

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
June 25, 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: N/A

Also Present: Daryl Cutler(DC), Attorney for the Town; Paul Cummings (PC) from The Chazen Companies; Ray Abbey (RA) Code Enforcement Officer; Richard Butler (RB), Director Building, Planning & Zoning; Ed Kinowski (EK), Town Supervisor [part of meeting].

(JF) Chairperson, called the meeting to order at 7:30PM.

Adoption of Minutes:

First order of business was the approval of the minutes of May 29th
Motion to approve the minutes was made by (WR), seconded by (DD). All in favor.

PUBLIC HEARINGS

(JF) Chairperson stated that the Board has 1 Public Hearing scheduled for this evening.

#1 7:35 PM Rychcik Area Variance

229 & 231 Cty Rt 75

SBL#242.-1-30 & 242.-1-32

-Don Rychcik spoke on his own behalf. Mr. Rychcik has applied to the Planning Board for a Lot Line Adjustment. 231 Cty Rt 75 is being prepared to be placed on the market for sale. He is before the Zoning Board of Appeals for variances for issues of lot width at the building line and potentially side setback.

-(JF) opened the public portion of the hearing for comment. No one from the public was present to speak. An e-mail message was received by the Board from Robert Barsheid, a neighbor two parcels north of the subject properties. (JF) read the letter. Mr. Barsheid expressed his support of the Rychcik Application.

-Comments from the Board were requested by (JF).

-A revised application date was requested by (JF). Revisions to the application were made on the application. The application date was determined to be dated 6/21/2012. Revised copies were made and distributed to the Board.

-(WR) asked for more information regarding the removal of the shed. Mr. Rychcik asked the Board to consider allowing him to keep the shed in its present location.

- (JF) asked for the dates of original construction. According to Mr. Rychcik, #231 was constructed in 1954. #229 was constructed in 1970. Therefore both houses were constructed prior to the Town's enactment of zoning, noted (JF).
- For the Applicant's benefit, (JF) mentioned that the property could potentially be sub-divided to have a third parcel, each composed of more than two acres.
- Changes to the SEQR form were made and initialed by the applicant.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 17**

WHEREAS, Donald Rychcik has submitted an application to the Zoning Board of Appeals for an Area Variance regarding properties located on 229, 231 County 75, more fully identified as Tax Map Numbers 242.-1-30 and 242.-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;

Now, therefore, be it

RESOLVED, that the Zoning Board of Appeals hereby determines that the proposed action by the applicant, Donald Rychcik, 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 Ritter, to adopt Resolution No. 17 of 2012.

A roll call vote was taken on Resolution No. 17 of 2012 as follows:

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

Resolution No. 17 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 25, 2012.

TOWN OF STILLWATER

**ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 18**

WHEREAS, Donald Rychcik has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to make a lot line adjustment on properties located at 229, 231 County Route 75, Stillwater, more fully identified as Tax Map Numbers 242.1-30 and 242.-1-32; and

WHEREAS, the Applicant is seeking an area variance from the lot width 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 June 25, 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 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 it actually makes one property far more conforming (229) without adding variance issues to the other lot;
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 shed issue could be addressed but the lot width could not be resolved;
3. The requested Area Variance is not substantial because the existing non-conformities are far greater than the non-conformities with the new lots;
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 lot line adjustment with no changes to the structures; and
5. The alleged difficulty was not self-created because both lots were created before zoning; and be it further

RESOLVED, that the application of Donald Rychcik for an area variance to have a lot line adjustment on properties located at 229, 231 County Route 75, Stillwater, more fully identified as Tax Map Numbers 242.-1-30 and 242.-1-32, is GRANTED, with the condition that the shed does not need to be removed.

A motion by Member Ritter, seconded by Member D'Ambro, to adopt Resolution No. 18 of 2012.

A roll call vote was taken on Resolution No. 18 of 2012 as follows:

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

Resolution No. 18 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 25, 2012.

OLD BUSINESS

-(RB) mentioned that a date will be set to reconvene the zoning revision sub-committee.

NEW BUSINESS

-(CK) asked if copies of application documents may be returned to Applicants to save some of their cost of document reproduction. The unanimous answer was yes.

Building & Planning

- No update.

Misc.:

- The Board went into executive session to discuss litigation at approximately 8:30PM. Motion made by (DD) seconded by (WR).
- The Board returned to regular session at approximately 9PM.
- (RA) requested an interpretation regarding side set back issues related to the Saddlemire detached garage on Cty Rt 75, previously granted a variance by the ZBA on September 26th 2011.
- The interpretation requested, asked if the Board considers the building as being constructed is in conformance with the variance previously granted. The variance granted approved construction of a 24'x 35' garage the front of which was to be located at or about the front face of the house. Western direction as approved was 35'. 24' was the approved N/S dimension.
- 36' x 28' in width is the garage footprint as presently being constructed.

- (RR) made a motion that the project as being constructed is not in conformance with the variance previously granted. The location and the dimensions of the garage are not as granted by the ZBA. Seconded by (DD). The motion passed unanimously.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 19**

WHEREAS, Ray Abbey, the Code Enforcement Officer for the Town of Stillwater applied to the Zoning Board of Appeals regarding a building permit issued to Michael Saddlemire to construct a garage on property located at 406 County Route 75, and more fully identified as Tax Map Number 231.-2-26; and

WHEREAS, the reason for the interpretation is that a complaint was received that claimed the garage being constructed was larger than the proposed garage for which a variance was granted and that it is located in a different location than proposed; and

WHEREAS, the Code Enforcement Officer investigated the size and location of the garage and is seeking an interpretation of whether the garage conforms with the variance that was granted;

Now, therefore, be it

RESOLVED, that based upon the plans submitted with the original variance application, the garage being constructed has a larger foot print and is in a different location than the garage that was proposed and approved for a variance. As such, because it is not compliant with the variance granted and it violates the side set back requirements of the Zoning Code, the building permit is hereby revoked. The Owner shall be directed to resolve the non-conformity.

A motion by Member Rourke, seconded by Member D'Ambro, to adopt Resolution No. 19 of 2012.

A roll call vote was taken on Resolution No. 19 of 2012 as follows:

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

Resolution No. 19 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 25, 2012.

-Motion to adjourn was made by (CK) seconded by (DD) at approximately 9:30PM.

