

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Minutes of April 27, 2017

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Sondra Michaud (Excused)  
Scott Winchell (Excused)

Code Enforcement Officer

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 February 23, 2017.

**ON A MOTION BY MR. WHIPPLE**, seconded by Mr. Heasley, the minutes of the February 23, 2017 meeting were adopted, as presented.

**AYES: 6**

**NAYES: 0**

**ABSTAIN: 0**

**MOTION CARRIED**

**1. STEWARTS SHOPS CORP.**, Tax Map # 146.19-1-1.1, commonly known as 3765 Burgoyne Ave, Hudson Falls, Town of Kingsbury, located in Zoning District, Com-1A / Commercial District is seeking Three Area Variance approvals to locate new structure and reduce permeable lot area. 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 Steve Kinley, Real Estate Representative who would be representing Stewart's Shops Corp

Mr. Kinley addressed the Board with a brief back ground of Stewart's history.

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Mr. Kinley stated the Stewarts Shop located at 3765 Burgoyne Avenue is approximately 2,428 square feet convenience store and canopy with 2 gas dispensers on approximately .4 acres.

They are in the process of finalizing a purchase contract to acquire .14 acres from the neighboring property (Advance Auto Parts Inc.) for a total of .54 acres.

They plan to demolish the existing store and build a new 3336 square foot convenience store with canopy and three new multi-product gas dispensers.

Mr. Kinley explained due to the way the sewer is coming in Advance Auto Parts could not hook up to the sewer line and have a septic system. At this time they have a contract in place to purchase this area. They are proposing to build the new store behind the existing store. They will then demo the old store and put the new gas pumps out front. Stewart's try to build a new store before taking the old store so there will not be any down time.

Mr. Kinley stated at the new store they will be going from two gas pumps to three pumps. The parking will go from 18 spaces to 23 spaces. They will be moving the curb cuts as well.

Mr. Kinley stated he is here tonight asking for a variance on the State Route 4 side and for the back of the property. The curb cuts will be 100' from the intersection which meet the State DOT setbacks. At this location setbacks are extended instead of a 20' setback they are required to have an 80' setback. The setback on the front (Burgoyne Avenue) is no problem. Stewart's is asking for 67' relief on state Route 4 and 12' relief in the back of the store. For the Green space they are asking for a 12% relief. The Green space will go from 25% down to 13%.

There was a discussion concerning the delivery trucks entering and exiting the site.

Mr. Kinley stated Advanced Auto was not willing to sell driveway off State Route 4 to Stewart's.

Chairman LaFountain stated for the record Washington County Planning Board approved the three variances. They also approved with conditions and recommendations to the Planning Board. The condition is a stormwater management plan with calculations to be submitted to the Town Planning Board. They also recommend that an inter-connection to Advance Auto's driveway that exits onto State Route 4 be explored.

The Board then reviewed the proposed resolution.

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

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Resolution No. 1 of April 2017  
Adopted April 27, 2017

Introduced by William Whipple  
who moved its adoption

Seconded by Brian Heasley

**RESOLUTION APPROVING  
AREA VARIANCE REQUEST OF  
STEWART'S SHOPS CORPORATION**

**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**, Stewart's Shops Corporation (hereafter the "Applicant"), has requested three area variances for the lot line adjustment and redevelopment of the Stewart's Shops Store located at 3765 Burgoyne Avenue, Town of Kingsbury, identified as Tax Map Numbers 146.19-1-1.1 and a portion of 146.19-1-1; and

**WHEREAS**, the Applicant is requesting relief from code sections 280-23 (F)(1) Front Setback; 280-23 (F)(1) Rear Setback; and 280-23 (F)(2) Green Space; and

Code Section	Variance	Location	Required	Proposed	Relief
280-23 (F)(1)	Front Setback	Facing US 149	80'	13'	67'
280-23 (F)(1)	Rear Setback	Rear of Store (S)	20'	8'	12'
280-23 (F)(2)	Green Space	Site	25%	13%	12%

**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 variance; and

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**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 **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, the proposed application will improve the character of 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, there are no alternatives due to the size and existing lot width.

(c) Is the requested area variance substantial?

Yes, The requested reduction is for sixty seven (67) feet relief on State Route 4 and twelve (12) foot in the rear of the store and the green space reduction of twelve percent (12%), which are all substantial, but not determinative.

(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 not be any adverse impacts associated with the variance. There was no public comment or any possible impacts identified.

(e) Was the alleged difficulty self-created?

Yes, the difficulty was self-created, but is insufficient to preclude granting the variance.

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Section 2. This resolution shall take effect immediately.

ROLL CALL VOTE

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**

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

**ON A MOTION BY MR. HEASLEY**, seconded by Mrs. Wood all in favor, the meeting was adjourned at 7:45 P.M.

Michelle Radliff  
Secretary