

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
July 26, 2010            7:30PM  
STILLWATER TOWN HALL**

**Present:** Chairman James R. Ferris, Donald D'Ambro, Alec Mackay, William Ritter and Richard Rourke

**Also Present:** Daryl Cutler, Attorney for the Town; Chris Round, Planner for the Town; Ray Abbey, Building/Codes Inspector and Jessica Valcik, Secretary for the Zoning Board

**Absent:** None

Chairman Ferris called the meeting to order.

**Adoption of Minutes:** **Motion** by A. Mackay and seconded by D. D'Ambro to adopt the June 28, 2010 minutes with changes. **Motion carried four-zero-one (W. Ritter Abstained).**

**Old Business**

None

**New Business**

None

**Report from Building & Planning Dept.**

Ray reported about issues that were concerning fences and their placements in the Town. There is currently no permit process for fences and only zoning requirements. This has been brought upon the Town Board for further looking into.

**Andrew Smith- Public Hearing- 7:40pm**

**Area Variance**

**ZB2010-74**

SBL# 219.-2.24.2

Andrew Smith spoke on his own behalf of what he was looking to do. The applicant wished to obtain an area variance to add an addition to his existing residence to make more living space.

Chairman Ferris opened the Public Hearing.

With no one to speak, the Public Hearing portion was closed.

The Board held a brief discussion on the proposed addition and offered the following resolution:

**Resolution # 16**

**(SEQRA- Approved)**

**Motion** by A. Mackay and seconded by W. Ritter to adopt Resolution # 16 as follows:

WHEREAS, Andrew Smith has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 28 Luther Road, Saratoga Springs, more fully identified as Tax Map Number 219.-2-24.2; 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;

Now, therefore, be it

RESOLVED, that the Zoning Board of Appeals hereby determines that the proposed action by the Applicant, Andrew Smith, 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. 16 as follows:

Member Donald D'Ambro	Yes
Member William Ritter	Yes
Member Alec Mackay	Yes
Member Richard Rourke	Yes
Chairman James R. Ferris	Yes

Resolution No. 16 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on July 26, 2010.

**Motion carried unanimously.**

**Resolution # 17**

**(Area Variance- Granted)**

**Motion** by W. Ritter and seconded by D. D'Ambro to adopt Resolution # 17 as follows:

WHEREAS, Andrew Smith have submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct an addition to the existing single family dwelling on property located at 28 Luther Road, Saratoga Springs, more fully identified as Tax Map Number 219.-2-24.2; and

WHEREAS, the Applicants are seeking an Area Variance from the lot size and set back 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 July 26, 2010; 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 neither setback nor acreage non-conformities are made worse by granting this variance;
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 additional property available for the Applicant to acquire;
3. The requested Area Variance is not substantial, because of the small difference in the size the size of the current parcel (1.59 acres) and the lot size requirement (2 acres);
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 will be consistent with the other properties currently in the neighborhood or district; and
5. The alleged difficulty was not self-created because the property is a pre-existing, non-conforming lot; and be it further

RESOLVED, that the application of Andrew smith for an Area Variance from the lot size and set back requirements to allow for the construction of an addition to the existing single family dwelling on property located at 28 Luther Road, Saratoga Springs, more fully identified as Tax Map Number 219.-2-24.2, is GRANTED.

A roll call vote was taken on Resolution No. 17 of 2010 as follows:

Member Donald D'Ambro	Yes
Member William Ritter	Yes
Member Alec Mackay	Yes
Member Richard Rourke	Yes
Chairman James R. Ferris	Yes

Resolution No. 17 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on July 26, 2010.

**Motion carried unanimously.**

**Garth Briscoe- Public Hearing- 8:00**

**Area Variance**

**ZB2010-75**

SBL # 243.82-1-31

Garth Briscoe spoke on behalf of his application. He is looking for an area variance to be able to go to the Planning Board and get a Lot Line Adjustment. He is selling his house and it happened that a corner of his house is on a piece of his neighbor's property.

Chairman Ferris opened the Public Hearing.

Greg Stowell of 11 Center Street, Stillwater gave positive feedback and supports the applicant.

With no one else to speak, the Public Hearing portion was closed.

The Board held a brief discussion on the project. They found the SEQRA form needed to be amended and to add both of the street addresses affected with the area variance. Also combining the total sq. ft. of both properties together. The Board offered the following resolution:

**Resolution # 18**

**(SEQRA- Approved)**

**Motion** by A. Mackay and seconded by W. Ritter to adopt Resolution # 18 as follows:

WHEREAS, Garth D. Briscoe and Gregory P. Stowell have submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 14 High Street and 11 Center Street, Stillwater, more fully identified as Tax Map Numbers 243.82-1-31 and 243.82-1-38; 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, Garth D. Briscoe and Gregory P. Stowell, 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. 18 as follows:

Member Donald D'Ambro	Yes
Member William Ritter	Yes
Member Alec Mackay	Yes
Member Richard Rourke	Yes
Chairman James R. Ferris	Yes

Resolution No. 18 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on July 26, 2010.

**Motion carried unanimously.**

**Resolution # 19**

**(Area Variance- Granted)**

**Motion** by A. Mackay and seconded by D. D'Ambro to adopt Resolution # 19 as follows:

WHEREAS, Garth D. Briscoe and Gregory P. Stowell have submitted an application to the Zoning Board of Appeals seeking an Area Variance for a proposed lot line adjustment between two pre-existing non-conforming lots and/or structures on properties located at 14 High Street and 11 Center Street, Stillwater, more fully identified as Tax Map Numbers 243.82-1-31 and 243.82-1-30; and

WHEREAS, the Applicants are seeking an Area Variance from the lot size and set back 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 July 26, 2010; 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 it's just a simple lot line adjustment without building any improvements;
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 of the size of the parcels, it is the only practical solution;
8. The requested Area Variance is not substantial, because the lots are small already;
9. 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 only a lot line adjustment, not building improvements; and

10. The alleged difficulty was not self-created because pre-existing non-conforming, seeking to correct some of the non-conformity; and be it further

RESOLVED, that the application of Garth D. Briscoe and Gregory P. Stowell for an Area Variance for a proposed lot line adjustment between two pre-existing non-conforming lots and/or structures on properties located at 14 High Street and 11 Center Street, Stillwater, more fully identified as Tax Map Numbers 243.82-1-31 and 243.82-1-30, is GRANTED.

A roll call vote was taken on Resolution No. 19 of 2010 as follows:

Member Donald D'Ambro	Yes
Member William Ritter	Yes
Member Alec Mackay	Yes
Member Richard Rourke	Yes
Chairman James R. Ferris	Yes

Resolution No. 19 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on July 26, 2010.

**Motion carried unanimously.**

**Motion** by A. Mackay and seconded by R. Rourke to adjourn the meeting at 8:15pm.

**Motion carried unanimously.**

Respectfully submitted by

Jessica Valcik  
Secretary for ZBA