

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
July 10, 2017 @ 7:00 PM
STILLWATER TOWN HALL**

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

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

Absent: Paul Male, Town Engineer
Christine Kipling, Member

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 June 12, 2017 meeting, seconded by Mr. Urbanski.

Chairman D'Ambro asked for a motion to appoint the Vice-Chairperson of the Zoning Board of Appeals. Mr. Scrom made a motion to appoint Mr. Rourke as the Vice-Chairperson seconded by Mr. Urbanski. Mr. Rourke accepted the appointment and a roll call vote was taken.

Chairman D'Ambro	YES
Member Urbanski	Yes
Member Scrom	YES
Member Smith	YES
Member Kipling	ABSENT

Public Hearings/New Business:

ZBA2017-02, Perrault Area Variance, 6 Anusesky Lane

Chairman D'Ambro recognized Mr. Brian Osterhaust of Environmental Design Partnership who is representing Mr. Thomas Perrault and Active Solar Development. Mr. Osterhaust stated that the Applicant is proposing a 22 Kilowatt solar array on a 38 Ft. x 40 Ft. carport and a 40 Kilowatt solar array on the existing garage at the rear of the property. Mr. Osterhaust stated that the parcel is 1.02-acres located in two Zoning Districts with the major portion of the project in the LDR Zoning District and the northern portion of the property in the RR Zoning District. Mr. Osterhaust stated that the Applicant is seeking an Area Variance for the side yard setback from 20 Ft. down to 6.9 Ft. Mr. Osterhaust stated that the Applicant's house does not have a southern facing roof and that is why he is proposing the carport. Mr. Osterhaust stated that this is a self-created hardship as was stated in the application as there is no other option for the solar array on the property.

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

Jennifer Cowin, 44 Stratton Lane

Ms. Cowin stated that she wanted to clarify that her property does not back up to Mr. Perrault's property. Ms. Cowin stated that her property line backs up to Mr. Donough's property.

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

Mr. Scrom asked what is adjacent to the proposed project. Mr. Osterhaust stated that a residence is adjacent to this parcel. Mr. Perrault stated that the southeast portion of his neighbor's residence has a small bathroom window with no other windows on this section of the residence. Mr. Scrom asked how far the carport extends past the existing garage roof. Mr. Osterhaust stated that the carport extends 38 Ft. past the garage roof with a 3 degree pitch.

Mr. Rourke asked if there are disconnects on the two building. Mr. Osterhaust stated that he believes that there are disconnects for both buildings and will clarify the information with the solar developer. Mr. Rourke asked if the carport is connected to the house. Mr. Osterhaust stated that is correct.

Mr. Urbanski stated that if the carport was made smaller with the extra panels installed on pedestals along the side of the detached garage then there would be no need for an Area Variance. Mr. Perrault stated that detached garage is located in the rear corner of his property. Mr. Urbanski asked if the extra solar panels could be placed in the rear of the property. Mr. Perrault stated that his propane tank, generator and the electrical lines for the pool are located in that area. Mr. Urbanski asked Mr. Rutland if a solar array on pedestals is a permanent structure that needs to meet setback requirements. Mr. Rutland stated that solar panels are considered an accessory structure with a 10 Ft. setback requirement. Mr. Perrault stated that if he made the carport smaller by 13 Ft. the supporting poles would be in the middle of his driveway. Mr. Perrault stated the other alternative is to place the solar panels in the front of the house along the road. Mr. Rutland stated that the Town of Stillwater Zoning Code does not allow accessory structures in the front yard. Mr. Urbanski asked Mr. Rutland if the Zoning allows an accessory structure in the side and rear yard of the property. Mr. Rutland stated that is correct.

Mr. Cutler asked about Mr. Male's comment letter dated July 5, 2017 regarding Item#11, question 3B of the EAF Form that refers to the acreage of disturbance on the lot. Mr. Cutler stated that Mr. Male's letter stated that the acreage of disturbance is 0.04 and not 0.0002. Mr. Osterhaust stated that he calculated the area of disturbance on the three sono tubes that are going into the ground to support the carport. Mr. Rutland had the applicant initial the changes to question 3B of the EAF Form.

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.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2017 RESOLUTION NO. 3**

WHEREAS, Thomas Perrault has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 6 Anusesky Lane, more fully identified as Tax Map Number 243.-8-1-5; 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, Thomas Perrault, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member Rourke, seconded by Member Urbanski to adopt Resolution No. 3 of 2017.

