

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
October 11, 2016 @ 7:00 PM
STILLWATER TOWN HALL**

Present: Chairman Donald D'Ambro
Joseph Urbanski
Richard Rourke
Timothy Scrom
Dale Smith

Also Present: Daryl Cutler, Attorney for the Town
Paul Male, Acting Director, Building, Planning and Development
Sheila Silic, Secretary
Ellen Vomaka

Absent: Christine Kipling

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

Review and Approval of Minutes of Zoning Board of Appeals:

Mr. Rourke made a motion to approve the minutes from the June 13, 2016 meeting, seconded by Mr. Scrom.

Public Hearings/New Business:

ZBA2016-05, Bentley Area Variance, 357 River Road

Chairman D'Ambro recognized Ms. Christine Bentley who presented the project before the board. Ms. Bentley stated that they want to build a single family dwelling for their daughter, but the lot is too small and does not meet the front yard setbacks. Ms. Bentley stated that is why they are seeking an area variance. Ms. Bentley stated that she had inherited the mobile home that belonged to her parents. Ms. Bentley stated that the mobile home was demolished in the spring.

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

Mr. Cutler stated that this parcel is in the B2 Zoning District and because this is a pre-existing non-conforming use of a residence she does not need a use variance. Mr. Cutler stated that it has been less than a year since the mobile home has been demolished. Mr. Cutler asked Mr. Male if a Certificate of Occupancy could be issued without the required separation between the well and the

septic system. Mr. Male stated that a Certificate of Occupancy could be issued. Mr. Male stated that the NYS State Department of Health Code states that “you do the best that you can with what you have to work with”. Mr. Cutler asked the applicant if she has approached the adjacent land owner about purchasing a portion of the property. Ms. Bentley stated that she has not approached the property owner about purchasing any land.

Chairman D’Ambro stated that the required setback is 50 ft. in this Zoning District and the applicant has requested 38.7 ft. in the variance request. Ms. Bentley stated that Mr. Male had suggested in his comments for a 15 ft. setback and that she was agreeable to the 15 ft. in the event that the septic system would need to be replaced. Mr. D’Ambro asked if the Applicant’s well could service the new dwelling. Mr. Urbanski stated that you are creating an issue with the shared well if the applicant chooses to sell her property in the future. Mr. D’Ambro asked the Applicant if a drilled well would be a possibility. Ms. Bentley stated she has no issues putting in a drilled well.

Mr. Male stated that the lot is less than 0.25 acres and with a 15 ft. front yard setback it is in alignment with the other house and gives the lot more room in the back for a septic system.

Mr. Urbanski stated that the existing well is a hand dug well and there are concerns about contamination with the septic system not having proper separation. Mr. Male stated that they could put a well in the front corner of the property if they needed to drill a new well. Mr. Urbanski stated that he finds Mr. Male’s proposal of bringing the 15 ft. setback to the front more favorable. Mr. Urbanski stated that he has a problem with the hand dug well that is so close to the septic system. Mr. Urbanski stated he would require a new to be well drilled with proper casing and grouting and also the septic system to avoid contamination. Mr. Urbanski asked the Applicant if there is a dwelling on the adjacent property. Ms. Bentley stated that the adjacent property is vacant.

Mr. Rourke asked if the septic system has a leech field or if it is a dry well. Mr. Male stated that he believes it is a dry well. Mr. Rourke asked if there was a dwelling on the property prior. Ms. Bentley stated that there was a mobile home on the property that belonged to her parents.

Mr. Scrom asked about the elevation of the finished floor compared to the 100 year flood plain. Ms. Bentley stated that an 8 ft. block wall be constructed that will put the foundation above the elevation of the flood plain. Mr. Male stated that the foundation will require flood vents. Mr. Scrom asked the Town’s position on building in the flood plain. Mr. Male stated that there are a lot of houses along the Hudson River and Saratoga Lake that are all in the flood plain. Mr. Male stated that all new construction is required to have flood vents in all new structures. Mr. Scrom asked about the placement of the utilities. Ms. Bentley stated that the utilities are on the first floor and there are none located in the basement. Mr. Scrom asked about the amount of the soil disturbance. Ms. Bentley stated that the placement of the foundation will be only soil disturbance on the property. Mr. Scrom asked if the well water has recently been tested. Ms. Bentley stated that the water has not been tested.

