

DRAFT
TOWN OF STILLWATER
ZONING BOARD OF APPEALS
November 26, 2012 @ 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;; (RA) Ray Abbey, Code Enforcement Officer; Richard Butler (RB), Director Building, Planning & Development.

Absent

-None

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

Adoption of Minutes:

-First order of business was the approval of the minutes of the October 22nd meeting with no corrections. Motion made by (WR) and seconded by (CK) and motion passed unanimously.

Old Business

-The process for zoning requests for time extensions was discussed. Past history has been to allow extensions for 12 months. The Board agreed that time extensions should be for a 12 month period. All in favor.

-The Fortune property on County Rt 75 (SBL# 261.36-1-44) was granted a time extension of 12 months. All in favor.

-(RB) updated the Board on the status of the Sadlemire garage site drainage construction. According to a recent site visit by (RA) the gutter, downspout and below grade drainage line have been installed.

-A Fire Marshal's report for October was distributed via e-mail.

-There were no additional requests for investigation of potential zoning violations by members of the Board.

-(RB) summarized the number and types of Building Department permit applications in process.

-(RB) Stated that there will be a Zoning Sub-Committee meeting on December 10th.

-(JF) Chairperson stated that the Board has two Public Hearings scheduled for this evening.

Public Hearings:

#1 7:35PM Eric & Debbie Berry

1 Clubhouse Court

SBL# 230.12-5-32

Area Variance

-Debbie Berry spoke on her own behalf. She wishes to extend her deck and enclose it. She is requesting an area variance to enlarge the deck. The proposed addition is a 16' x 16' enclosed room. The survey of the property shows a 10' rear setback. The true rear setback should be 30'.

-(JF) Opened the public portion of the hearing. There were no public comments.

-(JF) Closed the public portion of the hearing.

-(WR) asked if the Board has jurisdiction over PDD's. (DC) responded yes, that this situation is unique and pertains to just one property.

-(RR) asked if the existing deck will be demolished. Mrs Berry responded yes.

-This is an expansion to a non-conforming use.

-The variance request is for 5'.

TOWN OF STILLWATER ZONING BOARD OF APPEALS 2012 RESOLUTION NO. 30

WHEREAS, Erick & Debbie Berry have submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 1 Clubhouse Court, more fully identified as Tax Map Number 230.12-5-32; 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, Erick & Debbie Berry, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member Ritter, seconded by Member D'Ambro, to adopt Resolution No. 30 of 2012.

A roll call vote was taken on Resolution No. 30 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. 30 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on November 26, 2012.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 31**

WHEREAS, Erick & Debbie Berry have submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to build a 16'x16' deck on property located at 1 Clubhouse Court, Stillwater, more fully identified as Tax Map Number 230.12-5-32; and

WHEREAS, the Applicant is seeking an area variance from the set-back 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 November 26, 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 the discrepancy on the plot plan created the issue. According to the placement of the house, it appeared appropriate due to the map being prepared and assuming the house would face the other street;
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 position of the house on the lot that makes it necessary for the variance;
3. The requested Area Variance is not substantial because at most, it is an 8' reduction of set-back requirements;

4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because a deck on the back of a corner lot is transparent to the neighborhood; and
5. The alleged difficulty was not self-created because this PDD was approved with the lot and due to the placement of the house, the map had incorrect set-back markings; and be it further

RESOLVED, that the application of Erick and Debbie Berry for an area variance to allow for the demolition of the existing deck and the construction of a 16'x16' deck on property located at 1 Clubhouse Court, Stillwater, more fully identified as Tax Map Number 230.12-5-32, is GRANTED.

A motion by Member Ritter, seconded by Member D'Ambro, to adopt Resolution No. 31 of 2012.

A roll call vote was taken on Resolution No. 31 of 2012 as follows:

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

Resolution No. 31 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on November 26, 2012.

