

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
FEBRUARY 25, 2013 @ 7:30 PM
STILLWATER TOWN HALL**

Present: Chairperson James R. Ferris (JF)
Donald D'Ambro (DD)
William Ritter (WR)
Richard Rourke (RR)
Christine Kipling (CK)

Also Present: Daryl Cutler (DC), Attorney for the Town
Paul Cummings (PC) from The Chazen Companies
Richard Butler (RB) Director Building Planning and Development

Absent: Ray Abbey, Code Enforcement Officer (RA)

Chairman Ferris called the meeting to order at 7:30PM.

Review and approval of minutes of Zoning Board of Appeals:

Chairman Ferris stated that the first order of business is the adoption of minutes from the November 26, 2012 ZBA meeting and the December 17, 2012 meeting. Mr. D'Ambro made a motion to approve the meeting minutes from November 26th, seconded by Mr. Ritter, motion carried unanimously. Mr. Ritter made a motion to approve the December 17th minutes, seconded by Mr. D'Ambro, motion carried unanimously.

NEW BUSINESS:

Motion to appoint Vice-Chairperson for 2013

Motion made by Mr. Ritter to nominate Mr. D'Ambro as Vice Chairman, seconded by Mrs. Kipling. Motion carried unanimously.

AGENDA ITEMS

OLD BUSINESS

Brigadier Estates, Putnam Road (SBL # 252.-2-22.11) – Zoning Interpretation

Mr. Butler stated that the applicant would not be present for the meeting. Mr. Cutler stated that it is up to the Board as to whether they feel that the applicant should be present for this meeting. Chairman Ferris stated that he had the opportunity to speak with both the Town Attorney and the Director of Building, Planning, and Development and he would feel comfortable making the interpretation with the Board this evening. He went on to state that the application involves two very small parcels of land that had previously been included in the Turning Point PDD that were not intended to be. He would recommend that it is a reasonable interpretation that the property in question is part of the Brigadier Subdivision. Mr. Cutler explained that when the legal description was written for the PDD, these two parcels in question were included by mistake.

The applicant would be forced to go before the Town Board for a legislation change to the PDD in order to change the zoning back to the underlying zone without this Boards interpretation. Mr. Cummings referred to the Town of Stillwater Zoning Code, Chapter 210, Section 210-9, Letter F that states:

“Where uncertainty exists in determining the precise location of any district boundary line, the Zoning Board of Appeals shall interpret the intent and purpose of the Zoning Map. The Zoning Board of Appeals shall render such interpretation within 30 days of receipt of all information it deems necessary to make its interpretation. A public hearing is not required for an interpretation.”

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2013 RESOLUTION NO. 1**

WHEREAS, Brigadier Estates has submitted an application to the Zoning Board of Appeals seeking an interpretation of the boundary line of Brigadier Estates and the Turning Point PDD, regarding the applicant’s property fully identified as Tax Map Numbers 252-2-22.11 and 252.20-2-5; and

WHEREAS, that a portion of the applicant’s property was included in the legal description of the PDD legislation covering the neighboring property, Turning Point, PDD; and

WHEREAS, the applicant’s property was not supposed to be part of the Turning Point PDD; and

WHEREAS, the applicant is seeking an interpretation from the ZBA that, although the legal description of the Turning Point PDD includes this small section of the applicant’s land, the land is not part of the PDD subdivision but is owned, instead, by the applicant. The small portion of land was part of the applicant’s large lot, but was subdivided off as a separate lot because it was included in the description of the PDD legislation; and

WHEREAS, no public hearing is required for an interpretation; and

WHEREAS, it is appropriate for the ZBA to consider this interpretation because, otherwise, even though the applicant’s land was included in the PDD at no fault of his own, it would take a legislative change of the PDD to correct this error absent the interpretation, and pursuant to Zoning Code §14.3(A), the ZBA has authority to decide questions of interpretation of the Zoning Code; and

WHEREAS, the Zoning Board of Appeals has duly considered the application and the elements necessary to consider the proper interpretation of whether the lot in question is part of the Turning Point PDD;

Now, therefore, be it

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

1. That lot 252-2-22.11 is not part of the Turning Point PDD, that it was never intended to be a part of the PDD, and that it is part of the applicant's larger lot 252.20-2-5, commonly referred to as "Brigadier Estates".

A motion by Member Kipling, seconded by Member D'Ambro, to adopt Resolution No. 1 of 2013.

