

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Minutes of December 28, 2017

MEMBERS PRESENT:

Hank LaFountain, Chairman
Katherine Henley
Sondra Michaud
Bill Whipple
Michelle Wood

MEMBERS ABSENT:

Brian Heasley (Excused)
Rich Hogan (Excused)
Scott Winchell

CODE ENFORCEMENT OFFICER/ZONING ADMINISTRATOR:

Francis Cortese

TOWN ATTORNEY:

Jeff Meyer, ESQ.

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

Roll call of all members.

Chairman LaFountain entertained a Motion to Approve the Minutes of August 24, 2017.

ON A MOTION BY MR. WHIPPLE, seconded by Mrs. Wood, the minutes of the August 24, 2017 meeting were approved.

AYES: 5

NAYES: 0

ABSTAIN: 0

MOTION CARRIED

1. JAMES & HEATHER WOOD, Tax Map # 130.-3-11, commonly known as 211 Kingsbury Road, Hudson Falls, Town of Kingsbury, located in Zoning District, RA-1A / Residential Agricultural is seeking an area variance to construct an attached garage with a front setback of 24 feet. The minimum required front setback is 50 feet in this Zoning District. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman LaFountain opened the Public Hearing.

Chairman LaFountain introduced Jim & Heather Wood to address the Board.

<http://www.kingsburyny.gov>

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals
December 28, 2017
Page 2 of 12

Mr. Wood stated they would like to add an attached garage to their home. They are at the current setback now and are asking for a variance of 24 feet. This garage would be right behind the existing garage. They are locked in by the driveway, the well and septic system locations. The average setback for the neighboring properties is approximately 21.75 feet. Mr. Wood stated the end result would be slightly great setback from the rest of the neighbors and do not feel a detriment to any nearby properties.

There being no comments from the public, Chairman LaFountain 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 3 December 2017
Adopted December 28, 2017

Introduced by KATHERINE HENLEY
who moved its adoption

Seconded by MICHELLE WOOD

**RESOLUTION APPROVING
AREA VARIANCE REQUEST OF
JAMES & HEATHER WOOD**

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 (now 267-b) of the Town Law;

WHEREAS, James and Heather Wood (hereafter the "Applicant"), has requested an area variance for twenty four (24) feet of relief from the fifty (50) foot front yard setback requirement to construct a garage, on the property located at 211 Kingsbury Road, identified as Tax Map Number 130.-3-11; and

WHEREAS, the Applicants request requires a variance from the front yard setback requirements found in Section 280-22 G of the Code of the Town of Kingsbury; and

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals
December 28, 2017
Page 3 of 12

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 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, an undesirable change will not be produced.

(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, due to the location of the existing garage, well, and septic, there are no other alternatives.

(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, there will be no adverse impacts.

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals
December 28, 2017
Page 4 of 12

(e) Was the alleged difficulty self-created?

Yes.

Section 2. This resolution shall take effect immediately.

ROLL CALL VOTE

PRESENT:

Hank LaFountain, Chairman – AYE
Katherine Henley- AYE
Sondra Michaud - AYE
Bill Whipple- AYE
Michelle Wood - AYE

AYES: 5

NAYS: 0

ABSTAIN:

ABSENT: 2

AYES: 5

NAYS: 0

MOTION CARRIED

2. GENESIS KC DEVELOPMENT LLC, DAVITA HEALTH CARE PARTNERS, INC. Tax Map # 146.19-1-3, commonly known as 3739 Burgoyne Ave, Hudson Falls, Town of Kingsbury, located in Zoning District, Com-1A / Commercial District is seeking Two Area Variance approvals to locate a new structure for DaVita Health Care Partners, Inc. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman LaFountain opened the Public Hearing.

Chairman LaFountain introduced Tom Jarrett, Jarrett Engineers, PLLC who will be representing Mark Kinney, Genesis KC Development LLC, DaVita Health Care Partners, Inc. to address the Board.

Mr. Jarrett stated he will let Mr. Kinney give a brief overview of what DaVita is and what they are proposing. Mr. Jarrett will give the details of what they are asking for.

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals
December 28, 2017
Page 5 of 12

Mr. Kinney thanked the Board for considering the variance. DaVita is a large kidney dialysis provider throughout the United States and eleven International Countries. There is a need for dialysis in this area, unfortunately. They have applied and received the State Issued Certificate for the need to have additional chairs for dialyses in this County. They are proposing to construct an approximately 7000 square foot facility with adjacent parking for staffing and patients.

Mr. Jarrett showed two drawings of facilities in Texas to give the Board an idea of what the building would look like.

