

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
August 10, 2015 @ 7:00 PM
STILLWATER TOWN HALL**

Present: Chairman William Ritter
Vice Chairman Donald D'Ambro
Richard Rourke
Joseph Urbanski
Timothy Scrom

Also Present: Daryl Cutler, Attorney for the Town
Paul Male, Acting Director, Building, Planning and
Development
Lindsay Zepko, Town Planner
Sheila Silic, Secretary

Absent: Christine Kipling

Chairman Ritter called the meeting to order at 7:00 P.M.

Review and Approval of Minutes of Zoning Board of Appeals:

Mr. Rourke made a motion to table the minutes from the July 13, 2015 until the September 14, 2015 meeting, Mr. D'Ambro seconded. The motion passed unanimously.

Public Hearings/New Business:

ZBA2015-5 Lucente Area Variance, 38 Gronczniak Road

Chairman Ritter recognized Steven Gottman of Ginley and Gottman Law Firm, who is representing Ms. Susan Lucente. Mr. Gottman stated that they are seeking an Area Variance as the lot does not meet the minimum lot width of 300 ft. and to allow for a lot width of 251.96 ft. Mr. Gottman stated that when this subdivision was approved the corner lot was given to the Town of Stillwater. Mr. Gottman stated that Lot #5 is located on the corner of Gronczniak Road and Munger Hill Road and the property consist of 2.04 acres. Mr. Gottman stated that they cannot purchase land from any nearby property owners.

Chairman Ritter proceeded to open the public and asked if anyone wished to provide public comment. There was no public comment and Chairman Ritter proceeded to close the public hearing.

Mr. D'Ambro asked Mr. Cutler and Mr. Urbanski if one or both were on the Planning Board when the subdivision was before the Board. Mr. Cutler and Mr. Urbanski stated that neither one was a member of the Planning Board at this time. Mr. D'Ambro asked if the historical site was taken by the Town of Stillwater or was it given to the Town of Stillwater. Chairman Ritter stated that the map shows the lot as being conveyed to the Town of Stillwater. Mr. D'Ambro stated if it meant the current frontage previously when initially subdivided it would be a pre-existing lot. Mr. Cutler stated that it would still have to meet the current zoning and the Town Code has not changed since 2006.

Chairman Ritter stated that this is an assumption that the corner lot was given as a Historical offering to the Town of Stillwater as part of the approval process.

Mr. Urbanski stated from his understanding this subdivision was highly contested by the neighbors and was approved as a ten lot subdivision by the Planning Board.

Chairman Ritter asked if anyone had additional concerns or questions and hearing none he asked to move to discussion of the SEQRA. Chairman Ritter stated that Item #4 the Rural Agricultural box needs to be checked.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2015 RESOLUTION NO. 7**

WHEREAS, Susan Lucente has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 38 Gronczniak Road, Stillwater, more fully identified as Tax Map Number 220-1-96; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (SEQRA), the proposed action is a Type II action and requires no further action or review by the Zoning Board of Appeals;

WHEREAS, the Planning Board reviewed each of the 11 factors contained in Part 2 of the EAF and determined that the proposed action will have no, or only a small, environmental impact;

Now, therefore, be it

RESOLVED, that the Zoning Board of Appeals hereby determines that the proposed action by the applicant, Susan Lucente, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member D'Ambro seconded by Member Urbanski, to adopt Resolution No.7 of 2015.

A roll call vote was taken on Resolution No. 7 of 2015 as follows

Member Christine Kipling	ABSENT
Member Richard Rourke	YES
Vice Chair Donald D'Ambro	YES
Chairman William Ritter	YES
Member Joe Urbanski	YES
Member Timothy Scrom (Alt)	YES

Resolution No. 7 of 2015 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted August 10, 2015.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2015 RESOLUTION NO. 8**

WHEREAS, Susan Lucente has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to build on a legal non-conforming lot on property located at 38 Gronczniak Road, Stillwater, more fully identified as Tax Map Number 220-1-96; and

WHEREAS, the Applicant is seeking an Area Variance for frontage requirement contained in Stillwater Zoning Code §3.5(D); and

WHEREAS, pursuant to §14.2(D) of the Stillwater Zoning Law, the Town properly and timely published a notice for public hearing conducted on August 10, 2015; and

