

MINUTES OF THE ZONING BOARD OF APPEALS – JULY 28, 2022 – THE TOWN OF KINGSBURY

MEMBERS PRESENT:

William Whipple, Chairman
James Ross
Scott Winchell
Katherine Henley

MEMBERS ABSENT:

Brian Heasley

OTHERS PRESENT:

Todd Humiston, Enforcement Officer
Jeff Meyer, ESQ., Town Attorney

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 January 27, 2022 Meeting.

ON A MOTION BY Scott Winchell, seconded by Katherine Henley, the minutes of the January 27, 2022 meeting were adopted, as presented.

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

Schermerhorn Real Estate Holdings, owner of Tax Map # 154.11-6-7, commonly known as corner of Burgoyne Ave. and Martindale Ave., Town of Kingsbury, located in Zoning District, Commercial (COM-1-A) and Low Density Residential (LDR-25) is seeking an area variance for the number of principal buildings from Section C of 280-23: Com-1A Commercial District: "...One principle building of up to 16,000 SF of gross floor area will be allowed for every one acre within the zone". Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

On behalf of Schermerhorn Real Estate Holdings, Joe Dannible stated that the application for a self-storage facility to be located at the corner of Burgoyne Ave and Martindale Ave has been in front of the Kingsbury Planning Board for several months with several different versions. He stated that it was agreed upon by the Kingsbury Planning Board, Fire Department, and Town Engineer to change the original plans from ten buildings at 160,000 square feet total to twenty buildings with a 9,000 square foot reduced density.

Mr. Dannible stated that Section Code 280 requires a variance approval to go from the ten buildings to the twenty buildings on the property and noted that it was at the request from the Town of Kingsbury to request this variance.

Mr. Dannible noted that the current plan allows for emergency vehicle maneuverability, stormwater drainage, downlighting, appropriate required fencing and screening, security cameras, and an electronic entrance gate with passcode entry. He also noted that there will be no office, water, or sewer on site and the hours of operation were unclear at this point.

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Concerns from the public included fill requirements, upkeep, noise, and lighting. Chairman Whipple stated that these concerns need to be addressed at the Planning Board Meeting on August 17th.

Mr. Humiston stated that concerns could also be emailed to him.

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

ON A MOTION BY William Whipple, seconded by Scott Winchell, it was determined that there are no potential negative environmental impacts anticipated after reviewing the short form SEQRA submission.

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

The Board then reviewed the proposed resolution:

ZONING BOARD OF APPEALS OF THE TOWN OF KINGSBURY

COUNTY OF WASHINGTON, STATE OF NEW YORK

Adopted JULY 28, 2022

Introduced by: JAMES ROSS

who moved its adoption

Seconded by: KATHERINE HENLEY

RESOLUTION APPROVING

AREA VARIANCE REQUEST OF

SCHERMERHORN REAL ESTATE HOLDINGS

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, SCHERMERHORN REAL ESTATE HOLDINGS (hereafter the “Applicant”), has requested an area variance for the number of principal buildings that are permissible in the Com-1A Commercial district, whereby one principal building of up to 16,000 square feet of gross floor area for every acre, for their property located at the corner of Martindale Ave and Burgoyne Ave, identified as Tax Map Number 154.11-6-7; and

WHEREAS, the Applicant requests the variance the number of permitted principal building requirements found in Section 280-23 C of the Code of the Town of Kingsbury; and

WHEREAS, in accordance with the State Environmental Quality Review Act (hereafter “SEQRA”), the requested variances are unlisted actions, whereby a short environmental assessment form was previously reviewed and negative declaration was previously adopted; 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, an undesirable change will not result. By granting the variance, it will result in a reduction of the total square footage of the building and a benefit. The lighting does need to be thoroughly reviewed to ensure there are no adverse impacts.

(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, but the Applicant was responding comments received from the Planning Board. By using smaller buildings, it benefits the town and improves safety and stormwater on site by granting the variance.

(c) Is the requested area variance substantial?

No, the variance is not substantial. The total square footage of the buildings is still 40% less that what is otherwise permissible.

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

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No, the use is permissible. Potential impacts due to lighting design and landscaping along Martindale Ave should be examined and mitigated

(e) Was the alleged difficulty self-created?

Yes.

Section 2. The ZBA finds that the following conditions are directly related to and incidental to the proposed use of the property, and are consistent with the spirit and intent of section 280-17 of the Code of the Town of Kingsbury and NYS Town Law section 267-b, and are imposed for the purpose of mitigating against the potential adverse impacts on the neighborhood or community:

The ZBA does not find the need for any conditions, however, it recommends the Planning Board thoroughly review hours of operation, lighting plans, stormwater, and landscaping on Martindale Ave to minimize potential impacts.

Section 3. This resolution shall take effect immediately.

ROLL CALL VOTE

William Whipple, Chair – Yes

James Ross – Yes

Katherine Henley – Yes

Scott Winchell – Yes

ON A MOTION BY James Ross, seconded by Katherine Henley the application for Zoning Variance was approved.

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

ON A MOTION BY Scott Winchell, seconded by William Whipple and all approved to adjourn the July 28 Kingsbury Zoning Board of Appeals meeting at 7:51 PM.

Alie Weaver, Secretary
Town of Kingsbury Zoning Board of Appeals