

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
January 23rd, 2012 @ 7:30 PM
STILLWATER TOWN HALL**

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

Absent: Donald D'Ambro (DD), Richard Butler (RB)

Also Present: Daryl Cutler(DC), Attorney for the Town; Paul Cummings (PC) from the Chazen Companies;and Ray Abbey (RA) Building/Code Inspector; Deanna Stickney(DS); Planning & Zoning Board Secretary; Supervisor Ed Kinowski (EK)

(JF) Chairperson, called the meeting to order.

Adoption of Minutes:

-First order of business was to review & approve the minutes of July 25th, October 24th, and November 28th. (WR) made a motion to approve July 25th, with 2nd by (RR); (WR) Made a motion to approve October 24th, with 2nd by (CK); (WR) Made a motion to approve November 28th, with a 2nd by (RR)

-Chairperson Ferris stated that there were 3 Public Hearings scheduled for the evening.

Agenda Items:

1. Public Hearing (7:35pm) Michael McBride

253.17-2-33, 72 West Street

Area Variances

-Spokesman for the Applicant was Fred Metzger Surveyor. The Owner Michael McBride was also present.

-Chairperson Ferris (JF) opened the Public Hearing Portion at 7:54PM..

-Supervisor Kinowski wanted to know if the structure next to where duplex is anticipated to be built will be a problem and the surveyor advised no there will be a 30 ft. wide easement with the Town regarding drainage and they will also be another 4ft. off of that, so 34 ft. away.

-The Public Hearing portion was closed at 7:56PM

- Chairman (JF) asked if there is any property available for purchase and the surveyor Fred Metzger spoke and said no, that the rear property is owned by the railroad and the sides are occupied and not available for purchase.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 1**

WHEREAS, Michael McBride has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 72 West Street, Stillwater, New York, more fully identified as Tax Map Number 253.17-2-33; 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, Michael McBride, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member William Ritter, seconded by Member Richard Rourke, to adopt Resolution No. 1 of 2012.

A roll call vote was taken on Resolution No. 1 of 2012 as follows:

Member Donald D'Ambro - absent
Member Christine Kipling - yes
Member William Ritter - yes
Member Richard Rourke – yes
Chairperson James R. Ferris - yes

Resolution No. 1 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on January 23, 2012.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 2**

WHEREAS, Michael McBride has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to have a minor subdivision on property located at 72 West Street, Stillwater, New York, more fully identified as Tax Map Number 253.17-2-33; and

WHEREAS, the Applicant is seeking an Area Variance from the set back and 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 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 the two proposed lots are consistent with other lots in the area;
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 no other land is available;
3. The requested Area Variance is not substantial because these lots will be consistent with the other lots in the area;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because it is consistent with other lots in the area; 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 two proposed lots are in keeping with the other lots in the area; and be it further

RESOLVED, that the application of Michael McBride for an Area Variance to conduct a minor subdivision on property located at 72 West Street, Stillwater, New York, more fully identified as Tax Map Number 253.17-2-33, is GRANTED, on the condition that it comply with the set backs and variances set forth in the revised map of January 5, 2012.

A motion by Member William Ritter, seconded by Member Christine Kipling, to adopt Resolution No. 2 of 2012.

A roll call vote was taken on Resolution No. 2 of 2012 as follows:

Member Donald D'Ambro - absent
Member Christine Kipling - yes
Member William Ritter - yes

Member Richard Rourke – yes
Chairperson James R. Ferris - yes

Resolution No. 2 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on January 23, 2012.

2. Public Hearing (7:55pm) Robert E. Nass

220.-1-39, Route 423

Area Variance to allow a garage

-Applicant Bob Nass spoke as the Applicant and Owner of the subject property. He would like to put up a 40 ft x 48 ft garage located in such a way that it would not obstruct his view from the house. The purpose of the garage would be to store his automobiles and work on them. He repeats that he will not run a business out of this garage, as it will be for his own personal use.

-Chairperson Ferris opened the Public Hearing Portion at 8:06 PM.

-Kevin Yeardon a neighbor spoke in regards to his concerns of the garage location and height in regards to his house and the view from his windows. He is also concerned about the prospect of trees falling on the garage or cars.

--Bob Nass stated he previously had a tree fall on his car and he took it as an Act of God. He is aware of Mr. Yeardon's concern and he believes if a tree falls on the roof he doubts it would hurt the garage significantly.

(JF) Closed the Public Hearing Portion at 8:16PM.

-(CK) asked the applicant what is keeping him from staying in compliance with the required setback. Mr. Nass mentioned that he had a swimming pool probably 20 ft. from there. He is trying not to obstruct his view from his house.

-(JF) reviewed the map in regards to Mr. Nass's response and it seems just short of 40 ft and (JF) stated that it appeared that the Applicant could move the garage to meet the setback requirement and it would not then require a variance. Mr. Nass replied that there is a tree in the back yard, which would have to come down and if he moved the garage he would be on top of the house and he does not want that.