A roll call vote was taken on Resolution No. 3 of 2017 as follows:

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

Resolution No. 3 of 2017 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on July 10, 2017.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2017 RESOLUTION NO. 4**

WHEREAS, Thomas Perrault has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct solar panels on property located at 6 Anuseksy Lane, Stillwater, more fully identified as Tax Map Number 243.-8-1-5; and

WHEREAS, the Applicant is seeking an area variance for the set-back 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 July 10, 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 a lot of solar panels are being built and what is proposed causes less visual impact than the panels installed on the ground;
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 the solar panels are most effective when facing south, and the location of the driveway prevents building the panel area smaller because the posts would block the driveway;
3. The requested Area Variance is not substantial because it is a relatively small encroachment on the set back area, and it benefits the community to have solar power;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because most of the parcels are on posts that have a small foot print and the other panels are on the roof of a pre-existing shed; and
5. The alleged difficulty was self-created, but solar energy should be encouraged and the benefits outweigh the impact; and be it further

RESOLVED, that the application of Thomas Perrault for an area variance to allow for the construction of solar panels on property located at 6 Anusesky Lane, more fully identified as Tax Map Number 243.-8-1-5 is GRANTED conditioned upon the applicant satisfying the comments contained in the Engineering Review Letter by Paul Male, PE dated July 5, 2017.

A motion by Member Rourke seconded by Member Scrom to adopt Resolution No. 4 of 2017.

A roll call vote was taken on Resolution No. 4 of 2017 as follows:

Chair Donald D'Ambro	Yes
Member Richard Rourke	Yes
Member Timothy Scrom	Yes
Member Joe Urbanski	No
Member Dale Smith	No

Resolution No. 4 of 2017 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on July 10, 2017.

ZBA 2017-03, Rinaldi Area Variance, 10 Patrick Lane

Chairman D'Ambro recognized Mr. Thomas Rinaldi Sr. who is representing his son Mr. Thomas Rinaldi Jr. Mr. Rinaldi Sr. stated that they are seeking an Area Variance for a front-yard set-back from 35 Ft. down to 24 Ft. Mr. Rinaldi Sr. stated that the property was granted an Area Variance back in the 1990's. Mr. Rinaldi Sr. stated that his parents owned the house originally and that his son now owns the residence. Mr. Rinaldi Sr. stated that his son would like to build a single story 16 Ft. x 18 Ft. addition on the front of the house. Mr. Rinaldi Sr. stated that the addition will be used as living space only. Mr. Rinaldi Sr. stated that the property is in the RM Zoning District and is located on Patrick Lane which is a dead end road.

Chairman D'Ambro stated that page 4 of the application authorizing Mr. Rinaldi Sr. to act as Mr. Rinaldi Jr.'s agent before the Zoning Board is not filled out.

Mr. Cutler stated without that authorization the Zoning Board cannot act on the application. Mr. Rinaldi Sr. stated that if it pleases the Board he can contact his son and have him amend the application. Mr. Cutler stated that the Board could allow the public hearing to be opened but, table the application until Mr. Rinaldi Jr. arrives to the meeting.

Chairman D'Ambro tabled the application until Mr. Rinaldi Jr. arrived to the Zoning Board meeting.

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

Scott Bloomingdale, 6 County Route 76

Mr. Bloomingdale stated that flood damage prevention is huge, due to the fact that this property floods my property. Mr. Bloomingdale stated that if the easement is pushed out into the roadway more it will block the access for the farm equipment to get to the fields at the rear of Patrick Lane. Mr. Bloomingdale stated that Patrick Lane is not a dead end road as it is used daily. Mr. Bloomingdale stated there are more issues being created than putting an addition on the front of the house. Mr. Bloomingdale stated that the water run off that causes the flooding of the property needs to be fixed. Mr. Bloomingdale stated that a drywell should be installed to absorb the extra water so it doesn't run onto the neighbor's properties. Mr. Bloomingdale stated that this is not acceptable and that he is not favor of the Area Variance.

Timothy Gannon, 4 County Route 76

Mr. Gannon stated that he is opposed to the project. Mr. Gannon stated that he has three large structures and Patrick Lane is the only fire access to these structures. Mr. Gannon stated that egress on this road is a problem with a fence that encroaches on the property, a tree also blocks the access to the rear of my property making it hard to get farm equipment to the back fields and snow build-up from the Town's plows that I have to remove. Mr. Gannon stated that the addition will cause more congestion due to less parking area on the property. Mr. Gannon stated that water does flood the property and more roof area and less absorption will cause more water flow and problems. Mr. Gannon stated that for these reasons he opposes the project.

