

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
June 12, 2017 @ 7:00 PM  
STILLWATER TOWN HALL**

**Present:** Chairman Donald D'Ambro  
Joseph Urbanski, Member  
Richard Rourke, Member  
Dale Smith, Member

**Also Present:** Daryl Cutler, Attorney for the Town  
Eric Rutland, Building Inspector, Code Enforcement Officer  
Sheila Silic, Secretary

**Absent:** Paul Male, Town Engineer  
Christine Kipling, Member  
Timothy Scrom, Member  
Ellen Vamocka, Town Councilwoman

Chairman D'Ambro 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 October 11, 2016 meeting, seconded by Mr. Urbanski .

**Public Hearings/New Business:**

**ZBA2017-01, Marshall Ares Variance, 12 High St**

Chairman D'Ambro recognized Ms. Kimberly Marshall who presented the project before the Board. Ms. Marshall stated that her husband is also present this evening. Ms. Marshall stated that they are seeking an Area Variance for the lot area from 20,000SF down to 16,800SF as well as the lot width from 100ft. Down to 80ft. Ms. Marshall stated that they want to build a single-family dwelling on the property located at 12 High Street. Ms. Marshall stated that there was a house on the property previously that we understand was destroyed by a fire.

Chairman D'Ambro proceeded to open the public hearing and asked if anyone wished to provide public comment.

Kimberly Demar 14 High Street

Ms. Demar asked if the area variance would be taking away any of her property. Ms. Marshall stated that the area variance will not be taking away any of her property. Ms. Marshall stated that the area variance is just for their lot. Ms. Demar asked if the front of the house will be facing the roadway or her driveway. Ms. Marshall stated that the front of the house will be facing the roadway.

Chairman D'Ambro asked if anyone else wished to make public comment and hearing none he proceeded to close the public hearing.

Chairman D'Ambro asked if the septic system is proposed to be a raised bed or a standard septic system. Mr. Marshall stated that it is a standard septic system. Chairman D'Ambro asked Mr. Rutland if there was a copy of the perk test in the applicant's file. Mr. Rutland stated that there is not a copy of the perk test or a copy of the septic design. Mr. Rutland stated that would be addressed when the applicant applies for a septic permit. Chairman D'Ambro asked about Mr. Male's comment letter dated May 23, 2017, Item #4 regarding the discrepancy of the square footage on the plot plan and the application. Ms. Marshall stated that this is an error on the blueprints and will be corrected. Chairman D'Ambro asked about the agreement regarding the setback change to the building line. Ms. Marshall stated that conceptually they have no issues with the front building line. Ms. Marshall asked the Board if they would allow this to be a guideline opposed to a condition of the area variance. Ms. Marshall stated that way if the house has to be moved forward 2 ft. so as not to disturb the maple tree in the rear of the property. Ms. Marshall stated there are some houses on the street that are staggered.

Mr. Rourke asked if the tree is in the center or the rear of the lot. Ms. Marshall stated that the tree is to the right of the lot.

Mr. Cutler stated that the Town Engineer is stating that the house is to be brought forward. Mr. Cutler stated that would give you more area in the rear for the septic system and the tree.

Mr. Rutland stated that he believes that Mr. Male is referring to the building envelope which is 35 ft. from the front property line. Mr. Rutland stated that the house should be somewhere between the 50 ft. and the 35 ft. to align the building up on the street.

Mr. Urbanki stated that there is a building envelope and the house can be placed within that building envelope. Mr. Cutler stated that the issue is this is a substandard size lot. Mr. Cutler stated that Mr. Male's comment letter states "The front of the house should be located in line with the two neighboring lots, resulting in a front setback of approximately 42 feet from the longer front property line. I recommend this as a condition of approval."

Chairman D'Ambro asked if anyone on the Board had any additional concerns or questions and hearing none he asked to move to discuss SEQRA. Chairman D'Ambro stated that Item #9 is marked "Yes", regarding the energy code. Mr. Marshall stated that the building will meet all the NYS Building and Energy Code. Chairman D'Ambro asked about Item #11, regarding public sewer. Mr. Cutler stated that they have addressed Item #11 with onsite septic.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2017 RESOLUTION NO. 1**

WHEREAS, Kimberlee Marshall has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 12 High Street, more fully identified as Tax Map Number 243.82-1-32; 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, Kimberlee Marshall, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member Urbanski, seconded by Member Smith to adopt Resolution No. 1 of 2017.

A roll call vote was taken on Resolution No. 1 of 2017 as follows:

Chair Donald D'Ambro	Yes
Member Richard Rourke	Yes
Member Timothy Scrom	Absent
Member Joe Urbanski	Yes
Member Dale Smith	Yes
Member Christine Kipling	Absent

Resolution No. 1 of 2017 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 12, 2017.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2017 RESOLUTION NO. 2**

WHEREAS, Kimberlee Marshall has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a single family residence on property located at 12 High Street, Stillwater, more fully identified as Tax Map Number 243.82-1-32; and

WHEREAS, the Applicant is seeking an area variance on lot size from 20,000SF to 16,800SF and lot width requirement from 100ft to 80ft as 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 \_June 12, 2017; 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 neighboring lots are similar size, some even smaller and this is a single family residence like the surrounding lots;
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 there is no other land available;
3. The requested Area Variance is not substantial because the reduction in lot size and width is not extensive and most of the neighboring lots are just as small and narrow;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because this is a single family residence in an area that is residential and there are no wetland issues; and
5. The alleged difficulty was not self-created because this was already a residential lot, but a fire destroyed the existing structure; and be it further

RESOLVED, that the application of Kimberlee Marshall for an area variance allow for a single family residence on property located at 12 High Street, more fully identified as Tax Map Number 243.82-1-32 is GRANTED.

A motion by Member Urbanski seconded by Member Rourke, to adopt Resolution No. 2 of 2017.

A roll call vote was taken on Resolution No. 2 of 2017 as follows:

Chair Donald D'Ambro	Yes
Member Richard Rourke	Yes
Member Timothy Scrom	Absent
Member Joe Urbanski	Yes
Member Dale Smith	Yes
Member Christine Kipling	Absent

Resolution No. 2 of 2017 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 12, 2017.

Motion to adjourn: made by Mr. Urbanski, seconded by Mr. Rourke motion passed at approximately 7:50 PM.