

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
June 13, 2016 @ 7:00 PM
STILLWATER TOWN HALL**

Present: Chairman Donald D’Ambro
Joseph Urbanski
Richard Rourke
Timothy Scrom
Christine Kipling

Also Present: Daryl Cutler, Attorney for the Town
Paul Male, Acting Director, Building, Planning and Development
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 March 14, 2016 meeting, seconded by Ms. Kipling.

Public Hearings/New Business:

ZBA2016-03, Route 67 Self Storage Facility, Route 67

Chairman D’Ambro recognized Mr. Lansing of Lansing Engineering, who is representing D & N Excavating. Mr. Lansing stated that this project was before the Planning Board on April 25, 2016. Mr. Lansing stated that the Planning Board suggested reconfiguring the last three storage units on the western side which is a dead end in order to gain emergency access behind these units. Mr. Lansing stated that the applicant is seeking an Area Variance for the front yard setback from 50ft. to 34.4 ft., lot coverage from 40% to 42.9% and a waiver on the parking spaces on the site as the requirements are 1 space per 5 storage units. Mr. Lansing stated that the access to the facility is off NYS Route 67 which has room for one vehicle at the entrance with a second vehicle on the shoulder of the road. Mr. Lansing stated that the applicant will have to apply and receive permits from DOT.

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

James Burke, 185 NYS Route 67

Mr. Burke asked where the project is in location to Sawmill Hill Road. Chairman D'Ambro stated that the project is directly across from Sawmill Hill Road. Mr. Burke asked if the property was formerly owned by Pam and Dick Butler. Chairman D'Ambro stated that is correct.

Daniel Cummings, 5 Sweeney Rd

Mr. Cummings asked about the 100 ft. wetland buffer and the transmission lines that are for NYS Electric & Gas which has a 100 ft. buffer for the utility easement. Mr. Lansing stated that the wetlands have been delineated by a wetland scientist and are determined to be Federal wetlands and do not need a 100 ft. buffer. Mr. Lansing stated that the utility easement is on the southern portion of the property and is not impacted by the project. Mr. Cummings stated that he would like to see a fence around the entire perimeter of the project. Mr. Lansing stated with the wetlands in the back of the storage units the applicant did not believe there was a need to fence in the entire property. Mr. Lansing stated that he would speak to the applicant regarding fencing in the entire property.

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

Mr. Scrom stated that his concern is having vehicles waiting on the shoulder to enter the facility from NYS Route 67 with the truck traffic on the state highway posing a hazard. Mr. Scrom stated that he would like to see the 50 ft. zoning frontage stay in place. Mr. Lansing stated that it is 35 ft. from the gate to the white line of NYS Route 67. Mr. Scrom asked if the parking is removed then the roadway around the outside of the facility is a no parking area. Mr. Scrom asked if emergency vehicles come in through the emergency access and vehicles are parked between units 9 & 10 is there enough clearance for the emergency vehicles to pass through, or are the emergency vehicles going to make a sharp right in the front of the facility. Mr. Lansing stated the fire code for this facility has the drive aisle all way to the north that gives fire access to all the aisles and meets all NYS Fire Codes. Mr. Lansing stated that drive aisles need to meet the width but do not need to meet fire access. Mr. Scrom asked where the security cameras feed too. Mr. Lansing stated that he believes it feeds into one of the units attics. Mr. Scrom asked how units will be assigned if there is no office on the premises. Mr. Lansing stated that the storage facility is fully automated.

Mr. Cutler asked if all the buildings were moved forward and if the buildings on the east side were reconfigured. Mr. Lansing stated the buildings on the east side are slightly longer with the same design. Mr. Lansing stated that the buildings on the west side only had an access aisle and were moved forward which is by the entrance to give emergency access behind the buildings. Mr. Cutler asked if the buildings on the west side were left where they were originally then the project would require an area variance for the west side only. Mr. Cutler asked if the entrance was moved over and to keep the length of the buffer or would that create a site view problem at the entrance. Mr. Lansing stated that the goal was to line up the buildings with the existing roadway and entrance to Sawmill Hill Rd. Mr. Lansing stated that there is a little bit of flexibility. Mr. Cutler asked if the other buildings were to be moved forward and still maintain the roadway behind the remaining units and address both concerns. Mr. Lansing stated that is correct.

