

# MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Minutes of May 26, 2021

## MEMBERS PRESENT:

Robert Dingman, Chairman  
David Gauci  
Karen LaRose  
Tim LaSarso  
Les Macura  
Todd Murphy– Alternate

## MEMBERS ABSENT:

Randy Getty (Excused)  
Randy Weaver (Excused)

## ENFORCEMENT OFFICER

Todd Humiston

## TOWN ATTORNEY

Jeff Meyer, ESQ.

For the record, this meeting is being at Kingsbury Vol. Hose Co #1 Inc.

**THE QUARRY, LLC**, owner of tax map #146.-1-23 commonly known as 35 Dean Road is proposing to change the existing site plan approvals to allow for the construction of 252 apartment units housed within 9 buildings, (3) three 24 Unit Buildings and (6) six 30 Unit Buildings. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman Dingman stated Les Macura recused himself from the meeting as he was not part of the Planning Board from the beginning of this project.

Chairman Dingman stated for the record:

There are no minutes to be approved as the minutes of the previous virtual meeting of January 20, 2021 were approved on May 19, 2021.

In the recent past, this project has received a great deal of attention. Concerns have been voiced both to our Code Enforcement Officer and to many of the members of the Planning Board. Concerns related to the Code of the Town of Kingsbury have been addressed by an engineer hired by the Town at Mr. Nikas's expense. Though there are further concerns, we can only address those which fall within our purview. It is within the realm of possibility that any decision that is made will cause chagrin for either party. If, in your opinion, development is not desirable for the Town of Kingsbury, please address the Town Board and more specifically, the Master Plan committee which will be planning the future growth of the Town. Please be reminded that regardless of the decision, either party has the option of filing an Article 78 at which point a Judge would make the decision as opposed to the Planning Board.

At this point, I would like to enter into the public record a May 5th email addressed to Mr. Humiston from Charles Doty. Issues addressed are Water, Wastewater, Roads and Safety and Blasting.

Chairman Dingman introduced Bill Nikas, The Quarry, LLC, Attorney Jonathan Lapper, Bartlett, Pontiff, Stewart & Rhodes PC, Brandon Ferguson, PIE Environmental Design Partnership, LLP to address the Board.

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Attorney Lapper stated they understand the neighbors have concerns with this project. For the record, this project was previously approved for approximately 100 more units. Mr. Nikas has come in with a better smaller project which reduces the traffic impact and stormwater impact. Beyond that they have a sign off from the Town Engineer, Tom Jarrett, Jarrett Engineers PLLC who recommended changes, that they did to get to this point. They are comfortable the Town's interest are protected. This project meets all of the Town's zoning requirements.

Mr. Ferguson stated he had a meeting with Mr. Jarrett since the last meeting. In that meeting they went back and forth regarding some minor changes with the stormwater to make sure they meet the New York Stated DEC guidelines. Mr. Jarrett signed off on the changes. The other change that was made was removal of the cul-de-sac.

Chairman Dingman opened the Public Hearing.

Chairman Dingman stated if you have questions or comments as I said before we have addressed a number of things that are listed and have gone through all of the emails that were sent. For the sake of not repeating those items. If you have something new, please bring them forward and show respect for one and other.

The following resident had water concerns and road concerns with this project and oppose this project.

Michelle Rust, 54 Dean Road  
Kelly Nolin, 51 Dean Road  
Donna Vincent, 29 Quarry Circle  
Robert Springer, 11 Quarry Circle  
Don Smith & Marisa Lau, 16 Quarry Circle  
Don Carlino, 108 Dean Road  
Erica Marion, 26 Quarry Circle  
Don Smith & Marissa Lau 16 Quarry Circle  
Chip Doty, 111 Dean Road  
Tim Havens, 388 County Route 41

**ON A MOTION BY MR. LASARSO**, seconded by Mr. Gauci the Public Hearing was closed.

Discussion ensued among the Board with questions addressed by the Applicant.

The Board then reviewed the proposed resolution.

**ON A MOTION BY MR. LASARSO**, seconded by Mr. Gauci having previously been determined by the Planning Board to be a Type I action under the State Environmental Quality Review Act and the Planning Board has been designated as Lead Agency in accordance therewith, and the Planning Board having reviewed the EAF submitted for this Application and taken a hard look at the potential environmental impacts of the project and issued a negative declaration.

