

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
June 9, 2014 @ 7:30 PM
STILLWATER TOWN HALL**

Present: Chairman William Ritter
Donald D'Ambro
Richard Rourke
Christine Kipling

Also Present: Daryl Cutler, Attorney for the Town
Paul Cummings, Engineer for the Town
Paul Male, Acting Director of Building, Planning and Development
Lindsay Zepko, Town Planner
Deborah Osborn, Secretary

Absent: Eric Rutland, Code Enforcement Officer/Building Inspector

Chairman Ritter called the meeting to order at 7:30 P.M. and led everyone in the Pledge to the Flag.

Approval of Minutes

April 14, 2014:

Mr. D'Ambro made a motion to approve with one minor change; Mrs. Kipling seconded the motion and the minutes were approved, 4-0.

May 12, 2014:

Mr. D'Ambro made a motion to approve; Mr. Rourke seconded the motion and the minutes were approved 4-0.

Public Hearings/New Business:

ZBA2014-33 Broestler Area Variance - 88 Durham Road

Chairman Ritter recognized Mr. Herbert Brustler and Jason Bowman, land surveyor, who described the proposal before the Board requesting an Area Variance to allow for the creation of two lots with a width of 250 feet at the 50 foot front setback line, in an RR district which requires a minimum width of 300 feet at the 50 foot setback line. Mr. Male gave a brief summary of the history of the parcel which was previously sub-divided but recombined back to one lot. Mr. Broestler wishes to have the land divided to assure that the pond is located completely on his lot. Specifically, Mr. Male stated that Mr. Broestler wants to subdivide the 18.67 acre parcel into two lots; Lot 1 consisting of 13.04 acres and Lot 2 consisting of 5.63 acres. Mr. Broestler added that Lot 1 currently has an existing house and garage, while the proposed Lot 2 is currently vacant. Mr. Male also stated that if the Area Variance for the minimum lot width is granted, the other requirements for both lots, including minimum lot size, minimum front yard, minimum side yard, and minimum rear yard are all met.

Mr. D'Ambro requested clarification from Mr. Cutler regarding the need for Area Variances for both lots, the original and the new one, since 300 feet is required for both. Mr. Cutler concurred that an Area Variance is needed for both.

Chairman Ritter asked if there were any other questions for Mr. Broestler or his representative prior to opening the public portion of the public hearing. There were none and Chairman Ritter proceeded to open the hearing to public comment.

Mr. Jeffrey Burdyl, who owns property at 113 Durham Road, spoke and voiced his concern for the possibility of creating two sub-standard lots from one conforming lot. He also questioned the egress plan and concern for drainage issues on the second lot. Mr. Cutler stated that, if the variances are approved, the proposal will be required to go before the Planning Board for a minor sub-division, at which time, these issues would need to be addressed. Mr. Burdyl also inquired about the possibility of a deed restriction which could prevent the new lot from being further sub-divided. Mr. Cutler stated that the applicant could create two legally conforming lots, albeit, of different shapes, one being a flag lot. Mr. Bowman stated that there are restrictions in the deed and that the parcel can be sub-divided only into two lots. Ms. Zepko added that the Town does not uphold deed restrictions on subdivisions.

Chairman Ritter asked if anyone else from the public wished to provide comment. There was no further public comment and Chairman Ritter closed the public portion of the Public Hearing. Chairman Ritter asked the Board if they had any further questions for the applicant. There were none so he asked for someone to move on SEQRA.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2014 RESOLUTION NO. 9**

WHEREAS, Herbert Broestler has submitted an application to the Zoning Board of Appeals for an Area/Use Variance regarding property located at 88 Durham Road, Stillwater, more fully identified as Tax Map Number 232.00-1-86; 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 Zoning Board of Appeals reviewed each of the 11 factors contained in Part 2 of 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, Herbert Broestler, 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. 9 of 2014.

A roll call vote was taken on Resolution No. 9 of 2014 as follows:

Member Christine Kipling	Yes
Member Richard Rourke	Yes
Vice Chair Donald D'Ambro	Yes
Chairman William Ritter	Yes

Resolution No. 9 of 2014 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 9, 2014.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2014 RESOLUTION NO. 10**

WHEREAS, Herbert Broestler has submitted an application to the Zoning Board of Appeals for an Area/Use Variance regarding property located at 88 Durham Road, Stillwater, more fully identified as Tax Map Number 232.00-1-86; and

WHEREAS, the Applicant is seeking a variance from the lot width requirement contained Stillwater Zoning Code §3.5(D); 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 June 9, 2014; 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 lots are large and consistent with the width of the lots within the development. Additionally, the proposed lots limit future development without the need of a variance, and the applicant could, instead, create many flag lots that would have a greater impact;
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 widening of each lot at the building line would create very irregularly shaped lots or flag lots. There is no other land available from the neighbors;
3. The requested Area Variance is not substantial because it is only a 50' variance. The development contains other 250' wide lots and each lot is over 5 acres;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because it still leaves deep lots of large size and the proposed lots keep the pond all on one lot, which is the generally preferred standard; and
5. The alleged difficulty was not self-created because the applicant combined the two lots, but the lot width requirements changed so the lots would have been

substandard width anyway; and be it further

RESOLVED, that the application of Herbert Broestler for an area variance of lot width to allow for a subdivision on property located at 88 Durham Road, Stillwater, more fully identified as Tax Map Number 232.00-1-86, is GRANTED.

A motion by Member Kipling, seconded by Member D'Ambro, to adopt Resolution No. 10 of 2014.

A roll call vote was taken on Resolution No. 10 of 2014 as follows:

Member Christine Kipling	Yes
Member Richard Rourke	Yes
Vice Chair Donald D'Ambro	Yes
Chairman William Ritter	Yes

Resolution No. 10 of 2014 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 9, 2014.

Mr. Cutler stated for clarification purposes that the applicant will be required to go before the Planning Board for the required subdivision and that a Public Hearing will need to be held for this purpose.

Other Discussion:

Chairman Ritter asked if the other Board members had any outstanding issues. Mr. D'Ambro inquired as to whether Mr. Rutland would be attending the meetings. Ms. Zepko stated that he was available for the meetings if necessary.

Adjournment:

A motion to adjourn was made by Mr. Rourke, seconded by Mr. D'Ambro, at 8:10 P.M.

The next Zoning Board of Appeals Meeting will be July 14, 2014