

MINUTES OF THE ZONING BOARD OF APPEALS – May 25, 2023 – THE TOWN OF KINGSBURY

MEMBERS PRESENT:

William Whipple, Chairman

Michelle Richardson

James Ross

Scott Winchell

Brian Heasley

Katherine Henley

OTHERS PRESENT:

Jeff Meyer, Esq., Town Attorney

Steven Miles, Applicant

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

Roll call of members.

Chairman Whipple entertained a Motion to Approve the Minutes of the March 23, 2023 Meeting.

ON A MOTION BY Scott Winchell, seconded by Michelle Richardson, the minutes of the March 23, 2023 Kingsbury Zoning Board meeting were adopted.

AYES: 6, NAYES: 0, ABSTAIN: 0, MOTION CARRIED

Chairman Whipple presented Steven Miles., owner of tax map 146.17-4-14.1, commonly known as Lot 79 Myrtle Ave located in Zoning District LDR25, who is seeking a 10’ variance of the front and rear required setbacks and a 15’ variance of the side yard required setbacks for the construction of a single family residence and garage.

Mr. Miles stated that this property has been in his family since 1956 and he plans on building a ranch-style house with attached garage. He noted that plans were drawn up for a 24’ garage vs. a 30’ garage to allow for a 30’ driveway. There will be 10’ from the proposed house to the property lines on each side. He noted that he and his sister own lots 80 and 81.

Mr. Ross expressed concern about major snowstorms creating a lack of space for snow removal. He also stated that possible sidewalk installation would impede driveway clearance and approving these setbacks would set a precedent.

Mr. Winchell stated that existing houses on Myrtle Avenue have similar minimal setbacks and constructing this house on Lot 79 would add a tax base to the town while improving the neighborhood aesthetics.

MINUTES OF THE ZONING BOARD OF APPEALS – May 25, 2023 – THE TOWN OF KINGSBURY

There being no further questions or comments from the Board, Chairman Whipple opened the floor to public comments at 7:12pm.

There being no members of the public present at the meeting and no comments or questions received at the Town of Kingsbury prior to the meeting, Chairman Whipple closed the public hearing at 7:13pm.

The Board reviewed the State Environmental Quality Review Act as a Type II action and determined that the requested variances are significant, and Mr. Miles could seek alternative options to build a house on this property with fewer setback encroachments.

Scott Winchell made a motion to vote on the Resolution to Approve the Area Variance and Brian Heasley seconded. The motion failed with the following votes:

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

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

Mr. Meyer stated that although the motion did not pass, it was not denied, and Mr. Miles has the option to withdraw his application or table his application to reconfigure his building plans providing reduced variances to present to the Zoning Board.

Mr. Miles stated that he wished to table his request at this time.

With no other business to discuss, Scott Winchell made a motion to adjourn the May Kingsbury Zoning Board of Appeals meeting and James Ross seconded. All vote in favor by voice vote. The meeting was adjourned at 7:30 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. 0105 of 2023

Introduced by SCOTT WINCHELL
who moved its adoption

Seconded by BRIAN HEASLEY

**RESOLUTION APPROVING
AREA VARIANCE REQUESTED BY
STEVEN M. MILES**

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, STEVEN M. MILES (hereafter the "Applicant"), has requested area variances relative to the front, rear, and side yard setbacks for the construction of a single family residence and garage on their property located at 79 Myrtle Avenue, Town of Kingsbury, identified as Tax Map Number 146.17-4-14.1, where a forty (40) foot front yard setback, a fifty (50) foot rear yard setback is required, and twenty five (25) foot side yard setbacks are required in the LDR25, Low-Density Residential Zoning District; and

WHEREAS, the Applicants request requires four variances: (1) from the front yard setback requirement found in Section 280-22 G(2) of the Code of the Town of Kingsbury, whereby a minimum of forty (40) feet is required and the applicant is requesting ten (10) feet of relief, (2) one from the rear yard setback requirement found in Section 280-22 G(2) of the Code of the Town of Kingsbury, whereby a minimum of fifty (50) feet is required and the applicant is requesting ten (10) feet of relief, (3) one from the side yard setback requirement found in Section 280-22 G(2) of the Code of the Town of Kingsbury, whereby a minimum of twenty five (25) feet is required and the applicant is requesting fifteen (15) feet of relief, and (4) one from the side yard setback requirement found in Section 280-22 G(2) of the Code of the Town of Kingsbury, whereby a minimum of twenty five (25) feet is required and the applicant is requesting fifteen (15) feet of relief 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 variances 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 are other houses on small lots in the area. An undesirable change will not occur due to other similar lots.

(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 are alternatives. The applicant could seek to acquire additional property or propose a smaller house with fewer setbacks.

(c) Is the requested area variance substantial?

Yes. Based on the size requirements of the code the requested variances are significant. The applicant also previously obtained side-yard setbacks which further increase the request.

(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 not be adverse impacts. The proposal will be served by municipal water. However, there are serious concerns about snow removal and future impacts if sidewalks are ever installed in the area, there could be adverse impacts.

(e) Was the alleged difficulty self-created?

Yes. The applicant also created the small lot previously.

Section 2. This resolution shall take effect immediately.

ROLL CALL VOTE

Scott Winchell – Yes

Michelle Richardson – No

Katherine Henley – No
Brian Heasley – Yes
James Ross – No
William Whipple – Yes

MOTION FAILS.

At the request of the Applicant the application was tabled. The Applicant reserved the right to propose a revised application.