

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Minutes of October 15, 2014

MEMBERS PRESENT:

Robert Dingman, Chairman
Michele Abbenante
Karen LaRose
Ian Miller

MEMBERS ABSENT:

David Gauci (Excused)
Randy Weaver (Excused)
Randy Getty (Excused)
Cheryl Hogan - Alternate

Code Enforcement Officer

Francis Cortes

TOWN ATTORNEY

Jeff Meyer

Chairman Dingman called the meeting to order at 7:00 P.M.

Roll call of all Members and Officials.

Chairman Dingman entertained a Motion to Approve the Minutes of September 17, 2014.

ON A MOTION BY MR. MILLER, seconded by Ms. LaRose, the minutes of the September 17, 2014 meeting were approved.

AYES: 4

NAYES: 0

ABSTAIN: 0

MOTION CARRIED

1. Pursuant to the provisions of Chapter 280, Article VI, Section 280-23 G of District Regulations ordinance of the Town of Kingsbury, New York, notice is hereby given that a public hearing will be held by the Planning Board of the Town of Kingsbury, County of Washington and State of New York, on the 15th day of October at 7:00 PM in the Town Hall, 210 Main Street, Hudson Falls, New York on the following matter. Request by Casey Owens, Contract vendee of Tax Map # 121.-1-17.4, commonly known as State Route 4, Hudson Falls, located in Zoning District, COM-1A, Commercial District for Site Plan Review for a proposal to operate a Hardscape Business at this location. Plans for proposal are available at Kingsbury Town Hall, 210 Main Street, Hudson Falls, New York during regular business hours.

Chairman Dingman introduced Casey Owens, Quality Stone Works Inc., to address the Board.

Ms. Owens stated they will be having their closing on Friday October 17, 2014 for the property on State Route 4, Lot #6. They would like to use the property to store their equipment and the materials for a hardscape business. They would like to have a premade Amish Shed 14' x 26', a cedar stockade fence and a 3' x 6 sign'. They would like to do the pillars out of stone and this would make it 6' x 10'. They would also like to do a 75' x 75' stone area for the equipment. Eventually they would like to do a pole barn.

Ms. Owens stated they use paver blocks for designing patios, waterfalls and grills and retainer walls. She showed the Board pictures of work that they have done.

Mr. Miller questioned if they make the blocks.

Mr. Owens stated they buy them from a distributor.

Ms. Owens stated they are here tonight to get approval for the shed, fence, sign and stone area.

Chairman Dingman questioned how far off the road they road they would be.

Mr. Owens stated the right of way is 150' x 400' that goes back to 32 +/- acres. They would be putting the fence behind the hedge row that is there.

The sign would be 43 feet from the center of the road. At the 400 foot mark of the right of way there is a hedge row and behind that is where the fence would go. The shed would be about 45 feet from the property line. The shed will be used for shovels, snow blowers and tools of that kind.

Behind the fence would be the stone area for the equipment. Eventually there will be a pole barn located there.

Chairman Dingman questioned a time limit for the pole barn.

The Owens stated it could be a month, it could be six months.

Mr. Miller questioned the purpose of the fence.

Ms. Owens stated so the property doesn't look like an eye sore, to protect their machinery and cannot be seen from the road. The fence will basically be a blind. Ms. Owens also stated the equipment they have. The pole barn would be primarily used for cold storage.

Chairman Dingman questioned if this would be a year round business.

Mr. Owen stated it is hard to say. The weather plays a big factor in how long the business operates. During the winter months the trucks will be in and out snow plowing.

In the future they would like to show room and possibly buy the property next to theirs.

Mr. Miller questioned how far the sign would be from the road and if the driveway was there.

Ms. Owens stated the sign would be 43 feet from the center of the road. There is a driveway already there as well as the culvert.

They do not believe there will be a lot of traffic. From May 2014 until now they have had about 20 calls for people looking for a location to go to and see their work.

Ms. LaRose stated the only concern she has is leaving the equipment there without any kind of gate. She would like to see some kind of gate there.

Ms. Owens stated the neighbors have not ever seen anybody on the property. She also stated the McLaughlin's have their equipment where it visible from the road.

Chairman Dingman stated the McLaughlin's property is more visible than where the Owens property is. There are advantages and disadvantages to where this property is located.

Chairman Dingman opened the Public Hearing.

Paul Bromley, 270 Kingsbury Road suggested maybe the Owens could put in a motion detector or some kind of lighting for safety reasons.

The Public Hearing was closed.

Chairman Dingman stated no materials or equipment to be stored on the property until the fence is erected. The fence goes up first and then you put the materials there.

Ms. Owens stated she can have the fence there by Monday, October 20, 2014.

Chairman Dingman stated when they are ready to do the pole barn they have to come back before the Board.

