

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
October 14, 2014 @ 7:30 PM  
STILLWATER TOWN HALL**

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

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

Chairman Ritter called the meeting to order at 7:30 P.M.

**Review and Approval of Minutes of Zoning Board of Appeals:**  
September 8, 2014 Minutes, approved with minor changes

**Public Hearings:**  
**ZBA2014-40, Gagne Area Variance, 1 Ilen Avenue**

Mr. Dave Weiss, Land Surveyor, and Mr. Donald Gagne, owner/applicant, were present. Mr. Weiss stated that Mr. Gagne wished to construct a single family home and a garage on a .58-acre parcel on the private road known as Ilen Avenue. The lot did not have frontage on a public right of way. All of the required easement language was reviewed and updated. There now exists a 30ft easement that grants access to both his existing landlocked parcel with a house on it as well as this .58-acre parcel proposed to be constructed on. The applicant stated that he submitted an application for a Use Variance on Friday, October 10<sup>th</sup> 2014 to be able to construct the garage prior to the construction of the single family home on the lot. Mr. Paul Male stated that because the application was submitted so late, it was not possible to schedule the public hearing for tonight's meeting. That would need to be scheduled for next month. Mr. Weiss asked if the applicant was to submit both the Building Permit applications for the home and the garage at the same time would that allow construction of the garage to begin. Mr. Male stated that the applicant would be allowed to commence construction and inspections but would not be issued a Certificate of Occupancy for the garage until the house was constructed. Mr. Weiss conferred with his client and stated that they are agreeable to that condition. The applicant asked to formally withdraw his application for the use variance.

The board began discussion regarding SEQRA. A motion was made by Mr. D'Ambro that this proposal was a Type II action pursuant to SEQRA with no significant environmental impact. The motion was seconded by Mr. Rourke.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2014 RESOLUTION NO. 17**

WHEREAS, Donald E. Gagne, Jr. has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 1 Ilen Avenue, more fully identified as Tax Map Number 253.25-1-34; 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 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, Donald E. Gagne, Jr. 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. 17 of 2014.

A roll call vote was taken on Resolution No. 17 of 2014 as follows:

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

Resolution No. 17 of 2014 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on October 14, 2014.

In regards to the application, Ms. Kipling read the five tests required to be met for the pursuance of an area variance per Chapter 210 of the Town Zoning Ordinance, Article VIII, Sub-Section 210-126(A) and made a motion to approve the area variance request allowing for zero feet of

frontage on a public right of way, as well as a substandard setback for the front and the rear yards. Mr. D'Ambro seconded.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2014 RESOLUTION NO. 18**

WHEREAS, Donald E. Gagne, Jr. has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to build a residence on property located at 1 Ilen Avenue, Stillwater, more fully identified as Tax Map Number 253.25-1-34; and

WHEREAS, the Applicant is seeking an area variance regarding the front and rear setback and frontage on a public road requirements 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 September 8, 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 neighbors have similar set-backs and placement of their houses;
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 other land is available;
3. The requested Area Variance is not substantial because neighbors have similar sized lots and set-backs;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because reviewing the map of the surrounding properties, in many cases the houses are close to the property line; and
5. The alleged difficulty was not self-created because the lot was created prior to zoning; and be it further

RESOLVED, that the application of Donald E. Gagne, Jr. for an area variance to allow for the construction of a residence on property located at 1 Ilen Avenue, Stillwater, more fully identified as Tax Map Number 253.25-1-34, is GRANTED.

A motion by Member Kipling, seconded by Member D'Ambro, to adopt Resolution No. 18 of 2014.

A roll call vote was taken on Resolution No. 18 of 2014 as follows:

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

Resolution No. 18 of 2014 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on October 14, 2014.

**ZBA2014-41, Parsons Area Variance, 742 Route 9P**

Mr. Bob Harriman, attorney for the applicant, stated that his client wishes to obtain an area variance for a substandard lot size for the construction of a single family home from the required 21,750 SF to 9,104 SF. Also proposed is an area variance request from the required 10ft setback to 3ft. Mr. Harriman stated that there is not currently any structures on the lot. After some discussion involving the request for the side yard variance, it was decided that the request has not been shown as a hardship as there is not building on the lot and it is possible to build a home on the site without the variance. The applicant decided to remove the request for the side yard setback and proceed with only the request for the area of the lot. Mr. Ritter asked if anyone from the public wished to comment regarding this application. No one responded. Mr. Ritter closed the public comment portion of this application.

The board began discussion regarding SEQRA. A motion was made by Mr. Rourke that this proposal was a Type II action pursuant to SEQRA with no significant environmental impact. The motion was seconded by Mr. D'Ambro.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2014 RESOLUTION NO. 19**

WHEREAS, Daniel and Patricia Parsons have submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 742 Route 9P, more fully identified as Tax Map Number 206.17-3-22; 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 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, Daniel & Patricia Parsons, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member Rourke, seconded by Member D'Ambro, to adopt Resolution No. 19 of 2014.

A roll call vote was taken on Resolution No. 19 of 2014 as follows:

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

Resolution No. 19 of 2014 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on October 14, 2014.

