

# Town of Canandaigua

5440 Routes 5 & 20 West • Canandaigua, NY 14424

Phone (585) 394-1120 • Fax (585) 394-9476

## Planning Board Decision Notification

**Meeting Date: October 25, 2022**

**Project: CPN-22-070**

**Applicant**

Robert D'Acquisto  
1940 New Michigan  
Road  
Canandaigua, NY 14424

**Owners**

Robert D'Acquisto  
1940 New Michigan  
Road  
Canandaigua, NY  
14424

**Project Type**

Special Use Permit  
for Major Home  
Occupation

**Project Location**

1940 New  
Michigan Road

**Tax Map #**

55.00-1-45.000

**TYPE OF APPLICATION:**

- ☐ Preliminary    ☐ Final Phased    ☐ One/Single Stage  
☐ Subdivision    ☐ Site Plan    ☒ Special Use Permit

Applicant Request:

- ☒ Granted    ☐ Denied    ☐ Tabled  
☐ Continued to:  
☒ See attached resolution(s)

**STATE ENVIRONMENTAL QUALITY REVIEW (SEQR):**

- ☐ Type I    ☒ Type II    ☐ Unlisted  
☒ See Attached resolution(s):

Negative Declaration Date:

Positive Declaration Date:

**Recommendation To:**

- ☐ Town Board    ☐ ZBA    ☐ N/A    ☐ See attached resolution(s)

Recommendation:

CANANDAIGUA TOWN CLERK

NOV - 4 2022

RECEIVED *W*

**Surety Requirements:**

- ☐ Landscaping: \$    ☐ Soil Erosion: \$  
☐ Other (specify): \$

THIS APPROVAL SHALL EXPIRE IF YOU FAIL TO  
OBTAIN THE PLANNING BOARD CHAIR'S SIGNATURE  
ON THE FINAL PLAN BY: 4/23/23  
YOU ARE RESPONSIBLE FOR REQUESTING AN  
EXTENSION PRIOR TO THIS EXPIRATION DATE IF  
THIS REQUIREMENT CANNOT BE MET.

**Surety Release:**

Certified By: *[Signature]*

Chairperson, Planning Board

Date: 10/26/22



TOWN OF CANANDAIGUA PLANNING BOARD RESOLUTION  
ROBERT D'ACQUISTO  
1940 NEW MICHIGAN ROAD – AR-2 ZONING DISTRICT  
CPN 22-070 – TM# 55.00-1-45.000  
SPECIAL USE PERMIT APPROVAL – MAJOR HOME OCCUPATION  
§220-15 & §220-59

**SEQR RESOLUTION – TYPE II ACTION**

**WHEREAS**, the Town of Canandaigua Planning Board (hereinafter referred to as Planning Board) is considering an application for Special Use Permit for a Major Home Occupation to operate an internet-based car business, with no offline sales or exterior display of goods/products occurring onsite, located at 1940 New Michigan Road within the AR-2 zoning district, and all other relevant information submitted as of October 25, 2022 (the current application); and

**NOW, THEREFORE, BE IT RESOLVED THAT**, the Planning Board does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

**BE IT FURTHER RESOLVED THAT**, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

**BE IT FINALLY RESOLVED THAT**, the Planning Board in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by Bob Lacourse and seconded by Scott Neal at a meeting of the Planning Board held on Tuesday, October 25, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Mark Tolbert -	<i>AYE</i>
Scott Neal -	<i>AYE</i>
Bob Lacourse -	<i>AYE</i>
Amanda VanLaeken -	<i>AYE</i>
Charles Oyler -	<i>AYE</i>

I, John Robortella, Secretary of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Canandaigua Planning Board for the October 25, 2022 meeting.

John Robortella L. S.  
John Robortella, Secretary of the Board

CANANDAIGUA TOWN CLERK

NOV - 4 2022

RECEIVED *PO*



TOWN OF CANANDAIGUA PLANNING BOARD RESOLUTION  
ROBERT D'ACQUISTO  
1940 NEW MICHIGAN ROAD – AR-2 ZONING DISTRICT  
CPN 22-070 – TM# 55.00-1-45.000  
SPECIAL USE PERMIT APPROVAL – MAJOR HOME OCCUPATION  
§220-15 & §220-59

**SPECIAL USE PERMIT APPROVAL RESOLUTION**

**WHEREAS**, the Town of Canandaigua Planning Board (hereinafter referred to as Planning Board) is considering an application for Special Use Permit for a Major Home Occupation to operate an internet-based car business, with no offline sales or exterior display of goods/products occurring onsite, located at 1940 New Michigan Road within the AR-2 zoning district, and all other relevant information submitted as of October 25, 2022 (the current application); and