A roll call vote was taken on Resolution No. 1 of 2013 as follows:

Member Christine Kipling	Yes
Member William Ritter	Yes
Member Donald D'Ambro	Yes
Member Richard Rourke	Yes
Chairman James Ferris	Yes

Resolution No. 1 of 2013 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on February 25, 2013.

Review/Comment from Building & Planning:

Mr. Butler stated that there are approximately 23-24 items are still under review. There are no updates regarding the zoning sub-committee.

Discussion:

Chairman Ferris stated that he had attended a meeting in Malta regarding Global Foundries and the need for review in both the Town of Malta and the Town of Stillwater. It was a good meeting with pertinent questions asked by members of the Malta Town Board.

Mr. Butler stated that Global Foundries will be before the Planning Board on March 4th.

Brian Ross, 2 Hagadorn Lane (SBL#219.-1-107)-Area Variance

Mr. Ross stated that he wished to add a two car garage to the side of his home that would encroach further into the required 20ft side yard setback. The setback proposed is 16.9 ft. The reason for the request is that the layout and topography of the property does not make it feasible to place a garage elsewhere.

Chairman Ferris stated that he appreciated the presentation and he would now turn discussion over to the public for comment. If the applicant had anything further to add throughout the discussion he may feel free. No one from the public wished to speak. Chairman Ferris then asked the Board for comment. He also stated the property is situated at the top of a rather deep gorge.

Mr. Ritter asked the applicant if he had approached his neighbor to inquire about purchasing a small portion of the adjoining lot to add to his property that would allow the applicant to maintain a conforming lot with the addition. The applicant stated that he would inquire, but no, he has not up to this point. The lot has a hayfield on a portion and the rest is forested.

The applicant stated that the non-conforming shed would be removed upon approval of the garage. He was willing to make this a condition in the event of the granting of this request. Mr. Cummings asked if there was any thought into the depth of the garage or move the entire addition forward. A shallower garage may be able to meet the setback requirement. Mr. Ross stated that the 24ft is a standard depth for a two car garage and would help to allow for storage space needed from the removal of the shed.

Mr. Ferris stated that he also wanted to point out that the existing lot is also sub-standard in area. It does not have 300ft of width at the building line.

Mr. Cummings referred to the Town of Stillwater Zoning Code Chapter 210, Article 13, Section 13.8 "Regulations of Non-Conforming Lots with Existing Structures" that states "Notwithstanding anything to the contrary contained in Article 3 and/or Article 13 of this code, a variance will not be required for the construction of structures and improvements to a non-conforming lot that has an existing structure or structures on it, provided that the new structure or improvement does not create greater non-conformity with the existing building code" That would excuse the pre-existing non-conformities if the garage was placed within the setbacks.

Mr. D'Ambro stated that the applicant will need to provide information to the Board regarding the ability or inability to acquire property from the neighboring lot, if it would be feasible to move the addition forward 3.1ft, or if the applicant can make the proposed garage shallower in depth to meet the side yard setback.

Mr. Ferris stated to the applicant that his request had multiple pieces to it and because the proposed garage addition does not meet the required setback, it then opens up the pre-existing non-conformities on the lot. There is a place in the ordinance that would allow you a building permit if the proposal were not creating any new non-conformities. If you wish to continue to pursue the application as is, you would have to show that you cannot rectify the setback problem by purchasing more land. If you move the garage forward or make it shallower in depth you would not have to deal with that problem. The Board can table this item to allow the applicant to contact the neighbor or to make a decision on the layout of the garage.

The applicant was asked to approach his neighbor to inquire on the purchase of a portion of the bounding parcel in order to bring his proposal in to conformance.

A motion was made by Mr. Ritter to table the item to allow the applicant to contact the neighbor or to make a decision on the layout of the garage, seconded by Mr. Rourke, motion carried.

Roll was taken with the following votes:

Member Christine Kipling	Yes
Member William Ritter	Yes
Member Donald D'Ambro	Yes
Member Richard Rourke	Yes
Chairman James Ferris	Yes

Discussion:

The Board discussed additional issues regarding the proposal for the Global Foundries and what the operations of the new structure would consist of.

A motion to adjourn was made by Mr. D'Ambro seconded by Mr. Ritter, at approximately 8:40 p.m.

The Next Zoning Board of Appeals Meeting will be
Monday, April 29, 2013