Mr. Kinney stated typically 1/3 of the patients are dropped off by family or friends, 1/3 are dropped off by some sort of public transportation or health facility transportation. The patients are there normally 2 hours up to 4 ½ hours and then the next person comes in for their treatment. Approximately there will be nine (9) health care technicians; the charge nurse will be on the floor, approximately five to seven (5 to 7) support people, social services people, dietitians, facility managers and so forth. In total there will be quite a solution of skilled labor from the region.

Mr. Jarrett stated they are proposing two variance's for consideration. They are both for setbacks, one from Burgoyne Avenue and one from the rear of the property on Division Street side. The building lay out is very efficient for dialysis units. The dimensions and shapes of the buildings are fairly regimented with a little bit of variation but basically need to be the same basic shape to function on site. This really squeezes the functional area down between Division Street and Burgoyne Avenue. Zoning Requires 50 feet setback which is normal in the commercial zone but an additional 30 feet is required because of the State Highway. Because this property borders on a residential zone in the rear they need a 50 buffer and a 50 foot setback to everything but the vegetative surfaces. They are trying to balance the two of these by asking for the two variances. If they move the building closer to Burgoyne Avenue they cut into the setback zone and if they move the building back in the rear they will cut into the buffer zone and protection for the neighbors on Division Street. The traffic flow is based on truck deliveries. Deliveries are usually in the morning around 8:00 am when the business starts.

Mr. Kinney stated it depends on the volume of the facility; it will also depend on the delivery company. Other deliveries will be from the United States Postal Service and UPS. The scheduling of the trucks will be of the manager so as not to be interrupted during procedures.

Mr. Jarrett stated they are proposing to enhance the buffer along Division Street as well as Burgoyne Avenue. They will be leaving the existing trees and adding more to them.

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals
December 28, 2017
Page 6 of 12

Mr. Jarrett stated they are proposing one exterior sign on the north side of the Burgoyne Avenue entrance.

Henry and Irene Rupp, 3731 Burgoyne Avenue, their home is next door to this proposal. They have concerns with the traffic. Their main concern is with the entrance and exit on Burgoyne Avenue and causing accidents due to the speed people are going. They feel the exit should be on Michigan Street or if there was an entrance only sign on Burgoyne Avenue and an exit sign on Michigan Street.

Mr. Jarrett stated they have discussed this with the Planning Board already and when they meet again he will question the Board. Mr. Jarrett explained the entrance will not be directly across the entrance to Kings Plaza entrance.

Mr. Whipple stated he feels most people will likely go in to the facility from Burgoyne Avenue and exit on Michigan Street.

Jeanne Golden, 40 Division Street, her home is directly behind this site. She stated she does not ever travel Michigan Street to Burgoyne Avenue because of the traffic. She uses Michigan Street to State Route 4 to get to where she has to go. Mrs. Golden questioned the fence on her property.

Mr. Jarrett stated they will not be removing any fencing that is there now. They will be planting a lot more trees. They are doing this purposely to try and protect the neighbors.

Mr. Rupp questioned what the lighting will be and how many of the lights will be shining at his house.

Mr. Jarrett stated the lighting will be downcast mounted on the walls of the building. There will not be any lighting facing the neighboring properties.

There being no comments from the public, Chairman LaFountain 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. 2 of 3 December 2017
Adopted December 28, 2017

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals
December 28, 2017
Page 7 of 12

Introduced by WILLIAM WHIPPLE
who moved its adoption

Seconded by SONDR A MICHAUD

**RESOLUTION APPROVING THE
VARIANCE REQUESTS OF
GENESIS KC DEVELOPMENT LLC**

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, Genesis KC Development LLC, DaVita Health Care Partners (hereafter the “Applicant”), has requested two (2) area variances for the medical services building located at 3739 Burgoyne Avenue, Town of Kingsbury, identified as Tax Map Number 146.19-1-3; and

WHEREAS, the Applicant is requesting relief from code sections 280-23 (F)(1) Front Setback and 280-19 (f) lot access

Code Section	Variance	Location	Required	Proposed	Relief
280-23 (F)(1)	Front Setback	Burgoyne Ave	80’	50’	30’
280-19 (f)	Access Setback	Division St	50’	12.5’	37.5’

WHEREAS, in accordance with the State Environmental Quality Review Act (hereafter “SEQRA”), the requested variances are unlisted actions and the ZBA having previously reviewed Part II of the short Environmental Assessment Form and found the proposed action will not result in any significant environmental impacts; 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:

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals
December 28, 2017
Page 8 of 12

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 **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 be produced in the neighborhood.

(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 shape of the lot requires a variance be obtained. The location of the building minimizes the impact by balancing the front and rear setbacks.

(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, the neighbors present spoke in favor of the application as the view and existing impacts from the Hannaford Plaza would be mitigated.

(e) Was the alleged difficulty self-created?

Yes.

