

**Town of Stillwater  
Zoning Board of Appeals  
April 27 2009                      7:30 PM  
Stillwater Town Hall**

**Present:**            Chairman James Ferris, William Ritter, Joseph Urbanski

**Absent:**            Donald D'Ambro, Alec Mackey

**Also Present:** Ray Abbey, Bldg Inspector/Code Enforcement, Paul Cummings—  
Planner for the Town, Daryl Cutler—Attorney for the Town, Sue Cunningham--  
Secretary to the Zoning Board

Chairman Ferris called the meeting to order.

**Approval of Minutes:** J. Urbanski and seconded by W. Ritter to adopt the minutes of the  
January 26, 2009 Zoning Board of Appeals. **Motion carried.**

Attorney Cutler gave a brief update on the Josh Boldt matter. He informed the ZBA that  
the matter was found in favor of the Town so the matter is now over.

Chairman Ferris inquired if it was possible to move the matter further along.

Attorney Cutler stated that the time frame for that has passed.

Attorney Cutler spoke briefly on ABC Recycling and the purpose of them being on the  
agenda this evening. The ZBA would resume this issue after the Public Hearings.

**Public Hearing**

**Anthony & Patricia Hammel**

**Area Variance**

**ZB2009-47**

**SBL # 218.8-1-17**

Patricia Hammel gave a brief overview of what their intentions were and the need for being in  
front of the ZBA. She stated that they have an existing metal garage that was damaged when a  
tree fell and struck the garage. They would like to remove the damaged garage and replace it with  
a new wooden garage. The reason for appearing before the ZBA is that the existing metal garage  
is located on a road easement and they would like to rebuild the new garage out of the road  
easement and fully onto their own property. In order to do this they would not meet the required  
setback requirements.

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 concerning the final dimensions, square footage, setbacks, maintenance issues and emergency access the following Resolutions were offered.

**Resolution #2**

**SEQRA---Hammel Area Variance**

**Motion** by W. Ritter and seconded by J. Urbanski to adopt Resolution #2 as follows:

WHEREAS, Anthony L. and Patricia S. Hammel have submitted an application to the Zoning Board of Appeals for an Area Variance to replace and enlarge a garage damaged by a storm in 2008 regarding property located on Route 9P, Saratoga Springs, more fully identified as Tax Map Number 218.8-1-17; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (SEQRA), the proposed action is an Unlisted 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, Anthony L. and Patricia S. Hammel, is an Unlisted action and requires no further action or review by the Zoning Board of Appeals.

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

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

**Motion carried.** Resolution No. 2 of 2009 was adopted unanimously.

**Resolution #3**

**Approval of Area Variance—Hammel**

**Motion** by J. Urbanski and seconded by W. Ritter to adopt Resolution #3 as follows:

WHEREAS, Anthony L. and Patricia S. Hammel have submitted an application to the Zoning Board of Appeals seeking an Area Variance to allow for the replacement and enlargement of a garage damaged by a storm in 2008 on property located at 659 Route 9P, Saratoga Springs, New York, more fully identified as Tax Map Number 218.8-1-17; and

WHEREAS, the Applicants are seeking an Area Variance from the square footage and back yard set back requirements contained Stillwater Zoning Code §3.5(D) and §3.7

WHEREAS, pursuant to §14.2(D) of the Stillwater Zoning Law, the Town properly and timely published a notice for public hearing conducted on April 27, 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 it removes the encroachment of the existing building and is a greater distance from the property line than the preexisting structure;
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 a preexisting, non-conforming structure and utilities prevent relocation of the building;
3. The requested Area Variance is not substantial because there is a preexisting, non-conforming structure of similar size that the proposed garage will be replacing;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district as there are no wetlands or other issues and there is a preexisting, non-conforming structure; and
5. The alleged difficulty was not self-created; and be it further

RESOLVED, that the application of Anthony L. and Patricia S. Hammel for an Area Variance to allow for the replacement and enlargement of a garage damaged by a storm in 2008 on property located at 659 Route 9P, Saratoga Springs, more fully identified as Tax Map Number 218.8-1-17, is GRANTED, conditioned upon:

- A. The garage satisfying the 10' side yard set back requirement from the Applicants property line;
- B. The garage not encroach upon the private drive easement; and
- C. The garage is at least 3' off the rear line.

