

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
September 24, 2012 @ 7:30 PM
STILLWATER TOWN HALL**

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

Also Present: Jim Trainor (JT), Attorney for the Town; Paul Cummings (PC) from The Chazen Companies; Ray Abbey (RA) Code Enforcement Officer; Richard Butler (RB), Director Building, Planning & Zoning; Ed Kinowski (EK), Town Supervisor

Absent: N/A

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

Adoption of Minutes:

-First order of business was the approval of the minutes of August 27, 2012.
Motion to approve the minutes with revisions was made by (DD), seconded by (WR). All in favor.
Revisions included two corrections of references as to who spoke: 3rd item in the Noirot variance context corrected to be made by (JF) and 4th item in Gardner variance corrected to be made by (JF).

-(JF) Chairperson stated that the Board has 1 Public Hearing and 1 reconvening of a Public Hearing scheduled for this evening.

I. Public Hearings:

#1 7:35PM

Alonzo and Alonzo / Bonner

Area Variances

SBL#261.36-1-56 & 261.36-1-32

#12 & #16 County Rt 75

To allow for a lot line adjustment by the Planning Board

-Fred Metzger Jr, Surveyor, spoke on the Owner's behalf.
-He stated that the #12's west property boundary is requested to be moved 10' west to allow access to the rear of the #12 lot. There was a misconception by the Owner of #12 regarding the western property line location revealed when a survey was prepared.
-Lot 12's western side setback would be made legal by this request.
-Lot #16's westerly line is non-conforming at 7'
(JF) opened the public portion of the meeting.
There were no comments from the public.
-(JF) closed the public portion and asked for Board comment.

- (WR) Asked where the site utilities were located serving both lots. Mr. Metzger answered via the reputed former easement for Pittsburgh Ave. He added that the Owners of #16 bought the Pittsburgh Ave section shown on the site plan. Sewer and water go down the paper street formerly identified as Pittsburgh Ave . on the site plan.
- (JF) Requested the site photos be distributed to the Board and asked for clarification of the parcel surface areas.
- (RB) stated roughly 1949sf is desired to be transferred from one property to the other.
- (JF) requested clarification of property addresses as the application vs the SEQR form listed differing addresses. Acreage statements were corrected also.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 26**

WHEREAS, Mandi Bonner and Jeffrey Alonzo have submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on #12 and #16 County Route 75, more fully identified as Tax Map Number 261.36-1-56 and 261.36-1-32; 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, per NYCRR 617.7(12) and (13);

Now, therefore, be it

RESOLVED, that the Zoning Board of Appeals hereby determines that the proposed action by the applicant, Mandi Bonner and Jeffrey Alonzo, 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. 26 of 2012.

A roll call vote was taken on Resolution No. 26 of 2012 as follows:

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

Resolution No. 26 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on September 24, 2012.

TOWN OF STILLWATER

**ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 27**

WHEREAS, Mandi Bonner and Jeffrey Alonzo have submitted an application to the Zoning Board of Appeals seeking an *Area Variance* in order to have a lot line adjustment on property located at #12 and #16 County Route 75, Stillwater, New York, more fully identified as Tax Map Numbers 261.36-1-56 and 261.36-1-32; and

WHEREAS, the Applicants are seeking an Area Variance from the area dimensions and front, side, and rear set back requirement contained Stillwater Zoning Code §3.5; 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 total area stays the same between the two lots, it is only an adjustment of the boundary line;
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 lack of setback and area dimension already exists and the variance is needed for lot line adjustment;
3. The requested Area Variance is not substantial because although the total area is about 1/2 what is required and side set-backs are affected, but the lot line adjustment makes the other non-conformities better.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district the total area remains the same and this only changes the boundary lines; and
5. 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 dimensions existed before the purchase of the property; and be it further

RESOLVED, that the application of Mandi Bonner and Jeffrey Alonzo for an Area Variance to on property located at #12 and #16 County Route 75, Stillwater, New York, more fully identified as Tax Map Numbers 261.36-1-56 and 261.36-1-32 is GRANTED

A motion by Member Ritter, seconded by Member Kipling, to adopt Resolution No. 27 of 2012.

A roll call vote was taken on Resolution No. 27 of 2012 as follows:

Member Christine Kipling	Yes
Member William Ritter	Yes
Member Donald D'Ambro	Yes
Member Richard Rourke	Yes
Chairperson James R. Ferris	Yes

Resolution No. 27 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on September 24, 2012.

