

MINUTES OF THE ZONING BOARD OF APPEALS – AUGUST 24, 2023 – THE TOWN OF KINGSBURY

MEMBERS PRESENT:

Scott Winchell, Acting Chairman
James Ross
Katherine Henley

OTHERS PRESENT:

Jeff Meyer, Esq., Town Attorney
Todd Humiston, Code Enforcement Officer
William Wells, Applicant

EXCUSED: Brian Heasley, Michelle Richardson, Bill Whipple

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

Roll call of members.

Mr. Winchell entertained a Motion to Approve the Minutes of the July 27th, 2023 Meeting.

ON A MOTION BY Michelle Richarson and seconded by Jim Ross with all in favor, the minutes of the July 2023 Kingsbury Zoning Board meeting were adopted.

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

Mr. Winchell presented **William H. Wells**, owner of Tax Map 154.11-6-9, commonly known as 1073 State Route 196, who is seeking a Zoning Variance of the 80 foot setback requirement with a 40 foot relief.

Mr. Humiston stated the Mr. Wells received the two parcels from a family member, where there originally was a seventy-foot mobile home located. Mr. Wells then replaced that mobile home with a newer and smaller mobile home in the same place as the original one. He is now requesting that this newer mobile home be approved to move closer to the road to provide a larger backyard.

Mr. Humiston stated that Mr. Wells started the process of merging the two parcels with the county although the remapping will not be redocumented until March 2024.

Mr. Wells stated that he has plans to build a garage in the future, which would be located in the back.

Mr. Humiston stated that both parcels are located in the Commercial Zone District with an eighty-foot front setback requirement and twenty-foot side and back setback requirements.

There being no further questions or comments from the Board or the public, Mr. Winchell closed the public hearing at 7:07 pm.

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The Board Members reviewed the short Environment Assessment Form and ON A MOTION BY Katherine Henley, seconded by Jim Ross with all in favor by roll call vote, the resolution to approve the variance was approved with the condition of merging the two parcels.

AYES: 3 NAYES: 0 ABSTAIN: 0 MOTION CARRIED

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

With no other business to discuss, Mr. Winchell made a motion to adjourn the August Kingsbury Zoning Board of Appeals meeting and Katherine Henley seconded. All vote in favor by voice vote. The meeting was adjourned at 7:17 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. 0108 of 2023

Introduced by KATHERINE HENLEY
who moved its adoption

Seconded by JAMES ROSS

**RESOLUTION APPROVING
AREA VARIANCE REQUESTED BY
WILLIAM H. WELLS**

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, WILLIAM H. WELLS (hereafter the “Applicant”), has requested an area variance relative to the front yard setback for locating a residence on his property located at 1073 State Route 196, Town of Kingsbury, identified as Tax Map Number 154.11-6-9 and 154.11-6-9.1, where an eighty (80) foot front yard setback is required in the Com-1A Zoning District; and

WHEREAS, the Applicant’s request requires a variance from the front yard setback requirement found in Section 280-23 G(2) of the Code of the Town of Kingsbury, whereby a minimum of eighty (80) feet is required and the applicant is requesting forty (40) 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 variance 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 already houses similarly situated in the neighborhood and the proximity to the Village border that also has reduced setbacks.

(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?

There are no feasible alternatives as the rear yard of the property will be preserved for recreation and potential accessory structures.

(c) Is the requested area variance substantial?

Yes, fifty percent is substantial.

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

No, for the reasons stated previously in that the proposal is in keeping with the neighborhood.

(e) Was the alleged difficulty self-created?

Yes.

Section 2. Based on the foregoing, the Application is approved conditioned on the two tax map parcels being merged and the property shall not be subdivided.

Section 3. This resolution shall take effect immediately.

ROLL CALL VOTE

Katherine Henley – Yes

James Ross – Yes

Scott Winchell – Yes