Mr. Urbanski stated that if the buildings are moved forward on the westerly side and loose the parking on the westerly side but keep the parking on easterly side. Mr. Urbanski stated that he is

not in favor of waiving all the parking. Mr. Lansing stated that the Town regulations are 1 parking space for 5 units. Mr. Lansing stated there is room in the main aisles for temporary parking. Mr. Urbanski asked under the new plan is there is 35 ft. from the road to the gate. Mr. Lansing stated the 35 ft. is from the white line to the gate. Mr. Urbanski asked under the old plan what the distance is from the white line to the gate. Mr. Lansing stated the difference is 15.6 ft. Mr. Urbanski stated that makes the distance almost 50 ft. which is much safer. Mr. Lansing stated with the additional 15.6 ft. the distance would be 45 ft. Mr. Urbanski stated that if you move buildings 2, 3, and 4 forward and leave the remaining building units 5 through 10 in their original location and keep the parking in front of the buildings Mr. Lansing stated if units 2 through 4 remain as is and move buildings 5 through 10 forward with a smaller parking area in the front. Mr. Urbanski stated that would be acceptable.

Chairman D'Ambro asked about units 2, 3, 4, reducing the density of the Buildings and remove the units on the south side what would the applicant lose. Mr. Lansing stated that Planning Board asked the applicant to make it more convenient to move around the buildings and suggested that the applicant come before the Zoning Board for an Area Variance. Mr. Lansing stated the applicant could lose units on 2, 3 and 4 to put in the drive lane and add units to the eastern side. Chairman D'Ambro asked Mr. Lansing if the applicant would consider this option. Mr. Lansing stated that is that could be an option. Chairman D'Ambro stated that map shows the fencing. Mr. Lansing stated that he believes that is the wetlands line but will get clarification on the line shown on the map.

Mr. Rourke asked about the lighting and what type will be used and are there security cameras. Mr. Lansing stated that lighting is wall mounted and motion activated and there will be security cameras.

Chairman D'Ambro asked Mr. Male if he had any concerns. Mr. Male stated that everything has been addressed and believes this is a good compromise.

Chairman D'Ambro asked if anyone had any additional concerns or questions and hearing none he asked to move to discuss SEQRA.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2016 RESOLUTION NO. 3**

WHEREAS, Town of Stillwater has submitted an application to the Zoning Board of Appeals for an Use Variance regarding property located on 66 East Street, more fully identified as Tax Map Number 262.5-1-17; 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 beyond the environmental impacts of current allowable uses;

Now, therefore, be it

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

A motion by Member Urbanski, seconded by Member Rourke, to adopt Resolution No. 3 of 2016.

A roll call vote was taken on Resolution No. 3 of 2016 as follows:

Chair Donald D'Ambro	YES
Member Christine Kipling	YES
Member Richard Rourke	YES
Member Timothy Scrom	YES
Member Joe Urbanski	NO

Resolution No. 3 of 2016 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 13, 2016.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2016 RESOLUTION NO. 2**

WHEREAS, D/N Excavating Realty, LLC has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to provide access to the rear of buildings 2, 3, and 4 on property located at Route 67, Stillwater, more fully identified as Tax Map Number 252.-2-60.2; and

WHEREAS, the Applicant is seeking an Area Variance for coverage, set back and parking space requirements contained Stillwater Zoning Code §210; and

WHEREAS, pursuant to §210-138 of the Stillwater Zoning Law, the Town properly and timely published a notice for public hearing conducted on June 13, 2016; 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 within what the Planning Board requested of the applicant during site plan review;
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 applicant designed the project so that it complied with zoning but the Planning Board asked the applicant to provide access to the back of buildings 2, 3, and 4. In order to do so the variances are required.
3. The requested Area Variance is not substantial because the minimal variances to the set back protects the length of the entrance for traffic, yet still provides access to the back of buildings 2-9;
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 still provides a 45' entry length and 12 banked parking spaces; and
5. The alleged difficulty was not self-created because the applicant's plan complied with zoning, but the Planning Board requested the back access which resulted in the need for zoning; and be it further

RESOLVED, that the application of D/N Excavating Realty, LLC for an Area Variance to allow for back access to the units on property located at Route 67, Stillwater, more fully identified as Tax Map Number 252.-2-60.2 is GRANTED as follows:

1. The coverage variance allows coverage of 42.9% from the limit of 40%;
2. The parking space variance allows as little as 12 parking spaces instead of the required 34 spaces;
3. The front set back variance allows a 34.4' front set back so long as the entrance length remains 45' long from the white line to the gate;
4. There is an access road to the back of buildings 2-9; and
5. That the Zoning Board recommends the Planning Board give due consideration to requiring fencing in the entire area in light of the public comments expressed during the public hearing, but the Zoning Board does not make the fencing of the entire area a condition as this issue is more appropriately considered by the Planning Board during site plan review.