ON A MOTION BY MS. LAROSE, and seconded by Ms. Abbenante 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.

Notice of Decision of Planning Board

SITE PLAN REVIEW – Casey Owens, contract vendee of Tax Map #121.-1-17.4, commonly known as State Route 4, Hudson Falls, located in Zoning District, COM-1A, Commercial District for Site Plan Review for a proposal to operate a Hardscape Business at this location.

ON A MOTION BY IAN MILLER, seconded by KAREN LAROSE based on all of the evidence and materials submitted by the Applicant and the representations made at the meeting, the Application is hereby approved subject to the following conditions:

- (1) No materials or equipment shall be stored on the premises until the fence and screening is complete.
- (2) All information and representations contained in the materials submitted by the applicant and discussed at the meeting are incorporated herein as conditions.

AYES: 4
NAYES: 0
ABSENT: 3

Michelle Radliff, Secretary

2. PLEASE TAKE NOTICE that, a public hearing will be held by the Town of Kingsbury Planning Board on October 15, 2014 at 7:00 p.m. at the Offices of the Town of Kingsbury, 210 Main Street, Hudson Falls, New York, to discuss and receive public comment on the site plan application of RWS Manufacturing, Inc., lessee of tax map #137.-2-1.14 commonly known as 22 Ferguson Lane, Lots #13, 14, & 23 Warren-Washington Counties Industrial Park. RWS Manufacturing Inc. is submitting a modification to the approved site plan application to install a Multicyclone Dust Collection System at this location. This action is pursuant to Section 280-25 G of The Code of the Town of Kingsbury.

Chairman Dingman introduced Mr. Student, Plant Manager for RWS.

Mr. Student stated he is here tonight to request permission to install a Multicyclone Dust Collection System. This is an OSHA compliance requirement as part of their settlement agreement. They have agreed to put this in at the cost of \$60,000. It will collect all dust in the building bring it outside and into a small hopper and they will take the hopper and remove the dust. The location is along the back side of the building. It will be tight to the building. The pad will be 12' x 30' long for the unit to sit on.

Mr. Student explained how the process will work. This will be all recyclable materials. There will be a 40 horse power fan with a silencer on the recommendation of Dave Alexander, Alexander and Company.

Chairman Dingman questioned what would happen if the hopper fills up and the light goes on and there is no one goes to check it.

Mr. Student stated after a period time the entire system will shut down.

Mr. Miller questioned if was an electric motor.

Mr. Student responded yes it is an electric motor. There are 2 electric motors which will be powered from inside the building.

Mr. Student stated right now they have a 300 horse power fan; the additional dB that will be contributing will not overcome the dB already coming from the fan. He had a letter from the manufacturer of the dust collector stating this.

Mr. Student has gone out to the front of the building and done a series of sound testing. In the letter it states and Alexander and Company agree that you really can't predict what this unit is going to do as it relates to the entire site. Mr. Student stated what they are saying is it will not add any additional dB to the current back ground. He has taken reading during the day and would like Mr. Cortese to come over and take some readings with him and they will know what the base line is. Right now Mr. Student is getting 55, 55 and 56 at the entrance point. If they get higher readings they will mitigate that by a sound proofing system of some type. Mr. Student stated that can be one of the stipulations if we have to, they would enclose the building if they have to. There are sound proofing walls that you can put up around the equipment to reduce the dB significantly. They would encase the fan with the sound proofing walls.

Mr. Student stated they choose the Multicyclone Dust Collection System, if they were to use a traditional dust collector it has a big fan and has to pull through bags and the jets that are blowing on the bags and significantly louder. The traditional dust collectors are significantly louder

Chairman Dingman questioned if OSHA had required any particular kind.

Mr. Student responded they do not require and particular one as long as they have one. Mr. Student stated the dust collector should have been there from day one.

Ms. LaRose question what they were doing before.

Mr. Student stated they have three little want to bees in the building that are trying to do the same job that this one will do. They could have gone with a \$30,000 dust collector that would be an easy fix, much more louder, higher repair rate and more maintenance and not as efficient as the Multicyclone. The only real noise maker would be the fan and they think they have mitigated a large percentage with the silencer.

Mr. Miller questioned what the criteria will be for putting a wall around the dust collector.

Mr. Student stated he has taken some base line readings at the road. If after it is installed and the decibels are higher than the base line readings they will do whatever they have to so that the decibels are back to where they are supposed to be. Mr. Student stated they will do something to mitigate the noise whether it is a building around it or sound walls.

Mr. Student invited Mr. Cortese to the property to take some sound readings with him.

Mr. Student stated if there is one dB higher than the agreed upon dB's they will fix it. He doesn't want to spend money to mitigate the noise until they find out if they need to.

