

**MINUTES OF THE ZONING BOARD OF APPEALS – FEBRUARY 22, 2024 – THE TOWN OF KINGSBURY**

**MEMBERS PRESENT:**

Bill Whipple, Chairman

James Ross

Katherine Henley

**OTHERS PRESENT:**

Jeff Meyer, Esq., Town Attorney

Jim Cortese, Acting Zoning Administrator

Alie Weaver, Zoning Board Secretary

**EXCUSED:** Scott Winchell, Michelle Richardson, Brian Heasley

The meeting was called to order by Chairman Whipple at 7:00 PM.

Roll call of members and confirmation of quorum.

Chairman Whipple entertained a motion to approve the minutes of the January 25, 2024 meeting.

ON A MOTION BY Jim Ross and seconded by Katherine Henley with all in favor, the minutes of the January 2024 Kingsbury Zoning Board meeting were adopted.

AYES: 3, NAYES: 0, ABSTAIN: 0, MOTION CARRIED

Chairman Whipple introduced the Warren Washington IDA, owner of Tax Map #137.-2-1.36, commonly known as “off the end of Ferguson Lane” in Kingsbury, located in Zoning District PIC 75 Park Industrial Commercial, is seeking a zoning variance for the creation of a non-conforming lot.

Mr. Bob Holmes of Holmes Engineering was present on behalf of the Warren Washington IDA and stated that they are seeking the subdivision of parcel 137.-2-1.36 with the Planning Board. He noted that the lot is currently 7.9 acres and they are looking to divide off the extension of Ferguson Lane, what is referred to as the “paper road”, and create a non-conforming lot with a 50-foot width. He noted the remaining acreage would be combined with other undevelopable lots in the Industrial Park due to wetlands and sold to Mr. Colomb.

Chairman Whipple opened the meeting for public comments at 7:05 pm.

Mr. Colomb was present at the meeting and when asked what benefit he would gain from purchasing the undevelopable property, he stated that his property borders the Industrial Park and he would like this land to use as a buffer and for hunting.

There being no other questions or comments from the public, Chairman Whipple closed the public hearing at 7:06 pm.

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The Board Members reviewed aloud the short State Environmental Quality Review Act (SEQRA) and declared a negative declaration.

The Board agreed that a condition needs to be included in the resolution that Lots 21-24 be merged to this non-conforming lot and sold to Mr. Colomb.

ON A MOTION By Jim Ross and SECONDED by Katherine Henley, with all in favor by roll call vote, the resolution to approve the variance with the added condition was passed.

AYES: 3, NAYES: 0, ABSTAIN: 0, MOTION CARRIED

(A copy of the full resolution annexed hereto at the end of the minutes.)

Mr. Meyer stated that the Town Board agreed to hold a joint meeting with the Zoning Board to review Town Code and Policy amendments. He noted that this meeting will be scheduled at a later date.

With no other business to discuss, Jim Ross made a motion to adjourn the February Kingsbury Zoning Board of Appeals meeting and Katherine Henley seconded. All vote in favor by voice vote. The meeting was adjourned at 7:12 pm.

Alie Weaver, Secretary  
Town of Kingsbury Zoning Board of Appeals

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

Resolution No. 0224 of 2024

Introduced by JAMES ROSS  
who moved its adoption

Seconded by KATHERINE HENLEY

**RESOLUTION APPROVING  
AREA VARIANCE REQUESTED BY  
THE COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY**

**WHEREAS**, pursuant to the 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;

**WHEREAS**, the Counties of Warren and Washington Industrial Development Agency (hereafter the “Applicant”), has requested an area variance relative to the lot frontage requirements for their property located at Off Ferguson Lane, Town of Kingsbury, identified as Tax Map Number 137.-2-1.36, where two hundred (200) feet is required in the PIC-75 Zoning District; and

**WHEREAS**, the Applicant’s request requires a variance from the side yard setback requirement found in Section 280-25 (E)(1) of the Code of the Town of Kingsbury, whereby a minimum of two hundred (200) feet is required and the Applicant is requesting one hundred fifty (150) feet of relief from the road frontage requirement; and

**WHEREAS**, in accordance with the State Environmental Quality Review Act (hereafter “SEQRA”), the requested variances are 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 variance; 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 occur. There is an existing buffer and the parcel will remain available for a road.

(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 configuration of the existing lots precludes all other options.

(c) Is the requested area variance substantial?

Yes.

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

No, it will maintain what is existing.

(e) Was the alleged difficulty self-created?

Yes.

Section 2. The Board's approval shall be subject to the following conditions:

The remaining lands of Lot A shall merge with lots 21, 22, 23, 24 and the Lands of Daniel Colomb and shall not be further subdivided.

Section 3.

This resolution shall take effect immediately.

ROLL CALL VOTE

William Whipple – Aye

Katherine Henley – Aye

James Ross – Aye