

**MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY**

Minutes of August 21, 2014

**MEMBERS PRESENT:**

Robert Dingman, Chairman  
Michele Abbenante  
Dave Gauci  
Randy Getty  
Ian Miller  
Randy Weaver

**MEMBERS ABSENT:**

Karen LaRose (Excused)  
Cheryl Hogan – Alternate (Excused)

**CODE ENFORCEMENT OFFICER:**

**TOWN ATTORNEY:**

Jeff Meyer, ESQ

The Meeting was called to order by Chairman Dingman at 7:00 Opm.

Roll Call of members and Officials.

Chairman Dingman entertained a Motion to Approve the Minutes of May 21 & 29, and June 18, 2014.

**ON A MOTION BY MR. MILLER**, seconded by Mr. Gauci, the minutes of the May 21 & 29, and June 18, 2014 meeting were approved.

**AYES: 6**

**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 introduced Mr. Student, Plant Manager for RWS. Mr. Student introduced his attorney, Dan Tucziski, ESQ of Tuczinski, Cavalier, Gilchrist & Collura, P.C. of Albany, NY.

Mr. Tucziski apologized to the Board for a misunderstanding concerning the construction of the fence. They were not sure if they needed a building permit. He was under the impression after they went to the IDA they would come back to this Board so that they could sign off on it. Mr. Tucziski stated they were not able to attend the June meeting due to a lightning strike that put the facility down. Then the Board was not here in July. They were prepared to appear at that meeting.

Chairman Dingman stated the reason for no meeting in July was there was not any paper work submitted by RWS for that meeting.

Mr. Tucziski then introduced Mr. Student to give an update of what has been done and where they are presently. Mr. Tucziski stated they are gracious for the giving RWS some hours on Saturday. They would like to keep the hours on Saturday ending their day at 3:00 PM and ask for the Sunday night shift to start at 10:00 PM. Mr. Tucziski stated he was not sure if the Board was aware that the shaker building burned. They have had to build a new shaker building. Mr. Student has some photographs of it. He has put it back up the correct way. They feel they have pretty much implemented or are about to finish implementing everything the Board requested.

Mr. Student started with the first item, which is the door issue. He stated the door will be closed during the 3pm to 11pm shift and the 11pm to 7am shift with the exception of moving materials in and out of the room. The door will be open more often on 7-3pm shift due to maintenance activities. Mr. Student stated they are keeping a log of when the door is opening and closing how long it is opened and why the door is opened. As a side issue to this they are looking at a modification to the building that they brought to the Planning Board. They would like to put an addition on the building that would allow the door the face the east side of the property.

The next issue is the log wall. Mr. Student stated the company eliminated the position of a log buyer a year ago has given this position to Mr. Student. This is the first time Mr. Student has experienced the shortage of logs. The paper mills in the area are buying hard wood; therefore the loggers are by bypassing by the pine and aspen and waiting until September to start harvesting them. RWS had gotten to the point where they were down for three days two weeks ago because they had no raw materials. Therefore they have used the inventory of the log wall. Mr. Student expects to replenish the long wall in the month or so and it will not be touched until spring time.

Chairman Dingman stated in his mind RWS needs to be cautious in the fact that it is not a log storage area. The wall was constructed at the recommendation of your sound consultant as a sound barrier, and it is not to be considered a storage area.

Chairman Dingman stated understands what happened this time but if that isn't going to work as barriers then we need to find another barrier.

Mr. Student stated they will buy green lumber and leave it there for a year and the rotate the stock. The plan right now is any Saturday loads that come in they will start putting them in the back area. He is hoping to have this completed by the end of September.

Mr. Student stated as for the sound blankets, they installed a couple today. The blankets are all going to be installed. The IDA requested the entire fence to be painted. The sound blankets were removed to paint the fence and will be rehung. Mr. Student stated he is thinking about three or four more panels of the sound blankets so that they will be closer the edge of the new building. His plan was to do 6 panels; he is now going to do nine or ten panels. He has the material so this will not be an issue.

Mr. Students stated they did some testing before and after with the blankets and there is about a 4db difference. He went out on the back side of the fence about twenty feet with the sound barriers on and it does make a difference. At times there was between 3db and 10db. It is making a difference. They will do more readings once the fence is completed to see where they are at.

