

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
February 27th, 2012 @ 7:30 PM
STILLWATER TOWN HALL**

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

Absent: Deanna Stickney; Planning & Zoning Board Secretary

Also Present: Daryl Cutler(DC), Attorney for the Town; Paul Cummings (PC) from the Chazen Companies; Richard Butler (RB), Director Building, Planning & Zoning; Ray Abbey (RA) Building/Code Inspector; and Supervisor Ed Kinowski(EK)

- (JF) Chairperson, called the meeting to order.

Adoption of Minutes:

First order of business was the reviewing of the minutes of January 23rd. Supervisor Kinowski offered and (JF) approved to have copies made at meeting. (WR) motioned to table the minutes and (RR) seconded the motion.

(JF) Chairperson We have 1 Agenda Item scheduled for this evening.

Chairperson Ferris stated the Agenda is incorrect and a correct one had been sent to the Building Department. The Agenda should say that the Board tabled the variance request of Robert E. Nass. Also note that this is not a Public Hearing, we closed the Public Hearing at the last meeting, and we will now consider taking off the table the request for variance for Mr. Nass. He also advised any public residents present if they picked up an Agenda the wording is incorrect.

OLD BUSINESS

None

NEW BUSINESS

(WR) mentioned to nominate Vice Chairman. (JF) stated yes this is appropriate since not done at the last meeting and asked if he would wish to consider someone for that position. (WR) motioned for Don D'Ambro to be nominated as Vice Chairman and (CK) seconded the motion. (JF) verified no dialogue regarding the motion; hearing none, all in favor

Building & Planning

(JF) asked if anything to report.

(RB) stated he e-mailed to Board today the most recent approved version of the revisions to the Zoning Ordinance. This revised version of the Ordinance was approved by the Town Board on 19th of January and the digital version e-mailed to the Board, and it is meant to soon be put on the Town's web-site. Also it would seem appropriate if the sub-committee could reconvene in near future because there are already a number of items that would be worthy of discussion for future revisions. (JF) also stated for those who do not know, that yes this was adopted on the 19th of January but it actually went into effect on the 8th of February.

(WR) motioned to open the table for variance for Robert E. Nass and (DD) seconded the motion. All in favor AYE: Opposed: 5/0

Agenda Items:

Robert E. Nass; Route 423, Town of Stillwater; SBL #: 220.-1-39; Area Variance to allow a garage (7:36 PM)

(JF) and Mr. Nass discussed that the request for variance was tabled at last month's meeting to give the applicant, Mr. Nass, an opportunity to approach his architect to see if the dimensions on the map were accurate, since he felt that they did not truly represent the dimensions. Per Mr. Nass this was done and per his surveyor and Mr. Nass's re-measurements that yes they are correct. He also wanted to state to the board that he and his wife Linda after remeasuring for the garage have downsized it from 40 ft. x 48 ft. to 36 ft. x 40 ft.. This would now make his variance request for 10 ft. and that would also give him a 2 ½ ft. overhand in case the roof overhangs the building by a 1 ½ ft., and he would still be within reason. In further discussion with (RA) & (PC) this was verified.

(PC) verified that the original plans, SEQRA, and the application were all modified, dated and initialed.

Chairperson Ferris had a brief discussion with Mr. Nass in regards to the driveway and the distance of where the building starts, which does not affect the variance, along with a rediscussion from the last meeting regarding the pine trees on the property line to come down.

(8:05)

(DC) then wanted to verify that in regards to first category under SEQRA, regarding undesirable change, it is because similar to others in area, which (WR) verified correct, and would like to add to the Resolution that at last month's Public Hearing, the neighbor

commented his concern about if a tree fell onto garage and Mr. Nass stated was not worried that would be an Act of God and moving 5 ft. away would be a factor.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 5**

WHEREAS, Robert Nass has submitted an application to the Zoning Board of Appeals for an Area / Use Variance regarding property located on Route 423, more fully identified as Tax Map Number 220.-1-39; 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;

Now, therefore, be it

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

A motion by Member Donald D'Ambro, seconded by Member William Ritter, to adopt Resolution No. 5 of 2012.