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**PLANNING BOARD OF THE TOWN OF KINGSBURY  
COUNTY OF WASHINGTON, STATE OF NEW YORK**

Adopted May 26, 2021

Introduced by DAVID GAUCI  
who moved its adoption

Seconded by TIMOTHY LASARSO

**RESOLUTION APPROVING SITE PLAN APPLICATION  
OF  
THE QUARRY, LLC**

**WHEREAS**, pursuant to Article VIII of the Zoning Local Law of the Town of Kingsbury contained in Chapter 280 of the Code of the Town of Kingsbury (hereafter the “Zoning Local Law”), the Town of Kingsbury Planning Board (hereafter the “Planning Board”) is authorized and empowered to review and approve, approve with modifications or disapprove site plans prepared in accordance with said Zoning Local Law; and

**WHEREAS**, William Nikas, Esq., as Member of The Quarry, LLC (hereafter the “Applicant”), has applied to amend the existing site plan approval by application dated September 6, 2018, which would allow for the construction of 252 apartment units housed within nine (9) buildings (three (3) 24 Unit Buildings, six (6) 30 Unit Buildings) to be located on 75 +/- acres of land located off Dean Road in the Town of Kingsbury on a parcel identified as tax map parcel 146.9-1-1, which parcel is located in the LDR 25 zone as classified in Chapter 280 of the Code of the Town of Kingsbury, and which use requires site plan review by the Planning Board;  
and

**WHEREAS**, the proposed application submitted by the Applicant would amend, supersede, and replace, the existing site plan approval dated October 9, 2014 for the construction of 148 senior apartments and a 100 bed assisted living facility, with appurtenant structures for roads and utilities, to be located on the same parcel identified as tax map parcel 146.9-1-1; and

**WHEREAS**, the Applicant has submitted to the Planning Board the following: sketch plans, descriptive narratives, complete site plans, building elevation, and revised plans addressing comments of the Planning Board, and the Planning Board has considered the comments of the Applicant and its agents, and also the Town of Kingsbury planning information on file with the Town of Kingsbury, all of the materials and representations made at public meetings shall constitute the “Application”; and

**WHEREAS**, the Proposal as reflected in the Application is located in the LDR-25 zoning district, as defined in the Zoning Local Law, and pursuant to Section 280-22, site plan approval is required for this development in the LDR-25 zoning district; and

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**WHEREAS**, the Planning Board accepted the Application and the Washington County Planning Board has reviewed the Application and found this project to be a matter of essentially local concern with the comment that the local board verifies there is adequate sewage and transports, a copy of which shall be included in the record herewith; and

**WHEREAS**, the Application, having previously been determined by the Planning Board to be a Type I action under the State Environmental Quality Review Act and the Planning Board has been designated as Lead Agency in accordance therewith, and the Planning Board having reviewed the EAF submitted for this Application and taken a hard look at the potential environmental impacts of the project and issued a negative declaration; and

**WHEREAS**, the Planning Board is prepared to review the application and make a final determination thereon in accordance with Article VIII of the Zoning Local Law.

## **NOW THEREFORE BE IT RESOLVED:**

Section 1. The Planning Board hereby adopts the following findings in accordance with §280-34(C) of the Zoning Local Law:

- a. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

The Planning Board finds that the buildings as proposed are acceptable. The design plan for the apartment buildings shall be of similar design as the perspectives submitted by the Applicant. The structures shall not exceed 50 feet in total height. The clustering of the buildings on the property and the spacing between building clusters preserves the remainder of the property for open space. As a cluster development the height and dimensions of the proposed structures are not required to meet the specific requirements and are approved as proposed. The design and appearance of the buildings fits well with the surrounding residential area.

All lights are to be downward facing cut-off style, which will help mitigate against any impacts that might arise from the lighting.

No signs have been proposed in connection with this project so this is inapplicable.

- b. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.

In reviewing the on-site road/street/driveway plans, the Planning Board finds that the proposed improvements are acceptable. The proposal provides adequate travel lanes to safely accommodate traffic. All access to the site shall be via Dean Road; there shall be no connection through Quarry Circle.

- c. Location, arrangement, appearance and sufficiency of off-street parking and loading.

Off street parking is sufficient for the project. The number of parking spaces is adequate to provide for the needs for this development, based on the plans submitted.

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d. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian access.

The roads and driveways on site are adequate for pedestrian traffic between the buildings and around the property.

e. Adequacy of stormwater and drainage facilities.

The stormwater plans submitted by the Applicant have been reviewed and approved by the Town's engineer. The Applicant shall submit copies of its Stormwater Pollution Prevention Plan and SPDES permit(s) to NYS DEC and Town, as applicable.

f. Adequacy of water supply and sewage disposal facilities.

The Applicant will be tying into the sewage disposal facilities of the Washington County Sewer District #2. Capacity has been confirmed by Joseph Brillling, Executive Director by letter dated May 21, 2020 pursuant to the conditions contained therein. The Planning Board finds this acceptable.

g. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including maximum retention of existing vegetation.

Existing green space is to be preserved to the extent practicable and a buffer is being maintained between the improvements and the neighboring properties. The Planning Board finds these plans acceptable.

h. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

The final location and number of fire hydrants proposed by the Applicant shall be submitted on the final set of plans. The Kingsbury Volunteer Hose Company has confirmed their ability to adequately address the firefighting needs for 50 foot high structures. Adequate water volume and pressure serving the sprinkler system and hydrants shall be confirmed by the Water Superintendent and approved by the Kingsbury Volunteer Hose Company.

i. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

The proposed impact of structures and roadways has been thoroughly vetted by the Town's engineer due to the depth to groundwater, proximity to wetlands and areas susceptible to ponding and flooding. The proposed structures will all be built on slab foundations and the extensive stormwater plans have been engineered and reviewed to ensure all stormwater is properly mitigated on site. The Planning Board finds this acceptable.