#2 7:55PM Ronald Winnie Residence

9 East Cove Road

SBL#218.08-1-9

Area Variances

- Ronald Winnie, Owner and Peter Loyola representing CLA Site, both spoke regarding the project. A Power Point presentation was presented.
- A request was made by the Town several months ago for the property owner to prepare and submit a storm water management plan due to the unique topography of the site.
- In the process of preparing the management plan a property survey was prepared. The survey showed that there were two setback encroachments, one lakeside and one to the North. The purpose this meeting was for Area Variances to resolve the two set back encroachments.
- It was mentioned that the house has been under construction for a few years.
- (JF) mentioned that the storm water management plan is not the subject of tonight's hearing.
- (JF) opened the public portion of the hearing.
- A letter was presented to the Board. (RB) read a letter from the neighbor Jeannette Bruno of 7 East Cove Road.

- Jim Flynn of 4 East Cove Road voiced his concern over the extended time of construction and the disruption that this has caused. He requested that any approval be tied to a completion date.
- Nicki Flynn of #4 East Cove Road also spoke. She asked about the proposed garage shown on the site plan. (RB) described the proposed garage and mentioned that it has not yet been permitted. (JF) mentioned that there will be no further hearing on this matter, but any permitting required for the garage will take place through the Building Department. Ms Flynn also expressed concern over the prolonged length of construction.
- Concerns were expressed by the Flynns over any determination that may have been made by DEC regarding the shoreline improvements that could further delay construction and be a further disruption of the site.
- Ronald Winnie expressed sympathy with his neighbors over the extended time period for construction. He also mentioned that he has had numerous conversations with DEC. DEC reputedly stated that DEC permits were not required to build above the mean high water mark.
- Mr. Winnie mentioned that he has acted as his own general contractor.
- (JF) closed the public portion of the hearing.
- (WR) asked if the frontage width of the property was a concern. (PC) responded that it is a private road and road frontage should not be a concern.
- Conditions of resolutions were discussed at length.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 32**

WHEREAS, Ronald Winnie has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 9 East Cove Road, more fully identified as Tax Map Number 218.08-1-9; 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, Ronald Winnie, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member Ritter, seconded by Member Kipling, to adopt Resolution No. 32 of 2012.

A roll call vote was taken on Resolution No. 32 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. 32 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on November 26, 2012.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 33**

WHEREAS, Ronald Winnie has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a residence on property located at 9 East Cove Road, Stillwater, more fully identified as Tax Map Number 218.08-1-9; and

WHEREAS, the Applicant is seeking an area variance from the set-back 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 November 26, 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 neither is substantial. It is a 4' side set-back variance and a 4.7' high water mark set back variance;
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 landowner to the north refused to sell additional land and the high water mark cannot be changed;
3. The requested Area Variance is not substantial because it is only a 4' side set-back variance and a 4.7' high water mark set-back variance;
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 house has already been framed and if the variance is denied, it would have a greater impact on the neighborhood because of the demolition required; 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 of the placement of the house, but the variance should be granted because there was not much choice of the placement of the house; and be it further

RESOLVED, that this approval shall be conditioned upon the house and landscaping related to the house being completed by September 30, 2013; and be it further

RESOLVED, that the application of Ronald Winnie for an area variance to allow for the construction of a residence on property located at 9 East Cove Road, Stillwater, more fully identified as Tax Map Number 218.08-1-9, is GRANTED.

A motion by Member Ritter, seconded by Member D'Ambro, to adopt Resolution No. 33 of 2012.

A roll call vote was taken on Resolution No. 33 of 2012 as follows:

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

Resolution No. 33 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on November 26, 2012.

NEW BUSINESS

-The 2013 Zoning Board meeting calendar was approved as presented.

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BUILDING AND PLANNING TOPICS

-None

Misc.:

-Motion to adjourn was made by (CK) seconded by (DD) at approximately 9:00PM.

Next Meeting: December 17, 2012