A roll call vote was taken on Resolution No. 3 of 2009 as follows:

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

**Motion carried.** Resolution No. 3 of 2009 was adopted unanimously.

**Public Hearing  
Mark Sabatino  
Area Variance  
ZB2009-50  
SBL #243.-1-8.112**

Mark Sabatino gave a brief overview of his application. He stated that he has 1.36 acres with 150' frontage and that his intentions were to build a breezeway with a 28 x 28 garage. He meets all setbacks but does not meet the 300 ft frontage that is required.

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 was held between the applicant and the ZBA regarding the plot plan submitted and verification that the setbacks are being met the following Resolutions were offered.

**Resolution #4                      SEQRA---Sabatino Area Variance**

Note: On the SEQRA form the applicant needed to mark no in box #8 & #12 and initial which he did for the record.

**Motion** by W. Ritter and seconded by J. Urbanski to adopt Resolution #4 as follows:

WHEREAS, Mark Sabatino has submitted an application to the Zoning Board of Appeals for an Area Variance to construct a garage and breezeway regarding property located at 341 County Route 75, Mechanicville, more fully identified as Tax Map Number 243.-1-8.112; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (SEQRA), the proposed action is an Unlisted 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, Mark Sabatino, is an Unlisted action and requires no further action or review by the Zoning Board of Appeals.

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

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

**Motion carried.** Resolution No. 4 of 2009 was adopted unanimously.

**Resolution #5**

**Approval of Area Variance--Sabatino**

**Motion** by W. Ritter and seconded by J. Urbanski to adopt Resolution #5 as follows:

WHEREAS, Mark Sabatino has submitted an application to the Zoning Board of Appeals seeking an Area Variance to allow for the construction of a garage and breezeway on property located at 341 County Route 75, Mechanicville, more fully identified as Tax Map Number 243.-1-8.112; and

WHEREAS, the Applicant is seeking an Area Variance from the lot width requirements contained Stillwater Zoning Code §3.5(D) and §3.7.

WHEREAS, pursuant to §14.2(D) of the Stillwater Zoning Law, the Town properly and timely published a notice for public hearing conducted on April 27, 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:

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 the Applicant will be removing two sheds;
7. 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 cannot achieve 300 feet building line;
8. The requested Area Variance is not substantial;
9. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district as there are no wetlands or other issues and there are two preexisting sheds; and
10. The alleged difficulty was not self-created; and be it further

RESOLVED, that the application of Mark Sabatino for an Area Variance to allow for the construction of a garage and breezeway on property located at 341 County Route 75, Mechanicville, more fully identified as Tax Map Number 243.-1-8.112, is GRANTED, conditioned upon:

- A. Removal of 2 existing sheds prior to Certificate of Occupancy being issued; and



A roll call vote was taken on Resolution No. 6 as follows:

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

**Motion carried:** Resolution No. 6 of 2009 was adopted unanimously.

## Resolution #7 Approval of Perkins Area Variance

**Motion** by W. Ritter and seconded by J. Urbanski to adopt Resolution #7 as follows:

WHEREAS, John Perkins has submitted an application to the Zoning Board of Appeals seeking an Area Variance to allow for the replacement and enlargement of a garage damaged by fire on property located at 7 County Route 75, Mechanicville, more fully identified as Tax Map Number 261.36-1-28.1; and

WHEREAS, the Applicant is seeking an Area Variance from the square footage, minimum lot width, and set back requirements contained Stillwater Zoning Code §3.5(D).