**WHEREAS**, the Planning Board completed a formal review of the proposed site plan in compliance with the implementing regulations of the State Environmental Quality Review Act (SEQR); and

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

**WHEREAS**, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

**WHEREAS**, the Applicant has requested a waiver from providing a professional prepared site plan, and said waiver was granted by the Planning Board; and

**WHEREAS**, the Planning Board has determined the Special Use Permit was consistent with the provisions of Chapter §220-35, and §220-59 of the Town Code; and

**WHEREAS**, the Planning Board has compiled the attached list of findings to be kept on file with the application in the Town Development Office; and

**NOW, THEREFORE, BE IT RESOLVED**, the Planning Board hereby ☐ Approves without Conditions; ☒ Approves with the following Conditions; or ☐ Denies the application for the following reasons:

1. The special use permit (non transferrable) shall remain in effect for the current owner of the premises and/or operators with no requirement for renewal, provided the use remains in compliance with the conditions of approval and Town Code §220-35, and §220-59.
2. In compliance with Town Code §220-35 and §220-59, the Town Zoning Officer shall make an on-site visit at least once every three years, or as may be necessary to insure that the special use permit is being operated in accordance with the conditions specified by the Planning Board.
3. This specially permitted use if not begun, by way of start of operations or physical development of the site, within one year of the Planning Board vote to approve the special use permit, shall expire unless renewed by the Planning Board.
4. No signage is proposed with this application. If signage is requested, separate approval from the Town of Canandaigua will be required.

The above resolution was offered by Bob Lacourse and seconded by Scott Neal at a meeting of the Planning Board held on Tuesday, October 25, 2022. Following discussion thereon, the following roll call vote was taken and recorded:



TOWN OF CANANDAIGUA PLANNING BOARD RESOLUTION  
ROBERT D'ACQUISTO  
1940 NEW MICHIGAN ROAD – AR-2 ZONING DISTRICT  
CPN 22-070 – TM# 55.00-1-45.000  
SPECIAL USE PERMIT APPROVAL – MAJOR HOME OCCUPATION  
§220-15 & §220-59

**SPECIAL USE PERMIT APPROVAL RESOLUTION**

Mark Tolbert - *AYE*  
Scott Neal - *AYE*  
Bob Lacourse – *AYE*  
Amanda VanLaeken – *AYE*  
Charles Oyler - *AYE*

I, John Robortella, Secretary of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Canandaigua Planning Board for the October 25, 2022 meeting.

  
\_\_\_\_\_  
John Robortella, Secretary of the Board L. S.

CANANDAIGUA TOWN CLERK

NOV - 4 2022

RECEIVED 



TOWN OF CANANDAIGUA PLANNING BOARD RESOLUTION  
ROBERT D'ACQUISTO  
1940 NEW MICHIGAN ROAD – AR-2 ZONING DISTRICT  
CPN 22-070 – TM# 55.00-1-45.000  
SPECIAL USE PERMIT APPROVAL – MAJOR HOME OCCUPATION  
§220-15 & §220-59

**FINDINGS**

1. The Town of Canandaigua Planning Board is considering an application for Special Use Permit for a Major Home Occupation to operate an internet-based car business, with no offline sales or exterior display of goods/products occurring onsite, located at 1940 New Michigan Road within the AR-2 zoning district, and all other relevant information submitted as of October 25, 2022.
2. On October 25, 2022 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.
3. The Planning Board has classified the project as a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions are not subject to further review under Part 617 of the SEQR Regulations.
4. In making this classification the Planning Board has satisfied the procedural requirements under SEQR and directed the Resolution to be placed in the file on this project.
5. A Zoning Law Determination was prepared dated September 23, 2022:

**DETERMINATION:**

The applicant has adequately addressed each of the conditions of approval necessary per 220-59(B) dictating Special Use Permits.

The Board will address each of these conditions, with the applicant, prior to making their decision.

**REFERRAL TO PLANNING BOARD:**

All Special Use Permits require Planning Board approval.

**CODE SECTIONS:** Chapter §1-17; §220-115; §220-59

6. This application was referred to the following agencies for review and comment:
  - Chris Jensen, Town CEO
7. No comments were received from Chris Jensen, Town CEO.
8. The Planning Board has considered all comments as part of their review of the application.
9. The Planning Board reviewed the proposed application in accordance with the requirements of §220-35 and §220-59 Special Use Permit for a Major Home Occupation and the following standards are met:
  - The property is in full compliance with the provisions of the Town Code..
  - The major home occupation is determined to be clearly subordinate to the permitted principal residential use of the premises.
  - No other major home occupation is conducted upon the premises.



