

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Minutes of January 20, 2021

MEMBERS PRESENT:

Robert Dingman, Chairman
David Gauci
Karen LaRose
Tim LaSarso
Todd Murphy– Alternate
Randy Weaver

Received

FEB 10 2021

Town of Kingsbury

MEMBERS ABSENT:

Randy Getty (Excused)

Enforcement Officer

Todd Humiston

TOWN ATTORNEY

Jeff Meyer, ESQ.

For the record, this meeting is virtual and is being recorded.

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 November 20, 2019.

ON A MOTION BY MR. WEAVER, seconded by Mr. Gauci, the minutes of the December 16, 2019 meeting were approved.

AYES: 6

NAYES: 0

ABSTAIN: 0

MOTION CARRIED

1. 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 introduced Bill Nikas, The Quarry, LLC, Attorney Jonathan Lapper, Bartlett, Pontiff, Stewart & Rhodes PC, Brandon Ferguson, P.E. and Joseph Dannible, R.L.A Environmental Design Partnership, LLP to address the Board.

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Mr. Lapper stated they tabled this project last month because there was a number of engineering issues that were raised by the Towns engineer Tom Jarrett, Jarrett Engineers, PLC.

Mr. Ferguson stated at the meeting with Mr. Jarrett they went over all of the concerns. They made modifications to the stormwater basins. At this point Mr. Ferguson is waiting for a final confirmation from Mr. Jarrett.

Chairman Dingman requested an update from Mr. Humiston with concerns from the neighbors.

Mr. Humiston stated he received a written letter from Mr. Don Carlino with concerns of the Dean Road and a telephone call from Kelly Nolin regarding the blasting that will be taking place.

Mr. Humiston stated for the record, these concerns were put in The Quarry LLC file.

Chairman Dingman stated he has been to the property with Mr. Humiston and Mr. Jarrett regarding the concerns from the neighbors.

Mr. Humiston stated it is high ground water area. Mr. Humiston and Mr. Jarrett recommended to the planning board that the road as it is designed with the turnaround should be changed. The Town Board has already made the determination they will not accept it as a Town Road the way it is designed now. The tenants would be entering the complex from the upper entrance and the turnaround will go directly into the parking spots this would allow for more green space.

Mr. Nikas stated they have agreed to make the cul-de-sac join into the parking lot. There will not be an access to the Quarry development by doing this. The stormwater meets code with the cul-de-sac. Mr. Jarrett was happy to hear the cul-de-sac was being moved.

Chairman Dingman opened the public hearing.

The following residents had water and road concerns this project and oppose this project.

Robert Springer, 11 Quarry Circle,
Kaci Gaulin, 25 Quarry Circle
Don Smith & Marrisau Lau, 16 Quarry Circle
Rene Blanchette, 100 Dean Road
Don Carlino, 108 Dean Road
Erica Marion, 26 Quarry Circle
Don Smith, 16 Quarry Circle

Chip Doty, 111 Dean Road
Lisa Friedman, 241 Dean Road
Jayme Hobbs, 22 Dean Road
Robert Byrnes, 389 Dean Road
Jessica Stevens, 38 Manlee Avenue
Ann Marie Brancati, 23 Noble Drive
Brooke Witham, 422 Dean Road

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The main concerns the residents have are the added traffic on Dean Road, blasting that will be occurring and the water table in this area.

Mr. Dannible stated for the record he would like to add what the applicant has done previously with the property. Mr. Nikas has had previous approvals on the existing property dating back to the early 2000's. Mr. Dannible shared a google earth image of the site.

Clearing of trees: concerns of water running onto adjacent properties. They have removed all of the trees they are going to remove and are down to thin layers of topsoil and bedrock exposed scattered throughout the site. There is a Stormwater Pollution Prevention Plan in place that has been reviewed by the Towns engineer. There are some minor tweak's being made to this plan.

This a zoning compliance project. They do not have to go in front of the Town Board for a PUD. This project does not require the applicant to go in front of the Zoning Board of Appeals. This project had been approved since the early 2000 with 117 buildings with 3 units in each building for a total of 351 units.