The next issue Mr. Student talked about was the shaker building. He stated the building was totally destroyed by a fire at end of July. They are not exactly sure of what the cause of the fire was. The fire protection system that is in the system didn't see a fire. They were relying on the sprinkler system for it to see the fire. Until the flames reached up above the shaker table they did not have any fire suppression. Therefore the fire had a jump on them. They have had the sprinkler people come in and readjust the sprinklers on the machine and added two more sprinklers. They were not sure if they needed a building permit. They rebuilt the building on the same footprint as before. They added 2" insulation to the walls that was not there before. This change in the shaker building as well as the fan building should result in a noticeable reduction with the noise coming out of that area.

Chairman Dingman questioned if they would be doing something different with the rails in the shaker building.

Mr. Student stated no, the rails are out back. There was talk about putting rubber on the rails, a coating on the rails and high density plastic on the rails but none of these options worked. They did have a vendor come in. The vendor said he will be cutting strips for the rails that he says will work and stay in place. RWS is going to try this. They feel the white plastic will work and will deaden the sound from the conveyor. He has offered to do one of the conveyors and if this works RWS will buy it and do the same on the other conveyor.

Chairman Dingman questioned the beam on the drum.

Mr. Student stated the drum beam was replaced approximately 2 months ago. We have the sound deadening (pieces of rubber) that sit on the impact area of the drum. They are not really effective any longer. The problem with the drum was it had not been maintained. There were flat spots on what they call the tire. They had someone come in and grind the tire flat when they did the new beam. Now it purrs like a kitten. They do not have the impact noise anymore.

They will be doing the lower end of the drum in a couple of weeks. An oiler system was installed on the wheel. Prior to this, somebody would go out and dump oil on the wheel and now they have a constant oiling system on the upper end. They will be doing the same procedure that was already done on the upper end. They believe they are on the right path with the upgrades they are doing.

Mr. Student stated as for the sound fence they have materials on site. The vender was there and started drilling holes. Come to find out the berm that the fence is going to sit on is full of massive stone. They are going to try with the auger to drill the holes. If this does not work they will have to dig it out with the backhoe. They should be able to get the fence done by the end of the month. They did put up a couple of sections. Mr. Student stated he would like to go over to Mr. Kelly's to see what the height looks like. Mr. Student thinks they are at 16 feet right now. He has a flag on one of them. He is hoping to go to the far end. If it turns out that he needs more fence then they will do it.

Mr. Miller questioned the length of the fence. Also had questions on why Mr. Colomb property is not being considered. Mr. Miller stated he thought this was discussed at an earlier meeting.

Mr. Getty questioned who engineered the plans for the fence.

Mr. Student stated Tom Nace , Nace Engineering.

Chairman Dingman questioned if Mr. Nace is aware of the problem with the stone.

Mr. Student stated Mr. Nace was at the site today. RWS explained to Mr. Nace what they had run into. If they can't auger out we want they will have to dig it out. Mr. Nace would then give them a design for the footers, because there will a lot of wind blowing around this area.

Chairman Dingman stated the public hearing is still opened.

Dennis Kelly, 672 County Line Road, stated when they first did the balloon test on the fence Mr. Student was supposed to go out to Mr. Colomb house which was approximately 2 months age. That never happened. The next thing issue is the information that was presented tonight has been started this week. This means nothing has been done since February but you gave RWS the extra time. Mr. Kelly stated in his opinion the incentive to get stuff done is not there. Mr. Kelly asked the Board to take away the extra hours as incentive to get things done. He stated the noise has gotten worse in the last three weeks. Mr. Kelly stated he put in a complaint to Mr. Cortese with concerns about the shaker table being very loud. He stated they went over to the plant to see where the noise was coming from in case it was not coming from RWS. Mr. Kelly stated it was the shaker table squeaking like no tomorrow while they were operating. They then went to the end of the road to turn around. At that point and time their yard truck came out with the trailer, no lights on the truck except for the spot light. They pulled the trailer on to the road and disconnected. A CLS truck came in and hooked on to the trailer. Mr. Kelly stated this happened at 8:00pm and feels the 3pm to 11 pm shift needs more supervision. The noise from the shaker building is a constant thing. The noise from the blower has increase also.