Chairman Dingman stated that RWS needs to meet OSHA compliance. The major thing you need to do is given anything that is added does not exceed the present conditions. This will be a stipulation in the approval.

Mr. Student stated they will know the minute they get it set up. As of now the delivery is set for the end of the month. At this point they will run trials and invite Mr. Cortese over if he wants to watch what they are doing and take some test.

Mr. Student stated if the test during the trial times for the dB's are high they will mitigate it before they start the system up.

Chairman Dingman stated this would be a condition in the approval.

Mr. Miller questioned if there had been any noise complaints.

Mr. Cortese stated we had two complaints, from Mr. Kelly and Mr. Underwood.

Mr. Cortess stated he did go to the property and check. There were questions in the placement of the new sound wall. According the plans the wall should start at 130 feet. It was started at 127.5 feet. This was not in compliance. There may be a couple spots in the log wall regarding the height.

Mr. Student stated the log wall is completed.

Mr. Miller questioned what the height was supposed to be 12 feet or 16 feet high. On the plans the fence is showing the wall is 12 feet high.

Mr. Meyer stated the fence should be 16 feet.

Mr. Student stated he would change the drawings.

Chairman Dingman opened the public hearing.

Dennis Kelly, 672 County Line Road, questioned if there was shielding for the outside equipment so that when you drive by you do not see this equipment.

Mr. Student stated as per the Resolution there is a trailer located in that area to shield.

Mr. Kelly stated the trailer does not shield it when you are going by Glens Falls Labels.

Chairman Dingman questioned Mr. Kelly if he was asking for shielding to be there.

Mr. Kelly stated part of the requirements for Phase Two all outside equipment/storage be shielded so that it can't be seen. That is a requirement from the IDA.

Mr. Kelly stated that has been overlooked on the log yard.

Chairman Dingman stated it would be the IDA that would enforce that requirement.

Chairman Dingman stated the shielding of outside storage has been an issue.

Chairman Dingman stated personally if he is interpreting this correctly he would think in this case this equipment is being used for manufacturing as opposed to equipment like trucks and grains or materials in the other businesses. This would be subject to interpretation.

Mr. Kelly questioned if there were engineered sound decibels coming out of this machine documented.

Chairman Dingman stated we have a letter from the manufacturer of what their specs are. When it is installed, will it comply with the manufacturer specs? This is why Mr. Cortese has to go with Mr. Student to see what the decibels will be. The decibel levels have to comply and cannot exceed what resolution already says.

Mr. Kelly feels an engineer should look at the whole system to make sure the Multicyclone is going to do what it is supposed to do and have it documented for the Board.

Mr. Student stated the concerns Mr. Kelly has have been taken into consideration. They have had an internal review as well as an external review. They have approved drawings across the board from their engineers saying this system will work. Mr. Student does not know how much further they need to go.

In response to a conversation Mr. Student had with Mr. Cortese he contacted the company stating there is a concern with the dBs with the fan and asked for a letter stating from a technical stand point they were on site and locating where the best spot for the system should be located. The system was designed by the manufacturers' engineers.

Chairman Dingman stated this is probably not in the detail Mr. Kelly would like, but when you buy a product if the product doesn't work, it has to be fixed. The stipulation will be RWS cannot exceed the decibels levels they already have.

Mr. Kelly stated due to RWS track record they are not very quick at fixing problems.

Chairman Dingman stated he understands that and would probably more incline to agree with Mr. Kelly except this is being enforced by OSHA.

Mr. Kelly stated OSHA requirements have no bearing on this.

Chairman Dingman stated to him it does have bearing. Mr. Dingman understands Mr. Kelly's point of view but to him it involves heavy fines if they don't do right.

Mr. Kelly stated that has no bearing.

Chairman Dingman stated he is not sure what Mr. Kelly meant.

Mr. Kelly stated feels the Board is feeling forced by a government entity to approve this due to the company being fined.

Chairman Dingman stated he did not think that is what is said.

Mr. Kelly stated that is the way he understood it.

Chairman Dingman stated for the record that is not what he meant.

Mr. Kelly stated to him the OSHA fine has no bearing on this request.

Chairman Dingman stated to him it is more bearing on compliance than anything else.

Mr. Kelly stated he is still having sound issues. He does not believe the log wall is anywhere near where it is supposed to be. Mr. Alexander and he did the balloon test and it is not even close. Mr. Kelly stated the log wall does not block the doors like it was intended. But due to it being on the print everything looks good. You can't change it now because they put it on the print. They can put on the print a 100 decibels and it can be 300 decibels. Will they fix it; it may have to go to court maybe. This is why he is saying it has to be triple engineered or they will never fix it.

Kelly stated he is still getting the doors being left open; the shaver noise at night because the sound wall is not even close to where it was supposed to be per their gentlemen agreement. The next time he will have somebody from the Town with him.

