

**Approved: April 11, 2013**

**Minutes  
Town of Kent Planning Board Meeting  
March 14, 2013**

Following the Pledge of Allegiance, the meeting was called to order at 7:30 PM by Ms. Janis Bolbrock, representing the Planning Board Chairman.

**In attendance were the following Planning Board members:**

Janis Bolbrock	Phil Tolmach
George Brunner (Alternate)	Glenna Wright

**Others in attendance:**

Bruce Barber, Environmental Consultant  
Julie Butler, Town of Kent Building Inspector  
Julie Mangarillo, Engineering Consultant

**Absent:**

Russell Fleming, Chairman	Michael McDermott, Vice Chairman
Geoffrey Baldwin (Alternate)	Michael Rose
Charles Sisto	

Neil Wilson, Planning Consultant

**Minutes of February 14, 2013**

Janis Bolbrock , acting Planning Board Chairman, asked for a motion to approve the **February 14, 2013** Minutes. Mr. Tolmach made the motion to accept the minutes and it was seconded by Ms. Wright. The Planning Board members voted unanimously to approve the minutes. The motion carried.

**Kent Materials, Route 52, Kent, NY; TM: 12.-1-44**

This was a continuation of the Public Hearing for Kent Materials. Mr. John Watson, of Insite Engineering, represented the applicant for a site plan in the IOC zone in Kent. Mr. Paul Bucella, one of the applicants for Kent Materials, was also present at the meeting.

Mr. Watson prepared a response to consultant memos and concerns raised by Kent residents at the Public Hearing/Planning Board meeting held on February 14, 2013 and submitted it to the Planning Board for discussion at the March 14, 2013 meeting. Mr. Watson also noted that he also had submitted a copy of the Mining Permit application from the DEC to the Planning Board prior to the meeting and had been in contact with the DEC and they did have some comments, but found it to be complete, accurate and well thought out. He also had sent a copy to the Planning Board of a comment memo from the DEC on March 13, 2013 (copy attached). The comments pertained to:

- 1) The Mining Permit Application
- 2) 3 revisions to the EAF; and
- 3) The fact that DEC will not deem the application complete until a SEQR determination is issued by the Planning Board

Ms. Mangarillo stated that, since the Public Hearing is still open, the Planning Board would like Mr. Watson to update the audience and Planning Board on this project.

Mr. Watson said that one significant change from the previous meeting was that the phasing was changed as a result of the noise analysis assessment. The DEC worked with Mr. Watson to determine the location of the receptors. It was determined that if the crusher and crushing operations were in the front of the property, as originally planned, the noise level would be unacceptable. The best mitigation to lower the noise level they moved the rock crusher to the rear of the property.

The four phases are:

- 1) Site distance regrading in the front and installing the stormwater basins.
- 2) Setting up the crusher pad in the rear and establishing the haul roads.
- 3) Beginning the mining operation and how it will be phased within each sub-phase. They also have shown on the plans the “directional mining/elevation plan” and that the nearest neighbors will have less increase in noise levels because of the large earthen berm, vegetation or elevation difference. This also shows that the nearest neighbors will be impacted the least by the noise.
- 4) The building will be constructed during the fourth phase

Mr. Tolmach questioned Mr. Watson about the mining operation and said he was under the impression that there was only to be rock crushing under the building and no mining would be done. Mr. Watson replied that mining is a term defined by the DEC as excavating and removing material from the property. He stated the applicant has removed from the project the permanent rock crushing operation from the center of the property. Mr. Tolmach asked about the rock removal which is not near any of the buildings being constructed. Mr. Watson said that the rock is being removed from the majority of the developed site. He said that most of the job is a “cut job” and not a “filling job”. Mr. Watson pointed out that the area where the stormwater basins are is complete and most of the earthwork has already been cut. Mr. Watson said that there will probably be approximately 10 of the 26 acres disturbed.

Mr. Arthur Singer asked to speak about the salt sand/dome on the property and mentioned that there is already sodium contamination of wells on Route 52. He noted that the Town Hall has a note from the Board of Health on their water fountain that the water has high concentration of sodium allegedly caused by the use of salt on Route 52 during the winter. Mr. Singer recommended that there be testing of wells on the adjoining properties prior to the completion of the project to establish base information.

