

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Minutes of July 25, 2019

MEMBERS PRESENT:

Hank LaFountain, Chairman
Brian Heasley
Katherine Henley
Scott Winchell
Michelle Wood

MEMBERS ABSENT:

Bill Whipple (Excused)
Rich Hogan (Excused)
Sondra Michaud

CODE ENFORCEMENT OFFICER/ZONING ADMINISTRATOR:

TOWN ATTORNEY:

Jeff Meyer, ESQ.

The meeting was called to order by Chairman LaFountain at 7:00pm.

Roll call of all members.

Chairman LaFountain entertained a Motion to Approve the Minutes of June 27, 2019.

ON A MOTION BY MRS. WOOD, seconded by MS. Henley, the minutes of the June 27, 2019 meeting were approved.

AYES: 5

NAYES: 0

ABSTAIN: 0

MOTION CARRIED

1. Lauren Kobor, Tax Map # 129.-3-26.1 commonly known as 23 Powhida Way, Hudson Falls, Town of Kingsbury, located in Zoning District, RA-1A, Residential-Agricultural District is seeking three (3) variances to permit the creation of five (5) Lots from one existing lot. They are looking for relief of thirty-six (36) feet on Lot C, relief of twenty-five (25) feet on Lot D and relief of twenty-five (25) feet on Lot E. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman LaFountain opened the Public Hearing.

Chairman LaFountain introduced Linda Blackburn who will be representing Lauren Kobor to address the Board.

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Ms. Blackburn stated at this time lots D and E will be combined together. They are asking for a one hundred fifty feet (150 feet) relief for this area. Lot C will need one hundred sixty-four feet (164 feet) of relief.

Mr. Winchell stated there already is a pre-existing, non-conforming right of way.

Attorney Meyer stated Ms. Kobor already owns the right of way and does not have to be as strict.

Mr. Winchell questioned what Ms. Kobor's the intentions were for the lots.

Ms. Blackburn stated they are planning to sell the lots as building lots or farming lots depending on what the buyer wants to do with the land.

Ms. Blackburn stated what they have found is if they try to sell this property as a whole, they had trouble selling it. The structure on the property is a two (2) family home. There were people looking at this property as an income property but they didn't want all of the land that would come with it. Other people looking at it for farm land they did not want the house. This is why the change to the subdividing the property.

Ms. Blackburn stated the people that were farming this property have stopped paying the rent. They are hoping to get the variances so that they can sell the lots. They do not have anyone farming it at this time.

Rick Therrien, Sr., 123 Rock City Road, is opposed to the subdivision. He was original owner of the property located at 178 Rock City Road. He has sold the property to his son so that he could build his house. His son initially bought this property for the farming view. Mr. Therrien stated he has lived in his home for 22 years. He lives across the street from the right away for Lots D and E and has never seen anyone use this right of way. The farm tractors always went in and out the right of way between the Hafner home and Mr. Therrien's son home. The Hafner's bought a piece of Lot C and by doing this it blocks out part of the right away

Ms. Blackburn stated the Hafner's bought the piece of property because they were using a shed on this property for years that they did not own as well as a gravel driveway that leads to the shed to park their vehicles.

Ms. Blackburn stated they approached the Hafner's about buying this piece of land if they were going to continue to use it. They agreed to buy it. She feels in reality they were buying the shed and barn located there and not the land.

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Mr. Therrien stated they would like to see this property stay as farm land. He is worried about not only houses being built but also, a developer coming in and building multiple dwellings on the lots.

Ms. Blackburn stated she a sister in law to Ms. Kobor and is also a real estate agent that would be listing the properties and the sale of the properties. Her plan is to call Todd Beadnell who owns property boarding this property to see if they would be interested in buying any of the proposed subdivision.

Ms. Blackburn stated the house has two (2) apartments in. There is one tenant living there now. She does have someone interested in buying just the house.

Discussion ensued with questions being answered by the applicant.

After further discussion among the Board the following resolution was put forward.

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

Resolution No. 1 of July 25, 2019
Adopted July 25, 2019

Introduced by SCOTT WINCHELL
who moved its adoption

Seconded by BRIAN HEASLEY

**RESOLUTION DENYING
AREA VARIANCES REQUESTED BY
LAUREEN KOBOR**

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;

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WHEREAS, Lauren Kobor (hereafter the “Applicant”), has requested area variances relative to the lot width requirements for their property located at 23 Powhida Way, Town of Kingsbury, identified as Tax Map Number 129.-3-26.1, where two hundred (200) foot lot width is required in the RA-1A, Residential-Agriculture Zoning District and they are looking to subdivide the property into four lots, two of which will have lot widths requiring variances; and

WHEREAS, the Applicants request requires two variances from the lot width requirements found in Section 280-21 G (1) of the Code of the Town of Kingsbury, whereby a minimum of two hundred (200) feet is required and lot widths of thirty-six (36) feet, and fifty (50) are proposed; 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 DENIES 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?