WHEREAS, pursuant to §14.2(D) of the Stillwater Zoning Law, the Town properly and timely published a notice for public hearing conducted on April 27, 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:

11. 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 difference between proposed building and existing structure impacts only Applicant's property;
12. The benefit sought by the applicant cannot be achieved by some method, feasible to the applicant to pursue, other than an Area Variance because Applicant cannot reposition building or it would further encroach on set backs;
13. The requested Area Variance is not substantial because there is a preexisting 24' x 24' grandfathered, non-conforming structure that the proposed garage will be replacing;

14. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because the Applicant is only giving up his own space; and
15. 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; and be it further

RESOLVED, that the application of John Perkins for an Area Variance to allow for the replacement and enlargement of a garage damaged by fire on property located at 7 County Route 75, more fully identified as Tax Map Number 261.36-1-28.1, is GRANTED.

A roll call vote was taken on Resolution No. 7 of 2009 as follows:

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

**Motion carried.** Resolution No. 7 of 2009 was adopted unanimously.

**ABC Recycling @ 8:40**  
**Zoning Interpretation**  
**ZB2008-49**  
**SBL #253.-1-55.122**

There was no one in attendance to speak for ABC Recycling.

R. Abbey, Code Enforcement/Bldg Inspector verified for the record that they were notified of being placed on the agenda.

Attorney Cutler stated that the ZBA could make a determination on the Building Dept. interpretation and the issuing of a Stop Work Order or ultimately table their decision until someone appears before them.

The ZBA held discussion on R. Abbey's action, Planning Board's determination, stop work order issued, and discussion on the interpretation of the zoning law.

The following resolution was offered determining that the Stillwater Building Department acted appropriately and correctly on the Stop Work Order.

**Resolution #8                      ABC Recycling—Interpretation of Zoning Code**

**Motion** by J. Urbanski and seconded by W. Ritter to adopt Resolution #8 as follows:

WHEREAS, ABC Recycled Auto Parts, Inc. has submitted an application to the Zoning Board of Appeals for an interpretation of Article 3, Section 3.5 and Article 7, Section 7.6



of the Stillwater Zoning Code to determine if the Stillwater Building Department acted appropriately in issuing a STOP WORK ORDER on August 7, 2008;

Now, therefore, be it

RESOLVED, that the Zoning Board of Appeals hereby determines that the Stillwater Building Department acted appropriately and correctly applied Article 3, Section 3.5 and Article 7, Section 7.6, when it issued the Stop Work Order on August 7, 2008.

A roll call vote was taken on Resolution No. 9 as follows:

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

**Motion carried.** Resolution No. 8 of 2009 was adopted unanimously.

### **Old Business**

**Saratoga Glen:** Chairperson Ferris inquired about the buffer of trees that have been cut down on the north side of Route 76 of the Saratoga Glen. He stated that this is a direct violation of the plan that was approved for Saratoga Glen.

Ray Abbey will check on this.

### **New Business**

**Stump dumps:** J. Urbanski questioned if there were rules & regulations on stump dumps. Ray Abbey stated that he knows of nothing in the Zoning Code or the State Building Code regarding this subject.

**ZBA Applications:** Chairperson Ferris inquired if there was anything that the ZBA could do help make things more efficient in the Building Department.

A discussion was held on the application, how to improve them, documentation of previous interpretation and the workload in the Building Department.

Paul Cummings stated that he has developed a Stillwater Planning & Zoning Handbook. The Handbook outlines how each and every application should be handled and provides a flowchart that illustrates the overall Planning and Zoning Board processes. The handbook also identifies who is responsible for what and includes a calendar of the Zoning and Planning Board meetings and deadlines.

**May Agenda:** The ZBA agreed to have the next Zoning Board meeting on June 1, 2009 because the 4<sup>th</sup> Monday in May falls on Memorial Day weekend.

Chairperson Ferris adjourned the Zoning Board of Appeals meeting at 9:20 PM

Respectfully submitted by

Sue Cunningham  
Secretary to the ZBA

