

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
November 9, 2015 @ 7:00 PM  
STILLWATER TOWN HALL**

**Present:** Chairman William Ritter  
Vice Chairman Donald D'Ambro  
Christine Kipling  
Richard Rourke  
Timothy Scrom

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

**Absent:** Joseph Urbanski  
Lindsay Zepko, Town Planner

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 approve the minutes from the July 13, 2015 meeting. Ms. Kipling seconded. Mr. D'Ambro made a motion to approve the minutes with minor changes from the August 10, 2015 meeting. Mr. Scrom seconded. The approval of the minutes passed unanimously.

**Public Hearings/New Business:**

**ZBA2015-9, Post Area Variance, 3 Aft Court**

Chairman Ritter recognized Mr. Douglas Post who presented the project before the Board. Mr. Post stated that he would like to build a single family dwelling on the property located at 3 Aft Court. Mr. Post stated that he is seeking two variances one is an area variance for lot size and the other one is for an area variance for lot frontage. Mr. Post stated that he has brought in maps along with topographical maps.

Chairman Ritter asked Mr. Male to give a brief description to the public of what is being requested by the applicant. Mr. Male stated that the applicant is requesting two area variances for two parcels located at 3 Aft Court that are to be combined. Mr. Male stated this is a private road lying

southerly of NYS Route 9P. Mr. Male stated that Lot A is 25 ft. in width and 330 ft. in length and just under 0.2 acres. Mr. Male stated that Lot B is a land locked parcel and is 0.2 acres and would like to merge the two parcels into a flag lot of 0.4 acres. Mr. Male stated that the proposed house would be situated in a 'bowl' at the back of the property. Mr. Male stated that there are some issues that need to be addressed with the biggest being the location of the proposed house. Under the NYS Building Code it has to have a 10 ft. perimeter around the house. Mr. Male stated that the way the proposed house is shown on the map it is not going to work and there also needs to be a grading plan.

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

Bob Carter, 33 Pine Ridge Rd

Mr. Carter stated that his property is on top of the hill and overlooks Mr. Post's property. Mr. Carter stated that he met with Mr. Post and asked him about what his intentions were and walked the property. Mr. Carter stated his property overlooks into the 'bowl' that contains car parts and other debris. Mr. Carter stated that Mr. Post informed him that all the debris will be removed. Mr. Carter stated that there was a big fireworks display on Mr. Post's property this summer. Mr. Post assured me that he had no knowledge of this activity. Mr. Carter stated that he asked Mr. Post about the integrity of the slope and Mr. Post assured him that he has no intention of disturbing the slope. Mr. Carter stated that he tried to get a copy of the map and was informed that it required a FOIL request and could take up to five day to receive the copy and asked if he could take a picture with a cell phone of the map and was denied.

Kevin & Lynn O' Connor, 35 Pine Ridge Rd

Mr. O'Connor stated that they moved up here from Long Island and bought the property in June. Mr. O'Connor stated that they live in the middle town house unit and we can see the lake, trees and the open space from our back sliding glass doors and the back windows. He stated that that is what we like about living here. Mr. O'Connor stated that there is 30 ft. from his back patio to the property line then it slowly drops off 15 ft. where there is a dramatic drop in the slope. Mr. O'Connor asked if Mr. Post starts to dig or build back near the slope, is this going to undermine the area where a heavy rain storm could cause erosion of the slope. Mr. O'Connor stated that he does not see the need for more construction in this area.

Judy Lister, 37 Pine Ridge Rd

Ms. Lister stated that there was bull dozer on the hillside removing saplings and grass about five years ago, and now there was work being done on the hill again. Ms. Lister stated that she spoke to the owner at the time who had stated that he was going to build a house but, decided not to build the house. Ms. Lister stated that she wants to trust Mr. Post will not disturb the integrity of the hill side as he has stated. Ms. Lister stated that the Pine Ridge Home Owners Association had a Geo-Technical Engineer come out and look at the hill side and he stated that as the hill side is right now it is okay, but, if there is any digging then there would be problems.

Karl Hardcastle, 520 NYS Route 9P

Mr. Hardcastle stated that his property has the slope on it and borders Mr. Post and the townhouse properties. Mr. Hardcastle stated that his concern is the integrity of the grade and as long as the integrity is maintained with a retaining wall he has no problem with Mr. Post's request.

Carol Marotta, 21 Pine Ridge Rd

Ms. Marotta stated that there are concerns over the grade, what exactly has to happen as it has a significant drop off of about 60 ft. to 100 ft. Ms. Marotta stated that she hopes the ZBA had an opportunity to look at the property, as the driveway comes up and goes to a huge pit. Ms. Marotta stated in the Residential Resort Zone there is a 35 ft. building height limit so, the top of the house will be below the top of the hill. Ms. Marotta stated that he is asking for an area variance in Residential Resort which already allows for half acre lots. Ms. Marotta asked what the recommendations are for the house, is it being built up, what type of retaining wall will be built.

Chairman Ritter proceeded to close the public hearing as there were no further public comments.

