

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
May 23, 2011 @ 7:30PM  
STILLWATER TOWN HALL**

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

**Also Present:** Daryl Cutler (DC), Attorney for the Town; Paul Cummings (PC) from Chazen Engineering; Ray Abbey (RA), Building/Codes Inspector and Ed Kinowski, Temporary Secretary for the Zoning Board.

**Absent:** William Ritter (WR)

(JF) called the meeting to order.

**Adoption of Minutes:** Motion by (DD) and seconded by (RR) to adopt the April 25, 2011 minutes were approved unanimously with the following changes:

- a. At the request of (JF), beginning with the May 23' 2011 minutes, the Chairperson will be reference by proper name initials rather than (CH). Previous minutes for 2011 will remain unchanged.
- b. At the request of (JF), the minutes beginning with the start of 2011 will be changed to reflect a page numbering sequence. The page number will be noted as a footer note at the bottom of each page.
- c. As discussed by (DC) and concurrence with the board members present, the April 23<sup>rd</sup> minutes will be amended as follows:

1. Delete the second sentence under the heading, "Report from Building Planning and Development". (JF) indicated, the matter of future reports being distributed via e-mail, was not discussed by the board members.

2. Add the initials of (WR) after the word, "seconded", under the heading, "Adjournment".

**Agenda Items:**

a. (JF) noted the Public hearing time may have been advertised incorrectly; usual time is 7:35 with approximately 20 minute intervals there after. However, the board will wait until 7:55 to begin the first Public Hearing. To fill in the gap (JF) started dialog about the first Public Hearing. (JF) indicated the application concerning this Public Hearing had previously been denied; and historically the board usually does not entertain a second review. (DC) indicated the board could hear from the applicant; and if not willing the Public Hearing would not occur. (JF) continued with a concern of a history of not rehearing the same case and would it matter if board members were changed. (DC) indicated the change of board members were not of concern; however, what matters are the differences in applicant's application. If the application had change substantially then that could be a matter of concern. (DD) indicated our criteria require a substantial change for re-consideration – did he. (DC) stated the decision, to determine a substantial change, was a board decision – not Building Dept. (JF) indicated, the applicant's address to the board to explain application difference, would not be a determining factor. The Board should be in possession of the denied application and re-submittal to make the proper review and determination. (JF) indicated he would support tabling any action on the hearing until they had the time to review the

documents. (JF) asked if the action is tabled, would the public hearing be held pending a determination, or defer the Public Hearing until next month.

(DC) recommended tabling both and without a need to re-publicize. However, (DC) is not aware of how the Town previously addressed this issue as there are other possibilities; such as the Building Department rendering the decision. (JF) added that historical perspective was a concern; as board members change, there could be no knowledge of a previous denial. Further, the current files may not support proper reference to even note a change. (JF) then suggested a motion should be made to table the hearing and any action until the next meeting. (DC) indicated the Building Dept. needed to supply all required documentation to the board members, so the matter could be discussed at the next meeting. (RA) indicated the documents can be provided. (EK) discussed the concern to develop a policy for this issue to prevent further occurrence. He asked if this was the first instance; and (JF) indicated there was not a case like this in 39 years. (EK) asked if the term substantial was defined. (JF) stated it was not defined in our zoning code. (EK) then asked, how would an applicant know or building dept. to readdress a new application?

(DC) indicated the matter could be re-entertained by our building dept, with review of historical data, and then makes a determination for substantial change. If the applicant did not like the answer, he or she could appeal to the ZBA. (DC) added suggested methods for the applicant, building department and ZB to proceed. (PC) discussed the substantial issue and suggested the building dept. could document the application differences and make recommendations to the Board; as a matter of record keeping. (EK) indicated this issue is too subjective and lacks the necessary criteria for resolve. However, when resolved, the procedure to address this issue should be made part of our application. (JF) addressed the board to consider these discussions and make a motion to table; (DD) made a motion to table the Hearing and any action until the next meeting and time to review material. (RR) seconded the motion and added the need to define the term substantial. (JF) indicated that would occur. Motion passed unanimously. (DD) then asked about the mechanics to review the prior record. (JF) recommended 15 minutes prior to the start of the next Public Hearing -- (DD) concurred. (EK) stated the next agenda would reflect 15 minutes of review time prior to the hearing at 7:50.

b. **Public Hearing (7:55 pm):** Timothy Stockman, ZB 2011-05, SBL #262.6-2-2. Area Variance to expand on a pre-existing non-conforming lot at 12 Champlain Ave.