Dan Colomb, 726 County Line Road, stated as far as having the balloon testing done on his property, he feels the only time you could get a good reading would probably be sometime in November when the leaves are off the trees. Right now he can see parts of the building but not all of it. In order to do a good job he feels that would be the best time. This may also require the tabling of putting up the sound fence for his property until the spring.

Mr. Colomb stated he feels the same as Mr. Kelly in not granting the extra hours. There is always an excuse why they couldn't it seems to him why RWS can't do something and that is going to continue.

Chairman Dingman stated there were a timeline and a number of reasons why they fell apart. The Board is trying to get it resolved.

Paul Bromley, 270 Kingsbury Road, stated he has been in the log business for more than 30 years. What RWS is going through right now is inherent to the wood business. He feels there should be a permanent log wall there. Because of the time it takes so long to build the log wall, remove the logs and put the log wall back in. That means there is an acceptable amount of time that that log wall can escape the noise through there. He feels that is defeating the purpose of changing the log wall out every year.

Mr. Bromley suggested using a different species of log. He suggested pitch pine as loggers are trying to get rid of that type of log.

Chairman Dingman stated he would like to make sure that RWS listen to what the people in the audience have to say, particularly the comments concerning the increase in the sound. If you have an answer as to why there is an increase in sound he would like to know why. If the sound complaints continue after this work is done you will be back before the Board.

Mr. Student stated they are getting complaints when they are not running from the neighbors. Some of the complaints are at 2am on a Sunday morning. Mr. Student he will be more proactive in responding to the complaints with Mr. Cortese.

Mr. Kelly questioned the dropping of the trailers on the road.

Chairman Dingman responded that is a law enforcement issue.

The Public Hearing was closed at 8:00pm.

**ON A MOTION BY DAVE GAUCI**, and seconded by Mr. Miller 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.

Attorney Meyer reminded the Board the proposed action is for the additional Saturday hours. The original approvals still stand and all of those responses. The proposal before the Board is for Saturday hours only.

The Board then reviewed the proposed resolution.

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

Resolution No. 1 of August 2014  
Adopted August 21, 2014

Introduced by **Randy Getty**  
who moved its adoption

Seconded by **Randy Weaver**

**RESOLUTION APPROVING THE AMENDED  
SITE PLAN APPLICATION  
OF  
RWS MANUFACTURING, 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**, 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 280-24.1G, site plan approval is required for all development in this district; and

**WHEREAS**, Mr. Eric Fortin, Vice President of RWS Manufacturing, Inc., by permit number P2007-09, as amended by resolution 1 of June 2012, adopted June 20, 2012 received from the Planning Board an approval for the construction of a 20,000 square foot building, located on Ferguson Lane, Lots #13, 14, and 15 in the Warren / Washington Industrial Park, Town of Kingsbury (hereafter the "Approval"); and

**WHEREAS**, as a condition of the Approval, RWS Manufacturing was prohibited from operating the facility on Saturday and Sunday without additional approvals; and

**WHEREAS**, by this limited grant, the Planning Board expressly agreed to provide RWS Manufacturing, Inc. with the opportunity to amend this condition, and only this condition, through subsequent application to the Planning Board; and

**WHEREAS**, Donald Student, on behalf of RWS Manufacturing, Inc. (hereafter the "Applicant"), has submitted a revised application dated October 28, 2013, as later amended by the letter dated February 10, 2014 seeking to allow Saturday Operations at the facility located on Ferguson Lane, Lots #13, 14, and 15 in the Warren / Washington Industrial Park, Town of Kingsbury (hereafter the "Proposal"); and

**WHEREAS**, the Applicant has submitted to the Planning Board numerous materials, including but not limited to: Site Plan Application, Site Plan Drawings, noise studies, engineering reports, and numerous records and correspondences addressing various questions and issues as they arose (all of the above hereafter referred to as the "Application"); 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:

The applicant has previously addressed to the satisfaction of the Planning Board the various requirements contained in subpart 34(C). The limited scope of this approval was whether the Planning Board would be willing to amend their previous approval and permit the Applicant to work on Saturdays and/or Sundays. The prior approval enabled the Applicant to apply for the condition to be amended at a later date. The Applicant has submitted numerous sound reports and correspondence relating to the noise levels and potential mitigation measures designed to further mitigate the detrimental noise and vibrations that are being produced at the site.