WHEREAS, the Zoning Board of Appeals has duly considered the application and the elements necessary to consider the granting of an Area Variance by taking into consideration 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;

Now, therefore, be it

RESOLVED, that the Stillwater Zoning Board of Appeals hereby makes the following findings:

1. An undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by the granting of the Area Variance because this lot was created to be a buildable lot;

2. The benefit sought by the applicant cannot be achieved by some method, feasible to the applicant to pursue, other than an Area Variance because no other land is available;
3. The requested Area Variance is not substantial because it is only a 16% variance from the required amount;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because it was a pre-approved building lot; and
5. The alleged difficulty was not self-created because the lot was created by an approved subdivision in 2006; and be it further

RESOLVED, that the application of Susan Lucente for an area variance to allows for a residence to be built on property located at 38 Groncziak Road, Stillwater, more fully identified as Tax Map Number 220-1-96, is GRANTED.

A motion by Member Urbanski, seconded by Member D'Ambro, to adopt Resolution No. 8 of 2015.

A roll call vote was taken on Resolution No. 8 of 2015 as follows:

Member Christine Kipling	ABSENT
Member Richard Rourke	YES
Vice Chair Donald D'Ambro	YES
Chairman William Ritter	YES
Member Joe Urbanski	YES
Member Timothy Scrom (Alt)	YES

Resolution No. 8 of 2015 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 10, 2015

ZBA2015-7 Paul Lescault Area Variance, 18 Brightman Road

Chairman Ritter recognized James Vianna of James Vianna Surveying, who is representing Mr. Jean Lescault and Mr. Paul Lescault. Mr. Vianna stated that Mr. Lescault is seeking an Area Variance for relief from the minimum lot width of 300 ft. and allow for 251 ft. or 16.5% at the building line. Mr. Vianna stated that the proposed lot is for a single family dwelling and is located at the intersection of Brightman Road and County Route 76. Mr. Vianna stated that Mr. Lescault purchased the property in 1988 and in 2001 did a 3 Lot Minor Subdivision. Mr. Vianna stated this lot would conform to zoning if Mr. Lescault was able to hook into the public waterlines on County Route 76 however, residents are not allowed to hook up to the water lines along County Route 76 at this time.

Chairman Ritter proceeded to open the public hearing and asked if anyone wished to provide public comment. There was no public comment and Chairman Ritter proceeded to close the public hearing.

Ms. Zepko stated that the application was submitted to Saratoga County Planning Board and have received a response stating no significant impact and had a comment on driveway access.

Mr. Rourke asked about the access to the rear of lot and if it would be paved. Mr. Vianna stated yes the access to the rear lot will be paved. Mr. Rourke asked what the code is for the access going to the rear lot. Mr. Male stated that it has to meet certain fire access codes attributed to weight limit, driveway width and pulls offs.

Mr. D'Ambro stated that in 2001 the building width was 150 ft. and was changed to 300 ft.

Mr. Urbanski asked if there are public utilities the lot width changes would Mr. Lescault be able to use the lower lot width without hooking up to the public water supply. Mr. Cutler stated that if the public utilities are not available then you cannot use the lower lot width.

Mr. Scrom asked about the impact on the wetlands and if they are going to change. Mr. Vianna stated that will be no impact on the wetlands and that the Army Corp. checking to distinguish if the wetlands are DEC or Federal.

Chairman Ritter asked if anyone had additional concerns or questions and hearing none asked to move to discussion of SEQRA. Chairman Ritter stated that Item #5 should be changed to yes.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2015 RESOLUTION NO. 9**

WHEREAS, Paul Lescault has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 18 Brightman Road, Stillwater, more fully identified as Tax Map Number 231-1-61.11; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (SEQRA), the proposed action is a Type II action and requires no further action or review by the Zoning Board of Appeals;

WHEREAS, the Planning Board reviewed each of the 11 factors contained in Part 2 of the EAF and determined that the proposed action will have no, or only a small, environmental impact;

Now, therefore, be it

RESOLVED, that the Zoning Board of Appeals hereby determines that the proposed action by the applicant, Paul Lescault, is a Type II action and requires no further action or review

by the Zoning Board of Appeals.

A motion by Member D'Ambro seconded by Member Scrom, to adopt Resolution No.9 of 2015.