Chairman Dingman questioned Mr. Kelly from his point of view how much would have to be added to the wall.

Mr. Kelly stated another 3 sections and the height has to be higher. The wall was supposed to be on top of the berm. They did not do this. This was stated in previous meetings.

Paul Bromley stated sitting listening to the meetings it was his understanding the wall was supposed to be 16 feet above the height of the berm.

Chairman Dingman stated his understanding was the wall was going to go on top of the berm and that would make it 16 feet tall.

A discussion was had if the door was being left opened or closed.

Mr. Student acknowledgement of the August 21, 2014 resolution they would visit Mr. Kelly's property to evaluate whether additional sections of the fence are required to alleviate any potential line of site issues between Mr. Kelly's deck and the loading door at the facility

Chairman Dingman asked Mr. Student when would be a good time to go to Mr. Kelly's property to check the visuals for the log fence.

Mr. Student stated Mr. Kelly's time is his time.

Mr. Kelly stated the sooner the better.

Mr. Student agreed to meet with Mr. Kelly and Mr. Cortese on Monday, October 20, 2014 at 9:00 am at Mr. Kelly's property.

Mr. Kelly questions how they would ever have Mr. Student's sound meter and his sound meter to have the same readings. Mr. Student is always going to be right. How do we get this fixed before adding more and more equipment?

Chairman Dingman stated he is not really sure what Mr. Kelly is looking for; what you are really headed for is a body that can make that decision and that would be the court.

The public Hearing was closed at 8:05 pm.

Discussion ensued among the Board with questions addressed by the Applicant and the Applicants Representative.

ON A MOTION BY MR. MILLER, and seconded by Ms. Abbenante 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**

Resolution No. 2 of October 2014
Adopted October 15, 2014

Introduced by IAN MILLER
who moved its adoption
Seconded by MICHELE ABENATE

**RESOLUTION APPROVING THE MODIFICATION
OF THE SITE PLAN APPLICATION
FOR RWS MANUFACTURING, INC. TO INCLUDE
MULTICYCLONE DUST COLLECTION SYSTEM**

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, RWS Manufacturing, Inc. (hereafter the "Applicant"), by application dated October 2, 2014 has applied for site plan review by the Planning Board relative to the modifications that will occur to the previously approved manufacturing building, located at 22 Ferguson Lane, Lots #13, 14, &15 Warren-Washington Counties Industrial Park, Town of Kingsbury (hereafter the "Proposal"); and

WHEREAS, the Applicant has submitted to the Planning Board the following: application, modified site plan, plans showing dust collection system and a correspondence from the manufacturers engineer (all of the above hereafter referred to as the "Application"); and

WHEREAS, the Proposal as reflected in the Application is located in the PIC-75 zoning district, as defined in the Zoning Local Law, and pursuant to Section 280-24.1, site plan approval is required for all development in this district; and

WHEREAS, the Application, having previously been undergone environmental review under the State Environmental Quality Review Act, and the Planning Board is reviewing this Application having previously declared this action an unlisted action and issued a negative declaration under the SEQRA; and

WHEREAS, the Planning Board is prepared to review the Amended Application solely as it applies to the preceding and to make a final determination thereon in accordance with Article VIII of the Zoning Local Law.

NOW THEREFORE BE IT RESOLVED:

Section 1. Pursuant to §280-34(C) of the Zoning Local Law the Planning Board hereby approves the Application based upon finding that the Application submitted by the Applicant and the representations made at this meeting that there will be no additional noise associated with the addition and the Applicant having agreed to mitigate post construction in the event additional noise is generated from the facility.

Section 2. Approval and Conditions.

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

- a. The Applicant and the Code Enforcement Officer (CEO) shall establish pre-construction baseline noise levels with the system operating normally as measured from the historic locations, including but not limited to on the property of Dennis Kelley and at the entrance of the facility along Ferguson Lane. Any increase in the decibel level above the baseline readings from the improvements approved herein based upon the post-construction system operating normally, with product, shall result in the installation of mitigation measures, as recommended by a licensed sound engineer, shall be required prior to continued use. The cost of the engineers review and report shall be borne solely on the Applicant.
- b. Conditions contained in previous approvals for the facility shall remain in full force and effect.
- c. All information and representations contained in the materials submitted by the Applicant and discussed at the meeting are shall incorporated herein as conditions.

Section 3. This resolution shall take effect immediately.

Planning Board Meeting
Page 12
October 15, 2014

PRESENT:

Robert Dingman
Karen LaRose
Ian Miller
Michelle Abenante

AYES: 4
NAYES: 0
ABSENT: 3
ABSTAIN:

ON A MOTION BY M. MILLER, seconded by Mrs. LaRose all in favor, the meeting was adjourned at 8:20 P.M.

Michelle Radliff
Secretary