TOWN OF CANANDAIGUA PLANNING BOARD RESOLUTION  
ROBERT D'ACQUISTO  
1940 NEW MICHIGAN ROAD – AR-2 ZONING DISTRICT  
CPN 22-070 – TM# 55.00-1-45.000  
SPECIAL USE PERMIT APPROVAL – MAJOR HOME OCCUPATION  
§220-15 & §220-59

**FINDINGS**

- The special use permit must be issued to the owner of the premises who is an actual resident of the premises.
- No more than two employees, whether full-time or part-time and whether paid or unpaid, who are not residents of the premises shall be permitted.
- The major home occupation must be carried on within an existing or proposed building on the premises. A major home occupation located within the principal dwelling unit may not exceed 25% of the total gross floor area, or 500 square feet of the principal dwelling unit. Home occupations in excess of 15% of the floor area of the primary structure may be required to meet commercial occupancy requirements as established in the New York State Uniform Fire Prevention and Building Code.<sup>III</sup> A major home occupation may not be located in both a portion of the principal dwelling unit and a portion of an accessory structure located on the premises.
- No site preparation or construction shall commence until final site plan approval as required by Town Code § 220-64, Authority; approval required, has been granted by the Planning Board.
- The major home occupation must be fairly transparent and unobtrusive. The standard "fairly transparent and unobtrusive" requires that the nonresidential character of the home occupation shall not be apparent to the Planning Board. The Planning Board shall consider the following standards when making this determination:
  - Noise. The Board must find that the noise produced by the major home occupation is not likely to create any potentially significant adverse impact upon the adjacent neighborhood and that the type of noise and times of day of noise generation are not inconsistent with the primary residential use of the premises and the adjacent neighborhood.
  - Pedestrian traffic. The Board must find that the major home occupation is not likely to produce more pedestrian traffic to and from said premises than would exist in the case of a residence without a major home occupation and that the timing of such traffic is not inconsistent with traffic likely to be generated by the primary residential use.
  - Vehicular traffic. The Board must find that the major home occupation is not likely to produce significantly more vehicular traffic to and from said premises than would exist in the case of a residence without a major home occupation and that timing of such traffic is not inconsistent with the primary residential use.
  - Parking. The Board must find that the major home occupation does not create a need for more than three additional off-street parking spaces. In addition, such off-street parking spaces shall not be provided on the lot in such a manner as to create the backing of vehicles onto a public highway. Furthermore, such off-street parking spaces shall be adequately landscaped so



TOWN OF CANANDAIGUA PLANNING BOARD RESOLUTION  
ROBERT D'ACQUISTO  
1940 NEW MICHIGAN ROAD – AR-2 ZONING DISTRICT  
CPN 22-070 – TM# 55.00-1-45.000  
SPECIAL USE PERMIT APPROVAL – MAJOR HOME OCCUPATION  
§220-15 & §220-59

**FINDINGS**

- as to provide a visual buffer between the parking spaces and adjacent properties or public rights-of-way.
- Lighting. The Board must find that the major home occupation does not create light trespass onto adjacent properties or public rights-of-way which would be inconsistent with the Town's lighting standards.
  - Aesthetics. If any change is proposed to the exterior of the building, the Board must find that the change will not materially alter a characteristic architectural feature of the building, such as fascia, window style or roofline.
  - Trash. The Board must find that the major home occupation does not create additional waste products that are not properly contained within receptacles normally associated with the principal residential use of the premises. Where there is found to be additional waste products associated with a major home occupation that cannot be stored within such receptacles, then there must be provision for adequately securing such waste products within a screened and landscaped facility. Such a facility should be located behind the principal dwelling unit, or behind the accessory structure used for the major home occupation and must be effectively screened from adjacent properties and the public right-of-way.
  - Exterior display. The Board must find that the major home occupation does not involve the exterior display or storage of goods, materials, equipment or inventory.
- One commercial speech sign shall be permitted as provided for elsewhere in this chapter.
  - In applying the above criteria, the Planning Board may consider the following:
    - The size of the lot (i.e., acreage, lot width and depth, shape, etc.);
    - The size and/or number of vehicles (including machinery) used in connection with such major home occupation;
    - The density and/or character of the neighborhood and the proximity of neighboring properties and residences;
    - The necessity for screening and/or buffering of the major home occupation from adjacent properties or public rights-of-way; and
    - The size and type of highway (i.e., state, county, Town) upon which such major home occupation is located.