Mr. Smith stated that the Applicant cannot put on dwelling on the property and meet the required code separation between the well and the septic system. Mr. Male stated that is correct. Mr. Smith asked where the septic system and well are located on the property. Ms. Bentley stated that her

septic system is located in the back of the property and the well is located in the front of the property.

Chairman D'Ambro asked if anyone on the board had any additional concerns or questions and hearing none he asked to move to discuss SEQRA. Mr. Cutler stated that there are some corrections that need to be made to the SEQRA form. Mr. Male stated that Ms. Bentley needs to initial the changes that have been made to the form.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2016 RESOLUTION NO. 5**

WHEREAS, Christine Bentley has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 357 River Road, more fully identified as Tax Map Number 209.-1-26.1; 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, Christine Bentley 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. 5 of 2016.

A roll call vote was taken on Resolution No. 5 of 2016 as follows:

Chair Donald D'Ambro	YES
Member Christine Kipling	ABSENT
Member Richard Rourke	YES
Member Timothy Scrom	YES
Member Joe Urbanski	YES
Member Dale Smith	YES

Resolution No. 5 of 2016 was adopted at a meeting of the Zoning Board of Appeals of the Town

of Stillwater duly conducted on October 11, 2016.

Mr. Cutler reviewed the 5 findings of the Resolution with Board members and asked that a roll call vote to be taken.

Chairman D;Ambro	YES
Member Christine Kipling	ABSENT
Member Richard Rourke	YES
Member Timothy Scrom	YES
Member Joe Urbanski	YES
Member Dale Smith	YES

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2016 RESOLUTION NO. 6**

WHEREAS, Christine Bentley has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a single family dwelling on property located at 357 River Road, Stillwater, more fully identified as Tax Map Number 209.-1-26.1; and

WHEREAS, the Applicant is seeking an Area Variance 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 11, 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;

WHEREAS, the Zoning Board of Appeals has determined that a use variance is not required because the residence is a pre-existing non-conforming use that is grandfathered;

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 variance will allow the residence to be located a distance from the road that is consistent with other properties and the fact that this lot has already been used historically as a residential lot;

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 property owner cannot locate the residence in another location without creating a less safe condition due to the limited locations to place the future well and its proximity to the septic system;
3. The requested Area Variance is substantial because it is a variance for a 15' set back instead of a 50' set back, but that it is necessary to keep the well and the septic system as far away from each other as practicable;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because this is the replacement of a pre-existing mobile home with a stick built residence which is an improvement to the property and neighborhood;
5. The alleged difficult was not self-created because this is a small pre-existing non-conforming lot that was created prior to current zoning.

RESOLVED, that the application of Christine Bentley for an Area Variance to allow for a lot line adjustment on property located at 357 River Road, more fully identified as Tax Map Number 209.-1-26.1 is GRANTED conditioned upon the applicant satisfying the comments contained in the Engineer's Review Letter by Paul Male, PE dated September 14, 2016 and the following additional conditions:

1. That the application is amended to provide a 15' set back instead of the requested 35' set back so that the house is closer to the road to conform with the neighboring residence and to provide the maximum size of the backyard for any future septic system;
2. That the applicant place a drilled well in the front portion of the property as far from the septic system as is practicably possible;
3. That a variance from the 15' set back request for the drilled well is granted to allow for the well to be placed as close to the property line as is practicably possible.

A motion by Member Scrom, seconded by Member Urbanski to adopt Resolution No. 6 of 2016.

A roll call vote was taken on Resolution No. 6 of 2016 as follows:

Chair Donald D'Ambro	YES
Member Christine Kipling	ABSENT
Member Richard Rourke	YES
Member Timothy Scrom	YES
Member Joe Urbanski	YES
Member Dale Smith	YES

Resolution No. 6 of 2016 was adopted at a meeting of the Zoning Board of Appeals of the Town

of Stillwater duly conducted on October 11, 2016.

