

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
JUNE 29, 2009 7:30 PM
STILLWATER TOWN HALL**

Present: Chairman James R. Ferris, Donald D'Ambro, **Alex Mackay (8:15) and Joe Urbanski

Also Present: Daryl Cutler, Attorney for Town; Paul Cummings, Planner for the Town; Sue Cunningham, Secretary to the Zoning Board

Absent: William Ritter

Chairman Ferris called the meeting to order.

7:40 PM (Tabled from the previous meeting of June 1, 2009)

**Spencer Tacy
Area & Use Variance
ZB 2009-53
SBL# 262.-1-5**

Chairman Ferris called the meeting to order.

Chairman Ferris stated that requested Area & Use Variance was tabled at the previous ZBA meeting of June 1st because recommendations from the County Planning had not been received. He proceeded to give a brief overview of the applicant's intentions.

Motion by D. D'Ambro and seconded by J. Urbanski to remove Mr. Tacy's request from the table. **Motion carried.**

After a brief discussion on why the Board did not act on the Variances at the previous meeting, intermunicipal boundary, County resource, water & sewer and neighbors who spoke in favor of the project the following resolution was offered.

Resolution #11 SEQRA Approval

Motion by D. D'Ambro and seconded by J. Urbanski to adopt Resolution #11 as follow:

WHEREAS, Spencer Tacy has submitted an application to the Zoning Board of appeals for an Area and Use Variance regarding property located on Brickyard Road, Mechanicville, more fully identified as Tax Map Number 262.-1-5; 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, Spencer Tacy, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A roll call vote was taken on Resolution No. 11 as follows:

Chairman James Ferris	Yes
Member Alec Mackay	Absent
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member William Ritter	Absent

Motion carried. Resolution No. 11 of 2009 was adopted unanimously.

Resolution #12 Area & Use Variance Approval

Motion by J. Urbanski and seconded by D. D'Ambro to adopt Resolution #12 as follows:

WHEREAS, Spencer Tacy has submitted an application to the Zoning Board of Appeals seeking an Area and Use Variance in order to construct a single family residence on property located on Brickyard Road, Mechanicville, more fully identified as Tax Map Number 262.-1-5; and

WHEREAS, the Applicant is seeking an Area and Use Variance from the area, set back, and industrial zoning requirements contained Stillwater Zoning Code §3.5; 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 1, 2009; and

WHEREAS, the Zoning Board of Appeals has duly considered the application and the elements necessary to consider the granting of an Area and Use Variance by taking into consideration the public comments by neighboring property owners in favor of the application and 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 regarding an Area Variance:

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 there currently exists other residential homes in the area;
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 applicant tried to purchase additional property, tried to sell the land and could not even use the land for industrial purposes;
3. The requested Area Variance is substantial because of the small size of the lot, but is still necessary to allow use of the land;

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 area is already residential and one small house will not impact the physical or environmental conditions; and
5. The alleged difficulty was not self-created because he did not subdivide the property and the lot was created in 1912; and be it further

RESOLVED, that the Stillwater Zoning Board of Appeals hereby makes the following findings regarding a Use Variance:

1. The Applicant cannot realize a reasonable return on the property under the current permitted uses because the applicant tried to sell property, tried to purchase additional property and could not even use the lot for industrial purposes;
2. The hardship is unique to this parcel of land as it is the last lot of the subdivision;
3. The change will not alter the essential character of the neighborhood because the surrounding neighborhood already consists of residential areas; and
4. The hardship is not self created as the applicant did not subdivide the property and the lot was created in 1912; and be it further

RESOLVED, that the application of Spencer Tacy for an Area and Use Variance to allow for the construction of a single family residence on property located on Brickyard Road, Mechanicville, more fully identified as Tax Map Number 262.-1-5, is GRANTED, conditioned upon municipal water and sewer being available and used for the proposed residence.

A roll call vote was taken on Resolution No. 12 of 2009 as follows:

Chairman James Ferris	Yes
Member Alec Mackay	Absent
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member William Ritter	Absent

Motion carried. Resolution #12 was adopted unanimously.

Public Hearing
8:05 PM
Walter Ardziewicz
Area Variance
ZB 2009-52
SBL# 253.18-1-67

Mr. Ardziewicz stated that he was requesting a variance in order to put in a second entrance to the second floor apartment of his home.

Chairman Ferris opened the floor for anyone wishing to comment for or against the requested area variance.

With no one in attendance to speak for or against the requested area variance Chairman Ferris closed the public hearing.

After a brief dialog between the ZBA members and the applicant regarding belco door, setbacks, encroachments, and preexisting violations the following Resolutions were offered.