Ms. Bolbrock asked Ms. Butler to address the audience regarding some comments she had regarding this project. Ms. Butler said she sent a note (Copy attached) regarding the procedures of issuing a temporary "Certificate of Occupancy" (Chapter 77-53), since the salt sheds and construction office will not be constructed in the first phase of the project.

Mr. Barber's Comments (see Memo of March 13, 2013 attached)

Mr. Barber stated that the applicant had submitted substantial information with respect to:

- The noise reduction report
- Blasting plan (provided by Earthtech)
- An Amendment to the Stormwater Pollution Prevention Plan (SWPPP)
- A Notice of Intent, which was provided

Mr. Barber said that the applicant proposed installing a monitoring well adjacent to the front building and to provide testing for that well prior to the construction of the salt sheds. Mr. Barber also made the same recommendation to the applicant that Mr. Singer did pertaining to baseline testing of adjoining wells. Further information will be provided once the protocol has been established as to how, when and why it will be tested and whether it will be tested for calcium or sodium chloride and/or other materials. He said he felt that this was a major step forward to ensure the wells won't be contaminated as well as what actions would be taken if they did become contaminated. Mr. Watson will provide multi sector charts shortly with information pertaining to dust suppression and air control to provide baseline information. The applicant already has in place dust suppression analysis using equipment. A noise study has been submitted to the DEC and comments were submitted. Ms. Wright asked about the cement surface where the salt will lie and how it will be treated and monitored to ensure that no leaching into the soil occurs. Mr. Barber said that the applicant will be installing plastic to serve as a barrier between the soil and concrete and sealants will be put into any cracks which may appear. The walls of the storage sheds will be concrete, rather than wood. Asphalt paving will surround the storage sheds. As part of the multi sector permit and SWPPP Permit required by the DEP, the applicant must provide additional maintenance requirements. Mr. Barber has asked for information as to enforcement of the maintenance program. Mr. Barber said that there will be testing annually for calcium and/or sodium chloride and any other pollutants which may permeate the well on the property and adjoining properties.

Ms. Mangarillo's Comments (see attached memo of March 13, 2013)

Ms. Mangarillo also felt that most of her previous comments had been addressed. She asked that the 25 foot top of rock cut setback and the five foot wide safety bench at the bottom of the slope be shown on the site plan as well as the grading plan. As Mr. Watson explained, the contractors' building will be constructed in the last phase of this project. Ms. Mangarillo said that when the building is constructed it will provide some visual screening and noise mitigation, but questioned why leaving the vegetated berm is the preferred scenario. In Mr. Watson's response letter he states the geotechnical engineer won't require subsurface exploration to support his findings and assumes that borings won't be done and questioned why that was. Ms. Mangarillo said that the salt damages concrete when it is wet and there shouldn't be too much dampness in the building. In the DEC letter of 12/14/12 they stated that a Part 360 Solid Waste Management Facilities Registration or Permit may be required and Ms. Mangarillo said she suspected that one was not necessary, but wanted confirmation of that. The blast plan report dated 2/20/13 stated that traffic on Route will be stopped for each blast and that there will be approximately 115 blast days.

Ms. Mangarillo asked for additional information pertaining to:

- The average number of times traffic will be stopped on blast days; and
- The maximum number of times traffic will be stopped on blast days;
- Whether or not the applicant has spoken to the DOT about this;
- Is additional signage needed

The Mining Narrative Report dated 2/21/13 Page 5 states that **“topsoil stockpiled for sale for use off-site will either be seeded with annual ryegrass or covered until loaded into trucks for removal from the site”**. Ms. Mangarillo asked that all temporary seeding be done with a perennial/annual mix since it may have to extend to more than one seeding season.