Mr. Dannible stated it is unfortunate that the people who have bought homes in the last 15 years were not made aware of the additional development of this property.

They have eliminated everyday vehicle access through The Quarry. They have also eliminated pedestrian access to the best of their ability. Emergency vehicles will be the only vehicles allowed to go through The Quarry.

There was a traffic study done in 2015 paid by the Town with taxpayers' money, to study the corridor of Dean Road, Feeder Street and Dix Avenue that the City of Glens Falls, Town of Kingsbury and the Town of Queensbury had done. In this study they did projections up to 2030.

Chairman Dingman stated for the record when the Planning Board is considering the resolution for these projects, they take into consideration what the neighbors have stated during the meetings. The Town is working on updating the Comprehension Plan, you would need to talk to the Town Board with your concerns.

Mr. Humiston questioned Mr. Dannible for the record on the traffic study if they put on places that are not necessarily built yet? As an example, are the houses in the development that have not been built yet were included in the study.

Mr. Dannible responded that is correct. When they do these studies, they contact every town and city to see if there are any buildings expected in the future.

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Mr. Nikas questioned Mr. Dannible if the original plan from Mr. Schermerhorn was for 100 unit senior living?

Mr. Dannible stated that is correct, he is proposing a change to the original design and proposing nonrestricted 96 units.

Mr. Nikas stated for the recorded he has seen the traffic study along with Chairman Dingman. On page 16 of this study, it has Mr. Schermerhorn's project listed as 100 senior living units and Mr. Nikas's 248 units even though they were never developed.

Discussion ensued among the Board with questions addressed by the Applicant. This matter was tabled.

2. SCHERMERHORN REAL ESTATE HOLDINGS, LLC – contract vendee of tax map #146.14-1-3 commonly known as a vacant land on 1189 Dix Avenue located in a Commercial Zoning District, is seeking site plan approval for the construction of a multi-family residential project 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 Joseph Dannible, R.L.A, Environmental Design Partnership, LLP to address the Board.

They are proposing a 96 unit townhouse style apartment community. This project was previously presented to the Board in 2015 - 2016 era for the construction of one three-story (100 unit) senior housing building that was approved on this property with the remaining land allocated for future development. At that time no future development had been proposed.

What they are proposing now is a townhouse style apartment community with two buildings with four units and eleven buildings with 8 units each. A total of 13 buildings with 95 units. Each unit will have two bedrooms and its own garage with parking space. The units will be serviced by municipal water, on site septic systems and on site stormwater management practices.

There will be an access onto Dix Avenue as well tying into Queens Drive Circle. The property will be owned and manage by Schermerhorn Real Estate Holdings, LLC. The property maintenance will also be taken care of by Schermerhorn Real Estate Holdings, LLC. As part of the transitional zoning, they will be preserving a fifty foot buffer. Where there is not any tree buffer, they will be installing evergreen trees. The trees will be consistent with the original plans.

Previously there was a traffic study done when Mr. Schermerhorn was proposing one three-story (100 unit) senior housing building on the front of this property.

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They have had another traffic study done by an independent company. Based upon the study, no mitigation should be done as recommended by the traffic engineer.

Chairman Dingman opened the Public Hearing.

The following residents oppose this project. They have concerns with the added traffic, the landscaping, water table and not enough room in the school system and would like this project to be tabled until the residents can have a public hearing in person.

Jessica & Larry Stevens, 38 Manlee Avenue
Jayme Hobbs, 22 Dean Road
Anthony and Ann Marie Brancati, 23 Noble Drive
Brooke Witham, 422 Dean Road

Dennis Kelly 672 County Line Road questioned moratorium on the sewer regarding this project.

Discussion ensued among the Board with questions addressed by the Applicant. This matter was tabled.

3. GEER ROAD RESIDENTS with concerns of the Geer Road Solar Project.

Chairman Dingman stated Mr. Humiston has a statement and a determination he has made.