A roll call vote was taken on Resolution No. 9 of 2015 as follows:

Member Christine Kipling	ABSENT
Member Richard Rourke	YES
Vice Chair Donald D'Ambro	YES
Chairman William Ritter	YES
Member Joe Urbanski	YES
Member Timothy Scrom (Alt)	YES

Resolution No. 9 of 2015 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted August 10, 2015.

Mr. Urbanski stated that he believes this is self-created because Mr. Lescault could make one large lot instead of two lots.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2015 RESOLUTION NO. 10**

WHEREAS, Paul Lescault has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to subdivide property located at 18 Brightman Road, Stillwater, more fully identified as Tax Map Number 231-1-61.11; and

WHEREAS, the Applicant is seeking an Area Variance requirement contained in Stillwater Zoning Code §3.5(D); and

WHEREAS, pursuant to §14.2(D) of the Stillwater Zoning Law, the Town properly and timely published a notice for public hearing conducted on August 10, 2015; and

WHEREAS, the Zoning Board of Appeals has duly considered the application and the elements necessary to consider the granting of an Area Variance by taking into consideration 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;

Now, therefore, be it

RESOLVED, that the Stillwater Zoning Board of Appeals hereby makes the following findings:

1. An undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by the granting of the Area Variance because most of the surrounding properties have a smaller frontage;
2. The benefit sought by the applicant cannot be achieved by some method, feasible to the applicant to pursue, other than an Area Variance because no other land is available;
3. The requested Area Variance is not substantial because it is only 16 ½ percent reduction of road frontage;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because the key lot has over 9 acres and is in the back of the lot; and
5. The alleged difficulty was self-created because the applicant is subdividing his land, but the benefits outweigh this factor; and be it further

RESOLVED, that the application of Paul Lescault for an area variance to allow for a subdivision of property located at 18 Brightman Road, Stillwater, more fully identified as Tax Map Number 231-1-61.11, is GRANTED.

A motion by Member Rourke, seconded by Member D'Ambro, to adopt Resolution No. 10 of 2015.

A roll call vote was taken on Resolution No. 10 of 2015 as follows:

Member Christine Kipling	ABSENT
Member Richard Rourke	YES
Vice Chair Donald D'Ambro	YES
Chairman William Ritter	YES
Member Joe Urbanski	YES
Member Timothy Scrom (Alt)	YES

Resolution No.10 of 2015 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 10, 2015.

ZBA2015-8 Riley/Giovanone Area Variance, 84 Durham Road

Chairman Ritter recognized Jason Tommell of VanDusen and Steves Land Surveyor, who is representing Mr. Riley and Mr. Giovanone. Mr. Tommell stated that this is 11.165 acre parcel located on the east side of Durham Road. Mr. Tommell stated that Mr. Riley is the owner/occupant

of the house in the front and Lot #1 will retain 2 acres and Lot #2 the remaining 9.165 acres in the rear of the property. Mr. Tommell stated that Mr. Riley is seeking an Area Variance for the minimum lot width of 27% and 20 ft. frontage before he can subdivide the property. Mr. Tommell stated that in the deed there is a 10 ft. wide permanent utility easement but, it is not clearly defined in the deed. Mr. Tommell stated that there will be a shared driveway for ingress and egress.

Chairman Ritter asked about the details of the easement. Mr. Tommell stated that the description is very vague but, the deed reads that the easement is 28 ft. north of the property line, gives a distance off Durham Road and the center line from the pole south to Mr. Guarra's property line.

Chairman Ritter proceeded to open the public and asked if anyone wished to provide public comment.

Herbert Broestler
88 Durham Rd

Mr. Broestler asked where the actual location of the house will be placed on the property and if it was on the map. Mr. Tommell stated that the location of the house is not on this map but, the location of the house, well and septic will be on the subdivision map when it goes before the Planning Board.

Alfred Guerra
85 Durham Rd

Mr. Guerra asked if the 10 ft. utility easement would be changed. Mr. Tommell stated that the easement would not change it will still be from the pole to the property line. Mr. Guerra stated that there was an Area Variance granted five or six years ago for an addition and asked for clarification if the Area Variance was still in effect. Chairman Ritter stated that once an Area Variance is granted stays in effect. Ms. Zepko and Mr. Male stated that was before the Town of Stillwater Code had changed.

Chairman Ritter proceeded to close the public hearing as there was no further public comment.

