

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Minutes of March 21, 2018

MEMBERS PRESENT:

Robert Dingman, Chairman
Justin Fehl
David Gauci
Randy Getty
Karen LaRose
Randy Weaver

MEMBERS ABSENT:

Cheryl Hogan – Alternate (Excused)
Tim LaSarso - Excused
Todd Murphy - Excused

Code Enforcement Officer
Francis P. Cortese

TOWN ATTORNEY

Jeff Meyer, ESQ.

HIGHWAY WATER SUPERINTENDENT

Jim Chase

The meeting was called to order by Chairman Dingman at 7:00 P.M.

Roll call of all Members and Officials.

Chairman Dingman entertained a Motion to Approve the Minutes of February 21, 2018.

ON A MOTION BY MR. GAUCI, seconded by Mr. Fehl, the minutes of the February 21, 2018 meeting were approved.

AYES: 6

NAYES: 0

ABSTAIN: 0

MOTION CARRIED

First order of Business:

At the February meeting of the Planning Board Mr. Martin was not in attendance, but based upon the information originally presented, on a motion by **MR. GETTY** and seconded by Ms. Hogan, the application was approved.

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After the meeting, new information was revealed that detailed issues with the site and existing septic system. Given that information Mr. Martin has rescinded his application as he will not be purchasing the site nor operating his business at the location.

The Board then reviewed the proposed Resolution.

ON A MOTION BY MR. GETTY, and seconded by Mr. Weaver, the Planning Board hereby rescinds the above referenced resolution granting the site plan approval of David Martin to operate a Group and Personal Training and Retail Business at 3316 NYS Route 4. Be it further **RESOLVED**, the prior approval is hereby deemed null and void.

1. AVIATOR WAY SOLAR, LLC, contract vendee of Tax Map # 127.-1-27 and 127.-1-26.3 commonly known as 40 Aviator Way, Queensbury, NY, located in Zoning District, Residential Agricultural RA-1A District is seeking Site Plan approval to develop a 2 MW Solar Energy Facility at this location. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman Dingman introduced Bryan Stumpf, Cypress Creek Renewables, Zoning & Outreach Manager-Development, Thomas Puchner, and Phillips Lytle Attorneys at Law, Crystal Eggers, Langan Engineering John Reagan to address the Board and Crystal Eggers, Langan Engineering.

Chairman Dingman introduced Bryan Stumpf representing Cypress Creek Renewables, and indicated to Mr. Stumpf that the March 12th response to Jarrett Engineers had not been received by Mr. Jarrett and therefore the planning Board would not make a decision until Mr. Jarrett had a chance to review. Mr. Stumpf apologized for the missed communication and indicated that the memo had been emailed and hard copies had been given to Mr. Cortese. Mr. Cortese indicated that no hard copies had been received and that the material in the packet for Board members had been copied from an email sent to him.

Though no decision could be made, Ms. Eggers was asked to go through each item in the Cypress Creek memo of March 12, 2018 in which she had responded to Mr. Jarrett's questions relative to the application. She went through each item and presented her reasoning for her response and responded to questions from the Board and also from Mr. Jarrett. In order to be sure that there are no further communications errors, it was determined that Mr. Jarrett will communicate directly with Ms. Eggers and both Mr. Stumpf will be copied on all correspondence.

It was further suggested that each piece of correspondence be verified by the receiver via email or a phone call. Mr. Jarrett indicated that he felt that the items he had questioned could be resolved in the near future.

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Once that has been accomplished, Mr. Stumpf, Mr. Garrett, Mr. Cortese and Mr. Dingman will meet to be sure the application and recommendations are complete prior to the next meeting. At that point, conditions will be discussed and will be included in the packet to the Board for the next meeting.

2. SITE PLAN REVIEW GENESIS KC DEVELOPMENT LLC, DAVITA HEALTH CARE PARTNERS, INC., Tax Map # 146.19-1-3, commonly known as 3739 Burgoyne Avenue, Town of Kingsbury, located in Zoning District, Com-1A/Commercial District, seeking Site Plan approval for a Medical Facility (renal dialysis) on the property. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman Dingman introduced Tom Jarrett, Jarrett Engineers, PLLC, who will be representing Mark Kinney, and Arthur Ritchie of DaVita Health Care Partners to address the Board.

Mr. Jarrett stated at the December 20, 2017 meeting they were proposing 7400 square foot building for a renal dialysis center situated on the corner of Burgoyne Avenue and Michigan Street. At that time they needed two variances for setbacks and the Zoning Board of Appeals favorably approved them. Since that meeting there has been discussion on the possibly of needing to expand. In the discussion they decided to design the building for the maximum potential for the future.

Mr. Jarrett submitted new drawings showing they have moved the Burgoyne Avenue entrance to be directly across from the Kings Plaza entrance. This was changed per request of New York State Department of Transportation. They have also moved the parking in order to accommodate a larger building. Mr. Jarrett stated the plans that were submitted to the Board two weeks ago showed the larger building shaded in. The shaded in area would be the maximum potential expansion of the building should it be needed.

As of right now they do not need the larger building and are proposing to build a 7400 square foot building with the site being able to expand if there is a need for it. This would be based on DaVita's needs and what the State will allow.

Mr. Jarrett stated DaVita is going to build the smaller building, what he would like the approval of this Board to a site to accommodate a bigger building if needed.

