

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
May 29, 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)

Absent: N/A

Also Present: Daryl Cutler(DC), Attorney for the Town; Paul Cummings (PC) from The Chazen Companies; ; Ray Abbey (RA) Code Enforcement Officer; Richard Butler (RB), Director Building, Planning & Zoning

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

Adoption of Minutes:

First order of business was the reviewing of the minutes of April 23rd. (WR) made a motion to approve that was seconded by (CK). Unanimously approved with two amendments, one on page 6 on line 1 at top of page add "not" after the word "will", and one on page 7 on line 3 top of page change "East" to read "West".

PUBLIC HEARINGS

(JF) Chairperson stated that the Board has 2 Public Hearings scheduled for this evening.

#1. 7:35 PM.

Fortune, Cty Rt 75

Area Variance to allow for a single-family house

SBL#252-2-22-12

-Mr. Tony Fortune, acting for the Owner, stated that he is requesting a variance for lot width at the building line. The same request was made and a variance granted in 2010, and that variance's time limit has expired, since no work has been initiated.

-(JF) opened the public portion of the meeting. There was no one present to speak for or against the application.

-(JF) closed the public input portion of the meeting.

-A few changes were made to the SEQR form and initialed by the Applicant.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 13**

WHEREAS, Anthony Fortune has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on County Route 75, 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 motion by Member D'Ambro, seconded by Member Ritter, to adopt Resolution No. 13 of 2012.

A roll call vote was taken on Resolution No. 13 of 2012 as follows:

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

Resolution No. 13 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 29, 2012.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 14**

WHEREAS, Anthony Fortune has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order construct a residence on property located at County Route 75, Stillwater, more fully identified as Tax Map Number 252-2-22-12; and

WHEREAS, the Applicant is seeking an area variance from the road frontage requirements 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 May 29, 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 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 proposed act is similar to the placement of properties on other neighboring lots;
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 no land is available from neighboring properties and although the property is large enough to place the house further back without a variance, it would be cost prohibitive to do so;
3. The requested Area Variance is not substantial because the neighborhood is made up of lots with insufficient road frontage;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because similar sized lots with limited road frontage are in the surrounding area; and
5. The alleged difficulty was self-created because the property is large enough so that a variance would not be needed if the house is set further back, but it is cost prohibitive to do so; and be it further

RESOLVED, that the application of Anthony Fortune for an area variance to allow for the construction of a residence on property located at County Route 75, Stillwater, more fully identified as Tax Map Number 252-2-22-12, is GRANTED, with the condition that there is a 130 foot set back from the road frontage.

A motion by Member Ritter, seconded by Member D'Ambro to adopt Resolution No. 14 of 2012.

A roll call vote was taken on Resolution No. 14 of 2012 as follows:

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

Resolution No. 14 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 29, 2012.

#2. 7:55 PM.

Price Chopper, Rts 4&32

Area Variances for signage and landscaping

SBL# 262.-4.112-1

-Michael Kupchick of Marchand Jones Architects and Phil Kozial from The Laberg Group spoke on behalf of the Owner regarding the Project. The majority of the building lies within the Town of Stillwater and the majority of the site is within the City of Mechanicville. The City of Mechanicville has opted out of the review process for this project. The applicant stated that the Project involves minor interior and exterior additions and renovations to the building, all of which are within the overall roof perimeter of the existing building. There is no intended site-work. The presentation was assisted by a slide presentation, which included site plans and examples of similar Price Chopper buildings.

-The variances requested include signage and landscaping. The signage as proposed includes a new centrally placed Price Chopper sign and several smaller placard unlighted signs. The landscaping variance request is included due to the fact that site plan review triggers conformance to the present Zoning Ordinance.

-There was considerable discussion regarding the appropriateness of the landscaping variance request. (DC) mentioned that the landscaping need not be considered for a variance, since there is no intended new site-work.

-The Chazen Companies' review letter dated May 7th was discussed.

-(JF) opened the public portion of the meeting. There was no one present to speak.

-(JF) closed the public input portion of the meeting.

-Board discussion ensued:

-(WR) questioned the proposed sign dimensions relating to the existing signs. Approximate sign dimensions were presented by the Applicant.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 15**

WHEREAS, Price Chopper has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on Route 4 and 32, more fully identified as Tax Map Number 262.-4.112-1; 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, Price Chopper, 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. 15 of 2012.

A roll call vote was taken on Resolution No. 15 of 2012 as follows:

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

Resolution No. 15 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 29, 2012.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 16**

WHEREAS, Price Chopper has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to remodel a building and signs on property located at Route 4 and 32, Stillwater, more fully identified as Tax Map Number 262.-4.112-1; and

WHEREAS, the Applicant is seeking an area variance from the signage and landscape requirements requirement contained Stillwater Zoning Code §8.5 and §11(H)(J); 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 May 29, 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 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 based upon the review of the application, a variance is required for signage, but no variance is required for landscaping due to the fact that there is no change in the building footprint, the landscaping, or the parking lot; and it is further

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 will make it look like other Price Choppers, will follow a similar colors of other buildings, the new signs have a natural look, and there will be no additional sign illumination;
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 applicant wants to let the customers know what they are offering, and signage is the best way to do that;
3. The requested Area Variance is not substantial because the square footage of the original signage is being reduced significantly enough to cover all or a large portion of the square footage of the new signs;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because the footprint, parking lot, and landscaping are not being changed; and
5. The alleged difficulty was not self-created because the store was granted approval for the existing signage over 20 years ago and the new total square footage is about the same as the existing signage; and be it further

RESOLVED, that the application of Price Chopper for an area variance to allow for the remodeling of a building and signage on property located at Route 4 and 32, Stillwater, more fully identified as Tax Map Number 262.-4.211-1, is GRANTED.

A motion by Member Kipling, seconded by Member D'Ambro, to adopt Resolution No. 16 of 2012.

A roll call vote was taken on Resolution No. 16 of 2012 as follows:

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

Resolution No. 16 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 29, 2012.

Misc.:

- There was considerable discussion regarding the incompleteness of denial letters and the necessity in the future for denial letters to include specifically, the specific variances being requested.
- There also was discussion concerning the need for the Department to better inform the Zoning Board of Appeals of Planning Board referrals to the ZBA.

OLD BUSINESS

None

NEW BUSINESS

- (JF) asked about the Town's responsibility, if any, as it pertains to properties in the Town being advertised for sale with potentially mis-leading information about the property. A lengthy discussion took place with no conclusions offered.
- Peter Hughes will be making his presentation regarding his role as Fire Marshal and 911 coordinator to the Town Board at a date yet to be decided..
- (RB) mentioned that a New Town Local Law [Local Law #4 of 2012 called Route 67 West Business District] has been passed recently by the Town Board rezoning areas along both sides of Rt 67 West of George Thompson Road to the Town of Malta line.
- A new method to allow for a more efficient production of the meeting minutes is being investigated by (RB).
- Again, the Town's responsibility to provide the means to prosecute violations of the Town's Zoning Ordinance was discussed at length and supported by the Board.

Building & Planning

- No update.

Adjournment

Motion to adjourn made by (RR), 2nd by (CK) at approximately 9:45PM.