Yes, the lack of sufficient road frontage, 150 feet short of minimum, and unknown future development plans will produce an undesirable change in the character of the neighborhood.

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(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, the benefit can be achieved through other means. The cost may be high, but it is possible nonetheless.

(c) Is the requested area variance substantial?

Yes, they are requesting very large variances on half of the lots proposed.

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

Yes, the proposed variance would possibly have an adverse impact.

(e) Was the alleged difficulty self-created?

Yes, there is no need to subdivide the property in the manner proposed.

Section 2. This resolution shall take effect immediately.

ROLL CALL VOTE

PRESENT:

Hank LaFountain, Chairman - AYE

Katherine Henley – AYE

Brian Heasley – AYE

Scott Winchell - AYE

Michelle Wood - AYE

AYES: 4

NAYS:

ABSTAIN: 0

ABSENT 3 (Rich Hogan, Sondra Michaud and Bill Whipple)

- Jennifer Madison**, owner of Tax Map # 154.7-1-49, commonly known as 101 Martindale Avenue, Hudson Falls, Town of Kingsbury, located in Zoning District, LDR–25, Low Density Residential District is seeking an area variance to construct a garage with a front setback of 34 feet. The minimum required side setback is 40 feet in this Zoning District. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

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Chairman LaFountain introduced Jennifer Madison and Mick O'Dalaigh to address the Board.

Ms. Madison stated she is looking for six (6) feet of relief on the front yard setback to build a garage. The front setback requirement is forty feet and they have thirty-four feet (34). There are other homes in the area like this.

Attorney Meyer questioned Ms. Madison if this measurement was from the property line or the side of the road.

Ms. Madison stated she was told to measure from the side of the road. The Pelkey property across the road from her has a 33' setback. She has talked to all of her neighbors and they do not have a problem with this proposal. The contractor and Todd Humiston were both at the location and agreed this would be the best solution.

Mr. Heasley questioned if there would be any plumbing or heat in the garage.

Ms. Madison and Mr. O'Dalaigh both responded there would be electricity in the garage only. They may add heat later on.

Mr. Winchell questioned if the electrical will come off the house panel

Mr. O'Dalaigh stated yes it would.

Chairman LaFountain stated for the record he has a list of neighbors who have signed off on this proposal. (A copy is attached.)

Discussion ensued with questions being answered by the applicant.

After further discussion among the Board the following resolution was put forward.

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

Resolution No. 2 of July 25, 2019
Adopted July 25, 2019

Introduced by MICHELLE WOOD
who moved its adoption

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

Resolution No. 2 of July 25, 2019
Adopted July 25, 2019

Introduced by MICHELLE WOOD
who moved its adoption

Seconded by KATHERINE HENLEY

**RESOLUTION APPROVING
AREA VARIANCE REQUESTED BY
JENNIFER MADISON**

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, Jennifer Madison (hereafter the “Applicant”), has requested an area variance relative to the front yard setback for the construction of a garage on their property located at 101 Martindale Street, Town of Kingsbury, identified as Tax Map Number 154.7-1-49, where a forty (40) foot front yard setback is required in the LDR-25, Low Density Residential Zoning District and in the front yard and they are looking to construct a two car garage with a front yard setback of thirty four (34) feet; and

WHEREAS, the Applicants request requires one variance from the front yard setback requirements 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 six (6) 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

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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, the proposal fits within the character of the neighborhood.

(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 Applicant reviewed and discussed all possible options and none are feasible.

(c) Is the requested area variance substantial?

No, the requested variance is for only four (4) feet.

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

No, it is consistent with the neighbor and adjoining properties.

(e) Was the alleged difficulty self-created?

Yes, the applicant is requesting relief.

Section 2. This resolution shall take effect immediately.

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ROLL CALL VOTE

PRESENT:

Hank LaFountain, Chairman - AYE
Katherine Henley – AYE
Brian Heasley – AYE
Scott Winchell - AYE
Michelle Wood - AYE

AYES: 4

NAYS:

ABSTAIN: 0

ABSENT 3 (Rich Hogan, Sondra Michaud and Bill Whipple)

ON A MOTION BY MR. HEASLEY, seconded by MR. Winchell all in favor, the meeting was adjourned at 8:00 P.M.

Michelle Radliff
Secretary