ZBA2016-06, Jeff Gonyea Area Variance, 126 County Route 70

Chairman D'Ambro recognized Mr. Jeff Gonyea who presented the project before the Board. Mr. Gonyea stated that he and his wife are under contract to purchase the property contingent on approval of the Area Variance. Mr. Gonyea stated that they would like to build a single family dwelling and a 40x30 garage. Mr. Gonyea stated that it is currently a 5 acre vacant lot and the only setback that it doesn't meet is the width. Mr. Gonyea stated that the lot width is suppose to be 300 ft. and the lot is only 150 ft. Mr. Gonyea stated all other setbacks are have been met.

Mr. Male stated that the lots are considered spaghetti lots. Mr. Male stated the lots are long and narrow and do not meet current Zoning Codes.

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

Dave Gadomski 369 Green Rd Greenfield Center

Mr. Gadomski stated that he represents the Owner who is selling the parcel. Mr. Gadomski stated that his client has other parcels that he selling located adjacent to the parcel that is before the Board. Mr. Gadomski asked if these parcels are pre-existing nonconforming would his client have to come back before the Board or can we get this solved this evening. Mr. Gadomski stated the reason he raising this question is so his client doesn't have to come back before the board with potential buyers. Chairman D'Ambro stated that he believes that the potential buyer would have to come back before the Board for each lot. Mr. Male stated that the Zoning Code under the section Regulations of Nonconforming Unapproved Lots and Structures, states "No building permit shall be issued, except following the application for an area variance, pursuant to Article XV of this chapter, for a single, unimproved, lawfully preexisting nonconforming lot held in single ownership as of the date of adoption of this chapter". Mr. Male stated that his client would have to come back before the Board for each lot. Mr. Cutler stated that applicants come before the Planning Board and they meet all the Zoning Codes at the time of the subdivision approval. Mr. Cutler stated that the Zoning Codes have changed and now the prior subdivisions that were approved no longer meet the Zoning Codes and are required to seek an area variance.

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

Mr. Scrom stated that these are pre-existing nonconforming lots and asked how far back does this lot go and what year was this property subdivided. Mr. Male stated that the lot it goes back about 1450 ft. Mr. Urbanski stated that it is 1480 ft. Mr. Male stated that this subdivision was approved in 1999.

Mr. Urbanski asked if the owner of this lot also owns the other adjacent lots. Mr. Gadomski stated that his client owns Lots #1, #2 and #6 County Route 70. Mr. Urbanski asked if there are any public utilities available such as water and/or sewer. Mr. Male stated that are no public utilities in that vicinity.

Chairman D'Ambro asked Mr. Cutler about Lots A & Lot B on the map appearing to be land locked. Mr. Cutler stated that he concurs with Chairman D'Ambro that the lots appear to be land locked. Mr. Male stated that Ms. Silic believes that there are dwellings on both Lots A & B with a shared driveway.

Mr. Cutler asked Mr. Male about the questions on the application and if they had been corrected. Mr. Male stated that the applicant had come into the office and had initialed all the corrections on the application.

Mr. 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. 7**

WHEREAS, Jeff Gonyea has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on County Route 70, more fully identified as Tax Map Number 219.-1-32.16; 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, Jeff Gonyea, 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 Scrom, to adopt Resolution No. 7 of 2016.

A roll call vote was taken on Resolution No. 7 of 2016 as follows:

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

Member Dale Smith	YES
-------------------	-----

Resolution No. 7 of 2016 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on October 11, 2016.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2016 RESOLUTION NO. 8**

WHEREAS, Jeff Gonyea has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a single family dwelling on property located at County Route 70, Stillwater, more fully identified as Tax Map Number 219.-1-32.16; and

WHEREAS, the Applicant is seeking an Area Variance 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 11, 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 this lot is similar to other lots in the neighborhood;
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 adding land from another property would only create other non-conforming lots;
3. The requested Area Variance is not substantial because this is only the lot width requirement and the lot itself is approximately 5 acres in size.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because this lot is similar to the surrounding lots; and

5. The alleged difficulty was not self-created because this is a pre-existing lot that was approved of by the Town in 1999; and be it further

RESOLVED, that the application of Jeff Gonyea for an Area Variance on property located at County Route 70, more fully identified as Tax Map Number 219.-1-32.16 is GRANTED conditioned upon satisfying the comments contained in the Engineer's Review Letter by Paul Male, PE dated September 12, 2016.