Mr. Jarrett stated the stormwater, sewer and water connection will not change. The site is design for future potential build out. It is his understanding the sewer will come from Kings Plaza, across the street.

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Mr. Chase stated that is correct, he will be shooting a straight line to the property from Kings Plaza. Mr. Chase and Mr. Jarrett will meet to finalize the sewer and water connection.

Discussion ensued among the Board with questions address by the Applicant's Representation and the Applicant.

ON A MOTION BY MR. GAUCI, and seconded by Mrs. LaRose the Kingsbury Planning Board declares lead agency status and having reviewed the short form SEQRA submission and having taken a hard look at the potential environmental impacts finds that there are no potential negative environmental impacts anticipated from this project and the Board issued a negative declaration on the project.

The Board then reviewed the proposed Resolution.

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

Adopted March 21, 2018

Introduced by **RANDY WEAVER**
who moved its adoption

Seconded by **DAVID GAUCI**

**RESOLUTION APPROVING SITE PLAN APPLICATION
OF
DAVITA HEALTHCARE PARTNERS, INC.**

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 Article VIII of the Zoning Local Law; and

WHEREAS, Genesis KC Development, LLC / DaVita HealthCare Partners, Inc., (hereafter the “Applicant”), by application dated November 28, 2017 has applied for site plan review by the Planning Board for the construction of medical facility (renal dialysis) and associated utilities including sewer, water, stormwater, parking and landscaping improvements to be located at 3739 Burgoyne Avenue, Town of Kingsbury (hereafter the “Proposal”); and

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WHEREAS, the Applicant has submitted to the Planning Board the following: site plans, layout landscaping, planting, grading drainage and sediment control plans, utility plans, and revised plans, as most recently revised on March 21, 2018, addressing comments of the Zoning Board of Appeals and the Planning Board has considered the comments of the applicant and its agents (all of the above hereafter referred to as the “application”); and

WHEREAS, the Proposal as reflected in the Application is located in the COM-1A and LDR-25 zoning districts, as defined in the Zoning Local Law, and pursuant to Section 280-23, site plan approval is required for this development in the COM-1A zoning district; and

WHEREAS, the Zoning Board of Appeals having granted two variances at the December 28, 2017 meeting of the Zoning Board of Appeals relative to Front Setback (sections 280-23 (F)(1)) and Access Setback (280-19 (f)) the proposal is in compliance with the Zoning Law of the Town of Kingsbury

WHEREAS, the Planning Board accepted the Application and the Washington County Planning Board has reviewed the Application and recommended approval with conditions and comments as noted on its recommendation to align access with King’s Plaza, 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 an unlisted action under the State Environmental Quality Review Act, 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 prior to taking up the review of the matter under Article VIII of the Zoning Local Law; 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 design is acceptable as presented based upon the revised plans dated March 21, 2018.

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

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Based upon the adjusting the access road to align with the ingress and egress to King's Plaza as depicted on the revised plans, the Board finds it acceptable.

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

The Board finds this acceptable based upon the revised plans.

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

The Board finds this acceptable based upon the revised plans.

- e. Adequacy of stormwater and drainage facilities.

The Board finds this acceptable based upon the revised plans.

- f. Adequacy of water supply and sewage disposal facilities.

The Board finds this acceptable as the Applicant has agreed to amend the connection sites in accordance with the recommendation of Water Superintendent.

- 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.

The Board finds this acceptable based upon the revised plans and the increased plantings depicted thereon.

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

The Board finds this acceptable based upon the revised plans and notes there is a fire hydrant within 300 feet of the premises.

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

The Board finds this acceptable based upon the revised plans.

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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?

Yes, the Applicant previously obtained the requisite area variances from the Zoning Board of Appeals for the proposal.

- 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 use is in compliance with the code.

- 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, with the access having been amended, no public hazards from traffic, traffic congestion or parking automobiles is anticipated.

- 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 impacts are anticipated.

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

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- a. Water. No.
- b. Land. No.
- c. Air. No.
- d. Noise. No.
- e. Critical resource areas. No.
- f. Wildlife. No.
- g. Aesthetics. No.
- h. Historic site conditions. No.
- i. Site development considerations. No.
- j. Governmental service and control factors. No.

Section 3. County Planning Board:

The County Planning Board requested the local board to review and investigate the ingress and egress to the site. The applicant having amended the location, the Planning Board finds this acceptable

Where the decision of the Planning Board is contrary to the County Planning Board's recommendations, the determination by the Planning Board shall control provided the approval has been granted by a vote of a majority plus one of all of the members.

Section 4. Approval and Conditions.

Based on all of the foregoing, and all of the evidence and materials submitted by the Applicant, specifically, as last revised on March 21, 2018, the Application is hereby approved with the following conditions:

- a. The applicant shall provide copies of all requisite permits to the Town upon receipt and any exterior design change or layout changes shall require additional Planning Board approvals.
- b. All representations made by the Applicant and the agent to the Planning Board shall also be a condition hereto.

Section 5. This resolution shall take effect immediately.

ON A MOTION BY MR. GAUCI, seconded by Mr. Getty all in favor, the meeting was adjourned at 8:00 P.M.

Michelle Radliff
Secretary

<http://www.kingsburyny.gov>