

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
August 23, 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; Paul Cummings, 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 D. D'Ambro and seconded by W. Ritter to adopt the July 26, 2010 minutes with changes. **Motion carried unanimously.**

Old Business

None

New Business

The Board discussed DeCrescente's newest sign and where it was located.

A discussion was held to recommend that the Public Hearings be moved from 7:40pm to 7:35pm starting time.

John Shinski- Public Hearing- 7:40pm

Area Variance

ZB2010-76

SBL# 231.-1-68

Member W. Ritter recused himself from the application.

John Shinski spoke on his behalf to explain what he was looking to do. He wants to build a 6x6 front covered porch off of his house. There are no other ways to get the property needed and therefore needs a variance.

Chairman Ferris opened the Public Hearing portion.

James Close of 3 Brightman Road sent in a letter opposing the projects for reasons set forth in the letter. All of the Board Members received a copy of the letter as well as entered into the public record.

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

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

Resolution # 20

(SEQRA- Approved)

Motion by A. Mackay and seconded by D. D'Ambro to adopt Resolution # 20 as follows:

WHEREAS, John P. Shinski has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 7 Brightman Road in the Town of Stillwater, more fully identified as Tax Map Number 231.-1-68; 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, John P. Shinski, 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. 20 as follows:

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

Resolution No. 20 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 23, 2010.

Motion carried four-zero-one.

Resolution # 21

(Area Variance- Granted)

Motion by A. Mackay and seconded by D. D'Ambro to adopt Resolution # 21 as follows:

WHEREAS, John P. Shinski has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a porch on the front of the existing property located at 7 Brightman Road in the Town of Stillwater, more fully identified as Tax Map Number 231.-1-68; and

WHEREAS, the Applicant is seeking an Area Variance lot size and width 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 August 23, 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 the Applicant is merely adding a front porch to an existing single family residence in a residential neighborhood;
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 there are two substandard lots on each side and neighbor located at the rear of the property will not sell;
3. The requested Area Variance is not substantial because, although the property is less than two acres, it is not a substantial nonconformity and is only the addition of a porch and not complete construction of a residence;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because adding a front to the existing structure creates no increase in traffic and is not considered major construction; and
5. The alleged difficulty was not self-created because zoning has changed making the lot substandard; and be it further

RESOLVED, that the application of John P. Shinski for an Area Variance to allow for construction of a front porch to be added on to the existing single family residence on property located at 7 Brightman Road in the Town of Stillwater, more fully identified as Tax Map Number 231.-1-68, is GRANTED.

A roll call vote was taken on Resolution No. 21 of 2010 as follows:

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

Resolution No. 21 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 23, 2010.

Motion carried four-zero-one.

Kathie Stoddard- Public Hearing- 8:00

Area Variance

ZB2010-77

SBL # 253.25-1-17.3

Kathie Stoddard spoke on behalf of herself. They are looking to expand their side porch and enclose it for bug control.

Chairman Ferris opened the Public Hearing portion.

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

The Board held a brief discussion about the project and offered the following resolution:

Resolution # 22

(SEQRA- Approved)

Motion by A. Mackay and seconded by W. Ritter to adopt Resolution # 22 as follows:

WHEREAS, Kathie Stoddard has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 27 Kellogg Road in the Town of Stillwater, more fully identified as Tax Map Number 253.25-1-17.3; 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, Kathie Stoddard, 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. 22 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. 22 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 23, 2010.

Motion carried unanimously.