A motion by Member Rourke, seconded by Member Urbanski, to adopt Resolution No. 8 of 2016.

A roll call vote was taken on Resolution No. 8 of 2016 as follows:

Chair Donald D'Ambro	YES
Member Christine Kipling	ABSENT
Member Richard Rourke	YES
Member Timothy Scrom	YES
Member Joe Urbanski	YES
Member Dale Smith	YES

Resolution No. 8 of 2016 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on October 11, 2016.

ZBA2016-01 LeFever Area Variance, 1 Aft Court

Mr. Rourke made a motion to un-table the project before the Board seconded by Mr. Scrom. Motion passed unanimously.

Chairman D'Ambro recognized Mr. Mark LeFever who recapped the project before the Board. Mr. LeFever stated that he is seeking an area variance to put a deck on the front of his house. Mr. LeFever stated that the deck does not meet the required setbacks. Mr. LeFever stated that he was before the Board on March 14, 2016 and the Board had requested more information on the right-of-way line of NYS Route 9P. Mr. LeFever stated that after he had the map updated he decided to increase the size of the deck from 10x20 to 10x30. Mr. LeFever stated that one issue was the location of right of way for NYS Route 9P and has been shown on the updated map. Mr. LeFever stated that he also added other dimensions of the property on the map.

Mr. Cutler asked Mr. Male if the two questions on the application were answered. Mr. Male stated that he did not believe the questions were answered. Mr. Cutler made the corrections to the application and had Mr. LeFever initialed the corrections.

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. 9**

WHEREAS, Mark LeFever has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 1 Aft Court, more fully identified as Tax Map Number 218.20-2-8; 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, Mark LeFever, 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 Scrom, to adopt Resolution No. 9 of 2016.

A roll call vote was taken on Resolution No. 9 of 2019 as follows:

Chair Donald D'Ambro	YES
Member Christine Kipling	ABSENT
Member Richard Rourke	YES
Member Timothy Scrom	YES
Member Joe Urbanski	YES
Member Dale Smith	YES

Resolution No. 9 of 2016 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on October 11, 2016.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2016 RESOLUTION NO. 10**

WHEREAS, Mark LeFever has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a deck on property located at 1 Aft Court, Stillwater, more fully identified as Tax Map Number 218.20-2-8; and

WHEREAS, the Applicant is seeking an Area Variance 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 Marcy 14, 2015; 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 other properties in the area have decks and this is consistent with neighboring properties;
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 although the applicant could make a smaller deck without a variance, it would be so small that it would be impractical and unsafe given the surrounding terrain;
3. The requested Area Variance is not substantial because this is only a small deviation of the front set back requirement;
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 is merely placing a deck on a pre-existing residence in an area that houses have similar decks; and
5. The alleged difficulty was not self-created because the placement of the house and size of the lot are pre-existing; and be it further

RESOLVED, that the application of Mark LeFever for an Area Variance to allow for the construction of a porch on property located at 1 Aft Court, more fully identified as Tax Map Number 218.20-2-8 is GRANTED conditioned upon the applicant satisfying the comments contained in the Engineering Review Letter by Paul Male, PE dated September 25, 2016.

A motion by Member Scrom, seconded by Member Uranski, to adopt Resolution No. 10 of 2016.

A roll call vote was taken on Resolution No. 10 of 2016 as follows:

Chair Donald D'Ambro	YES
Member Christine Kipling	ABSENT
Member Richard Rourke	YES

Member Timothy Scrom	YES
Member Joe Urbanski	YES
Member Dale Smith	YES

Resolution No. 10 of 2016 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on October 11, 2016.

Motion to adjourn: made by Mr. Scrom, seconded by Mr. Smith motion passed at approximately 8:35 PM.

**The next Zoning Board of Appeals Meeting is scheduled for
Monday November 7, 2016**