

## MINUTES OF THE ZONING BOARD OF APPEALS – MAY 23, 2024 – THE TOWN OF KINGSBURY

### MEMBERS PRESENT:

Bill Whipple, Chairman

James Ross

Michelle Richardson

Scott Winchell

Katherine Henley

**EXCUSED:** Brian Heasley

### OTHERS PRESENT:

Jeff Meyer, Esq., Town Attorney

Todd Humiston, Zoning Administrator

Alie Weaver, Zoning Board Secretary

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

Roll call of members and confirmation of quorum.

Chairman Whipple entertained a motion to approve the minutes of the March 28th, 2024 meeting.

ON A MOTION BY Jim Ross and seconded by Michelle Richardson with all in favor, the minutes of the March 2024 Kingsbury Zoning Board meeting were adopted.

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

Chairman Whipple introduced Peter Kronau of Apex Energy, representing Robert Guay, owner of Tax Map # 138.-1-55, commonly known as 311 Hartman Road in Hudson Falls, located in Zone District RA1A, who is seeking an 80-foot setback variance to install a ground-mounted solar array.

Mr. Kronau stated that Mr. Guay is looking to install a personal residential ground-mounted solar array on his property located away from the tree lines to maximize sun exposure. The preferred area of land being requested for the 80' setback variance would create an aesthetic appeal for Mr. Guay, as well as leave the center of his cleared lot free of obstruction. Mr. Kronau stated that the removal of trees to position the solar array within the setback boundary would be costly to Mr. Guay, and installation on his rooftop is not preferred due to possible risk of roof damage from the solar panel mounting.

Jim Ross expressed concern of aesthetics to the neighborhood with the solar array positioned so close to the road and setting a precedent.

Chairman Whipple opened the meeting for public comments at 7:15 pm.

<https://www.kingsburyny.gov>

**MINUTES OF THE ZONING BOARD OF APPEALS – MAY 23, 2024 – THE TOWN OF KINGSBURY**

Neighbors expressed concerns of setting a precedent on allowing an 80-foot variance, as well as the visual disturbance and possible detriment for resale of surrounding properties. It was also expressed that Mr. Guay’s twelve-acre lot has the room to position a solar array within the setback boundaries.

There being no other comments from the public, Chairman Whipple closed the public hearing at 7:20 pm.

Mr. Meyer stated that there have been multiple solar moratoriums in Kingsbury with the last ending in 2022, where the 100-foot setback was established for solar farms. He noted the language in Subpart F calls for encouraging solar installations that will employ maintaining landscape, screening, and other methods enhancing the appeal to harmonize the character of the surrounding area.

The Board Members reviewed the short State Environmental Quality Review Act (SEQRA) and denied a negative declaration.

Scott Winchell made a motion to not approve the variance, stating that the setback is significant and there are alternative options to resolve the matter, as it is self-created. Michelle Richardson seconded the motion. All others voted in favor of the disapproval.

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

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

Mr. Meyer stated that the applicant has the ability to reapply for a lesser variance if desired.

With no other business to discuss, Michelle Richardson made a motion to adjourn the May Kingsbury Zoning Board of Appeals meeting and Jim Ross seconded. All voted in favor by voice vote. The meeting was adjourned at 7:28 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. 0624 of 2024

Introduced by SCOTT WINCHELL

who moved its adoption

Seconded by MICHELLE RICHARDSON

**RESOLUTION DENYING**

**AREA VARIANCE REQUESTED BY**

**ROBERT GUAY**

**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**, ROBERT GUAY (hereafter the “Applicant”), has requested an area variance relative to the front yard setback for a ground mounted solar array on their property located at 311 Hartman Road, Town of Kingsbury, identified as Tax Map Number 138.-1-55, where a one hundred (100) foot front yard setback is required in the RA-1A Zoning District; and

**WHEREAS**, the Applicant’s request requires a variance from the front yard setback requirement found in Section 280-19.1 D (4) of the Code of the Town of Kingsbury, whereby a minimum of one hundred (100) feet is required and the Applicant is requesting eighty (80) feet of relief; and

**WHEREAS**, in accordance with the State Environmental Quality Review Act (hereafter “SEQRA”), the requested variances are 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 variance; 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

**MINUTES OF THE ZONING BOARD OF APPEALS – MAY 23, 2024 – THE TOWN OF KINGSBURY**

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 proximity of the solar array to the road will produce an undesirable change in the neighborhood to the detriment of nearby properties.**

(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 applicant has plenty of property to locate the solar array without obtaining a variance. They have the ability to cut trees or locate the array on their roof, if necessary, without needing a variance.**

(c) Is the requested area variance substantial?

**Yes, they are seeking eighty (80) feet of relief.**

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

**Yes, due to the proximity to the road.**

(e) Was the alleged difficulty self-created?

**Yes. They created the proposal and are seeking the variance.**

Section 2.

This resolution shall take effect immediately.

ROLL CALL VOTE

William Whipple – Aye

James Ross – Aye

Michelle Richardson – Aye

Katherine Henley – Aye

Scott Winchell - Aye