Mr. D'Ambro asked Mr. Male if the applicant has addressed the issues of the NYS Building Code requirements. Mr. Male stated that he has spoken to Mr. Post and is waiting on more information on the grading plan. Mr. D'Ambro asked if the grading plan is going to show the height of the house. Mr. Male stated that the grading can show the height of the house.

Mr. Cutler stated that there is a lot size variance and frontage variance. Mr. Cutler asked Mr. Male exactly how many variances are needed. Mr. Male stated that there are two variances being asked for by the applicant. Mr. Male stated that the lot size variance is from 21,750 SF per dwelling unit reduced to 17,603 SF and the road frontage variance is from 50 ft. reduced to 25 ft. Mr. Cutler stated there are currently three people using the driveway. Mr. Post stated that is correct. Mr. Cutler asked about the wells. Mr. Post stated that the wells are no longer in use and that all the properties along NYS Route 9P are on public water and sewer.

Chairman Ritter stated that on the application Residential Resort is checked. Mr. Male stated that there are a number of changes that need to be changed on the application. Chairman Ritter asked Mr. Post if he owns 4 Aft Ct. Mr. Post stated that is correct. Chairman Ritter asked where your current house is are there any easements. Mr. Post stated no and that he is not aware of easements. Chairman Ritter asked Mr. Post if he considered combining these lots to make your lot more compliant with zoning. Mr. Post stated that he wants to build a house in the back. Mr. Post stated that he was told five years ago that he could build on the property and that he had purchased a piece of property to enhance the size of the property. Mr. Post stated that he has a letter from Saratoga County Sewer and topographical maps. Mr. Post stated to answer some of the questions that were raised, the house is 1200 SF, there are no intentions of touching the hill side, and there will be a retaining wall put in.

Mr. Rourke asked Mr. Post if he has approached the neighbors about purchasing property from them. Mr. Post stated that he had and that none of the neighbors want to sell any of their property.

Mr. Scrom asked Mr. Male about the water that comes down from Luther's Forest Associates and goes toward the house and will this cause a drainage problem. Mr. Male stated that he had driven onto the property and does not believe there would be a problem.

Mr. Cutler stated that the Board can only approve or deny SEQRA with the information that they have before them and with the limited information before the Board this could have adverse decision on SEQRA.

Mr. D'Ambro made a motion to table the application until the next Zoning Board meeting on December 7, 2015 seconded by Mr. Scrom. The motion passed unanimously.

### **ZBA2015-10 Arvin Hart Fire Station, 147 George Thompson Road**

Chairman Ritter recognized Mr. Paul Male, Town Engineer, who is representing The Town of Stillwater. Mr. Male stated that this application is for the new water line and water tank project to be erected in the rear of the Arvin Hart Fire Department property. Mr. Male stated that this property was chosen because of the elevation of the property. Mr. Male stated the proposal is that the back parcel will be subdivided and will also be landlocked. Mr. Male stated that the Fire District agreed to this proposal as long as the project went before the Zoning Board and Planning Board and received all the required approvals. Mr. Male stated that the Town of Stillwater is asking for four area variances, lot size with public water is 1.50 acres reduced to .50 acres, rear setback required is 30ft reduced to 20ft, side setback requires 20ft reduced to 19.9ft, and road frontage requires 50ft and this parcel has no frontage on a public road.

Mr. D'Ambro asked if anyone has approached Luther's Forest to try and purchase any property. Mr. Male stated that he believes that all land issues had been discussed.

Mr. Rourke asked about the driveway being on Mr. Mackay's property. Mr. Male stated that the Town is going to have the driveway removed.

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

### **Vince Barber, 149 George Thompson Road**

Mr. Barber stated that he and his wife had no issues when the Fire Department was built and that the Fire Department has been a good neighbor. Mr. Barber stated that they have concerns over the water tank. Mr. Barber stated that the tank is 165 ft. from his residence, and asked what type of tank is being constructed, is the tank gravity fed, and is a pump being used, and if so, how much noise will the pump remit, or is it a tower tank. Mr. Barber asked when the foundation work begins will this disrupt the wells from all that pounding. Mr. Barber stated that with construction of the water tank they will lose vital sun for their solar efficiency and the tank will also interfere with the direct transmission line for their Direct T.V. dish. Mr. Barber asked how this will impact his property value, will cell towers be able to go on the tank. Mr. Barber stated that he is waiting for an Environmental Impact report which he has not received. Mr. Barber stated that this is not the place to construct this water tank and that he opposes this project.

Marissa Mackay, 25 Ernest Rd Wilton, NY

Ms. Mackay stated that she is here this evening with her brother Caelien of Luther's Forest Corp. Ms. Mackay stated that she is unaware of any discussions with the Town of Stillwater and Alec their father, who is since retired. Ms. Mackay asked Mr. Male what the discussions were regarding Luther's Forest Corp. and that section of property. Mr. Male stated that when the Fire Department was built the driveway encroaches 2 ft. onto Luther's Forest Corp. property. Mr. Male stated that as a requirement, the Fire Department asked the Town of Stillwater to remove this 2 ft. wide section. Ms. Mackay asked Mr. Male if he had any information on the proposed tanks, what is the water system setup, is this tank going to be a gravity fed tank or a UFD tank with distribution pumps. Mr. Male stated that he could not answer these questions. Mr. Male stated that Chazen Companies did an extensive environmental report with the State Health Department and all of these questions were addressed with the State Health Department. Mr. Mackay stated that all of this information should be presented to the Board before any decision is made on this project.