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 took the application off the table.

Mr. Cutler asked Mr. Rinaldi Sr. if he had received Mr. Males comment letter dated June 27, 2017. Mr. Rinaldi Sr. stated that he is in receipt of Mr. Male's comment letter dated June 27, 2017. Mr. Cutler stated the map that the Board Member's have does not show were there would be more cars on any area other than the lot potentially. Mr. Cutler asked Mr. Gannon how that blocks his access to his property. Mr. Gannon showed a picture to the Board Members showing the fence and the tree that encroaches onto the egress of the rear of his property.

Chairman D'Ambro asked if the front of the addition would be facing the street. Mr. Rinaldi Sr. stated that the front of the addition will be facing Patrick Ln and not County Route 76. Chairman D'Ambro asked Mr. Rutland if he has visited the site. Mr. Rutland stated that he and Mr. Male have visited the site and it is relatively flat. Mr. Rutland stated that the addition with the extra roof could be taken care of with gutters. Chairman D'Ambro asked Mr. Rutland if the drainage issue can be addressed by the Building Department. Mr. Rutland stated that drainage issues can be addressed at the time the permit is reviewed. Chairman D'Ambro asked about the water distribution and if a drywell was acceptable to the applicant. Mr. Rinaldi Sr. stated that he would like it deferred to the Building Inspector whether a drywell is needed. Mr. Rinaldi Sr. stated that the house has a french drain in the cellar that goes into a sump pit and that the water runs behind the house. Mr. Rinaldi Sr. stated that there is also a well on the property that has been there for years. Chairman D'Ambro asked Mr. Rutland if he and Mr. Male would work together on this water issue. Mr. Rutland stated that he and Mr. Male can do a site visit to check the slope and make sure that grade around the house is correct.

Mr. Rourke asked if Patrick Lane is or is not a dead end road. Mr. Gannon stated that Patrick Lane was a private lane that went to the farm until a house was built in the 1970's and was granted an Area Variance in the 1990's which made Patrick Lane a public roadway. Mr. Rourke asked Mr. Gannon if Patrick Lane ends at his property. Mr. Gannon stated that is correct. Mr. Rourke asked how much of Patrick Lane does the Town Highway Department plow. Mr. Gannon stated that the Town Highway Department plows to the fence line.

Mr. Scrom asked how Patrick Lane cannot be a dead end road when it doesn't have an outlet onto another roadway. Mr. Gannon stated because it was a private lane which leads to the barns.

Mr. Urbanskis stated that the issues with snow plows and the drainage needs to be addressed with the Building Department and the Town Highway Department.

Chairman D'Ambro asked if anyone on the Board had any additional questions or concerns and hearing none he asked to move to discuss SEQRA.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2017 RESOLUTION NO. 5**

WHEREAS, Thomas J. Rinaldi, Jr. has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 10 Patrick Lane, more fully identified as Tax Map Number 243.82-1-4.2; 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, Thomas J. Rinaldi, Jr., 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 Scrom, to adopt Resolution No. 5 of 2017.

A roll call vote was taken on Resolution No. 5 of 2017 as follows:

Chair Donald D'Ambro	Yes
Member Richard Rourke	Yes
Member Timothy Scrom	Yes
Member Joe Urbanski	Yes
Member Dale Smith	No

Resolution No. 5 of 2017 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on July 10, 2017.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2017 RESOLUTION NO. 6**

WHEREAS, Thomas J. Rinaldi, Jr., has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct an addition to an existing house on property located at 10 Patrick Lane, Stillwater, more fully identified as Tax Map Number 243.82-1-4.2; and

WHEREAS, the Applicant is seeking an area variance for the set-back 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 July 10, 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 minimal impact will be caused by this relatively small addition;
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 additional land available in the front and the addition cannot be placed on the sides or backyard;
3. The requested Area Variance is not substantial because there is only a small variance from the Zoning Code;
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 only physical impact is that there will be 200 square feet more impermeable area, but the approval is conditioned up remediation and with that effect; and
5. The alleged difficulty was not self-created because it is a pre-existing undersized lot; and be it further

RESOLVED, that the application of Thomas J. Rinaldi, Jr., for an area variance to allow for a garage on property located at 10 Patrick Lane, more fully identified as Tax Map Number 243.82-1-4.2 is GRANTED conditioned upon the applicant satisfying the comments contained in the Engineering Review Letter by Paul Male, PE dated June 27, 2017, and the applicant comply with any storm water remediation required by the Town Building Department to address any impact caused by the addition, but that such requirement is limited to the remediation to address only the impact on storm water caused by the addition.