Section 2. This resolution shall take effect immediately.

ROLL CALL VOTE

PRESENT:

<http://www.kingsburyny.gov>

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals
December 28, 2017
Page 9 of 12

Hank LaFountain, Chairman – AYE
Katherine Henley- AYE
Sondra Michaud – AYE
Bill Whipple- AYE
Michelle Wood - AYE

AYES: 5
NAYS: 0
ABSTAIN:
ABSENT: 2

AYES: 5
NAYS: 0
MOTION CARRIED

3. STEPHAN REDMOND, Tax Map ID # 146.-3-8, commonly known as 3685 Burgoyne Avenue, Hudson Falls, NY, Town of Kingsbury located in Zoning District, Com-1A / Commercial District is seeking a Special Permit to use property for Auto Detailer Shop with a Single Family Dwelling. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman LaFountain opened the Public Hearing.

Chairman LaFountain introduced Stephen Redmond to address the Board.

Mr. Redmond stated there is an existing barn located on his property. Formally it was a tractor repair shop, with a single family residence located in the back. Currently it has been gutted and being used for cold storage. He is proposing to return it back to the original way it was. He would like to put an apartment in the back. He has a person interested in being a tenant. He does high end auto detailing. Most of his work is done offsite. Any work he would be doing as far as detailing would be inside the bay of the barn, so there would not be any outside detailing of vehicles.

Board member Katherine Henley stated she would like to disclose that Dr. Redmond is her dentist but did not think it creates any conflicts of interest on her part.

Chairman LaFountain stated there would not be any conflict.

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

<http://www.kingsburyny.gov>

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals
December 28, 2017
Page 10 of 12

The Board then reviewed the proposed Resolution.

A regular meeting of the Kingsbury Town Zoning Board of Appeals was held on December 28, 2017 at 7:00 PM at the Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, NY 12839. The following resolution was passed as pertains to the above referenced matter.

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

Resolution No. 3 of 3 December 2017
Adopted December 28, 2017

Introduced by WILLIAM WHIPPLE
who moved its adoption

Seconded by SONDRA MICHAUD

**RESOLUTION APPROVING
THE SPECIAL USE PERMIT FOR
STEPHEN REDMOND**

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 Special Use Permits in accordance with said Zoning Ordinance and Section 274-b of the Town Law;

WHEREAS, Stephen Redmond (hereafter the "Applicant"), has requested a Special Use Permit to use the property located at 3685 Burgoyne Avenue, and identified as Tax Map Number 146.-3-8 as an auto detailing shop with a single family dwelling; and

WHEREAS, the Applicant request requires a Special Use Permit pursuant to section 280-12 of the Code of the Town of Kingsbury; and

WHEREAS, the Application, having previously been determined by the ZBA to be an unlisted action under the State Environmental Quality Review Act, and the ZBA having reviewed the EAF submitted for this Application and taken a hard look at the potential environmental impacts of the project and issued a negative declaration prior to taking up the review of the matter; and

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals
December 28, 2017
Page 11 of 12

WHEREAS, a public hearing was duly held on the requested permit 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 section 280-12 of the Code of the Town of Kingsbury.

NOW THEREFORE BE IT:

RESOLVED, the ZBA hereby **APPROVES** the requested Special Use Permit based upon the following findings:

- (1) The use **WILL** be of such location, size and character that it will conform to an appropriate and orderly development of the district and neighborhood in which it is to be located and will not be detrimental to the orderly development of neighboring districts and neighborhoods.
- (2) The use will **NOT** create undue safety hazards in its own or adjacent districts or neighborhoods and will not require increased public expenditure in excess of its value of the Town.
- (3) The use will **NOT** create undue traffic congestion, noise, vibrations, light, stormwater runoff, or air pollution or substantially devalue neighboring properties.

And be it further;

RESOLVED, 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 80-12 of the Code of the Town of Kingsbury, and are imposed for the purpose of mitigating against the potential negative effects on the neighborhood or community:

- 1- All exterior lighting must be building mounted downcast lights.

And be it further;

RESOLVED, this resolution shall take effect immediately.

ROLL CALL VOTE

<http://www.kingsburyny.gov>

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals
December 28, 2017
Page 12 of 12

PRESENT:

Hank LaFountain, Chairman – AYE
Brian Heasley - AYE
Katherine Henley- AYE
Rich Hogan - AYE
Bill Whipple- AYE
Michelle Wood - AYE

AYES: 6

NAYS: 0

ABSTAIN:

ABSENT: 2

AYES: 6

NAYS: 0

MOTION CARRIED

ON A MOTION BY MR. WHIPPLE, seconded by Mrs. Michaud all in favor, the meeting was adjourned at 8:00 P.M.

Michelle Radliff
Secretary