A motion by Member Urbanski, seconded by Member Scrom, to adopt Resolution No. 2

of 2016.

A roll call vote was taken on Resolution No. 2 of 2016 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. 2 of 2016 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 13, 2016.

ZBA2016-03, Old Town Hall Use Variance, 66 East Street

Chairman D'Ambro recognized Mr. Joseph Lanaro of the Chazen Companies, who is representing the Town of Stillwater who is requesting approval for the Use Variance. Mr. Lanaro stated that application is for the Town of Stillwater to support a change in uses to include a daycare, healthcare related facility, senior housing or apartments. Mr. Lanaro stated that property was the former Stillwater Town Hall before they moved to their new location and the building has remained vacant. Mr. Lanaro stated that the building was constructed as a public school in the 1900's and is approximately 5,000 sq. ft. which is on a triangular parcel located at the corner East Street and Lefko Street. Mr. Lanaro stated that currently the building is in the LDR Zoning District which allows the building to be converted into a 4 unit apartment. Mr. Lanaro stated that the uses mentioned in the application are consistent with the surrounding neighborhood. Mr. Lanaro stated that the property has been marketed for two years with no interest and the Town would like to get this property back on the tax rolls.

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

Thomas Ryder, 42 West Street

Mr. Ryder asked about the increase in traffic on the road with the proposed new uses. Mr. Lanaro stated that there would be less traffic than the former use as a school or the Town Hall.

David Guarino, Saratoga Springs

Mr. Guarino asked about the storage facility attached to the building and can it be used as storage facility in the future. Mr. D'Ambro stated that it was the Town's record storage vault and believes it empty. Mr. Male stated that he believes there are still some Town records being stored there. Mr. Russom stated that all the records have been removed and it is being used as storage for Family Day and Browns Beach. Mr. Cutler asked Mr. Russom if the storage facility is a separate building or is it attached. Mr. Russom stated that it is located in the lower level of the building.

Richard Russom 61 East Street

Mr. Russom presented a letter to the Board with a signed petition from residents that oppose this project. Mr. Russom stated the resident's concerns 1) Increase in traffic, 2) The proposed uses for the building, 3) If the property is resold does it conform to the original agreement with no

changes or modifications of the original sale.

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

Mr. Rourke asked about the proposed changes for healthcare and if there is any specific use or is it just general uses. Mr. Lanaro stated that the property was listed for two years with no interest then the Town received two proposals for a daycare and apartments. Mr. Lanaro stated that there are no specific uses and the buyer would have to go for Site Plan Review. Mr. Rourke stated that the buyer would have to decide on a specific use then it would be decided if it could there. Mr. Lanaro stated that is correct. Mr. Rourke asked if there is mitigation for asbestos. Mr. Lanaro stated that would be the purchaser's responsibility. Mr. Lanaro stated that it is the Town's intent to sell the building as is.

Mr. Cutler asked if the lot is big enough for the building to be torn down and replace with something bigger than what is there. Mr. Lanaro stated that it would not be cost effective to tear down and replace. Mr. Cutler asked what the time frame would be if the variance was granted. Mr. Lanaro stated that he does not believe there is a time restraint and that there will be Zoning changes along the Route 4 Corridor if you wanted to use a two year time frame. Mr. Cutler stated that he believes it would be a one year according to the Town Code. Mr. Cutler stated that the applicant will have to go before the Planning Board for Site Plan approval.

Ms. Kipling asked if the Town has been approached by potential buyers that are interested in a daycare. Mr. Lanaro stated that the Town has been approach about a potential Day Care Center. Ms. Kipling stated that Senior Housing generates less traffic compared to a Day Care Center.