Mr. Humiston stated after consideration, the resident's complaints, and concerns of them not being notified of this project and multiple times of the Chairman and the Board requested the applicant Mr. Doud of Matrix and seeing letters from Town Attorney, Attorney Braymer, Braymer Law PLLC and Attorney David Brennan, Young/Sommer LLC, representing AES Distributed Energy, Inc.

Mr. Humiston stated he feels with Mr. Doud's false statements he made not only to himself but also after multiple times stating he had contacted the neighbors and chose not to. Mr. Humiston feels there was misrepresentation associated with this project and believes this needs to go back in front of the Planning Board.

Chairman Dingman stated he wanted to make sure everyone understood this is no guarantee this will bring them back in front of the Planning Board.

Chairman Dingman stated he would like to give the attorney's a chance to speak.

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Attorney Braymer stated she has reviewed the letter from the attorney for the new company. She feels a lot of what she is seeing in this letter is basically to shift the blame to the Board, to you Mr. Chairman and also to Mr. Humiston. She feels it is the duty of the applicant to provide accurate and complete information here. She is troubled that this new company is trying to shift this to the Board.

Chairman Dingman stated that is exactly why we are going this route. Attorney Braymer said she was glad to here is this.

Attorney Braymer stated for the record Mr. Doud is saying he has no recollection of the conservations, but obviously Chairman Dingman and Mr. Humiston remember them and know he did not answer those questions or at least told you there was contact with the neighbors when they really were not notified. At one point Mr. Doud references your comment "we should be all set at this point". Ms. Braymer is assuming you thought the neighbors had already been contacted so no additional contact needed to be made, because he never reach out to the neighbors, they never knew about it.

Also, on the blasting they do not deny that blasting was not disclosed to the Board, so the Board was never able to take that into consideration as to understand what other impacts there may have been to the project or the land or the neighbors from the blasting. At the very end they said they were willing to work with the neighbors, but they did not, at least the prior owners or the new owners have not reached out to the neighbors or work with them. We have had the opportunity to know about it and present their concerns. If they had known about this project the neighbors could have presented their concerns related to this project. There are 200 acres that have negative scenic impact and other concerns that they would like to bring to the Planning Board.

Attorney Braymer stated they are glad to hear the Board is planning to bring this project back to the Board. Thank you, Chairman.

Attorney Brennan stated he was asked to listen in and join on behalf of AES, the new owner to better understand what the issues are. He was under the impression from the agenda this meeting was a replication on this matter or vote on this matter.

Attorney Brennan stated he does take some issue with some of what was stated by Attorney Braymer when we were criticized, we did not disclose there was blasting. There is no blasting at the proposed project. Apparently one of the complaints was neighbors did not know there was blasting at the adjacent quarry that is off site. Attorney Brennan was told the Town did not know there was blasting at the off site quarry. He does not know how the Board can impute and criticized us that they did not disclose to the Board that there was blasting at offsite location.

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when the Town where you live in did not even know there was blasting. On the blasting issue Attorney Brennan takes issue with this.

Attorney Brennan stated he can clearly understand from listening to Mr. Chairman and Mr. Humiston there is a significant departure between what he could read in his due diligence as to the procedure that was followed verses what was represented does not make it into the written records that he could see. We will take up the issue and participate moving going forward on behalf of the new owner.

Chairman Dingman thanked Attorney Brennan for this.

Attorney Brennan stated he appreciated this very much, we purchased the property six months after the approval, it is a difficult position for us to be in to understand that there is sort of concern after the fact, six months after the approval that they are getting handed. Attorney Brenna stated he appreciated the board listening to him.

A MOTION BY MR. LASARSO seconded by Mr. Weaver and carried by a vote of 6 ayes to enter into an executive session at 10:25 pm to discuss potential legal issues.

A MOTION BY MR. WEAVER seconded by Mr. LaSarso and carried by a vote of 6 ayes to exit the executive session at 10:40 pm.

ON A MOTION BY MR. LASARSO, seconded by Mr. Murphy, all in favor, the meeting was adjourned at 10:45 P.M.

Michelle Radliff
Secretary