

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
January 24, 2011 @ 7:30PM
STILLWATER TOWN HALL**

Present: Chairperson James R. Ferris (CH), Donald D'Ambro (DD), William Ritter (WR), Richard Rourke (RR) and Christine Kipling (CK)

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

Absent: None

(CH) called the meeting to order.

Adoption of Minutes: Motion by (DD) and seconded by (WR) to adopt the November 22, 2010 minutes with changes: Under New Business, delete the words, "to bring", on line one. Motion carried unanimously.

Agenda Items:

a. **Organizational Meeting:** Welcome new member on the Zoning Board of Appeals, Christine Kipling. Christine Kipling replaces Alex Mackay. The Chairperson, on behalf of the Board, acknowledged Alex Mackay's many years of outstanding service to the Board and Town of Stillwater.

b. (CH) requested a motion to appoint a Vice Chair. Motion made by (RR) to appoint Mr. Donald D'Ambro as Vice Chair, seconded by (WR).

c. (CH) opened public hearing for Tab DeNovelliss, (253.24-1-28) – Area Variance to expand on an existing structure, at 7:35 PM. Public Hearing closed at 7:36 – no comment from audience.

Discussion, motions and resolutions follow: Tab DeNovelliss area variance request.

1. (WR) noted the front set back needs variance as well as side. (RA) stated the map may be in error as to Zoning. (RA) was unsure, but felt the Lot falls into a subdivision. (CR) stated 30 ft set backs are common for pre-zoning set backs. (RA) recommends review of subdivision for clarification. He thinks the subdivision to be about 20+ years old. (CH) expressed concern for a legal interpretation if the lot was in a PDD. (DC) addressed board that the PDD takes precedence over current zoning. (DD) thought this area was called the Gurba Subdivision. (CR) stated PDD is different from subdivision in that a subdivision follows standard zoning and changes. (DC) recommends: Application be amended to include front set back. (CH) stated the addition continues with the current non-conformity. (CH) directed the front set back be added to para. 3b in the variance request. Application corrected on the Spot.

Motion by (DD), seconded by (WR) to accept type II SEQURA action – approved, see Resolution #1.

2. (DD) asked all to review item 7 of application. This item should show total acreage of land. (RA) corrected on the spot.

Motion by (WR), seconded by (DD) to deny variance: Discussion followed: (RR) addressed concern for fire equipment access to rear of property. (SD) indicated there is no requirement for fire equipment access in residential zones. (CH) asked if the house currently has a two car garage – Yes, with size 14' x 26'. (CH) requested vote. Variance denied. See Resolution #2.

3. (CK) recommended options such as reducing the size of the new structure. (WR) asked if trees were on his or neighbors property. Applicant indicated half and half. (DC) directed to (CK) the 5 questions that must be addressed concerning variances.

Motion by (CK), seconded by (RR), to approve variance. Variance approved. See Resolution #3.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2011 RESOLUTION NO. 1**

WHEREAS, Tab C. DeNovellis has submitted an application to the Zoning Board of Appeals for an Area Variance to construct an attached garage on property located at 39 Castle Drive in the Town of Stillwater, more fully identified as Tax Map Number 253.24-1-28; 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, Tab C. Novellis, 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. 1 of 2011.

A roll call vote was taken on Resolution No. 1 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. 1 of 2011 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on January 24, 2011.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2011 RESOLUTION NO. 2**

THIS RESOLUTION DID NOT PASS

WHEREAS, Tab C. DeNovellis has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct an attached garage on property located at 39 Castle Drive in the Town of Stillwater, more fully identified as Tax Map Number 253.24-1-28; and

WHEREAS, the Applicant is seeking an Area Variance from the set back 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 January 24, 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 be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance because the side yard setback is supposed to be 15 foot, the Applicant is requesting a setback of 4.8 feet, and the front yard setback is 35 foot and this construction would only leave a 30 foot set back;
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 not achievable through other means. No one has land to sell;
3. The requested Area Variance is substantial as this is a small lot, the side yard set back is reduced to a walking area;

4. The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because it would be difficult for emergency vehicles to get to the back yard; and
5. The alleged difficulty was self-created because it is his choice to add the attached garage; and be it further

RESOLVED, that the application of Tab C. Novellis for an Area Variance to allow for construction of an attached garage on property located at 39 Castle Drive in the Town of Stillwater, more fully identified as Tax Map Number 253.24-1-28, is DENIED.

A motion by Member Ritter, seconded by Member D'Ambro, to adopt Resolution No. 2 of 2011.

A roll call vote was taken on Resolution No. 2 of 2011 as follows:

Member Donald D'Ambro	Yes
Member Christine Kipling	No
Member William Ritter	Yes
Member Richard Rourke	No
Chairperson James R. Ferris	No

Resolution No. 2 of 2011 *did not pass* at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on January 24, 2011.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2011 RESOLUTION NO. 3**

WHEREAS, Tab C. DeNovellis has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct an attached garage on property located at 39 Castle Drive in the Town of Stillwater, more fully identified as Tax Map Number 253.24-1-28; and

WHEREAS, the Applicant is seeking an Area Variance from the set back 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 January 24, 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:

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 the addition will match the house. Also, this addition is only a reduction in the side yard setback by ten (10') feet and the front yard set back will match the houseline of this house and is consistent with other houses;
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 no other property is available and it will allow cars to be tucked away in the garage;
8. The requested Area Variance is substantial because it effects both side and front yard setback requirements, however, that is outweighed by the benefits of having the garage to enclose toys and cars and the front setback is consistent with the other houses;
9. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because there are no drainage issues, as the area is already black-topped; and
10. The alleged difficulty was not self-created because the house was legally conforming until a change in the zoning; and be it further

RESOLVED, that the application of Tab C. Novellis for an Area Variance to allow for construction of an attached garage on property located at 39 Castle Drive in the Town of Stillwater, more fully identified as Tax Map Number 253.24-1-28, is GRANTED.

A motion by Member Kipling, seconded by Member Rourke, to adopt Resolution No. 3 of 2011.

A roll call vote was taken on Resolution No. 3 of 2011 as follows:

Member Donald D'Ambro	No
Member Christine Kipling	Yes

Member William Ritter	No
Member Richard Rourke	Yes
Chairperson James R. Ferris	Yes

Resolution No. 3 of 2011 was approved at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on January 24, 2011.

Old Business

Review of Bill Board subject from 22 Nov meeting and request to place on February Agenda.

New Business

Amend application form to reflect applicant information on front page. Also provide instructions requesting Digital data for presentation to board. For example and if applicable: Digital pictures or drawings of homeowner request and adjacent homes, structures or land. This digital documentation can be displayed on the over head projector for board member and audience review.

Adjournment: Motion by (WR) and seconded (RR) to adjourn the meeting at 9:33pm.
Motion carried unanimously.

Respectfully submitted by
Ed Kinowski
Temporary Secretary for ZBA