In regards to the application, Mr. Rourke read the five tests required to be met for the pursuance of an area variance per Chapter 210 of the Town Zoning Ordinance, Article VIII, Sub-Section 210-126(A) and made a motion to approve the area variance request allowing for a substandard lot area of 9,104 SF, as well as a substandard lot width. Ms. Kipling seconded.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2014 RESOLUTION NO. 20**

WHEREAS, Daniel & Patricia Parsons have submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to build a residence on property located at 742 Route 9P, Stillwater, more fully identified as Tax Map Number 206.17-3-22; and

WHEREAS, the Applicant is seeking an area variance to allow a lot width of 50'+/- and the reduction in lot size from 21,750 feet to 9,122.91 feet 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 September 8, 2014 and October 14,

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 most of the properties in the area are of similar size;
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 other land is available;
3. The requested Area Variance is not substantial because many lots in the area are of equal or smaller size and some are even closer to the property line;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because most of the properties within the location are of equal or similar size; and
5. The alleged difficulty was not self-created because this is a pre-existing lot created prior to zoning; and be it further

RESOLVED, that the application of Daniel & Patricia Parsons for an area variance to allow for the construction of a residence on property located at 742 Route 9P, Stillwater, more fully identified as Tax Map Number 206.17-3-22, is GRANTED.

A motion by Member Rourke, seconded by Member Kipling, to adopt Resolution No. 20 of 2014.

A roll call vote was taken on Resolution No. 20 of 2014 as follows:

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

Chairman William Ritter	Yes
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Resolution No. 20 of 2014 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on October 14, 2014.

**New Business:**

**ZBA2014-42, Brickyard Road Apartments (Bove) Area Variance, Brickyard Rd**

Mr. Tom Andress of ABD Engineering stated that he was here tonight to represent the applicant in his request for a front yard setback variance from the required 50ft to 13ft. There was some discussion amongst the Board, Mr. Male and Ms. Zepko regarding the discrepancy in the Town Code definitions in Chapter 210 between “Building Line” and “Front Yard” and whether the stairs would be considered as part of the building. It was decided that the definition for “Building Line” would be used in the requirement for the setback. Mr. Ritter asked if anyone from the Public wished to speak. Mrs. Diane Tucker, of #2 Brickyard Road, stated that she is concerned with this project due to the amount of traffic and the speed at which it travels on Brickyard Road and would like to see the placement of a sidewalk added to the plan. She wanted to be sure in if the variance was granted that it would be feasible to construct a sidewalk within the remaining setback. Mr. Male stated that it would still be feasible. Mr. John Bove, the applicant stated that he would prefer not to place a sidewalk in front of the proposed buildings. Mr. Ritter asked if anyone else from the public wished to speak. No one responded. Chairman Ritter closed the public comment portion of the hearing.

Mr. Daryl Cutler, Attorney for the Town, stated that in review of the plan, it appears that there are several encroachments on this proposed lot from neighboring parcels. These encroachments will need to be addressed in the review process for this site plan.

The board began discussion regarding SEQRA. A motion was made by Mr. Rourke that this proposal was a Type II action pursuant to SEQRA with no significant environmental impact. The motion was seconded by Mr. D’Ambro.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2014 RESOLUTION NO. 21**

WHEREAS, John Bove has submitted an application to the Zoning Board of Appeals for an Area/Use Variance regarding property located on Brickyard Road, more fully identified as Tax Map Number 262.-1-1.1; 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 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, John Bove, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member Rourke, seconded by Member Kipling, to adopt Resolution No. 21 of 2014.

A roll call vote was taken on Resolution No. 21 of 2014 as follows:

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

Resolution No. 21 of 2014 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on October 14, 2014.

In regards to the application, Mr. D'Ambro read the five tests required to be met for the pursuance of an area variance per Chapter 210 of the Town Zoning Ordinance, Article VIII, Sub-Section 210-126(A) and made a motion to approve the area variance request allowing for a substandard front yard setback from the required 50ft to 13ft using the definition of Building Line" that allows the Board to exclude steps as part of the building setback, contingent on a sidewalk being placed at the front of the buildings proposed. Ms. Rourke seconded.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2014 RESOLUTION NO. 22**

WHEREAS, John Bove has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to build an apartment complex on property located on Brickyard Road, Stillwater, more fully identified as Tax Map Number 262.-1-1.1; and

WHEREAS, the Applicant is seeking an area variance regarding the set-back 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 October 14, 2014; and

WHEREAS, during the public hearing, a neighbor expressed concerns regarding the volume of traffic and pedestrian safety. The Board discussed how sidewalks and no parking

along the road would help; and

WHEREAS, the Board considered the definition of the building line and concluded that the steps on the proposed building would not be included when calculating the footprint of the building; 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 it is zoned industrial and the proposed project is residential, which is more in character with the surrounding neighborhoods;
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 topography of the land does not allow for most other allowable uses or location and placement of the buildings;
3. The requested Area Variance is not substantial because the proposed set back still leaves room for sidewalks;
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 placement of the buildings minimizes the environmental impacts created by the topography of the land and the use of the property as residential has less negative impact than most industrial uses; and
5. The alleged difficulty was not self-created because of the topography and the fact that the lot pre-existed zoning; and be it further

RESOLVED, that the application of John Bove for an area variance to allow for the construction of an apartment complex on property located on Brickyard Road, Stillwater, more fully identified as Tax Map Number 262.-1-1.1, is GRANTED, with the following condition:

1. That sidewalks are required in front of the buildings along Brickyard Road.

A motion by Member D'Ambro, seconded by Member Rourke, to adopt Resolution No. 22 of 2014.

A roll call vote was taken on Resolution No. 22 of 2014 as follows:

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

Resolution No. 22 of 2014 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on October 14, 2014

**Other Discussion:**

Mr. D'Ambro stated that he would like to see the formal letters of denial from the Code Enforcement Officer be included as part of the application for all variance requests. Ms. Zepko stated ok, they will do that in the future.

**Adjournment:**

A motion to adjourn was made by Mr. Rourke, seconded by Mr.D'Ambro,

**The next Zoning Board of Appeals Meeting will be held November 11<sup>th</sup> 2014  
at 7:30pm.**