

MINUTES OF THE ZONING BOARD OF APPEALS – JUNE 29, 2023 – THE TOWN OF KINGSBURY

MEMBERS PRESENT:

William Whipple, Chairman

Michelle Richardson

James Ross

Scott Winchell

Katherine Henley

Excused: Brian Heasley

OTHERS PRESENT:

Jeff Meyer, Esq., Town Attorney

Steven Miles, Applicant

Stephanie Bitter, Esq., Counsel for Mr. Miles

Todd Humiston, Kingsbury Code Enforcement Officer

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 May 25, 2023 Meeting.

ON A MOTION BY Scott Winchell, seconded by Jim Ross, the minutes of the May 2023 Kingsbury Zoning Board meeting were adopted.

AYES: 5, NAYES: 0, ABSTAIN: 0, MOTION CARRIED

LINMUR, LLC – preliminary plan review for an area variance request for a subdivision on State Route 196. Chairman Whipple stated that the representatives for LINMUR, LLC were not present and moved on to the next agenda item.

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 ten foot variance of the front and rear required setbacks for the construction of a single family residence and garage.

Mr. Miles stated that the Kingsbury Zoning Board of Appeals had granted fifteen foot side setbacks in 2007 for this property. He noted that test holes have been drilled and reviewed by an engineer and found no water drainage issues. He stated that the measurement between the road and the front of the garage is a forty six and a half foot distance.

Ms. Bitter, Counsel for Mr. Miles, stated that the applicant is willing to move the house back to create a larger area for the side facing the road and also have it facing the adjacent landowner. She noted that the plans presented are not out of character for that neighborhood. She also noted that an easement could be put in place on the adjacent land for snow removal accumulation.

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Candy Bristol-Huguley residing at 116 Myrtle Ave, Sherry Marshall residing at 120 Myrtle Ave, Jackie McMurry residing at 25 Helen Street and Richard Rheaume residing at 113 Myrtle Ave were present at the meeting and voiced their support for the proposed plans.

Robert and Michelle Springer, who reside at 11 Quarry Circle Way, built the house at 120 Myrtle Ave and attest to the basement having had no water issues in the past seventeen years. Mr. Springer stated that the distance between the road and the front of the garage is forty feet, also with no issues.

Jim Ross stated that the existing houses with similar setbacks were grandfathered in the current Zoning Code Laws and that the codes were written to protect the neighborhood.

Mr. Humiston stated that a detached garage would meet code, as accessory structures are permitted ten feet from the property line and from other structures. He noted that removing the garage from the proposed plans would also meet code. He expressed concern of moving the house back farther citing septic issues.

There being no further questions or comments from the public or the Board, the public hearing was closed at 7:17 pm.

The Board reviewed the Environmental Assessment Form and Scott Winchell made a motion to approve the Variance with the easement contingency and Katherine Henley seconded. With Jim Ross against and all others in favor, the motion passed.

AYES: 4, NAYES: 1, ABSTAIN: 0, MOTION CARRIED

CLAUDINE TOUGAS, Owner of Tax Map 137.-1-11.2, commonly known as 179 Geer Road, is appealing a Notice of Violation of Ordinance 280-7 Zoning Hobby Farm.

Chairman Whipple stated that the representative for this appeal was not present and tabled this agenda item but opened the public hearing for comments.

A neighbor of Ms. Tougas asked if she is entitled to continue the hobby farm until the next meeting. Mr. Meyer stated that if the Board tables this item, the landowner will be able to continue their hobby farm until the next meeting.

The neighbors of the landowner stated that there is less than an acre of land that currently owns approximately twenty chickens that free range. There is concern of the chickens crossing into neighboring yards risking exposure to their dogs and crossing into the road creating risks of traffic accidents and/or damage to cars.

Mr. Humiston stated that the Kingsbury Zoning Law states that farm animals other than cats or dogs are not permitted on land that is under two and a half acres of land.

With no other comments or questions from the Board or the public, Chairman Whipple closed the public hearing at 7:40 pm.

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Mr. Meyer read aloud the resolution constituting that the landowner maintains a hobby farm where it is not permissible, and it is required to be removed immediately.

Michelle Richardson made a motion to approve the resolution to support the Code Enforcement Officer's decision and Jim Ross seconded. With Katherine Henley abstaining and all others voting in favor, the motion passed.

AYES: 4 NAYES: 0 ABSTAIN: 1 MOTION CARRIED

With no other business to discuss, Michelle Richardson made a motion to adjourn the June Kingsbury Zoning Board of Appeals meeting and Katherine Henley seconded. All vote in favor by voice vote. The meeting was adjourned at 7:42 pm.

Alie Weaver, Secretary
Town of Kingsbury Zoning Board of Appeals