

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
March 12, 2018 @ 7:00 PM
STILLWATER TOWN HALL**

Present: Chairman Donald D’Ambro
Joseph Urbanski, Member
Richard Rourke, Member
Christine Kipling, Member
Timothy Scrom, Member
Charles Dyer, Alternate Member

Also Present: James Trainor, Attorney for the Town
Paul Cummings, Engineer for the Town
Lindsay Zepko, Director of Building and Planning

Absent: Ellen Vamocka, Town Councilwoman
Paul Male, Town Engineer
Sheila Silic, Secretary

Chairman D’Ambro called the meeting to order at 7:00 P.M.

Review and Approval of Minutes of Zoning Board of Appeals:

Mr. Scrom made a motion to approve the minutes from the December 4, 2017 meeting, seconded by Mr. Rourke.

ZBA2018-01, 23 Farley Road Use Variance, 23 Farley Road

Chairman D’Ambro recognized Mr. Bruce Tanski of Bruce Tanski Construction and Development, who gave a brief presentation before the Board. Mr. Tanski stated that he is proposing a single family dwelling on the parcel. Mr. Tanski stated that the parcel is 1.97-acres which had a mobile home on the property prior and now is currently vacant. Mr. Tanski stated that the parcel has single family dwellings to the south and farm activities that surround the property. Mr. Tanski stated that Mr. Fiorino does not believe that he would receive a fair return on the property if it is marketed as commercial and would be better developed as a single family residence. Mr. Tanski stated that the parcel is in the Route 67W Business Zoning District and does not allow for residential single family dwellings. Mr. Tanski stated that is why he seeking a Use Variance and relief from the Town of Stillwater Zoning Code.

Chairman D’Ambro asked if the waterline and sewer line extends down Farley Road. Mr. Tanski stated that is correct. Chairman D’Ambro stated that there is a substantial amount of vacant land in this area which could be developed in the future. Chairman D’Ambro stated that this lot is in the center of the commercial business district and the lot that Mr. Tanski owns on the corner of Route 67 and Farley that he referenced above, is very different due to the topography.

Mr. Urbanski asked Mr. Tanski if he has proof that the property is unable to be sold or used as a commercial parcel. Mr. Tanski stated that he owns a parcel on NYS Route 67 which has been on the market for 6 months and has not received one response interested in the parcel. Mr. Urbanski asked Mr. Tanski if he has investigated any other commercial permitted uses under the current Zoning Code for this

parcel. Mr. Tanski stated that there is not enough traffic to sustain any type of commercial use for this parcel.

Mr. Trainor stated the Board needs proof that the owner/applicant cannot get a reasonable return on this property for any of the uses permitted under current Zoning Code. Mr. Trainor stated that is a requirement of the New York State Law.

Ms. Kipling asked what documentation would be needed to verify the property cannot sustain commercial use. Mr. Trainor stated that the a professional appraiser would need to provide verification by showing documentation that the property cannot be marketed as a permitted use under the current Zoning Code with no possibility of a reasonable return on the property. Mr. Trainor stated that there was an extensive study done by the Town of Stillwater and was rezoned for commercial use.

Mr. Rourke asked what year the zoning was changed to the Route 67W Business District. Mr. Cummings stated that the new zoning changes were adopted in 2012. Mr. Cummings stated that in 2009 there was a feasibility study done and that there are multiple Economic Development Agencies that marketing the area.

Chairman D'Ambro proceeded to open the public hearing and asked if anyone wished to provide public comment.

Larry Sweeney NYS Route 67

Mr. Sweeney stated that he owns Sweeney Farm with property on both sides of NYS Route 67. Mr. Sweeney stated that is favor of the Use Variance as he will be coming before the Board in the future to develop the property that he owns into residential use. Mr. Tanski stated that he believes the Town of Stillwater has done a disservice to the residence in this area with the rezoning. Chairman D'Ambro stated as a point of reference the Zoning Board of Appeals did not pass the changes that were made to the Zoning Code.

