

MINUTES OF THE ZONING BOARD OF APPEALS – SEPTEMBER 23, 2021 – THE TOWN OF KINGSBURY

MEMBERS PRESENT:

William Whipple, Chairman  
Brian Heasley  
James Ross  
Scott Winchell

MEMBERS ABSENT:

Katherine Henley

OTHERS PRESENT:

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

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

Roll call of all members.

Chairman Whipple entertained a Motion to Approve the Minutes of August 26, 2021.

**ON A MOTION BY SCOTT WINCHELL**, seconded by JAMES ROSS, the minutes of the August 26, 2021, meeting were approved.

AYES: 4

NAYS: 0

ABSTAIN: 0

MOTION CARRIED

**CINDY SHERMAN RAY AND CURTIS RAY** - owner of tax map #154.-1-27 commonly known as 3420 Burgoyne Avenue located in the Low Density Residential LDR-25 district, is seeking an area variance to subdivide an existing 2 single-family homes nonconforming lot into two lots so each single-family home is on its own lot. The minimum road frontage required is 100 feet and the one lot would not have road frontage. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Scott Winchell asked the applicants if the two houses have separate septic and water. Cindy Sherman replied that the houses have village water and individual septic systems. Scott Winchell asked if the applicants have spoke with the neighbors. Applicant replied that they have spoken with all the neighbors.

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

The Board then reviewed the proposed resolution.

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

Resolution No. 1 of September 2021  
Adopted September 23, 2021

Introduced by SCOTT WINCHELL  
who moved its adoption

Seconded by JAMES ROSS

**RESOLUTION APPROVING  
AREA VARIANCE REQUESTED BY  
CINDY SHERMAN RAY and CURTIS RAY**

**WHEREAS**, pursuant to 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**, Cindy Sherman Ray and Curtis Ray (hereafter the “Applicant”), have requested an area variance relative to a two lot subdivision for their property located at 3420 Burgoyne Avenue, identified as Tax Map Number 154.-1-27 located in the LDR-25 Zoning District of the Town of Kingsbury; and

**WHEREAS**, the Applicants request requires one variance from the road frontage requirements found in Section 280-22 G(2) of the Code of the Town of Kingsbury, whereby a minimum of 100 feet is required; 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 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 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 will not be an undesirable change. The neighborhood currently has numerous lot with substandard road frontage, including adjoining property owned by the applicant. All of which are considered re-existing nonconforming.

(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 does not have other feasible options due to the existing conditions of the property and adjoining area.

(c) Is the requested area variance substantial?

The requested variance could be considered substantial. However, due to the large number of pre-existing undersized lots and the common ownership it is justified.

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

No potential adverse impacts are noted.

(e) Was the alleged difficulty self-created?

Yes.

Section 2. This resolution shall take effect immediately.

#### ROLL CALL VOTE

William Whipple – Yes

James Ross – Yes

Scott Winchell – Yes

Brian Heasley – Yes

**KATRAYLA AND JEFF BLAIR** – owner of tax map #154.-8-1-23 commonly known as 5 Harrison Avenue located in the Commercial Zoning District, is seeking an area variance to construct an advertising billboard with a setback of four feet. The minimum setback required is 24 feet. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman Whipple introduced Jeff Blair. Mr. Blair stated he revised his request to one billboard, not three. This billboard has already been built and will leave 20’ setback on each side. Mr. Blair also noted the advertisements on the proposed billboards will not contain profanity, religious content, nor political material(s). James Ross asked the applicant if the billboard can be moved back? Mr. Blair replied that the barn behind the billboard prevents it from being moved back from its current location.

Brad Colture, 7 Harrison Ave, stated he is in favor of the billboard because it buffers some of the noise. Len Daily, 5 County Route 4, stated the billboard has blocked the noise.

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

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

Resolution No. 2 of September 2021  
Adopted September 23, 2021

Introduced by SCOTT WINCHELL  
who moved its adoption  
Seconded by BRIAN HEASLEY

**RESOLUTION APPROVING  
AREA VARIANCE APPLICATION OF KATRAYLA AND JEFF BLAIR**

**WHEREAS**, pursuant to 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; and

**WHEREAS**, Katrayla and Jeff Blair (hereafter the “Applicant”), has requested three area variances relative to the minimum setbacks for the construction of an advertising billboard on their property located at 5 Harrison Avenue, Town of Kingsbury, identified as Tax Map Number 154.-8-1.23, with the Applicant proposing an amended application consisting of a single 10’x16’ billboard located in the center, rear of the property; and

**WHEREAS**, the Applicant’s request requires three variances from the setback requirements of the Code of the Town of Kingsbury, as follows: (1) a minimum of twenty four (24) feet is required for the rear property line and the Applicant is requesting twenty (20) feet of relief from the setback requirement; (2) a minimum of twenty four (24) feet is required for the side property line and the Applicant is requesting five (5) feet of relief from the side setback requirement; and (3) a minimum of twenty four (24) feet is required for the side property line and the Applicant is requesting five (5) feet of relief from the side setback requirement; and

**WHEREAS**, in accordance with the State Environmental Quality Review Act (hereafter “SEQRA”), the requested variance is an unlisted action and the Zoning Board of Appeals having already taken a hard look at the potential environmental impacts and adopted a negative declaration; 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, due to the reduction in the application. Having reduced the proposed application to a single billboard the potential changes have been mitigated and no detriments have been noted and the neighbors supported the revised proposal.

(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, there are no alternatives. The narrow size of the lot necessitates a variance.

(c) Is the requested area variance substantial?

Yes, due to its size.

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

No adverse impacts were noted. The neighbors were in favor of the proposal. Additionally, the Applicant warranted that the content on the billboards would not be controversial or political in nature so as to have any adverse impacts within the community.

(e) Was the alleged difficulty self-created?

Yes.

Section 2. This resolution shall take effect immediately.

ROLL CALL VOTE

William Whipple – Yes

James Ross – Yes

Scott Winchell – Yes

Brian Heasley – Yes

**ON A MOTION BY BRIAN HEASLEY** and seconded by SCOTT WINCHELL, all in favor, the meeting was adjourned at 7:30 P.M.

Rebecca Pomainville  
Interim Secretary