The Planning Board has taken a hard look at the materials submitted by the Applicant and the records from the previous approvals as it relates to the impacts on noise and vibrations emanating from the site to the detriment of the adjoining residential and agricultural uses.

As a result of the proposed modifications, which shall be completed in accordance with the established timeframes incorporated herein, hereby find that the proposed expansion of the operation to enable the operation to occur on the site to include Saturdays from 12:00 AM to 3:00 PM, intending to allow the Applicant to operate an additional two shifts on the premises, will not be an undue detriment to the community and the adjoining residential and agricultural properties.

Section 2. Approval and Conditions.

Based on all of the foregoing, and all of the evidence and materials submitted by the Applicant, the Applicant is hereby granted approval to operate on Saturday from 12:00 AM through 3:00 P.M. subject to the following conditions:

- a. Box trailers, storage containers, vehicle truck bodies and the like shall be stored in the crushed stone parking area more or less parallel with Ferguson Lane to provide for a barrier in reducing the noise being generated by the facility. One trailer shall be placed in the south west corner of the property south of the entrance to the facility on Ferguson Lane. No less than three trailers shall be placed along in the gravel parking area along Ferguson Lane beginning immediately south of the sound barrier on Ferguson Lane. The trailers being used as part of the operation shall be parked at an angle so as to form an additional continuous barrier to mitigate sound emanating from the site.
- b. The northeastern most door shall remain closed when not being used to move product or wastes into or out of the facility.
- c. Implementation of equipment and traffic flow controls in the yard shall be utilized to the extent reasonable and practical;
- d. A 12-foot tall log wall shall be maintained along the eastern property line. The log wall shall commence at the end of the eastern most log storage pile and extend southerly an additional 135+/- feet, having a width of no more than twenty (20) feet. The log wall will be completed by September 15, 2014. It is understood that this wall will need to be periodically maintained; however, the log wall is solely to be used for sound mitigation purposes and may not be used as additional storage nor logs removed for production.
- e. Sound deadening barrier materials (sound blankets) shall be added to nine (9) sections of existing fence beginning at the southeastern corner of the sound fence and extending west along the first nine (9) adjacent panels through the jog. These materials shall remain in place and be maintained and replaced as necessary.
- f. Composite plastic shall be installed on the conveyer rails. One rail shall be completed on or before September 15, 2014, with the second conveyor rail being completed on or before September 30, 2014, to further mitigate noise and vibrations originating from the conveyor operation.
- g. The fan building and the shaker building shall be rebuilt on or before September 15, 2014.
- h. A sixteen (16) foot tall sound fence along a section of the north and northwest property line of RWS and Ferguson Lane shall be constructed on or before September 15, 2014. The Sound fence shall be approximately one hundred ten (110) feet long and shall be generally as depicted on a Sketch filed with the Planning Board; with additional lengths to be added as may be recommended by a qualified engineer to further mitigate noise and vibrations emanating from the site.
- i. Applicant shall continue to provide the Town all permits, orders on consent, violation notices and records relative to NYS Department of Environmental Conservation air permits.
- j. Any modifications to the approved site plan shall require approval by the Planning Board in accordance with the site plan review criteria.



- k. Failure to strictly comply with the terms and conditions of this approval shall be deemed a violation of the approval.
- l. Failure to complete the required improvements by the deadlines established by this resolution shall result in the immediate revocation of the additional hours of operation granted herein.
- m. This approval is made without prejudice toward a later application for additional hours of operation.

Section 3. This resolution shall take effect immediately.

Bill Nikas, The Quarry LLC, gave the Board an update. He stated he is hoping at the September meeting he will get an approval. The Town's engineer, Dan Bruno will be meeting with Mr. Nikas's engineer. Mr. Nikas stated he will have his plans all to scale by the time of the meeting. He will be going to the County Planning Board meeting the beginning of September.

Mr. Nikas asked the Board if there were any other issues the Board had concerns with. If there is please let him know so that he can address them at the September meeting.

**ON A MOTION BY MR. MILLER**, and seconded by Mr. Gauci all in favor, the meeting was adjourned at 8:30p.m.

Michelle Radliff  
Secretary