

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
August 22, 2011 @ 7:30PM
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; and Ray Abbey (RA), Building/Codes Inspector.

-There were several attendees relating to the only applicant present.

-(JF) Chair-person, called the meeting to order at 7:30 PM.

Adoption of Minutes: No action was taken to adopt the July 25, 2011 minutes. Additions / revisions have been made since the minutes were initially distributed. Numerous revisions to the minutes, exclusive of the Nancy Miller Applications revisions, were reviewed and incorporated, but no approval of the minutes was made.

Future Approval / denials will now be documented in the minutes with "Yes" as opposed to "Ayes".

Agenda Items:

a. Public Hearing (7:35pm): Fred Lewis 233.-1-44.3

Area Variance, Extension of a Non-Conforming Use

Bernie Lewis spoke on the applicant's behalf. A mobile home is presently on the property. The Applicant wants to replace the mobile home with a modular home. Applicant's grandson is handicapped and the new home will allow for the grandson's accessibility. Lisa Lewis, sister-in-law and next door neighbor, spoke in favor of replacing the mobile home especially due to the favorable accessibility issues that it would allow.

No one else in the audience spoke.

Public hearing was closed at approximately 7:50PM.

(DD) asked for verification of the road name. The Applicant answered that Price Road is now Lewis Road. The Parcel that is the subject of this request has already been sub-divided. The new modular home will not be in the same location as the existing mobile home. The new modular home will be 26' x 54' long, the current mobile home is 14' x 80'. The existing mobile home will be removed from the property. The new location allows use of mobile home during construction. (DC) and (PC) both stated past practice indicates that this request should be treated as an "Area Variance" as part of an Extension of a Non-Conforming Use. (JF) stated that the new home would be an improvement to the area.

Public Discussion:

The existing structure was in place prior to the present zoning designation of B-2 General Business. Residential use is not now allowed in a Business Zone. Lisa Lewis asked why the area is zoned Business when there are mostly homes in the area. (JF) mentioned that the zoning

designation was the decision of the Town Board, but he added that there were former businesses in the area that do not now exist. The Town formerly saw the area as growing in a business direction. The Town Board would be the Board responsible for any rezoning of the area.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2011 RESOLUTION NO. 16**

WHEREAS, Fred Lewis has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 20 Lewis Road in the Town of Stillwater, more fully identified as Tax Map Number 233.-1-44.3; 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, Fred Lewis, 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. 16 of 2011.

A roll call vote was taken on Resolution No. 16 of 2011 as follows:

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

Resolution No. 16 of 2011 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 22, 2011.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2011 RESOLUTION NO. 17**

WHEREAS, Fred Lewis has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to expand a non-conforming use on property located at 20 Lewis Road in the Town of Stillwater, more fully identified as Tax Map Number 233.-1-44.3.

WHEREAS, the Applicant is seeking an Area Variance from Non-Conforming Use requirements contained in Stillwater Zoning Code §3; 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 22, 2011; 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; and

WHEREAS, approval of expansion of the existing non-conforming use is conditioned upon the removal of the existing mobile home within ninety (90) days of receive a Certificate of Occupancy for the new home;

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 removing outdated trailer and replacing with a new home that is handicap accessible;
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 it is a business district, the property is residential. There is no other way to address the application;
3. The requested Area Variance is not substantial because the lot is currently being used as a residence and will continue to be used as such, and the actual square footage is not increasing substantially by the new home;
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 lot is surrounded by residences and this will allow it to continue to be used as a residence; and
5. The alleged difficulty was not self-created due to a change in zoning, 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 this is a pre-existing non-conforming lot; and be it further

RESOLVED, that the application of Fred Lewis for an Area Variance in order to expand a non-conforming use on property located at 20 Lewis Road in the Town of Stillwater, more fully identified as Tax Map Number 233.-1-44.3, is GRANTED.

A motion by Member Ritter, seconded by Member D'Ambro, to adopt Resolution No. 17 of 2011.

A roll call vote was taken on Resolution No. 17 of 2011 as follows:

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

Resolution No. 17 of 2011 was granted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 22, 2011.

Old Business

-(DD) posed a question concerning the barn construction underway across from the Hillside Mobile Home Park, aka Saratoga Hills, (North side of County Rt 76). He asked if it needed a building permit. (RA) stated that agricultural buildings, not inhabited and visited by the public, do not need a building permit. A lengthy discussion took place regarding the agricultural building exemption in the NYS Building Code.

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New Business

(RB) Requested that the Board meet in special session to review an application for an Area Variance for Antoinette Wickes at the intersection of McDermott Road and Cty Route 75. The parcel is bounded by two streets and requires an area variance for a front yard setback. The timing of regular ZBA meetings does not allow for a prompt resolution of this matter. A special meeting date of September 12, 2011 was agreed upon. Legal advertisements will proceed in anticipation of this meeting date, allowing the applicant to appear before the Planning Board the following week (September 19th). This meeting is in addition to the regular ZBA meeting date of September 26th, unless there are no applicants in place. (DD) asked if the subject parcel borders a "User Road". If it is a "User Road" the parcel boundary is reputed to extend to the center of the McDermott Road. (DC) will investigate if McDermott Road is a User Road.

(JF) mentioned the potential establishment of a sub-committee, including the Planning Board and Zoning Board to review proposed revisions to the Town's Zoning Ordinance.

Motion to Adjourn to Executive Session to discuss litigation was made by (DD) and seconded by (WR). Motion passed unanimously.

Motion to Adjourn??

Respectfully submitted by
Richard R. Butler
Secretary for ZBA