

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Minutes of February 19, 2014

MEMBERS PRESENT:

Robert Dingman, Chairman
Dave Gauci
Randy Getty
Ian Miller

MEMBERS ABSENT:

Michele Abbenante - Excused
Karen LaRose - Excused
Randy Weaver - Excused
Cheryl Hogan – Alternate - Excused

CODE ENFORCEMENT OFFICER:

Ross Cortese

TOWN ATTORNEY

Jeff Meyer, ESQ.

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 January 23, 2014.

ON A MOTION BY MR. MILLER, seconded by Mr. Gauci, the minutes of the January 23, 2014 meeting were approved.

AYES: 4

NAYES: 0

ABSTAIN: 0

MOTION CARRIED

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 is submitting a Final as Built Site Plan application for the operation of an @ 20,000 sq ft manufacturing building and a change in hours of operation at this location. This action is pursuant to Section 280-25 G of The Code of the Town of Kingsbury.

Chairman Dingman stated tonight's meeting will deal with the information contained in the letter from Mr. Student, dated January 22, 2014. Any new information was to be submitted on or before January 31, 2014, and since nothing had been received, discussion will be limited to the to the information in the letter of January 22, 2014.

Planning Board Meeting

Page 2

February 19, 2014

Chairman Dingman introduced Mr. Student, the representative of RWS. Mr. Student introduced Dan Tuczinski of Tuczinski, Cavalier, Gilchrist & Collura, P.C. of Albany, NY. Mr. Tuczinski will be the Attorney for RWS.

Chairman Dingman indicated that items not yet received included the As Built drawings, verification from RWS engineers indicating the extension of the stack would make no difference in mitigating noise and smoke complaints. Discussion ensued relative to the sound fence and Mr. Student indicated that a blanket had been tried and it made no difference. Chairman Dingman indicated that the Planning Board has an issue of trust, in part because little has been accomplished without an order from the Court.

Mr. Student stated he would not be giving out any updated drawings tonight, as they cannot get the swales because of the snow. He has done all of the inverters and has them available.

Mr. Tuczinski stated that he appreciated the concerns of the Planning Board. He indicated that he has tried to give the Board additional information that he believes has a bearing on the issues that are present in this case. Due to continued concerns with the noise, they have hired another consultant that is an expert on noise evaluations and capable of making recommendations for mitigation. They also undertook a second study to see what is going on in terms of the facility. Tonight they wanted to bring to the Board's attention some additional information.

Mr. Tuczinski stated one of the concerns he had was the Board imposed certain decibels standard levels. They turned the information over to their noise consultant. They want to make the Board aware in the record and point a fact that the decibels that are generated, using DEC and EPA standards and guide lines are generally considered quiet zones standards which are typically in a residential area. The decibels that are imposed on RWS are typically found between a library and a quiet rural neighborhood. They wanted to put this in the record so that the Board will appreciate that in an industrial park according to DEC and EPA typical standard and guide lines this is well below the threshold of commercial resilience. Our studies show we are in compliance with those standards. Chairman Dingman objected to the statement that the Board imposed the decibel levels and through further discussion, it was explained that the Board and RWS agreed to these levels. He further indicated that these levels were based on the recommendations of multiple engineers and the DEC recommendations and not picked out of the air.

Mr. Tuczinski stated that what they want to do tonight, is work with the town and the neighbors. RWS is having serious economic issues and operating the plant 5 (five) days a week is not getting it done. What Mr. Tuczinski is proposing tonight is a 6-week time frame where RWS would be permitted (and they are not looking for a seven day a week operation) and allowed to operate on Saturday's. They will conduct further studies and analysis during this time period.

They will share this information with the Board. By operating on Saturday's it will allow them to study the effects.

Mr. Miller had concerns with how the noise testing will be done and the length of the intervals for the readings.

Chairman Dingman opened the public hearing.

Dennis Kelly, 672 County Line Road, had concerns with the smoke coming back. He is also questioning the time of the sound testing. He also expressed concerns with enforcement of the covenant regarding noise in the contracts with Warren Washington County IDA which were signed by Mr. Fortin.

Paul Bromley of 270 Kingsbury Road stated he would like to reiterate Mr. Kelly's statement regarding the signing of the covenant with Warren Washington County IDA. Mr. Bromley stated he believes it is the responsibility of the IDA to be police the noise in the park and not the Town.

Dan Colomb, 726 County Line Road, had concerns with whether RWS was the right fit for the park.

Donna Kelly, 672 County Line Road, questioned what time the sound studies would be done.

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

The Board discussed the proposal to work on Saturdays for the next 6-weeks from 7:00 AM to 3:00 PM. The question arose as to the feasibility of rather than shutting down and having to fire the plant up again on Saturday morning, it might be better to work through until Saturday morning. That seemed to be acceptable and the time frame was also discussed. The Board did not wish to go through a six week trial period but seemed willing to accept a trial until the next Planning Board meeting.

Chairman Dingman stated he does expect all materials will be submitted to the Town of Kingsbury by February 28, 2014 or there will not be a meeting on March 19, 2014 and the shift will stop. This does not include the sound testing. Mr. Student will bring the results of the sound testing with him to the meeting. The sound engineers will also be at the meeting with possible recommendations for mitigation. Chairman Dingman stated he would like a professional's report of why raising the stack would no help with the smoke, and it was agreed that the noise consultant will contact the neighbors.

Chairman Dingman stated he would also like to see the as built plans at the March 19, 2014 meeting.

Planning Board Meeting

Page 4

February 19, 2014

Mr. Student stated he wanted the Board to understand they will not get anymore surveying until springtime. He is lacking the elevations for the as built.

ON A MOTION BY RANDY GETTY, and seconded by Ian Miller: the Planning Board moved to allow RWS Manufacturing to operate, on a trial basis, one additional shift from 11:00PM on Friday through 7:00AM on Saturday commencing on Friday, February 21, 2014 and conclude on March 14, 2014. This request is granted without prejudice and does not constitute a decision by the Planning Board to permanently extend hours of operation.

ON A MOTION BY MR. GETTY, and seconded by Mr. Gauci all in favor, the meeting was adjourned at 8:10p.m.

Michelle Radliff
Secretary

<http://www.kingsburyny.gov/>