**Alex Mackay arrived at this time.

Resolution # 13 SEQRA Approval

Chairman Ferris stated that prior to approving SEQRA lines 7, 8, 10 & 12 needed to be completed. For the record the application was completed, initialed and dated by the applicant.

Motion by D. D'Ambro and seconded by J. Urbanski to adopt Resolution #13 as follows:

WHEREAS, Walter Ardziewicz has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 91 West Street, Mechanicville, more fully identified as Tax Map Number 253.18-1-67; 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, Walter Ardziewicz, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A roll call vote was taken on Resolution No. 13 as follows:

Chairman James Ferris	Yes
Member Alec Mackay	Yes
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member William Ritter	Absent

Motion carried. Resolution #13 was adopted unanimously.

Resolution #14**Area Variance Approval**

Motion by J. Urbanski and seconded by D. D'Ambro to adopt Resolution #14 as follows:

WHEREAS, Walter Ardziewicz has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct an addition and an additional fire escape to the existing structure on property located at 91 West Street, Mechanicville, New York, more fully identified as Tax Map Number 253.18-1-67; and

WHEREAS, the Applicant is seeking an Area Variance from the set back requirements contained Stillwater Zoning Code §3.5; 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 29, 2009; 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 structure will still be a residential structure and the addition consists mostly of an emergency exit;
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 the Applicant cannot purchase additional land to reduce encroachment;
3. The requested Area Variance is not substantial because it is only 20' x 8' feet in size and the encroachment is for emergency access and exit purposes and there is still approximately 10 feet to 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 because this involves an egress method and is relatively minor; and
5. The alleged difficulty was not self-created because the lot was already nonconforming; and be it further

RESOLVED, that the application of Walter Ardziewicz for an Area Variance to permit construction of a 20' x 8' addition and fire escape on property located at 91 West Street, Mechanicville, more fully identified as Tax Map Number 253.18-1-67, is (GRANTED).

A roll call vote was taken on Resolution No. 14 of 2009 as follows:

Chairman James Ferris	Yes
Member Alec Mackay	Yes
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member William Ritter	Absent

Motion carried. Resolution #14 was adopted unanimously.

8:35 PM

Kevin Buchal

Area Variance

ZB 2009-51

SBL# 232.-1-48.212

Mr. Buchal stated that he was requesting an area variance to put up a 30 x 40 metal barn for personal use.

Chairman Ferris opened the floor for anyone wishing to comment for or against the requested area variance.

With no one in attendance to speak for or against the requested area variance Chairman Ferris closed the public hearing.

After a brief dialog between the ZBA members and the applicant regarding the 300ft zoning it was noted that it is not road frontage it is 300ft building line and using the term storage barn vs. proposed garage the following Resolutions were offered.

Resolution #15

SEQRA Approval

Motion by A. Mackey and seconded by D. D'Ambro to adopt Resolution #15 as follows:

WHEREAS, Kevin and Lorraine Buchal have submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 494 County Route 75, Mechanicville, more fully identified as Tax Map Number 232.-1-48.212; 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 applicants, Kevin and Lorraine Buchal, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A roll call vote was taken on Resolution No. 15 as follows:

Chairman James Ferris	Yes
Member Alec Mackay	Yes
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member William Ritter	Absent

Motion carried. Resolution #15 was adopted unanimously.

Resolution #16 Area Variance Approval

Motion by J. Urbanski and seconded by A. Mackay to adopt Resolution #16 as follows:

WHEREAS, Kevin and Lorraine Buchal have submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a storage building on property located at 494 County Route 75, Mechanicville, New York, more fully identified as Tax Map Number 232.-1-48.212; and

WHEREAS, the Applicants are seeking an Area Variance from the lot width and size requirements contained Stillwater Zoning Code §3.7; 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 29, 2009; 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 involves simply a barn, falls within set back requirements, and fits with the character of neighboring property;
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 is no further land to purchase;
3. The requested Area Variance is not substantial because lots were already approved;
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 involves a simple barn with no wetland issues; and

5. The alleged difficulty was not self-created; and be it further

RESOLVED, that the application of Kevin and Lorraine Buchal for an Area Variance to permit construction of a storage building on property located at 494 County Route 75, Mechanicville, more fully identified as Tax Map Number 232.-1-48.212, is (GRANTED).

A roll call vote was taken on Resolution No. 16 of 2009 as follows:

Chairman James Ferris	Yes
Member Alec Mackay	Yes
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member William Ritter	Absent

Motion carried. Resolution #16 was adopted unanimously.

8:50 PM

Barbara Jourdanais

Area Variance

ZB 2009-54

SBL# 253.41-1-35.2

Barbara Jourdanais stated that she was requesting an area variance to put up a garage. She said that R. Abbey and P. Cummings were at the location and staked the garage out. A discussion was held on the location, the two buildings lot combined into one, and easements with Town property.