Mr. D'Ambro asked the Mr. Riley if it was deemed that the chicken coop needed to be moved, would he be willing to move it. Mr. Riley stated that he would move the chicken coop.

Mr. Urbanski asked if any of the adjacent land owners were approached to try and purchase land from them. Mr. Riley stated that he did not approach the adjacent land owners. Mr. Riley stated that Mr. Broestler received an Area Variance in 2014 and Mr. Guerra's driveway is next to the flag lot.

Mr. Scrom asked about the access to the back lot through Mr. Riley's driveway and this is a legal requirement within the Town of Stillwater. Mr. Cutler stated that the Planning Board will require an easement or a driveway agreement. Mr. Male stated that a parcel needs frontage but you do not have to use the frontage.

Chairman Ritter asked if anyone had any additional concerns or questions and hearing none, asked to move to discussion of SEQRA. Chairman Ritter stated that Item #4 should have Rural and

Agriculture checked. Chairman Ritter asked Ms. Zepko if the official application has the last page attached. Ms. Zepko stated that she noticed it was not attached to the application. Ms. Zepko stated that she will print a copy of Part II and attach it to the original application.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2015 RESOLUTION NO. 11**

WHEREAS, David and Michelle Riley have submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 84 Durham Road, Stillwater, more fully identified as Tax Map Number 232.00-1-15.24; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (SEQRA), the proposed action is a Type II action and requires no further action or review by the Zoning Board of Appeals;

WHEREAS, the Planning Board reviewed each of the 11 factors contained in Part 2 of the EAF and determined that the proposed action will have no, or only a small, environmental impact;

Now, therefore, be it

RESOLVED, that the Zoning Board of Appeals hereby determines that the proposed action by the applicants, David and Michelle Riley, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member D'Ambro seconded by Member Scrom, to adopt Resolution No.11 of 2015.

A roll call vote was taken on Resolution No. 11 of 2015 as follows:

Member Christine Kipling	ABSENT
Member Richard Rourke	YES
Vice Chair Donald D'Ambro	YES
Chairman William Ritter	YES
Member Joe Urbanski	YES
Member Timothy Scrom (Alt)	YES

Resolution No. 11 of 2015 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted August 10, 2015.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2015 RESOLUTION NO. 12**

WHEREAS, David and Michelle Riley have submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to subdivide property located at 84 Durham Road, Stillwater, more fully identified as Tax Map Number 232.00-1-15.24; and

WHEREAS, the Applicant is seeking an Area Variance requirement contained in Stillwater Zoning Code §3.5(D); and

WHEREAS, pursuant to §14.2(D) of the Stillwater Zoning Law, the Town properly and timely published a notice for public hearing conducted on August 10, 2015; and

WHEREAS, the Zoning Board of Appeals has duly considered the application and the elements necessary to consider the granting of an Area Variance by taking into consideration 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;

Now, therefore, be it

RESOLVED, that the Stillwater Zoning Board of Appeals hereby makes the following findings:

1. An undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by the granting of the Area Variance because the other lots in the area have similar lot widths as well;
2. The benefit sought by the applicant cannot be achieved by some method, feasible to the applicant to pursue, other than an Area Variance because no other land is available to purchase;
3. The requested Area Variance is not substantial because this request is road frontage to allow a flag lot to be created for the large section of land in the back;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because it is just the development of a flag lot; and
5. The alleged difficulty was not self-created because the non-conforming lot was created under prior zoning; and be it further

RESOLVED, that the application of David and Michelle Riley for an area variance to allow for a subdivision of property located at 84 Durham Road, Stillwater, more fully identified as Tax Map Number 232.00-1-15.24, is GRANTED.

A motion by Member D'Ambro, seconded by Member Scrom, to adopt Resolution No. 12 of 2015.

A roll call vote was taken on Resolution No. 12 of 2015 as follows:

Member Christine Kipling	ABSENT
Member Richard Rourke	YES
Vice Chair Donald D'Ambro	YES
Chairman William Ritter	YES
Member Joe Urbanski	NO
Member Timothy Scrom (Alt)	YES

Resolution No.12 of 2015 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 10, 2015.

A motion to adjourn was made by Mr. D'Ambro, seconded by Mr. Urbanski, at approximately 8:20 P.M.

The next Zoning Board of Appeals Meeting will be held on September 14, 2015.