Chairman Ritter asked if anyone else wished to make public comment and hearing none proceeded to close the public hearing.

Mr. Male stated to the best of his knowledge, this is a tank and not an elevated tower. Mr. Ritter asked Mr. Male if the Chazen Companies has this information. Mr. Male stated that the Chazen Companies has gone through the process with NYS Department of Health, prepared the plans and they have been approved by the State.

Mr. Rourke stated that the Town Zoning Code has a height requirement and asked what the height requirement is for the tank. Also what is the foot print of the water tank. Mr. Rourke asked if the tank will encroach on anyone's property and are the water lines going across the Fire Department property.

Mr. Scrom asked Mr. Cutler if it would be a conflict of interest on this project as he is a member of the Fire Department. Mr. Cutler stated that if you have concerns that it might be best not to participate and recuse yourself.

Mr. Cutler asked Chairman Ritter if he wants him to try and get a hold of someone from Chazen Companies to speak to on the phone in order to get more information.

Mr. Rourke made a motion to table the discussion until more information is received, seconded by Ms. Kipling.

Mr. D'Ambro made a motion to take the tabled motion off the table, seconded by Ms. Kipling.

Mr. Cutler stated that he spoke to Mr. Lernaro who cannot be present at this evening's meeting but can meet with the Zoning Board at 6:30 on November 16, 2015. Mr. Cutler asked Chairman Ritter if all the Board members would be able to attend a special meeting on this date. Mr. Cutler stated that he would also be present for the Planning Board meeting.

Chairman Ritter asked the Board members if they were able to attend this meeting. All Board members stated that they could attend the November 16, 2015 meeting.

Mr. D'Ambro made a motion to table the project and hold a special meeting on November 16, 2015, seconded by Mr. Scrom. A roll call vote was taken.

Christine Kipling	Yes
Timothy Scrom	Yes
Donald D'Ambro	Yes
Richaard Rourke	Yes
Chairman William Ritter	Yes

### **ZBA2015-11, Urbaetis/Sicko Area Variance, 41 Colonial Road**

Chairman Ritter recognized Ms. Carol Urbaetis of 41 Colonial Road. Ms. Urbaetis stated that she is seeking an area variance for a lot line adjustment to correct an encroachment. Ms. Urbaetis stated that she did not have a map of her property but when Mr. Sicko bought his property he had a sketch map of his property. Ms. Urbaetis stated that Mr. Sicko had his fence put in and we are here this evening to correct the encroachment.

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.

Mr. Sicko stated that they are essentially adjusting the property line and straightening it out. Mr. Sicko stated that Ms. Urbaetis receives more road frontage and he receives .02 acres in the back.

Chairman Ritter asked if anyone had any additional concerns or questions and hearing none he asked to move to discuss SEQRA.

### **TOWN OF STILLWATER ZONING BOARD OF APPEALS 2015 RESOLUTION NO. 13**

WHEREAS, Carol Urbaetis and Matthew Sicko have submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 309 County Route 76, Stillwater, more fully identified as Tax Map Number 243-1-47; 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, Carol Urbaetis and Matthew Sicko, 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.13 of 2015.

A roll call vote was taken on Resolution No. 13 of 2015 as follows:

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

Resolution No. 13 of 2015 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted November 9, 2015.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2015 RESOLUTION NO. 14**

WHEREAS, Carol Urbaetis and Mathew Sicko have submitted an application to the Zoning Board of Appeals seeking an Area Variance in order make a lot line adjustment on property located at 41 Colonial Road, Stillwater, more fully identified as Tax Map Number 243-1-47; and

WHEREAS, the Applicant is seeking an Area Variance requirement contained 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 November 9, 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 No physical changes to the property only the lot line is changing. There has been a fence on the new lot line for years so it has always appeared as though the lot line was straight;

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 a very small lot line change;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because there are no physical changes to the land, only the lot line changes; and
5. The alleged difficulty was not self-created because when it was purchased, Structures were built over property line by prior owners; and be it further

RESOLVED, that the application of Carol Urbaetis and Matthew Sicko for an Area Variance to allow for a lot line adjustment on property located at 309 County Route 76, Stillwater, more fully identified as Tax Map Number 243-1-47 is GRANTED.

A motion by Member D'Ambro seconded by Member Scrom, to adopt Resolution No. 14 of 2015.

A roll call vote was taken on Resolution No. 14 of 2015 as follows:

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

Resolution No. 14 of 2015 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on November 9, 2015.

A motion to adjourn was made by Mr. Rourke, seconded by Mr. Scrom, at approximately 8:36 p.m.