

TOWN OF KINGSBURY
MINUTES OF THE ZONING BOARD OF APPEALS – MAY 28, 2026

MEMBERS PRESENT:

Bill Whipple, Chairman
Jim Ross
Cindy Bardin
Brian Heasley

OTHERS PRESENT:

Jeff Meyer, Esq.
Ross Cortese, Code Enforcement Officer
Alie Weaver, Zoning Board Secretary

MEMBERS EXCUSED: Scott Winchell, Cynthia Roberts

The meeting was called to order by Chairman Whipple at 7:00 PM.
Roll call of members and confirmation of quorum.

Chairman Whipple called for a motion to approve the minutes of the April 23, 2026 meeting.
ON A MOTION BY Cindy Bardin, SECONDED BY Brian Heasley, and with all members in favor, the minutes of the April 2026 Kingsbury Zoning Board meeting were approved as presented.

AYES: 4 NAYES: 0 ABSTAIN: 0 MOTION CARRIED

Continuation of Public Hearing: Chairman Whipple welcomed **David W. Howard**, applicant for Tax Map #146.17-1-24.1, commonly known as 1082 Dix Avenue in Hudson Falls, located in Zone District COM-1A, is seeking an area variance to construct 9 storage units totaling approximately 40,555 square feet.

Luigi Palleschi of ABD Engineers, representing David Howard, presented the revised site plan, which relocates the entrance to the western side of the property to improve traffic safety and to move the buildings farther from Dix Avenue. While the new design cannot fully meet the required 80-foot setback due to the curved roadway and irregular lot shape, most of the buildings meet or exceed the setback requirements, with only a small portion of one building located approximately 66 feet from the right-of-way. He noted that the project will also maintain the required 50-foot buffer, including evergreen landscaping along Dix Avenue to screen the site, and incorporate stormwater management features at the front of the property and within the drive aisles.

Mr. Meyer stated that the Town engineer has not yet finished reviewing the project's stormwater management plans; therefore, the Planning Board has not completed SEQRA. Upon completion of these approvals, the Zoning Board of Appeals will be authorized to act on the variance request.

Chairman Whipple tabled this item pending the Town engineer review and Planning Board SEQRA review.

Continuation of Public Hearing: Chairman Whipple welcomed Ethan Hall, representative for **Delcath Systems, Inc.**, applicant for Tax Map #137.-2-45, commonly known as 566 Queensbury Avenue in Queensbury, located in Zone District IND-75, is seeking an area variance to expand the existing building.

Mr. Hall reiterated that the existing building was constructed slightly skewed on the lot, so while the front corner meets the 25-foot side setback, the rear corner sits at 23 feet 6 inches from the property line. The proposal is to extend the building straight back from the rear, following the existing bump-out. The relief being sought includes a one-foot, eleven-inch relief from the side yard setback to allow a 75-foot rear

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expansion for additional warehouse space. He noted that the project has been reviewed by the Planning Board and Washington County, with the county determination to be of Town consideration.

With no questions or comments from the public, the Board continued its SEQRA review of the application. ON A MOTION BY Brian Heasley and SECONDED BY Jim Ross to declare a negative determination, and with all others in favor by voice vote, the motion passed.

AYES: 4 NAYES: 0 ABSTAIN: 0 MOTION CARRIED

The Board examined the 5-part substantial adverse effects and determined none.

ON A MOTION BY Jim Ross and SECONDED BY Brian Heasley to approve the area variance, and with all members voting in favor by roll call vote, the motion passed.

AYES: 4 NAYES: 0 ABSTAIN: 0 MOTION CARRIED

Approval resolution is annexed hereto at the end of the minutes.

With no other business to discuss, Brian Heasley made a motion to adjourn the May Zoning Board of Appeals public hearing. Jim Ross seconded, and all voted in favor by voice vote. The public hearing was adjourned at 7:16 pm.

Alie Weaver, Secretary
Town of Kingsbury Zoning Board of Appeals

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

Adopted MAY 28, 2026

Introduced by JIM ROSS
who moved its adoption

Seconded by BRIAN HEASLEY

**RESOLUTION APPROVING THE
AREA VARIANCE APPLICATION OF
DEL CATH SYSTEMS, INC**

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, DELCATH SYSTEMS, INC., (hereafter the “Applicant”), has requested an area variance relative to the side yard setback requirement for the property located at 566 Queensbury Avenue, Town of Kingsbury, identified as Tax Map Number 137.-2-45, located in the IND-75 Commercial District; and

WHEREAS, the Applicant’s request requires a variance from requirements of the Code of the Town of Kingsbury, as follows: (1) a minimum of twenty five (25) feet is required for the side yard setback; the Applicant is requesting two (2) feet of relief from the side yard setback requirement; and

WHEREAS, in accordance with the Code of the Town of Kingsbury and the State Environmental Quality Review Act (hereafter “SEQRA”), the requested variance is an unlisted 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 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

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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, it will not. The proposal flows with the existing building and is in line with the properties in the area.

(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. Given the location of the existing building, this was the best option.

(c) Is the requested area variance substantial?

No, not based on the size. 1'11" of relief is being requested.

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

No, it will not. SEQR was completed.

(e) Was the alleged difficulty self-created?

Yes, though the off center building existed.

Section 2. This resolution shall take effect immediately.

ROLL CALL VOTE

William Whipple – Yes

Jim Ross – Yes

Cynthia Bardin – Yes

Brian Heasley – Yes