#2 7:55PM

Sadlemire Area Variances (reconvened)

SBL# 231.-2-26

406 Cty Route 75

Detached Garage

- Motion made to reconvene by (DD) and seconded by (WR). All approved.
- Michael Sadlemire spoke on behalf of his application.
- (JF) mentioned that additional information has been received from the Applicant regarding the septic system, a revised site plan, site photos and roof drainage information.
- Documentation was presented indicating that no septic distribution lines run toward the new garage.
- It was noted that the garage construction is substantially complete.
- There is a 4" pipe line to the septic tank to serve a future mop sink located in the garage.
- A professional report was read indicating a storm drainage solution for the northerly pitch of the roof.
- (JF) asked the Board if the information previously requested and submitted for this meeting was adequate. There was no objection.
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TOWN OF STILLWATER ZONING BOARD OF APPEALS 2012 RESOLUTION NO. 28

WHEREAS, Michael Sadlemire has submitted an application to the Zoning Board of Appeals seeking an **Area Variance** in order to construct a garage on property located at 406 County Route 75, more fully identified as Tax Map Number 231.-2-27; and

WHEREAS, the Applicant is seeking an Area Variance from the set back requirements contained Stillwater Zoning Code §3.5; and

WHEREAS, the Zoning Board of Appeals conducted a public hearing on August 20, 2012 at which time other residents expressed concern about whether the septic system for the residence had been moved to allow the placement of the garage in this location. They also expressed objections to the fact that the garage had previously been granted a variance which would have allowed its construction in a different location closer to the front of the property, yet the applicant constructed the garage in this new location in violation of the variance, and that the size of the garage is larger than the size allowed under the original variance. Additional objections were that the residents felt the garage was too high and the neighbor objected to the storm water run-off from the garage roof which caused water flow on to his property; and

WHEREAS, when considering the public comments, the Zoning Board of Appeals concluded that the height of the garage was within code requirements and that the prior variance gave no limitations on the garage height being less than allowed by code. The Zoning Board of Appeals further concluded that while the current location is further from the road and the size of the garage is slightly larger than allowed under the original variance, the garage is no closer to the neighbor's property than allowed under the original variance. Due to concerns expressed by the neighbor, the Zoning Board of Appeals requested that the applicant provide verification that the septic line and/or system was not damaged or moved. The Zoning Board of Appeals also requested that a storm water review be completed by an engineer, and, if appropriate, a storm water plan be provided prior to the next meeting; and

WHEREAS, the applicant provided verification that the septic line and system was not damaged nor moved and provided a storm water management plan prepared by Greystone Engineering dated September 20, 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 neighbor's garage is within 10 feet of the property line and most lots are small, the applicant already has a valid variance that would allow the garage to be built within 6 feet of the property line, this garage is just slightly larger and in a different location no closer to the property line and the applicant is being required to implement a storm water management plan to help protect the 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 the only area to put the garage is in the location originally proposed, which is closer to the road and in less uniformity with the other neighboring property because the septic system prevents the garage from being further away from the property line;
3. The requested Area Variance is substantial because it reduces the side set-back from 25 feet to 6 feet, however, there is no other way to avoid the reduction of set-back due to the size of the lot and the placement of the septic system;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because most properties have similar garages and the storm water management plan will help to address any run off issues; and
5. The alleged difficulty was self-created because the applicant already built the garage in the wrong location, but the applicant had already been granted a variance to allow a garage to be placed within 6 feet of the neighboring property line; and be it further

RESOLVED, that the application of Michael Sadlemire for an Area Variance to construct a garage on property located at 406 County Route 75, more fully identified as Tax Map Number 231.-2-27 is GRANTED, upon the following condition:

1. That the storm water plan set forth in the Greystone Engineering document dated September 20, 2012 be implemented.

A motion by Member Ritter, seconded by Member D'Ambro, to adopt Resolution No. 28 of 2012.

A roll call vote was taken on Resolution No. 28 of 2012 as follows:

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

Chairperson James R. Ferris Yes

Resolution No. 28 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on September 24, 2012.

OLD BUSINESS

-None

NEW BUSINESS

- The Brigadier Estates Interpretation request was again omitted from the evening's agenda at the request of the Applicant, due to an automobile accident.
- -(DD) mentioned asked about the status of ABC Recycling and does it have a valid permit to operate. No one present had an answer. (PC) stated that from the Town's Special Use Permit standpoint, the Owner does not have an active SUP.
- -(RB) mentioned that the Town's codes are now being presented on-line via a program called "e-code". The Town's codes can now be fully accessed by anyone interested. (PC) emphasized the importance of the availability of this information.
- -(PC) Mentioned that the Town Zoning Map has been revised and given to the BP&D Dept. for comment and ultimately Town Board approval.
-(JF) stated three potential violations for pursuit by the Department: 1) 36 Stratton Lane and its un-mowed lawn. 2) 228 Cty Rt 76, a house was located where there was 300' at the building line, soon after construction a storage building was built in front of the house that may not be compliant, at least in terms of lot width. 3) Corner of Blizzard and Cty Rt 76, a trailer is not "skirted".

Building & Planning

- (JF) made note of the Department's construction inspection schedule previously distributed. (RB) clarified that the purpose of the distribution was only to give an idea of the workload in the department.
- -(RB) mentioned, in answer to an inquiry by (DD), why there are some violations that appear to lack a clear enforcement strategy. (RB) stated that properties considered as "unsafe" are the top priority for enforcement. Since there are many violations on record, the Town is doing its best, to address the most serious violations first. (EK) added that the process of enforcement takes considerable resources to pursue.

Misc.:

-Motion to adjourn was made by (WR) seconded by (RR) at approximately 8:45PM.

Next Meeting: October 22, 2012