

JOINT HEARING OF THE MIDDLESEX PLANNING COMMISSION
AND ZONING BOARD OF ADJUSTMENT
Wednesday, July 18, 2018
6:30 PM
Middlesex Town Hall
5 Church Street
Middlesex, Vermont 05602
(802) 223-5915

DRAFT MINUTES

Kingsbury Construction (KCOS) Zoning Permit #18-16 Public Hearing

Prior to the hearing, a site visit convenes at the property of Kingsbury Construction (KCOS), at 58 Center Road at 6:00 pm.

Present:

PC members Steve Martin, Barry Bolio, Sandy Levine, Troy Sumner and Mitch Osiecki (also the Zoning Administrator);

ZBA members Charlene Bohl, Daniel Crisp, John Demeter, Phil Hyjek and Roger Hirt.

Also present is Dean Zoecklein, representing KCOS, abutting landowner Jim Gallagher and Dexter Lefavour (Jim Gallagher's engineer). Others present are: Ginny Burley, Dick Alderman and John Lewis.

Dean Zoecklein, as agent for KCOS, agreed to suspend a no-trespass order and thereby allow Jim Gallagher to attend the site visit.

Dean shows the layout of property and explains where the proposed subdivision is in relation to the KCOS facility. He further describes where the proposed structure will be sited on the property and describes relevant topographical features of the property.

Call to Order

Hearing formally convenes at Middlesex Town Hall at 6:29 pm.

Present:

PC members Steve Martin, Barry Bolio, Sandy Levine, Troy Sumner and Mitch Osiecki (also Zoning Administrator and minute-taker);

ZBA members: Charlene Bohl, Daniel Crisp, John Demeter, Phil Hyjek and Roger Hirt;

TJ Kingsbury – KCOS

Dean Zoecklein – KCOS

Jim Gallagher, abutting landowner

Dexter Lefavour, Jim Gallagher's engineer
Ginny Burley, Central Vermont New Directions
Anthony Brach, Vermont Patients Alliance (VPA)
Kelsey Cohen, VPA
William Cats-Baril, VPA

John Demeter makes a brief introduction and explains the procedures that will be observed for the hearing.

John reads into the record the public warning of the hearing.

John polls members of the PC and ZBA and confirms that no one has any conflicts of interest that would prevent them from rendering a fair and impartial decision. On this matter, Dan Crisp explains that his firm, Downs Rachlin Martin, has represented KCOS in that past. But Dan's work group has not, so he has no conflict of interest in hearing this matter.

John polls members of the PC and ZBA and affirms that no ex parte communication has taken place by any members of either body prior to this hearing.

John explains the definition of an Interested Person and affirms that Jim Gallagher, Dexter Lefavour, Anthony Brach, Kelsey Cohen, William Cats-Baril and Ginny Burley all meet the definition of Interested Persons.

John reads the Oath and swears in all Interested Persons.

Dean gives a brief summary of the site development proposal.

In response to a question as to why they seek a subdivision, Dean responds that VPA wishes to purchase the lot rather than lease.

A brief discussion by ZBA members ensues as to District Standards. Standards are one principal structure per two acres.

In response to a question from the PC, Dean states that the proposed structure will use existing water and septic. Dean affirms that existing permit has the capacity to support the proposed site when fully built out.

Both the PC and the ZBA are required to review the same ten criteria in consideration of their respective review of this permit. In the interest of efficiency, the two bodies will consider these items simultaneously. The items that must be considered are:

1. Site Features – Covered in Dean Zoecklein's presentation.
2. Access – When fully built out, this facility will have perhaps 25-30 employees. Facility will maintain traditional business hours, Monday–Friday, 9am–5 pm. There will be minimal deliveries and shipments, perhaps one or two per month.

3. Circulation – Also covered in initial presentation. In response to a question from the PC, Dean says that the facility has completed needed work on entrance and has received highway access permit from the AOT. Will follow up on this. In addition to access permit from the AOT, this facility may be required to obtain a highway access permit from the town (State permit is a prerequisite for the town permit).
4. Parking, Loading, Service & Outdoor Storage Areas – question raised as to whether the site will have adequate parking for anticipated staff. Response is affirmative, but drawings presented don't show parking for the 25-30 staff indicated. Will follow up on this item. Also, there will be no outdoor storage of any materials.
5. Layout & Site Design – Covered in initial presentation.
6. Landscaping & Screening – Plans are to maintain as much of the existing buffer as possible.
7. Storm Water Management & Erosion Control – Dean and TJ Kingsbury indicate current septic permit will allow for anticipated water needs. Indications are that water demand should not exceed 2000 gallons/week. They have the ability to upwardly revise current permit if needed, but do not anticipate that that will be necessary. Follow up likely required to verify water usage and permit capacity.
8. Lighting – Anticipate no more than four exterior lights, which will be of only moderate intensity. Due to screening provided by trees, it is not anticipated that any exterior lighting will be visible by neighbors or from public roads. Interior lighting will be used on occasion to force flowering of plants, but greenhouses will be blacked out during such operations, so no light will emanate from facility. VPA representatives state that they are amenable to conditions being placed to restrict visible light from the facility.
9. Bylaws in effect – discussion to address the question of whether the proposed project may properly be considered “light industry.” Section 4.7 of Middlesex Land Use regulations defines light industry and states that six criteria must be met, namely:
 - (1) All activities shall be conducted indoors or within an enclosed outdoor area screened year round from the road and neighboring properties. VPA attests that all operations will be conducted indoors.
 - (2) Outdoor storage of materials will be restricted to a designated area approved by the ZBA. VPA attests nothing will be stored outdoors.
 - (3) Any area designated for outdoor storage shall meet proper setbacks from road rights-of-way, surface waters, wetlands and adjacent properties. No outdoor storage will be employed.
 - (4) In approving industrial or manufacturing use, ZBA may place conditions on the proposed activity. VPA is amenable to conditions.
 - (5) The on-site storage of hazardous materials shall require specific approval of the ZBA. VPA attests there will be none.
 - (6) Sufficient landscaping and screening shall be provided along parcel boundaries and within

