

**Stillwater Zoning Board of Appeals
October 13, 2009
Stillwater Town Hall**

Present: Chairman James R. Ferris; Alec Mackay; Joseph Urbanski; William Ritter

Absent: Donald D'Ambro

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

Chairman Ferris called the special meeting of the Zoning Board of Appeals to order.

**7:35 PM Public Hearing
Beverly Dunn (C. Cowin)
Area variance-Referred to ZBA from Planning Board
ZBA2009-58
SBL#'s 253.33-1-30 & 33**

Beverly Dunn and Charles Cowin were present along with their engineer, Dwayne Rabidon to discuss with the Board a proposal to sell property at 33 Railroad Avenue. The necessary survey discovered the driveway was encroaching on a neighbor's property. They wish to correct the problem by doing a fair and equal trade, conveying 3'7" on Railroad Ave to Cowin and granting 3'7" of the rear to the neighbor at 35 Railroad Ave. The result would be making the southern boundary of Cowin squared and in compliance.

After a brief discussion the following resolutions were offered.

Resolution #24 SEQRA (Approved)

Motion by A. Mackey and seconded by J. Urbanski to adopt Resolution #24 of 2009.

WHEREAS, Beverly Dunn and Charles C. Cowin have submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 33 and 35 Railroad Avenue, , Stillwater, New York, more fully identified as Tax Map Numbers 253.33-1-33 and 253.33-1-30, respectively; 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, Beverly Dunn and Charles C. Cowin, 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. 24 as follows:

Member Alec Mackay	Yes
Member Donald D'Ambro	Absent
Member Joseph Urbanski	Yes

Member William Ritter Yes
Chairman James R. Ferris Yes

Motion carried unanimously.

Resolution #25 Area Variance (Approved)

Motion by J. Urbanski and seconded by W. Ritter to adopt Resolution #25 of 2009.

WHEREAS, Beverly Dunn and Charles C. Cowin have submitted an application to the Zoning Board of Appeals seeking an Area Variance on two non-conforming lots to ultimately obtain a lot line adjustment between those two parcels located at 33 and 35 Railroad Avenue, Stillwater, more fully identified as Tax Map Numbers 253.33-1-33 and 253.33-1-30, respectively; and WHEREAS, the Applicant is seeking an Area Variance from the 300 foot lot width requirements contained Stillwater Zoning Code §3.5(D); 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 October 13, 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 there will be no change in the properties, just a change in where the boundary line is located;
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 two properties adjoin each other so there is no additional land to purchase;
3. The requested Area Variance is not substantial because it is merely moving the boundary line three (3) feet, and each property ends up the same size as before;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because there is no physical change to either property; and
5. The alleged difficulty was not self-created which consideration shall be relevant to the decision of the Board of Appeals; and be it further

RESOLVED, that the application of Beverly Dunn and Charles C. Cowin for an Area Variance on two non-conforming lots to ultimately obtain a lot line adjustment between those two parcels located at 33 and 35 Railroad Avenue, Stillwater, more fully identified as Tax Map Numbers 253.33-1-33 and 253.33-1-30, respectively, is GRANTED.

A roll call vote was taken on Resolution #25 of 2009 as follows:

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

Motion carried unanimously.

Motion by J. Urbanski and seconded by A. Mackay to adjourn the special meeting of the Zoning Board of Appeals. **Motion carried.**

Respectfully submitted by

Sue Cunningham
Zoning Board of Appeals Secretary