons: The submitted Engineer Drawings clearly indicates substantial landscape buffering has been carefully planned to minimize visual impact.

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes X No \_\_\_ Reasons: The submitted drawings and letter of intent provided with the application clearly indicate this has been adequately planned. The business will be located to the rear of an existing business off of Route #364 which has minimal traffic, and applicant has indicated in their letter of intent that deliveries at peak times will be minimal per week.

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes X No \_\_\_ Reasons: The application was approved by the Planning Board with Site Plan Review with Engineered Plans submitted for appropriate erosion control within the site and keeping it off abutting properties.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes X No \_\_\_ Reasons: The facility off a State Highway that is properly maintained with minimal traffic flow Utilities serving the location are currently supplied adequately.

**502.2. SPECIFIC REQUIREMENTS** (when applicable)

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**DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:**

The ZBA, after taking into consideration the above factors, in a motion made by Elizabeth Grant, and seconded by Ted Carman, finds that:

- ✓ The benefit to the Applicant DOES outweigh the detriment to the character, health, safety, and welfare of the neighborhood and therefore the variance request is **granted**.

NOTE: SEC. 908.0 of the Town of Middlesex, NY Zoning Law states:

Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals, or any officer, department, board or bureau of the Town, may apply to the Supreme Court by proceeding under Article 78 of the Civil Practices Law and Rules. Such action must be instituted within thirty (30) days after the filing of a decision in the Office of the Town Clerk.

**CONDITIONS:**

The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community:

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Arthur Radin 10-31-19  
Chairperson, Zoning Board of Appeals Date

**RECORD OF VOTE**

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin</u>	<u>X</u>	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ted Carman</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Win Harper</u>	<u>X</u>	___
Member	<u>Rebecca Parshall (alternate)</u>	<u>(absent)</u>	___