Mr. Scrom asked if there is an option for a buyer to receive a Use Variance contingent on approval. Mr. Lanaro stated these are the four uses for these two proposals. Mr. Scrom stated that he does not believe there is enough information before the Board to make a decision on the application. Mr. Lanaro stated that the Town is soliciting interest in the building. Mr. Scrom stated that the purchaser would have to go before the Planning Board for Site Plan approval for one of the four uses. Mr. Lanaro stated that is correct. Mr. Scrom stated that if the purchaser wanted to do something different with the building they would have to come back before the Zoning Board. Mr. Lanaro stated that is correct. Mr. Scrom stated that a traffic study would need to be reviewed. Mr. Cutler stated that the Planning Board would request a traffic study as part of the Site Plan Review.

Mr. Male stated the uses from the Zoning Ordinance that the potential buyer could use the building for without coming before the Zoning Board for a Use Variance.

Chairman D'Ambro asked if anyone had any additional concerns or questions and hearing none he asked to move to discussion of SEQRA.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2016 RESOLUTION NO. 3**

WHEREAS, Town of Stillwater has submitted an application to the Zoning Board of Appeals for an Use Variance regarding property located on 66 East Street, more fully identified as Tax Map Number 262.5-1-17; 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 beyond the environmental impacts of current allowable uses;

Now, therefore, be it

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

A motion by Member Urbanski, seconded by Member Rourke, to adopt Resolution No. 3 of 2016.

A roll call vote was taken on Resolution No. 3 of 2016 as follows:

Chair Donald D'Ambro	YES
Member Christine Kipling	YES
Member Richard Rourke	YES
Member Timothy Scrom	NO
Member Joe Urbanski	YES

Resolution No. 3 of 2016 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 13, 2016.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2016 RESOLUTION NO. 4**

WHEREAS, the Town of Stillwater has submitted an application to the Zoning Board of Appeals seeking an *Use Variance* in order for the former Town Hall to be used as senior apartments, residential apartments, a daycare facility or a health related facility on property located at 66 East Street, Stillwater, New York, more fully identified as Tax Map Number 262.5-1-17; and

WHEREAS, the Applicant is seeking a Use Variance from the allowable uses

requirement contained Stillwater Zoning Code §210; and

WHEREAS, pursuant to §210.138 of the Stillwater Zoning Law, the Town properly and timely published a notice for public hearing conducted on June 13, 2016; and

WHEREAS, residents expressed concerns about traffic that would result from the proposed uses; and

WHEREAS, the Zoning Board of Appeals compared the likely traffic volumes of the proposed uses with traffic under the property's prior use as a Town Hall and a school and the allowable uses under the Zoning Code which included professional offices or place of worship, all of which have traffic volumes similar or even in greater amounts than the proposed uses; and

WHEREAS, the Zoning Board of Appeals considered the fact that such proposed uses would require site plan review by the Planning Board where the Planning Board would be able to determine the specific use(s) and be in a position to analyze traffic impacts on the neighborhood; 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:

1. The applicant has shown a reasonable financial return on the property cannot be achieved because the Town has marketed the property for two years under the current allowable uses but was unable to obtain any offers. Perspective purchasers recently expressed interest in the property if it had the proposed uses allowed. Additionally, changes to the property to allow for its use under current zoning would be cost prohibitive;
2. Unique hardship does not apply to substantial portion of neighborhood because this structure was built as a school in the 1920s. It is a 50,000 square foot building that is institutional style which is surrounded by parking on two sides. It is highly unique in structure, size and functional design;
3. The proposed use will not alter the character of the neighborhood because there are commercial uses within ¼ mile of site, including DeCresente Distributing, Val's Sporting Goods, Patenaude Paint and the Price Chopper Plaza, there is an approved plan for an apartment complex within 1/5 of a mile of the site. The site was previously used as a school and a Town Hall; and
4. The hardship was not self-created because the style, size and functionality of

the building was created in 1920 prior to zoning and the current surrounding conditions; and be it further similar to the resolution listed for the Self Storage .

RESOLVED, that the application of the Town of Stillwater for a Use Variance to permit senior apartments, residential apartments, a daycare facility or a health related facility on property located at 66 East Street, Stillwater, New York, more fully identified as Tax Map Number 262.5-1-17 is GRANTED.

A motion by Member Urbanski, seconded by Member Rourke, to adopt Resolution No. 4 of 2016.

A roll call vote was taken on Resolution No. 4 of 2016 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. 4 of 2016 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 13, 2016.

Motion to adjourn: made by Mr. Urbanski, seconded by Mr. Rourke motion passed at approximately 8:30 PM.

The next Zoning Board of Appeals Meeting will be

Tuesday, October 11, 2016