

MINUTES OF THE ZONING BOARD OF APPEALS OF THE TOWN OF KINGSBURY

January 27, 2022

MEMBERS PRESENT:

William Whipple, Chairman
Brian Heasley
Katherine Henely
Jim Ross

MEMBERS ABSENT:

Scott Winchell (Excused)

ENFORCEMENT OFFICER:

Todd Humiston

TOWN ATTORNEY:

Jeff Meyer

Chairman Whipple called the meeting to order at 7:00 p.m.

Roll Call of all Members and Officials.

Chairman Whipple entertained a motion to approve the minutes from September 23, 2021.

ON A MOTION BY MR. HEASLEY seconded by Mr. Ross, the minutes of the September 23, 2021, meeting were adopted, as presented.

AYES: 4

NAYS: 0

ABSTAIN: 0

MOTION CARRIED

Chairman Whipple opened the Public Hearing and presented the first item on the agenda.

1. JOHN CLEVELAND, owner Tax Map # 146.18-8-3.1 commonly known as 141 North Street, Town of Kingsbury, located in Zoning District, COM- 1A Commercial District is seeking an area variance for a setback of 38 feet from Dix Avenue and 28 feet from North Street. Both require a minimum of 80 feet at this location. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman Whipple invited the Applicant, John Cleveland to address the Board.

Mr. Cleveland stated he has a 15 foot swim spa in his backyard for water exercise. Before Covid he was going to the YMCA for his exercise. He would like to extend his garage and put a cover over the swim spa. There is a concrete patio there already and would like to cover the whole area. He is asking for a relief of 38 feet from Dix Avenue and 28 feet from North Street.

MINUTES OF THE ZONING BOARD OF APPEALS OF THE TOWN OF KINGSBURY

Chairman Whipple questioned if Mr. Cleveland was looking to have a carport covering.

Mr. Cleveland stated yes, as you are looking at his house it would be an extension off the end of the garage and straight back and along the back of the house.

Discussion ensued among the Board with questions addressed by the Applicant.

There being no comments from the public, Chairman Whipple closed the public hearing.

The Board then reviewed the proposed resolution.

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

Resolution No. 1 of 2022
Adopted January 27, 2022

Introduced by JAMES ROSS
who moved its adoption

Seconded by KATHERINE HENLEY

**RESOLUTION APPROVING
AREA VARIANCE APPLICATION OF JOHN CLEVELAND**

WHEREAS, pursuant to Chapter 280 of the Code of the Town of Kingsbury, the Town of Kingsbury Zoning Board of Appeals (hereafter the “ZBA”) is authorized and empowered issue variances in accordance with said Zoning Ordinance and Section 267-b of the Town Law; and

WHEREAS, John Cleveland, as owner (hereafter the “Applicant”), has requested two area variances relative to the front yard setback along Dix Avenue and the front yard setback along North Street for his property located at 141 North Street, Town of Kingsbury, identified as Tax Map Number 146.18-8-3.1; and

WHEREAS, the Applicant’s request requires two area variances from the front yard setback requirements of the Code of the Town of Kingsbury, as follows: (1) the minimum front yard setback required for this property is eighty (80) feet because the property fronts on a state highway, the Applicant is proposing a thirty eight (38) foot setback resulting in a request for relief of forty two (42) feet; and (2) the minimum front yard setback required for this property along North Street is fifty (50) feet, the applicant is proposing forty two (42) feet and

WHEREAS, in accordance with the State Environmental Quality Review Act (hereafter “SEQRA”), the requested variance is a Type II action; and

MINUTES OF THE ZONING BOARD OF APPEALS OF THE TOWN OF KINGSBURY

WHEREAS, a public hearing was duly held on the requested variance at which time the Applicant and members of the public were entitled to comment on the requested variances; and

WHEREAS, the ZBA has reviewed the Application and supporting materials, and has taken into consideration the comments from the public, and has reviewed the criteria found in Town Law Section 267-b.

NOW THEREFORE BE IT RESOLVED:

Section 1. Considering the area variance requirements, in considering the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, while noting that the ZBA must grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community, the ZBA hereby APPROVES the application and finds the following:

(a) Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the area variance?

No, an undesirable change will not be produced by granting the variance.

(b) Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than through an area variance?

No, the lot is pre-existing nonconforming. Any modification will require a variance.

(c) Is the requested area variance substantial?