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Section 2. Based on the review of all of the Application materials, and based on the findings contained above, the Planning Board hereby adopts the following findings in accordance with §280-35 of the Zoning Local Law:

a. Does the use comply with all other requirements of the Zoning Local Law, including the dimensional regulations of the zoning district in which it is proposed to be located?

No variances were required due to the use of a cluster development design. The Planning Board's approval of this project is based on this design and they hereby waive the dimensional and height requirements where they do not meet strict compliance with the Zoning Local Law.

b. Will the use be in harmony with the general purpose and intent of the Zoning Local Law, specifically taking into account the location, character and size of the proposed use and the description and purpose of the district in which such use is proposed, the nature and intensity of the activities to be involved in or conducted in connection with the proposed use, and the nature and rate of any increase in the burden of supporting public services and facilities which will follow the approval of the proposed use?

Yes. The area is zoned LDR-25, and the Applicant has proposed to cluster the development providing as much open space as possible. The Planning Board feels that the nature and intensity of the proposed use is reasonable, particularly given the reservation of open space lands.

c. Will the establishment, maintenance or operation of the proposed use create public hazards from traffic, traffic congestion, or the parking of automobiles or be otherwise detrimental to the health, safety or general welfare of the persons residing or working in the neighborhood of such proposed use or be unduly detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Town?

No. The Planning Board does not feel that the proposed use will create traffic hazards or congestion. The potential traffic impact was originally studied and reviewed pursuant to the total number of dwelling units proposed in the 2006 Approval obtained by Dickinson, and as the property has seen various revisions and permit amendments since. Potential traffic impacts were included in a 2016 traffic study of the area. The traffic study showed that there would be minimal to no potential impacts as a result of the proposed number of dwelling units.

d. Will the project have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the town or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project?

No. The Planning Board finds that the project will not have an undue adverse impact on the natural, scenic, aesthetic, ecological, wildlife, historic recreational or open space resources of the Town. The recreational impacts will be minimal as the property is currently private and open areas will remain for the use of the residents.

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Planning Board shall take into account the following factors contained in §280-36 of the Zoning Local Law:

- a. Water. The project will be served by municipal water, and this is acceptable to the Planning Board.
- b. Land. The impact to land is acceptable. While this project will convert land previously undeveloped, this is acceptable to the Planning Board, and is in standing with the Town's Zoning Ordinance.
- c. Air. No air impacts are noted.
- d. Noise. Noise impacts include those usually associated with residential development. The potential for blasting exists and will be used primarily for creation of stormwater controls and installing infrastructure. No other adverse noise issues are noted.
- e. Critical resource areas. No impacts to critical resource areas are noted.
- f. Wildlife. While the project is removing land that could be used for wildlife habitat, the land is located near the commercial and residential Dix Avenue corridor. There are no critical habitat or endangered species located in the area. This is acceptable to the Planning Board.
- g. Aesthetics. The Planning Board does not find aesthetics to be a concern for this development based on the proposed design and the adjoining residential development.
- h. Historic site conditions. No impacts to historic conditions are noted.
- i. Site development considerations. Site development is well planned, and the improvements work well within the site.
- j. Governmental service and control factors. While additional services can certainly be associated with development such as this, the Planning Board finds that current service levels are sufficient to meet the needs of this development.

### Section 3. Approval and Conditions.

Based on all of the foregoing, and all of the evidence and materials submitted by the Applicant, the Application is hereby approved with the following conditions:

- a. All improvements are to be made as per the plans submitted. Any significant changes to the plans, including any improvements to be omitted, shall require Planning Board approval as a modification of this site plan approval.
- b. Applicant will submit a copy of all DEC approvals and any reports filed thereunder and shall remain in compliance with same.

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- c. The Applicant shall provide waste disposal services for the residents in the rear of the property.
- d. The fire hydrants shall be inspected and deemed in working order, with sufficient access and capacity as required by the Kingsbury Volunteer Hose Company, Inc.
- e. All lighting to be downward facing, cut-off style designed to minimize light emissions from the property.
- f. No future development shall occur in the open space areas, particularly the area to the north and east of the Niagara Mohawk easement.
- g. A pre-blasting survey shall be completed prior to any blasting occurring on site with advance notice provided to the Town.
- h. The Applicant shall provide, and pay for, a Town designated engineer to be on-site during construction to monitor and ensure compliance.
- i. The Applicant shall post “No Trespassing” signs to prevent and discourage residents from trespassing onto the adjoining properties.
- j. No parking shall be permitted on the west side of Quarry Circle Way to better accommodate emergency services vehicles.

Section 4. This resolution shall take effect immediately.

PRESENT:  
David Gauci  
Karen LaRose  
Todd Murphy  
Timothy LaSarso  
Robert Dingman, Chair

AYES: 5  
NAYES: 0

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Michelle Radliff, Planning Board Secretary

**ON A MOTION BY MR. LASARSO**, seconded by Ms. LaRose all in favor, the meeting was adjourned at 7:45 P.M.

Michelle Radliff  
Secretary