A roll call vote was taken on Resolution No. 5 of 2012 as follows:

Member Donald D'Ambro	Yes
Member Christine Kipling	Yes
Member William Ritter	Yes
Member Richard Rourke	Yes
Chairperson James R. Ferris	Yes

Resolution No. 5 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on February 27, 2012

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 6**

WHEREAS, Robert Nass has submitted an application to the Zoning Board of Appeals seeking an *Area Variance* in order to construct a garage on property located at Route 423, Stillwater, New York, more fully identified as Tax Map Number 220.-1-37; and

WHEREAS, the Applicant is / are seeking an Area Variance from the set back requirements requirement contained Stillwater Zoning Code § 3; 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 January 23, 2012; 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 applicants 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 is in a low density residential district. The garage is not inconsistent with the properties in the neighborhood. During the Public Hearing a neighbor expressed concern that his trees could fall on the applicant's building. The applicant has moved the building five (5) feet further away from the trees than originally proposed;
2. The benefit sought by the applicant cannot be achieved by some method, feasible to the applicants to pursue, other than an Area Variance because there are obstacles in the yard that would prevent moving the building further from the neighboring property line.;
3. The requested Area Variance is not substantial because it is a ten (10) foot variance from the set back requirement and the neighbors house is a distance from the property line;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district this is in a low density residential district not unlike other properties in the neighborhood; and
5. The alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the Area Variance, because the applicant wants a garage, the variance is not substantial and it cannot be done without a variance; and be it further

RESOLVED, that the application of Robert Nass for an Area Variance to construct a garage on property located at Route 423, Stillwater, New York, more fully identified as Tax Map Number 220.-1-39, is GRANTED.

A motion by Member William Ritter, seconded by Member Richard Rourke, to adopt Resolution No. 6 of 2012.

A roll call vote was taken on Resolution No. 6 of 2012 as follows:

Member Donald D'Ambro	Yes
Member Christine Kipling	Yes
Member William Ritter	Yes
Member Richard Rourke	Yes
Chairperson James R. Ferris	Yes

Resolution No. 6 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on February 27, 2012.

NEW TOWN INFORMATION

Supervisor Kinowski wanted to inform the Board of the following items of interest..

Global Foundries Pilot in process of amending the assessment litigation. There will be a Public Hearing on April 4th at Malta and then here at Stillwater Town Hall. The Public Hearing at Stillwater Town Hall will be at 9:30 am.

He also brought up issues with PDD's, variances, and GEIS fees that need to be relooked at by the Town Board and maybe make some changes with the language and have some flexibility.

The GEIS fees have been suspended on minor subdivisions but that has not helped for example the Esplanade or our PDD's and this is affecting the Town and not helping us to attract businesses and developers. So this will be going before the Town Board.

Saratoga County Sewer and 9P are going out to bid this Spring and should be done by Fall. This will mean that Amedore, Saratoga Pointe, and Jib Drive will now have sewer.

Lastly, the Supervisor brought up the issue of water coming into the lower half of Stillwater and the new law in 2011 that allows an overlay district to consolidate expenses sewer/water, which will be discussed to tomorrow's Capital Projects meeting. (JF) asked if this would help Mechanicville with their water issue, and the Supervisor verified yes this water overlay will have the ability to provide Mechanicville and can lower the overall cost due to more people to spread the wealth and consolidate the debt over the

years. Advised any members of the Board may attend tomorrow's Capital Project meeting.

Supervisor Kinowski (EK) stated the Zoning, Planning and Town Board all need to work together to push Stillwater into the future. He stated there is going to be another Joint Board meeting in regards to some things coming up.

Van Ness hill road settlement is going to be fixed. It is shifting N to NE approximately 8 inches every 4 months.

The newsletters will be out by the end of this week and everyone should have by mid-March. There is an announcement in there that every 4th Friday of the month the Supervisor will be here to speak with any residents who want to stop in.

(RB) advised Chairperson Ferris that the Fire Marshall, Peter Hughes is in the process of preparing a presentation to both Boards regarding the process of enforcing violations. That will probably happen in the next couple of months.

(CK) motion to adjourn, All in favor: .