-(DC) spoke that if the map is not accurate the applicant should have the map revised. (JF) stated we can table the application to next month and give the applicant opportunity to bring forth a revised map. (DC) verified this is appropriate otherwise the board would have to assume the present map is accurate.

-(JF) Closed the Public Hearing Portion. He also entertained a motion to adjourn action until next month's meeting in order for the applicant to provide an amended map. The motion passed.

-(RR) did ask where septic system is and Mr. Nass responded.

3. Public Hearing (8:15pm) Anthony Fortune

261.36-1-44, County Route 75 (Viall Ave)

Area Variances to allow a duplex

-Mr. Fortune spoke on his daughter's behalf. He is looking for a variance for a duplex, on a sub-standard lot.. The Applicant desires to align the front of the building with the adjacent houses. The lot is 90' in width and 195' in depth. The area is .384 acres and 1 acre per dwelling unit is required. He then stated looking for a variance for either a single family home or a duplex.

-(JF) verified can do one or the other, but he needs to inform the Town of his decision.

-(JF) asked (RA) if the Applicant requests a building permit for a single-family unit in lieu of a duplex, does it present a problem? . (PC) Responded that if the request for variances to allow a duplex is granted, that this request is more stringent than a request for a single family dwelling unit and it should not require another application before the Board.

-(JF) Opened to Public portion of the hearing at 8:34

-Paul Mormile of County Route 75, Mechanicville; Town of Stillwater.

Mr. Mormile stated that he lives across from where the subject property is located and his personal opinion is that the neighborhood is all single family; homes and he would rather have it stay that way. He has reputedly spoken with neighbors who feel the same way.. He then asked what Mr. Fortune is doing for sewer since there has been a problem in the area. Mr. Fortune says he has permission to tie into a City of Mechanicville sewer line..

-(JF) Closed the Public portion of the hearing at 8:37PM.

-(JF) verified with (RA) that a fire rated wall has to exist between the 2 dwelling units.

-(CK) asked for a definition of a duplex. (PC) answered that a duplex is two separate dwelling units attached with a common, fire rated wall. (CK) then stated that a duplex can therefore look quite similar to a single-family dwelling.

TOWN OF STILLWATER ZONING BOARD OF APPEALS 2012 RESOLUTION NO. 3

WHEREAS, Anthony Fortune has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on County Route 75, Viall Avenue, Stillwater, New York, more fully identified as Tax Map Number 261.36-1-44; 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, Anthony Fortune, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member Richard Rourke, seconded by Member William Ritter, to adopt Resolution No. 3 of 2012.

A roll call vote was taken on Resolution No. 3 of 2012 as follows:

Member Donald D'Ambro - absent
Member Christine Kipling - yes
Member William Ritter - yes
Member Richard Rourke – yes
Chairperson James R. Ferris - yes

Resolution No. 3 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on January 23, 2012.

-(WR) asked Mr. Fortune if he has approached the property owner (s) next to the subject property to purchase additional land. Mr. Fortune stated that he had and that the parties to each side have no interest in selling.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 4**

WHEREAS, Anthony Fortune has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a duplex on property located at County Route 75, Viall Avenue, Stillwater, New York, more fully identified as Tax Map Number 261.36-1-44; and

WHEREAS, the Applicant is seeking an Area Variance from the lot width and acreage requirements 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:

6. 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 there are already other duplexes in the neighborhood and the change is in keeping with the other lots in the area.
7. The benefit sought by the applicant cannot be achieved by some method, feasible to the applicants to pursue, other than an Area Variance because no other land is available;
8. The requested Area Variance is not substantial because these lots will be consistent with the other lots in the area;
9. 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 for residents in a residential neighborhood;
10. The alleged difficulty was not 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 lot lines were already divided; and be it further

RESOLVED, that the application of Anthony Fortune for an Area Variance to construct a duplex on property located at County Route 75, Viall Avenue, Stillwater, New York, more fully identified as Tax Map Number 261.36-1-44, is GRANTED,

A motion by Member William Ritter, seconded by Member Christine Kipling, to adopt Resolution No. 4 of 2012.

A roll call vote was taken on Resolution No. 4 of 2012 as follows:

Member Donald D'Ambro - absent
Member Christine Kipling - yes
Member William Ritter - yes
Member Richard Rourke – yes
Chairperson James R. Ferris - yes

Resolution No. 4 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on January 23, 2012.

Subcommittee Update

-(WR) stated that he thinks the committee is done for the present time, and (JF) stated a lot of pieces are in place, but the document is not finalized.

OLD BUSINESS

-None

NEW BUSINESS

-(RA) Stated that he had nothing to add.

NEXT MEETING

~~2~~February 27th

(RR) Made a motion to adjourn at 9:10; 2nd by (WR); All in favor.