The conceptual elevations drawings for the sand/salt storage building still show the building height as 50'-9" and the IOC Zoning District maximum height is 40 feet. The 11/15/12 cover letter states the height has been reduced to 40'. The drawing needs to be revised to reflect this. She also asked whether or not there would be a door on the salt/storage sheds. Ms. Mangarillo recommended that the entire access driveway from Route 52, which transitions to gravel along the "Proposed Contractor's Yard/Outdoor Storage Area" and then to back to asphalt around the sand/salt storage buildings, be paved with asphalt to reduce tracking during snow events and to provide additional protection of the groundwater from potential salt contamination. Ms. Bolbrock had a question about the weekly Inspection Report and a note on the sketch about continuous erosion. Ms. Mangarillo deferred this question to Mr. Watson. Mr. Watson said there is an area in the rear near the stormwater basins where the soil hasn't stabilized, where the topsoil needs to be replaced, reseeded and mulched. Mr. Tolmach had a question about the silt fences not having been repaired. Mr. Watson said that work on the site was stopped during the winter and the ground was frozen so they weren't able to repair/replace the silt fence, but the applicant was aware that they need to do this and will do it as soon as possible.

Mr. Wilson's Comments (memo of 3/14/13 attached)

Ms. Bolbrock advised the audience that Mr. Wilson was unable to attend the Planning Board meeting on March 14, 2013 and that he had sent a memo for distribution prior to the meeting, which the Planning Board were in receipt of. Mr. Wilson advised the Planning Board that the information from the DEC has been received and that the public may review it. He recommended that the Public Hearing be kept open and adjourned to the meeting in April. The Planning Board agreed to do this.

**Fichter Property, Beach Court, Kent, NY; TM: 21.13-1-25**

Mr. Harry Nichols represented the applicant, regarding plans to construct a two bedroom house on an existing undeveloped lot on Beach Court. Mr. Nichols reviewed memos sent by Mr. Barber and Ms. Mangarillo (copies attached) and said he would address the comments and would like to discuss them further in person. It was suggested that Mr. Nichols meet with the consultants at their monthly review meeting on Friday, March 22, 2013.

Mr. Barber's Comments (see attached memo of 3/13/13)

Mr. Barber said he reviewed the plans and conducted a site inspection. He noted that the applicant had a small area of incursion in the jurisdictional wetland buffer by way of the driveway installation and requested that the applicant apply for a wetland permit. Mr. Barber asked for a copy of the decision made by the Zoning Board of Appeals obtained on January 21, 2013, regarding a variance for lot area width and road frontage. He also asked for a copy of the approvals from the Putnam County Board of Health for a well and septic system, which were issued in May 2011.

Ms. Mangarillo's Comments (see attached memo of 3/13/13)

Ms. Mangarillo reviewed the applicant's drawing and noted in her memo items which were missing. The first item was that the project was in the NYCDEP East of Hudson watershed and will disturb more than 5,000 square feet. Therefore, a Kent Erosion and Sediment Control permit and General Permit for Stormwater Discharges from Construction activity. (GP-0-10-001).

Driveway may not slope toward the road and that would have to be addressed by the applicant.

She asked for a more recent survey.

Ms. Mangarillo asked the Planning Board if they wished to defer the decision making until the April meeting and suggested waiving a public hearing and doing an administrative review for this project. Ms. Bolbrock asked Mr. Nichols what his preference would be. Mr. Nichols said that, since he had some issues to address, he would prefer to defer the resolution to the April meeting.

Mr. Nichols had some questions pertaining to the driveway and asked Ms. Mangarillo about this. Ms. Mangarillo said that Chapter 57 of the Kent Town Code states that 50' must slope away from the road to eliminate icing issues or sediment going into the road. Therefore, you must slope back 30' and go up. If a culvert is required, they must go back 6'. Mr. Nichols said the culvert would probably be the best solution.

#### **Rudovic Property, 229 Route 52, Kent, NY; TM: 44.5-1-75**

Mr. Joel Greenberg represented the applicants, who were also in attendance, and stated that this project was approved previously when the previous owner wished to put in a nail salon and a printing shop. Now the amended plan is to maintain the residence upstairs and a boutique in the downstairs portion of the residence that their daughter will manage. Mr. Greenberg emphasized that there will be no disturbance to the property, approved previously by the Planning Board, with the exception of the garage which was recently erected.