No, the variance is not substantial since it is a pre-existing lot.

(d) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

No, there will be no adverse impacts on the neighborhood or district.

(e) Was the alleged difficulty self-created?

Yes, the difficulty was self-created.

Section 2. This resolution shall take effect immediately.

ROLL CALL VOTE

William Whipple, Chair – Yes

Brian Heasley – Yes

James Ross – Yes

Katherine Henley – Yes

MINUTES OF THE ZONING BOARD OF APPEALS OF THE TOWN OF KINGSBURY

2. **FREDERICK TRIPP**, owner of Tax Map # 154.-1-9 commonly known as 1197 State Route 196, Town of Kingsbury, located in Zoning District, RA-1A Residential Agriculture District is seeking an area variance for a subdivision. The minimum road frontage is 200 feet. He is looking for relief of eighty-five (85) feet on the second lot. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman Whipple invited the Applicant, Frederick Tripp to address the Board.

Mr. Tripp stated they would like to subdivide their property to build a ranch style home. They own the 1887 home on the land that is there at the time and located in the center of the property. What they are proposing is to be able to build a one story home if they get approval on the lot. His wife became ill in April and is very essential for them now to have a one story home. His wife stated she had a stroke in April and one in June. In Their current home the bedroom is in the upstairs and she can no longer climb them.

The current house has the 200 feet of road frontage needed.

Mr. Humiston stated that after looking at all of the options he felt the 85 feet of relief would be the best option.

Discussion ensued among the Board with questions addressed by the Applicant.

There being no comments from the public, Chairman Whipple closed the public hearing.

The Board then reviewed the proposed resolution.

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

Resolution No. 2 of 2022
Adopted January 27, 2022

Introduced by BRIAN HEASLEY
who moved its adoption

Seconded by JAMES ROSS

**RESOLUTION APPROVING
AREA VARIANCE APPLICATION OF FREDERICK TRIPP**

WHEREAS, pursuant to Chapter 280 of the Code of the Town of Kingsbury, the Town of Kingsbury Zoning Board of Appeals (hereafter the “ZBA”) is authorized and empowered issue variances in accordance with said Zoning Ordinance and Section 267-b of the Town Law; and

MINUTES OF THE ZONING BOARD OF APPEALS OF THE TOWN OF KINGSBURY

WHEREAS, Frederick Tripp, as owner (hereafter the “Applicant”), has requested an area variance relative to the minimum road frontage requirement for his property located at 1197 State Route 196, Town of Kingsbury, identified as Tax Map Number 154.-1-9, with the Applicant proposing a two (2) lot subdivision; and

WHEREAS, the Applicant’s request requires a variance from the minimum road frontage requirement of the Code of the Town of Kingsbury, as follows: the minimum of road frontage requires two hundred feet (200) feet, and the Applicant is proposing a lot with one hundred fifteen (115) feet of road frontage resulting in a request for relief of eighty five (85) feet; and

WHEREAS, in accordance with the State Environmental Quality Review Act (hereafter “SEQRA”), the requested variance is a Type II action; and

WHEREAS, a public hearing was duly held on the requested variance at which time the Applicant and members of the public were entitled to comment on the requested variances; and

WHEREAS, the ZBA has reviewed the Application and supporting materials, and has taken into consideration the comments from the public, and has reviewed the criteria found in Town Law Section 267-b.

NOW THEREFORE BE IT RESOLVED:

Section 1. Considering the area variance requirements, in considering the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, while noting that the ZBA must grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community, the ZBA hereby APPROVES the application and finds the following:

(a) Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the area variance?

No, there will be no undesirable changes produced by granting the variance.

(b) Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than through an area variance?

There are no feasible alternatives due to the historic home currently located on the center of the property.

(c) Is the requested area variance substantial?

Yes, based on percentages the variance could be considered substantial.

MINUTES OF THE ZONING BOARD OF APPEALS OF THE TOWN OF KINGSBURY

(d) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

No, there will be no adverse impacts on the neighborhood or district.

(e) Was the alleged difficulty self-created?

Yes, the difficulty was self-created.

Section 2. This resolution shall take effect immediately.

ROLL CALL VOTE

William Whipple, Chair – Yes

Brian Heasley – Yes

James Ross – Yes

Katherine Henley – Yes

3. THOMAS J. BURKE contract vendee of Tax Map # 146.-3-18.1 commonly known as 3092 State Route 4, Town of Kingsbury, located in Zoning District, COM-1A Commercial District is seeking a variance for a setback of 50 feet from State Route 4. The minimum setback is 80 feet. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman Whipple invited the Applicant, Jared George who will be representing Thomas J. Burke.