Chairman D'Ambro asked if anyone else wished to make public comment and hearing none he closed the public hearing.

Chairman D'Ambro asked if anyone on the Board had any additional concerns or questions and move to discuss SEQRA.

Mr. Scrom stated that if any one or more of the above factors are not proven the Zoning Board of Appeals must deny the variance.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2018 RESOLUTION NO. 1**

WHEREAS, Jeff Williams has submitted an application to the Zoning Board of Appeals for a Area Variance regarding property located on 23 Farley Road, more fully identified as Tax Map Number 251.-1-14.4; 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;

WHEREAS, the Planning Board reviewed the EAF and determined that the proposed action will have no, or only a small, environmental impact;

Now, therefore, be it

RESOLVED, that the Zoning Board of Appeals hereby determines that the proposed action by the applicant, Jeff Williams, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member Scrom, seconded by Member Urbanski, to adopt Resolution No. 1 of 2018.

A roll call vote was taken on Resolution No. 1 of 2018 as follows:

Chair Donald D'Ambro	Yes
Member Christine Kipling	Yes
Member Richard Rourke	Yes
Member Timothy Scrom	Yes
Member Joe Urbanski	Yes

Resolution No. 1 of 2018 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on March 12, 2018.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2018 RESOLUTION NO. 2**

WHEREAS, Jeff Williams has submitted an application to the Zoning Board of Appeals seeking a *Use Variance* in order to build a residence on a lot within the Business Park District on property located at 23 Farley Road, Stillwater, New York, more fully identified as Tax Map Number 251.-1-14.4; and

WHEREAS, the Applicant is seeking a Use Variance from the allowable uses within the Route 67 West Business District requirement contained Stillwater Zoning Code § 210-8; 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 3/12/18; and

WHEREAS, the Zoning Board of Appeals has duly considered the application and the elements necessary to consider the granting of a Use Variance by taking into consideration the benefit to the applicants 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:

Based upon a review of the documents and information provided by the applicant, the application for a use variance must **be denied**.

In order to be granted a use variance, the applicant must establish all four (4) of the use variance criteria. The applicant did not do so.

1. The applicant did not provide competent financial evidence that meets the statutory and case law standards, which would show that the applicant cannot realize a reasonable return on the property under any or all of the allowable uses.
2. The applicant did not establish that the hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood. In fact, this request for a variance is based on the contention that commercial property is not marketable in the area. Since the entire district is commercial, the lack of marketability for a commercial use of this property is not unique to the district.
3. If this variance was granted, it will alter the essential character of the neighborhood. The entire neighborhood is zoned commercial. The Town's comprehensive plan has designated this neighborhood as a commercial zone or business district. Substantial efforts have been made by the Town, including investment in infrastructure to support the business district and commercial development. Placing a residence in an area that is surrounded by properties zoned as commercial would substantially alter the essential character of that neighborhood and violate the Town's comprehensive plan.
4. Regarding whether the hardship is self-created, the Applicant abandoned any non-conforming pre-existing residential use of the parcel before the Town changed the zoning to commercial, so the hardship can be said to be self-created.

RESOLVED, that the application of Jeff Williams for a Use Variance to permit residential use in the Route 67 West Business District on property located at 23 Farley Road, more fully identified as Tax Map Number 251.-1-14.4, is DENIED for failure to satisfy the necessary requirements in order to be granted a use variance.

A motion by Member Rourke, seconded by Member Scrom, to adopt Resolution No. 2 of 2018.

A roll call vote was taken on Resolution No. 2 of 2018 as follows:

Chair Donald D'Ambro	Yes
Member Christine Kipling	No
Member Richard Rourke	Yes
Member Timothy Scrom	Yes
Member Joe Urbanski	Yes

Resolution No. 2 of 2018 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on March 12, 2018.

Motion to adjourn: made by Mr. Urbanski, seconded by Mr. Scrom motion passed at approximately 7:45 PM.