Hearing tabled to next meeting at 7:50. See above discussion.

c. (JF) indicated the next Public hearing to start at 8:15. Pending the hearing time, (JF) moved on to discuss old business.

d. **Public Hearing (8:15 pm):** Van Campbell, ZB2011-04, SBL 221-1-15. Area Variance to expand on a pre-existing non-conforming lot at 54 Wright's Loop.

Prior to starting the hearing, (JF) indicated he did not get a copy of the denial letter. (PC) indicated he did not know why this was not part of the package. Upon being handed the letter, he indicated it did not identify how the lot is not conforming and thus the application denied. The letter was signed by Mr. Butler.

(JF) asked the representative of the applicant to describe the request. Jim Vianna, on behalf of Mr. Van Campbell addressed the board and discussed the issue with Mr. Butler. He felt the application was denied because of two items – Mr. Campbell has a pre-existing non-conforming lot that does not comply with LDR zoning area and frontage at building area. Jim explained the issues, describing the location and items on the map shown. Identified what was going to be removed (barn, camp and shed). Jim stated the owners want to build a new home. The LDR district provides for 40% lot coverage. Jim went on to explain the size of new home and lot coverage to be within the allowable coverage. The presented maps

and descriptions display all items discussed. Jim stated the owner feels his request fits into the area as other homes and camps.

**(JF) Opened the hearing:** Mr. Grady, 24 Farnum Place, Albany, NY, Son of the father who owns a lot just south of the property being discussed. First he stated he did not have an opportunity to review the plans being discussed. He felt the owner was trying to combine the square footage of the current structures into the single structure. He felt this new house would not be similar to the land use and other structures in the area. He has no problem if they fix up the current structure or replace it with a similar structure; but are uneasy with a two story structure with the vicinity of his fathers land.

Public Hearing closed at 8:26.

**Discussion:** (JF) asked if Jim Vianna wanted to re-address the board. Jim Vianna, stated he thought he could address Mr. Grady's concern for a two store structure. Jim stated the owners plans were for a single story structure. However, he could build anything within allowable zoning requirements.

(CK) asked for clarification of homes / camps in area to better address Mr. Grady's concerns. (JF) indicated all properties to the North of the site and Westerner side of the road are either homes or camps and most camps have been turned into year round properties. There is a bed and breakfast at the North end of Wrights loop and a barn turned into apartments toward the center of Wrights loop. (CK) was hoping this information could help determine negative impact in this area. She was also wondering how a two story structure would be a negative impact. Mr. Grady stated his view was of concern. (DD) asked Mr. Grady if a view was a concern. Mr. Grady indicated the concern was more than a general concern. (DD) stated the board did not address views as a matter of concern as that is a subjective matter.

**(JF) asked for a motion to address SEQRA:**

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2011 RESOLUTION NO. 10**

WHEREAS, Van Campbell has submitted an application to the Zoning Board of Appeals for an Area Variance for removal of an existing house and barn to construct a new single family residence and garage on a preexisting nonconforming lot on property located at 54 Wright's Loop Road in the Town of Stillwater, more fully identified as Tax Map Number 221-1-15; 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, Van Campbell, 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 Rourke, to adopt Resolution No. 10 of 2011.

A roll call vote was taken on Resolution No. 10 of 2011 as follows:

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

Resolution No. 10 of 2011 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 23, 2011.

(JF) addressed the request for variance:

(DD) asked, prior to motion, if Mr. Vianna would like to correct item #4, part 3d. concerning the 40% lot coverage issue. (JF) thought the issue was rooted in the driveway 1000 sq ft. He did not see a need to change it. (DD) thought it would be more correct. (DC) does not see it as a matter as it is less than 10%, but suggested it be reflected as a change. (JF) clarified (DC's) request to make the appropriate change. (PC) made changes on applicant's documents and had it initialed. (DD) asked if flood plan issues were addressed. (PC) indicated yes, addressed by planning board.