Mr. George stated he is here tonight asking for a variance for a setback of 50 feet from State Route 4. The property is 7.37 +/- acres. They will be utilizing a little less than an acre of the property. They would like to build a 3,500+/- square foot, one story Medical Urgent Care Building. They will be able to connect to Town Water but are not able to connect to the sewer. At this time, they are showing a potential septic field location.

The buildings that are on the property now will be demolished. They are asking for relief of the 30 foot setback. They feel the current layout is consistent with the Hudson River Community Credit Union and other buildings a long this road.

Mr. George asked to please note the existing access road will be removed and are not proposing any further development to the rear of the property.

Mr. George stated he has spoken with NYSDOT, they were fine with the plan.

Steve Struwing, 4 Devine Drive, Jack Webb, 3104 State Route 4, David & Dorothy Russell, 6 Devine Drive Had concerns with this project.

Mr. George answered their questions.

MINUTES OF THE ZONING BOARD OF APPEALS OF THE TOWN OF KINGSBURY

Discussion ensued among the Board with questions addressed by the Applicant.

Chairman Whipple closed the public hearing.

The Board then reviewed the proposed resolution.

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

Resolution No. 3 of 2022
Adopted January 27, 2022

Introduced by JAMES ROSS
who moved its adoption

Seconded by BRIAN HEASLEY

**RESOLUTION APPROVING
AREA VARIANCE APPLICATION OF THOMAS J. BURKE**

WHEREAS, pursuant to Chapter 280 of the Code of the Town of Kingsbury, the Town of Kingsbury Zoning Board of Appeals (hereafter the “ZBA”) is authorized and empowered issue variances in accordance with said Zoning Ordinance and Section 267-b of the Town Law; and

WHEREAS, Thomas J. Burke, as contract vendee (hereafter the “Applicant”), has requested an area variance relative to the front yard setback on his property located at 3092 State Route 4, Town of Kingsbury, identified as Tax Map Number 146.-3-18.1, with the Applicant proposing setback of fifty (50) feet to construct a medical office building; and

WHEREAS, the Applicant’s request requires an area variance from the front yard setback requirement of the Code of the Town of Kingsbury, as follows: the minimum setback required for this property is eighty (80) feet because the property fronts on a state highway, the applicant is proposing a fifty (50) foot setback resulting in a request for relief of thirty (30) feet; and

WHEREAS, in accordance with the State Environmental Quality Review Act (hereafter “SEQRA”), the requested variance is an unlisted action and the Zoning Board of Appeals having already taken a hard look at the potential environmental impacts and adopted a negative declaration; and

WHEREAS, a public hearing was duly held on the requested variance at which time the Applicant and members of the public were entitled to comment on the requested variances; and

MINUTES OF THE ZONING BOARD OF APPEALS OF THE TOWN OF KINGSBURY

WHEREAS, the ZBA has reviewed the Application and supporting materials, and has taken into consideration the comments from the public, and has reviewed the criteria found in Town Law Section 267-b.

NOW THEREFORE BE IT RESOLVED:

Section 1. Considering the area variance requirements, in considering the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, while noting that the ZBA must grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community, the ZBA hereby APPROVES the application and finds the following:

(a) Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the area variance?

No, an undesirable change will not be produced by granting the variance.

(b) Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than through an area variance?

Yes, there may be possible alternatives. However, because of the use and septic location, the preference is to move the building forward to minimize potential impacts.

(c) Is the requested area variance substantial?

No, the requested variance is not substantial based on the area.

(d) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

No, there will be no adverse impacts on the neighborhood or district.

(e) Was the alleged difficulty self-created?

Yes, the difficulty was self-created.

Section 2. This resolution shall take effect immediately.

ROLL CALL VOTE

William Whipple, Chair – Yes
Brian Heasley – Yes
James Ross – Yes
Katherine Henley – Yes

MINUTES OF THE ZONING BOARD OF APPEALS OF THE TOWN OF KINGSBURY

ON A MOTION BY MR. HEASLEY, and seconded by Mr. Ross, with all members approving the meeting was adjourned at 7:45 p.m.

MICHELLE RADLIFF
SECRETARY