#### **Mr. Wilson's Comments (see attached memo)**

The applicant requested a waiver of the topography since no change is planned. Mr. Wilson referred to Item 1g. (page 2) and said the request for the waiver seemed reasonable.

Mr. Greenberg asked that the waiver be granted because he needs to increase the size of the site plan. Ms. Bolbrock informed him that the Planning Board would need to vote on that.

Mr. Greenberg referred to Ms. Mangarillo's comments, specifically Item 1. and 1.A. with regard to the fact that if more than 5,000 square feet of land is disturbed an Erosion Control Permit is required. Mr. Greenberg reiterated that there will be no disturbance and this is not applicable.

Item 2 also refers to the limits of disturbance, which does not apply.

Item 3 stated that an accessory building must be 30 feet from the property line and the applicant will need to go to the Zoning Board of Appeals for a variance.

Mr. Greenberg stated that the other concerns Ms. Mangarillo had would be addressed, but asked again that the waiver of topography be granted.

Ms. Butler spoke and told the Planning Board that, as requested by the Board, she had arranged two appointments to inspect the Rudovic property where the boutique was to be and was not given access either time. Mr. Greenberg said he would arrange another visit with the applicant prior to the next meeting.

Ms. Mangarillo's Comments (see attached memo)

Ms. Mangarillo said that the garage was built without a building permit, which means that essentially it does not exist and that this project is subject to the DEC regulations today and should be treated as if it were a new project. This is why she requested that the limits of disturbance and calculations of the area be shown. If the amount of area for building the garage, expanding the driveway and topsoil and seeding exceeds the 5,000 square feet of disturbance the applicant is subject to DEC and Chapter 66 Erosion Control Permit regulations.

Ms. Mangarillo also noted that the variance from the ZBA is necessary to legalize the garage prior to moving ahead with the Planning Board review.

Ms. Bolbrock stated that, as recommended by Ms. Mangarillo, the Planning Board would defer any action on this project.

**Chuang Yen Monastery, Route 301, Kent, NY; TM: 19.-1-40.1**

Ms. Mangarillo advised the Planning Board that this project had been previously been referred for administrative review and she recommended that the bond estimate in the amount of \$16,844 and \$1,000 inspection fee be approved by the Planning Board and referred to the Town Board for acceptance.

Ms. Bolbrock asked for a motion that the bond be approved and forwarded to the Kent Town Board for their approval and that they pass a resolution accepting the bond. The motion was made by Mr. Tolmach and seconded by Mr. Brunner. The Planning Board voted unanimously to accept the bond and forward it to the Town Board and the motion carried.

Permit Applications Review:

- |   |  |                 |               |
|---|--|-----------------|---------------|
| - | Joseph Bene Property /TM: 33.48-1-6<br>Tibet Drive, Kent, NY | Erosion Control | Status Report |
|---|--|-----------------|---------------|

This project is still before the Zoning Board of Appeals

Two additional items open for discussion were as follows:

**La Famiglia, Route 311, Kent, NY/TM:**

The applicant purchased the restaurant formerly known as McGuire's Pub and plans on reopening the restaurant as La Famiglia. They provided a copy of the building, which has been resided on the outside and refurbished on the inside, as well as a copy of the sign which they wish to have installed where the previous sign was located.

Ms. Bolbrock said she spoke to Mr. Sisto and he approved the sign and asked for the Planning Board's approval. They all agreed that the sign should be approved.

**Kent Self Storage, Route 311, Kent, NY/TM:**

Ms. Butler advised the Planning Board that Mr. Viebrock is discontinuing his "Farmer's Pride" business and will put up partitions in the same building will increase his warehouse space. All the Farmer's Pride trucks will also be gone.

The produce stand will still be on the property as well.

Ms. Bolbrock asked for a motion to adjourn at 9:00. The motion was made by Mr. Brunner and seconded by Mr. Tolmach and the motion carried.

Respectfully Submitted,

Vera Patterson  
Planning Board Secretary

cc: Planning Board Members  
Building Inspector  
Town Clerk