Chairman Ferris opened the floor for anyone wishing to comment for or against the requested area variance.

With no one in attendance to speak for or against the requested area variance Chairman Ferris closed the public hearing.

A brief dialog was held between the ZBA members and the applicant regarding the zoning, location of the garage, and easement with Town property the following Resolutions were offered with conditions.

Resolutions #17

SEQRA Approval

Motion by A. Mackay and seconded by J. Urbanski to adopt Resolution #17 as follows:

WHEREAS, Barbara Jourdanais has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 11 Towpath Road, Stillwater, more fully identified as Tax Map Number 253.41-1-35.2; 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;

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

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

Chairman James Ferris	Yes
Member Alec Mackay	Yes
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member William Ritter	Absent

Motion carried. Resolution #17 was adopted unanimously.

Resolution #18

Area Variance—Conditional Approval

Motion by A. Mackay and seconded by D. D'Ambro to adopt Resolution #18 as follows:

WHEREAS, Barbara Jourdanais has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a detached garage on property located at 11 Towpath Road, Stillwater, New York, more fully identified as Tax Map Number 253.41-1-35.2; and

WHEREAS, the Applicants are seeking an Area Variance from the lot size and set back requirements contained Stillwater Zoning Code §3.5; 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 29, 2009; 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 area is mostly residential, and the Applicant is just adding a detached garage;
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 all lots in the area are substandard in size and no additional land can be purchased;
3. The requested Area Variance is substantial because the lot is so small, but still acceptable;
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 are is mostly residential, and the Applicant is just adding a detached garage; and

5. The alleged difficulty was not self-created; and be it further
RESOLVED, that the application of Barbara Jourdanais for an Area Variance to permit construction of a detached garage on property located at 11 Towpath Road, Stillwater, more fully identified as Tax Map Number 253.41-1-35.2, is (GRANTED), conditioned upon:

1. The Applicant providing the Town Attorney with a deed merging her two adjoining lots;
2. The garage not going more than 30 feet in to the business district; and
3. The Applicant providing the Town Attorney with the original deed from the Town to the Applicant and that there are no additional encroachments since transfer of the property from the Town.

A roll call vote was taken on Resolution No. 18 of 2009 as follows:

Chairman James Ferris	Yes
Member Alec Mackay	Yes
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member William Ritter	Absent

Anthony Bonventre/Top Cat Landscaping
Zoning Interpretation
SBL #253.-1-55.121

Anthony Bonventre stated that he wishes to put in a modular structure to be used strictly as an office until sometime in the future when they can afford to build.

After a brief dialog that was held in regard to Mobile Home vs. Modular, mobile home being used for an office, the floor plan, and what facilities the modular would have the following resolution was offered..

Resolution #19 **Zoning Interpretation**

Motion by A. Mackay and seconded by J. Urbanski to adopt Resolution #19 as follows:

WHEREAS, Anthony Bonventre has submitted an application to the Zoning Board of Appeals for an interpretation regarding property located on Brickyard Road, Mechanicville, more fully identified as Tax Map Number 253.-1-55.121;

WHEREAS, Applicant sought to place office building on the property and the Building Department expressed concern that the structure could be deemed a mobile home and not permitted without a variance;

Now, therefore, be it

RESOLVED, that the Zoning Board of Appeals hereby determines that the building is a modular structure to be used in an industrial zone, used for office purposes and has no

sleeping facilities and would, therefore, be permitted without a variance.
A roll call vote was taken on Resolution No. 19 as follows:

Chairman James Ferris	Yes
Member Alec Mackay	Yes
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member William Ritter	Absent

Motion carried. Resolution #19 was adopted unanimously.

Adoption of Minutes: **Motion** by A. Mackey and seconded by D. D'Ambro to adopt the minutes of the June 1, 2009. (1 Abstention-Urbanski) **Motion carried.**

Note: The minutes of April 27, 2009 are still on hold until next meeting since two members this evening would abstain due to their absence at that meeting.

New Business

Zoning Changes

The zoning changes proposed deal with section 3.5 Use and Area Regulations and Article 13 Non-Conforming Uses, Structures & Lots.

P. Cummings briefly went over the reason for the proposed changes.

The ZBA members had a brief discussion and had some concerns with one acre lots that are pre-existing.

Attorney Cutler stated that the problem is that the language is too broad.

After a brief discussion the consensus of the ZBA was to put it at the beginning of the agenda of their July meeting and hold all other business or public hearings until 8:00PM.

Motion by D'D'Ambro and seconded by A. Mackay to adjourn the meeting of the ZBA at 10:00PM. **Motion carried.**

Respectfully submitted by

Sue Cunningham
Zoning Board of Appeals Secretary