the project site to protect adjacent properties from objectionable visual impacts. VPA indicates that goal is to be as unobtrusive as possible.

ZBA indicates consensus that provisions of Section 4.7 covering Light Industry are satisfied.

10. Sign Requirements – As aim of facility is to be unobtrusive, any signage will be minimal.

VPA reiterates that typical hours of operation will 9-5, Monday through Friday. A smaller staff will be on-site 9-5 on Saturdays and Sundays.

On-site security systems will meet those requirements issued by the Department of Public Safety. Currently, there is no requirement for on-site security personnel, but that could change eventually.

The ZBA reviewed Dimensional Standards, including setbacks of primary and accessory structures, and affirmed that the proposed project complies with existing standards.

As part of its review, the Planning Commission is also required to address Planned Unit Developments (PUD's), as described in Section 5.7 of the regulations. PUD's are intended to allow for innovative and flexible design and development that will promote the most appropriate use of land, and specifically achieve one of more of six objectives (not enumerated here, but found on page 39 of regulations).

John granted Interested Persons the opportunity to speak.

Jim Gallagher/Dexter Lefavour raised some concerns and objections.

Dexter submitted a number of photographs showing geothermal lines on the KCOS property. Some Geothermal lines are on the current KCOS property, some are on the proposed subdivision.

Dean states that the proposed development will not compromise any existing geothermal lines. Dean also states that geothermal lines do not require any special permits from the state.

Dexter also submits photos showing four pallets of barrels of ethylene glycol and/or poly glycol and states glycol has been spilled on property, and possibly compromising Jim Gallagher's water supply.

Dexter submits other photos he says show that tires have been burned on the KCOS property and/or abutting property owned by Stephen Van Esen.

Dexter also raises concerns as to whether the project has a proper storm water permit.

Dexter also states that he believes application should be considered incomplete because it does not show details of wastewater and septic lines.

Dexter also raises concerns that project does not include adequate parking for the anticipated staff.

VPA representatives state that the Department of Public Safety governs access to the site, background checks and ID requirements for staff. The proposed facility will need to satisfy requirements of the DPS to be licensed.

In response to a question, VPA representative says the facility will be subject to inspections by DPS. Typically, that will consist of a single inspector, so will not impact parking requirements.

There will be no public access to the facility. All visitors must be logged in and DPS requires detailed records of visitors.

No retail sales will be conducted at this facility.

In response to a question, VPA reiterates that this is strictly a medical marijuana growing facility, and will not participate in the personal use (recreational) market.

This facility will not expand beyond currently proposed capacity. Any expansion of capacity would occur elsewhere.

VPA currently serves four medical marijuana dispensaries around that state.

In response to a question, VPA states that they have obtained proper permits from state for other growing facilities.

Jim Gallagher raised two final concerns. One is contamination of water supply from the use of ethylene glycol and poly glycol. His second concern is that the proposed facility should not be considered light industry.

VPA states that they currently maintain medical marijuana grow operations at four facilities around the state (in Moretown, Milton and Montpelier).

Ginny Burley of Central Vermont New Directions speaks briefly.

Ginny raises concern about unintended consequences from such an operation. For example, the possibility of an infestation of harmful insects.

She also asks there might be some conditions that it might be advisable to impose.

Ginny states that while she appreciates the aim of VPA to operate a sustainable, low-impact operation, other states that have approved such operations have found them to use large amounts of electricity and water.

She also raised a concern about odor from such an operation.

VPA reiterates that their goal is to grow plants sustainably. Both electricity and water usage will be carefully monitored.

VPA states that odor will not be an issue on a site of this scale.

Both bodies go to deliberative session to consider their respective aspects of the permit request.

Hearing concluded at 8:05 pm.

Respectfully submitted,

Mitch Osiecki, Zoning Administrator