

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Minutes of February 23, 2017

MEMBERS PRESENT:

Hank LaFountain, Chairman  
Katherine Henley  
Rich Hogan  
Sondra Michaud  
Bill Whipple

MEMBERS ABSENT:

Brian Heasley (Excused)  
Scott Winchell (Excused)  
Michelle Wood

Code Enforcement Officer  
Francis Cortese

TOWN ATTORNEY  
Jeff Meyer, ESQ.

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

Roll call of all Members and Officials.

Chairman LaFountain entertained a Motion to Approve the Minutes of September 22, 2016.

**ON A MOTION BY MR. HOGAN**, seconded by Mr. Whipple, the minutes of the September 22, 2016 meeting were adopted, as presented.

**AYES: 5**

**NAYES: 0**

**ABSTAIN: 0**

**MOTION CARRIED**

**Four Leaf Builders LLC**, (Rich Hogan, Tim Burke) contract vendee for 38 Ninth Avenue Hudson Falls, NY, Town of Kingsbury and Tax Parcel ID 147.17-2-2, seeking 2 area variances to permit the creation of 3 lots from one existing lot. Applicant is asking for relief from the minimum lot size requirement of 15,000 square feet on 2 lots. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Mr. Rich Hogan recused himself from this project as he is one of the partners of Four Leaf Builders LLC.

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals Meeting  
February 23, 2017  
Page 2 of 5

Chairman LaFountain introduced Rich Hogan, and Tim Burke, Four Leaf Builders LLC who will be representing, Nancy M. Barnes and Barbara A. Oligny.

Mr. Hogan stated they would like to subdivide this property into three lots. One lot would contain the existing house and the other two lots will be residential building lots. The owners have been trying to sell the property in whole, but have not been successful. Mr. Hogan stated Four Leaf Builders LLC was approached by a realtor inquiring if they would be interested in this property.

The owners have agreed to sell the property adjacent to their house, to be broken up into two building lots and then will attempt to sell their house at a reduced sale price.

Mr. Hogan stated the property has been surveyed. The surveyor has split the one lot into three lots. The house at this location will be Lot 1 and will have 149.22 feet road frontage, Lot 2 would have 150 feet road frontage would be on Ninth Avenue and Lot 3 would have 100 feet of road frontage would be on Tenth Avenue.

Mr. Hogan stated there are different size lots in this area. Last year Four Leaf Builders LLC built a house on Ninth Avenue that is on a 100' x 100' lot. There are others lots in this area that are 100' x 100'.

Nancy Barnes and Barbara Oligny stated they do have a contract on the house providing Mr. Hogan and Mr. Burke receive the approval for the variances. They inherited the house and property from their parents.

Chairman LaFountain opened the Public Hearing.

Raymond Stark, 36 Tenth Avenue, question the septic.

Mr. Burke stated when installing the septic it has to meet all codes of the Town and Mr. Cortese will be over seeing this part of the project. Mr. Burke stated they put in a septic on the Ninth Avenue house according to the setbacks last year. Mr. Cortese, Code Enforcement officer inspected and approved the septic on this site.

Mr. Hogan stated at the Planning Board meeting he attended last week, Jim Chase, Water Superintendent stated there is sewer along Broad Street. If there was a problem with installing a septic on Tenth Avenue, there is a possibility they could hook up to the sewer.

Angela Stark, 36 Tenth Avenue, questioned if they were building a single family home.

Mr. Burke stated they are building a single home on each property.

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals Meeting  
February 23, 2017  
Page 3 of 5

Ms. Stark stated coincidentally two more homes on Tenth Avenue are now the market. If this project falls through are you going to build condominiums?

Mr. Burke responded there will be single homes on the two lots and not condominiums. They are not interested in that kind of building. Over the years they have built many homes in Kingsbury and the Village of Hudson Falls without any problems with the neighbors.

Mr. Stark stated his house borders the apartments at the end of Tenth Avenue; the amount of traffic going in and out of there is unbelievable.

Mr. Burke stated they do have someone interested the lot on Tenth Avenue. He is looking for a small home for him and his daughter. The interested party is looking for a home that he will reside in.

Frank Diamond, 32 Tenth Avenue questioned the lot size on Tenth Avenue being the smaller lot and why couldn't more property be used from the lot on Ninth Avenue.

Mr. Burke stated both houses will be in the range of 1200 square feet to 1400 square feet. The property on Tenth Avenue has a 100 foot road frontage and borders other properties therefor they need a variance.

Mr. Hogan stated this is the size homes people are looking for. The property they own on Hillview Drive in Kingsbury are for bigger houses.

Michael Mondoux, 28 Ninth Avenue, stated his property borders both lots. He is speaking on opposition on zero principle only because of congestion issues, traffic issues, there are two day cares on Ninth Avenue and the area is getting too congested. Mr. Mondoux believes more construction would be detrimental to the neighborhood as the current state.

Mr. Burke stated the traffic issues are coming from the apartment complex. They understand Mr. Mondoux's concerns. They are only building two houses not a complex with a lot of vehicles. He believes the homes may have two or four vehicles but not anything like the apartments have.

Mr. Whipple questioned if the property was always one lot or was it cut up as three lots for sale.

Mr. Hogan stated it has always been one lot. The owners could not get the money for as one lot.

Mrs. Barnes stated when they tried to sell as one property most people only wanted the house. When they could not sell the property as one lot they decided to try to sell it as two pieces.

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals Meeting  
February 23, 2017  
Page 4 of 5

The Board then reviewed the proposed resolution.

Resolution 1 of February 23, 2017

On a Motion by William Whipple, seconded by Katherine Henley considering the area variance requirements and 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:

1. 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, the neighborhood is filled with similarly sized and smaller lots. The proposal is consistent with the existent neighborhood and will not result in a major change.

2. Can the benefit being sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance?

No, the applicant attempted to sell the property previously as one or two lots which would be consistent with the existing zoning and there was no interest. The only interest in purchasing the property is as three separate lots.

3. Is the requested area variance substantial?

The 80 square foot variance is not substantial. The 5,000 square foot variance is substantial.

4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

No, there will not be an adverse impact. The applicant stated that all setback requirements can and will be met, the property is served by municipal water. Again, the proposal is consistent with the neighborhood.

5. Was the alleged difficulty self-created?

No, the parcel and development in the area preexisted the zoning. The applicant's family has owned the property since the 1940's and this is the only way to sell the property.

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Zoning Board of Appeals Meeting  
February 23, 2017  
Page 4 of 5

PRESENT:

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

AYES: 4  
NAYS: 0  
ABSTAIN: 1  
ABSENT: 3

**AYES: 4**  
**NAYS: 0**  
**MOTION CARRIED**

3. The Board had a discussion concerning WCC, LLC project.

**ON A MOTION BY MRS. HENLEY**, seconded by Mrs. Michaud all in favor, the meeting was adjourned at 7:50 P.M.

Michelle Radliff  
Secretary