Motion made by (DD) and seconded by (CK), discussion: (DC) brought up a need for an amendment to the motion, stating the minimum 2 acre lot for LDR if municipal sewer and water not available. (DD) concurred and (CK) seconded.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2011 RESOLUTION NO. 11**

WHEREAS, Van Campbell has submitted an application to the Zoning Board of Appeals seeking an Area Variance for removal of an existing house and barn to construct a new single family residence and garage on a preexisting nonconforming lot on property located at 54 Wright's Loop Road in the Town of Stillwater, more fully identified as Tax Map Number 221-1-15; and

WHEREAS, the Applicant is seeking an Area Variance from the lot size and width requirements contained in 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 23, 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;

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 Applicant is only building a single family residence replacing an existing structure in an area that has residential buildings, and removal of the barn eliminates set back violations;
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 additional land is available;
3. The requested Area Variance is not substantial because total coverage is less than 10% of the lot. The other lots around have residences, and it eliminates set back violations and a large old barn;
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 Applicant is simply looking to build a single family residence in place of the existing camp, and other lots have homes already; 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 the property is a preexisting lot that existed before zoning; and be it further

RESOLVED, that the application of Van Campbell for an Area Variance for removal of an existing house and barn to construct a new single family residence and garage on a preexisting nonconforming lot on property located at 54 Wright's Loop Road in the Town of Stillwater, more fully identified as Tax Map Number 221-1-15, is GRANTED.

A motion by Member D'Ambro, seconded by Member Rourke, to adopt Resolution No. 11 of 2011.

A roll call vote was taken on Resolution No. 11 of 2011 as follows:

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

Resolution No. 11 of 2011 was granted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 23, 2011.

(JF) felt combination of buildings being removed and new construction will be an asset to this area.

**Old Business – None**

**New Business –**

(DC) suggested advising the applicant to return to the next meeting at 7:50.

(RA) No report from building and planning. (JF) asked if anyone new about something being addressed on the internet since last meeting – no one aware.

(DD) asked (RA) about work around the mobile home on George Thompson. Ray stated he is aware of work in progress and items in the trailer needed to be removed. (DD) stated progress was noted and is expected further.

(JF) asked the minutes to reflect (WR) called and stated he was absent due to work.

(JF) asked the board to address any concerns. (DD) asked about the Fitch / Farley road concept from Chazen and if it was from Saratoga County Water District. (EK) explained it was a request to Chazen to design a proposal for a water source from any direction. (DD) asked how the water could be supplied from Saratoga County without a redundant water supply. (EK) stated the water authority states they can. He went on to explain that a redundant water supply is still in the works.

(EK) addressed to the board that he sent a letter to Saratoga County to include all of Stillwater in Saratoga County Sewer District #1. This will save the Village approximately \$34,000 per year and area residents a reduction of septic waste removal costs. (DD) expressed the concern for paying taxes for a service they may never receive; or even pay more taxes. (EK) indicated a potential does exist to pay more taxes if the authority charges more for future district costs. (EK) went on to explain Stillwater's future potential with this expansion. (EK) stated this was only a request and Saratoga County would have to follow the appropriate process to complete the action. (DD) expressed further concerns about expenses and referenced the water districts and benefit unit charges.

(CK) asked for more clarification on the first hearing issue. She asked if the second story needed two exits and (JF) indicated no. (JF) asked if the packaged could be sent out about 8 or 10 days prior to next board for proper review. (DC) indicated his position that great focus, on the basis for application denial, should be considered for determining substantial differences with new application. (JF) concurred; he also has a vague memory of possible suggestions made to resolve this type issue. (PC) stated same and addressed some of the old application criteria.

(JF) asked the audience for any other present wishing address the board:

Mrs. Margaret Rider, 89 East Street, Stillwater, asked where is the lot of 12 Champlain Ave. (RA) showed her a picture to clarify location. She asked if this request was going to impact her property and (RA) said no.

Mr. Andrew Luskin, County Route 76, and desiring to build a single family structure and wanted to define if his access to his property off County route 76 was a zoning issue. (JF) asked (RA) what the issue is. RA stated the frontage for the structure is ok; the access is long and crosses another property that he owns. (RA) addressed Chazen to address access concerns. (PC) stated there were a couple of issues. Mr. Luskin interrupted and explained the issues as he sees it.

(PC) indicated the access was constructed for logging and does not meet road frontage requirements. He further indicated the applicant should seek a lot line adjustment based on past practices. Mr. Luskin disagrees. Mr. Luskin wants to combine all lots. However, there is an old home on one of the lots and you can not have two dwellings on one lot. (PC) discussed the issues further. (DD) asked what was the issue with frontage. (PC) indicated the frontages are two parcels and one has a large wet land area – preventing an access. (JF) stated Mr. Luskin needs action and he needs to submit an application for approval or denial. This type action will allow him to proceed. (PC) suggested he apply for an area variance. (JF) stated he should do same to seek an appropriate board action.

**Adjournment:** Motion by (RR) and seconded (CK) to adjourn the meeting at 9:09 PM.  
Motion carried unanimously.

Respectfully submitted by  
Ed Kinowski  
Temporary Secretary for ZBA