A motion by Member Scrom seconded by Member Rourke, to adopt Resolution No. 6 of 2017.

A roll call vote was taken on Resolution No. 6 of 2017 as follows:

Chair Donald D'Ambro	Yes
Member Richard Rourke	Yes

Member Timothy Scrom	Yes
Member Joe Urbanski	Yes
Member Dale Smith	Yes

Resolution No. 6 of 2017 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on July 10, 2017.

ZBA2017-05, Lorenzo Area Variance, 531 NYS Route 9P

Chairman D'Ambro recognized Ms. Noelle Long who is representing Mr. Vincent Lorenzo. Ms. Long stated that she learned on June 27, 2017 that Mr. Male is requiring an updated survey map in order for the Board to address this issue. Ms. Long stated that Mr. Male's comment letter dated July 5, 2017 had specific requirements that the surveyor has not had an opportunity to address. Ms. Long stated that the property is located at 531 NYS Route 9P. Ms. Long stated that this was a buildable lot until the zoning change in 2001 when it became a nonconforming lot. Ms. Long stated that Mr. Lorenzo is seeking an Area Variance for lot width and overall size. Ms. Long asked the Board how they would like to proceed regarding the application.

Mr. Cutler stated that Mr. Male's recommendation is that no action is to be taken on the application until the requested information has been received. Mr. Cutler stated that the intention of the Board is to hold the public hearing and then determine whether to leave the public hearing open or to close it.

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

Julia Annotto, 533 NYS Route 9P

Ms. Annotto stated that the property is on the creek side of the lot in question. Ms. Annotto stated that Mr. Lorenzo's house on the property was in disrepair and uninhabitable for 10 years. Ms. Annotto stated that recently the house has been demolished. Ms. Annotto stated that her husband and Mr. Crouse have maintained the lawn to keep it from being over grown. Ms. Annotto asked the Board to adhere to the Zoning Code with regards to the setbacks for this property. Ms. Annotto asked what type structure can go next to the creek without compromising the structure or the creek. Ms. Annotto stated that nothing should be built on the property that is any larger or higher than what had existed on the property.

John Couse, 529 NYS Route 9P

Mr. Couse presented the Board with pictures of the property before and after the demolition. Mr. Couse stated that there is no access for the Fire Department to enter his driveway because of the 50 degree slope. Mr. Couse stated that the only access would be between the two houses. Mr. Couse stated that he has maintained Mr. Lorenzo's property for about 6 years. Mr. Couse stated that there are a number of issues that need to be addressed such as wetland impacts, floodplain issues, building setbacks and the significant impact this variance will have on the neighborhood. Mr. Couse stated that he opposes the Area Variance.

Penny Cronin, NYS Route 9P

Ms. Cronin stated that Mr. Lorenzo showed what little regard he had for surrounding neighbors as he let his property stay in disrepair for 10 years. Ms. Cronin stated that Mr. Lorenzo or any future owner should be made to build on the footprint of what was the existing building. Ms. Cronin stated that she opposes the Area Variance.

Tina Pamper, 538 NYS Route 9P

Ms. Pamper stated that she agrees with what her neighbors have stated regarding this property. Ms. Pamper stated that their view of Saratoga Lake is part of the property value. Ms. Pamper stated that if you allow a larger residence to be built on the property it will diminish our view and property value. Ms. Pamper stated that she adamantly opposes the Area Variance.

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 Mr. Rutland if the building belonging to Mr. Lorenzo is still on the property. Mr. Rutland stated that the building has been removed from the property. Chairman D'Ambro asked if there is a proposed building plan. Ms. Long stated that Mr. Lorenzo does not have a building plan.

Mr. Urbanski asked if the documentation could show the proposed house and any other information that would address the neighbor's concerns. Ms. Long stated that she will have to find out how to put a proposed house on the map that is for a buyer who is not Mr. Lorenzo.

Mr. Cutler stated that the Board is asking for a building envelope that shows the setbacks. Ms. Long stated that the property will be resurveyed and markers placed on the property showing the property lines.

Mr. Rourke made a motion to table the application until the August 14, 2017 meeting, seconded by Mr. Urbanski.

Motion to adjourn: made by Mr. Urbanski, seconded by Mr. Scrom motion passed at approximately 9:00 PM.