

MINUTES OF THE ZONING BOARD OF APPEALS – SEPTEMBER 28, 2023 – THE TOWN OF KINGSBURY

MEMBERS PRESENT:

Bill Whipple, Chairman
James Ross
Brian Heasley

OTHERS PRESENT:

Jeff Meyer, Esq., Town Attorney
Todd Humiston, Code Enforcement Officer
Alie Weaver, Zoning Board Secretary

EXCUSED: Katherine Henley, Michelle Richardson, Scott Winchell

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 August 24th, 2023 meeting.

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

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

Chairman Whipple introduced Jon and Rachel Perez, Owner of Tax Map 129.-1-12.1, commonly known as 11 Green Barn Road, located in Zoning District RA1A Residential Agricultural, who are seeking a Zoning Variance of the current property setback requirements.

Mr. Perez stated that they are purchasing a modular home to be anchored down on a concrete slab. He noted the well will be located in the back of the home with the leach field and gravity-fed septic system located in front.

Mr. Humiston stated that the front of the home will be facing the road and there will be 100 feet separating the Perez's leach field from the neighboring home's leach field. He noted that with a 10-foot relief from the southern side yard and a 20-foot relief from the northern side yard, along with the house sitting farther back from the neighboring houses, he did not foresee any issues.

Chairman Whipple opened the public hearing at 7:12 pm.

Some residents on Green Barn Road stated that they attended the public hearing to learn more about the site plan and voiced their support.

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There being no other questions or comments, Chairman Whipple closed the public hearing at 7:13 pm.

Chairman Whipple then read aloud the resolution to approve the side yard setback variances and the Board reviewed the State Environmental Quality Review Act as a Type II action.

ON A MOTION BY Jim Ross, seconded by Brian Heasley with all in favor by roll call vote, the resolution to approve the variance was approved.

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, Brian Heasley made a motion to adjourn the September Kingsbury Zoning Board of Appeals meeting and Jim Ross seconded. All vote in favor by voice vote. The meeting was adjourned at 7:19 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. 0109 of 2023

Introduced by Jim Ross
who moved its adoption

Seconded by Brian Heasley

**RESOLUTION APPROVING / DENYING
AREA VARIANCE REQUESTED BY
JON PEREZ AND RACHEL PEREZ**

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, JON PEREZ and RACHEL PEREZ (hereafter the “Applicant”), has requested twox area variances relative to the side yard setbacks for locating a residence on their property located at 11 Green Barn Road, Town of Kingsbury, identified as Tax Map Number 129.-1-12.1, where a fifty (50) foot side yard setbacks are required in the RA-1A Zoning District; and

WHEREAS, the Applicant’s request requires variances from the side yard setback requirements found in Section 280-21 G(2) of the Code of the Town of Kingsbury, whereby a minimum of fifty (50) feet is required and the Applicant is requesting ten (10) feet of relief from the southern side yard and twenty (20) feet of relief from the northern side yard; 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 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 / 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?

No, as conforms with what's already there.

(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?

Possibly.

(c) Is the requested area variance substantial?

Yes.

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

No.

(e) Was the alleged difficulty self-created?

Undecided.

Section 2.

This resolution shall take effect immediately.

ROLL CALL VOTE

Brian Heasley: AYE

Jim Ross: AYE

Bill Whipple: AYE