Resolution # 23

(Area Variance- Granted)

Motion by W. Ritter and seconded by D. D'Ambro to adopt Resolution # 19 as follows:

WHEREAS, Kathie Stoddard has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a porch on the existing three-family residence on property located at 27 Kellogg Road in the Town of Stillwater, more fully identified as Tax Map Number 253.25-1-17.3; and

WHEREAS, the Applicant is seeking an Area Variance lot size, width 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 August 23, 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 there is an existing porch and the Applicant is merely seeking to enlarge it;
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 all the neighboring lots are nonconforming and have no extra land to correct the nonconformities of the Applicant's lot;
8. The requested Area Variance is not substantial because, although the non-conformity of the lot size is substantial, enlarging the porch does not increase the lot's non-conformity, making the proposed variance 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 because the proposed porch is consistent with the neighboring properties and does not require major construction; and
10. The alleged difficulty was not self-created because the building is over one hundred (100) years old and pre-exists the zoning requirements; and be it further

RESOLVED, that the application of Kathie Stoddard for an Area Variance to allow for construction of a porch to be added on to the existing three-family residence on property located at 27 Kellogg Road in the Town of Stillwater, more fully identified as Tax Map Number 253.25-1-17.3, is GRANTED.

A roll call vote was taken on Resolution No. 23 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. 23 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 23, 2010.

Motion carried unanimously.

Anthony Fortune- Public Hearing- 8:20

Area Variance

ZB2010-78

SBL # 252.-2-22.12

Anthony Fortune spoke on his behalf. He is looking to build a house and does not have the proper amount of frontage. He is looking to not have to build far back and be up with the surrounding houses.

Chairman Ferris opened the Public Hearing portion.

Tony Belmont of County Route 75 asked about the size of the house that was going to be built.

Diana Feeser of 97 County Route 75 had questions of how long the project was going to take and questioned when the Building Permit is actually started and how long it lasts for. With no one else to speak, the Public Hearing portion was closed.

The Board held a discussion on the project and offered the following resolutions:

Resolution # 24

(SEQRA- Approved)

Motion by A. Mackay and seconded by D. D'Ambro to adopt Resolution # 24 as follows:

WHEREAS, Anthony Fortune has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on County Route 75 in the Town of Stillwater, more fully identified as Tax Map Number 252.-2-22.12; 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, Anthony Fortune, 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 Donald D'Ambro	Yes
Member William Ritter	Yes
Member Alec Mackay	Yes
Member Richard Rourke	Yes
Chairman James R. Ferris	Yes

Resolution No. 24 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 23, 2010.

Motion carried unanimously.

Resolution # 25

(Area Variance- Granted)

Motion by A. Mackay and seconded by W. Ritter to adopt Resolution # 25 as follows:

WHEREAS, Anthony Fortune has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a single family residence on property located on County Route 75 in the Town of Stillwater, more fully identified as Tax Map Number 252.-2-22.12; and

WHEREAS, the Applicant is seeking an Area Variance lot width requirement 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 August 23, 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:

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 it is a residential single family dwelling being placed in a residential neighborhood;

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 the topography of the lot makes placing the house further back not financially feasible as it would be cost prohibitive;
13. The requested Area Variance is not substantial because the lot is only seventy (70) feet short of the two hundred fifty (250) foot requirement at that location and this creates consistency because neighboring properties are even closer to the road than one hundred thirty (130) feet;
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 lot was created for a single family residence and that is what is being constructed; and
15. The alleged difficulty was not self-created because the lot was created prior to the two hundred fifty (250) foot lot width requirement being in place; and be it further

RESOLVED, that the application of Anthony Fortune for an Area Variance to allow for construction of a single family residence on property located on County Route 75 in the Town of Stillwater, more fully identified as Tax Map Number 252.-2-22.12, is GRANTED conditioned upon the residence being at least one hundred thirty (130) feet from the road and all set back requirements being met, otherwise the applicant must obtain an additional variance.

A roll call vote was taken on Resolution No. 25 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. 25 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 23, 2010.

Motion carried unanimously.

New Business

Review of 9P Zoning Determination- Paul Cummings, Chazen Engineers, gave a presentation to explain some of the proposed changes of Rt. 67. The Board reviewed the Zoning Map and what they are labeled. They held a discussion on what some of the Zoning issues that some of the parcels might have.

Motion by A. Mackay and seconded by W. Ritter to adjourn the meeting at 9:35pm.

Motion carried unanimously.

Respectfully submitted by

Jessica Valcik
Secretary for ZBA