

**Town of Stillwater
Zoning Board of Appeals
June 1, 2009 7:30 PM
Stillwater Town Hall**

Present: **Chairman James Ferris, William Ritter, Donald D’Ambro,
Alec Mackey**

Absent: **Joseph Urbanski**

Also Present: **Ray Abbey, Bldg Inspector/Code Enforcement, Paul Cummings—
Planner for the Town, Daryl Cutler—Attorney for the Town, Ken Petronis,
Councilman, Sue Cunningham-- Secretary to the Zoning Board**

Chairman Ferris called the meeting to order.

Approval of Minutes. After a brief discussion on adopting the minutes of the April 27, 2009 it was decided to wait until the next meeting since two members this evening would abstain due to their absence at that meeting.

ABC Recycling: A. Mackey commented that in reading the minutes of the last meeting the ZBA acted on ABC and inquired what brought this about.

Attorney Cutler stated they received their site plan approval which had certain conditions & requirements. They have sent correspondence and tried to make phone contact with no response. The intent was for them to give us an idea if they are going to do something or let them know that they can’t have conditional approval indefinitely.

Public Hearing

**7:40 PM Sean Carney
 Area Variance
 ZB2009-49
 SBL #253.18-2-13**

Mr. Carney stated that he would like to build a two story addition on his home. He is building up and going out approximately 16 feet with a basement. The reason for appearing before the ZBA is that he is in the business district which requires him to get an area variance.

Chairman Ferris opened the public input portion of the meeting for anyone wishing to comment on this particular project. With no input from the public regarding this area variance Chairman Ferris closed the public input portion of the meeting at 7:43 PM.

After a brief discussion among ZBA members in regard to a preexisting garage on the north side and if there was public water & sewer the following resolution was offered.

Resolution #9

Carney Area Variance (SEQRA)

Motion by A. Mackey and seconded by W. Ritter to adopt Resolution #9 as follows.

WHEREAS, Sean P. Carney has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 95 River Road, Mechanicville, more fully identified as Tax Map Number 253.18-2-

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, Sean P. Carney, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

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

Chairman James Ferris	Yes
Member Alec Mackay	Yes
Member Donald D’Ambro	Yes
Member Joseph Urbanski	Absent
Member William Ritter	Yes

Motion Carried. Resolution #9 was adopted unanimously.

Resolution #10

Carney Area Variance (Granted)

Motion by A. Mackey and seconded by W. Ritter to adopt Resolution #10 as follows:

WHEREAS, Sean P. Carney has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a two-story addition on property located at 95 River Road, Mechanicville, more fully identified as Tax Map Number 253.18-2-13; and

WHEREAS, the Applicant is seeking an Area Variance from the set back 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 June 1, 2009; 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 new structure will be more attractive and more appealing than the existing structure;
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 there is no way to expand the property line boundary;
3. The requested Area Variance is not substantial because the proposed addition is only approximately 16 x 33;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district as it is only an approximately 16 x 33 addition; and
5. The alleged difficulty was not self-created because zoning has been changed a number of times since the creation of the lot and the construction of the existing structure; and be it further

RESOLVED, that the application of Sean P. Carney for an Area Variance to allow for the construction of a two-story addition on property located at 95 River Road, Mechanicville, more fully identified as Tax Map Number 253.18-2-13, is GRANTED.

Discussion:

D. D'Ambro requested clarification on 3B, paragraph 5 of the application.

After a brief discussion the ZBA requested that the applicant strike out the last sentence of the paragraph.

The applicant agreed to the change on the application, initialed and dated the change made on the application.

Chairman Ferris raised concerns on the addition in regard to the lot size and being in a business district. He didn't feel his concerns were significant to vote against the area variance requested.

A roll call vote was taken on Resolution No. 10 of 2009 as follows:

Chairman James Ferris	Yes
Member Alec Mackay	Yes
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Absent
Member William Ritter	Yes

Motion carried. Resolution #10 was adopted unanimously.

8:00 PM **Spencer Tacy**
Area Variance
ZB2009-53
SBL #262.-1-5

Mr. Tacy stated that he was requesting an area variance to build a home Brickyard Rd. which is a non-conforming lot in an industrial zone. He proceeded to give a description of the lot and stated that it had public water & sewer.

Chairperson Ferris opened the public hearing to the public for comment on the application.

Nicholas Izzo wished Mr. Tacy well with his proposed application.
Amelia Izzo stated that it would be an improvement to the neighborhood.

With everyone having the opportunity to comment Chairman Ferris closed the public input portion at 8:07 PM.

D. D'Ambro stated that on the application the site number should be referred to by the SBL #.

Attorney Cutler stated the ZBA could not act on the application because the applicants application has been referred to the County Planning and they have not acted on the application as of yet.

Discussion among the ZBA members was held on the County Planning being an advisory board and that the Town still has the final approval.

P. Cummins stated that under the 239M Town Law any use variance within 500 ft of a County resource. Saratoga County Planning must have an acting role and the Town would need to receive their comments prior to acting.

Chairman Ferris inquires if it would be appropriate to act on SEQRA prior to County recommendation.

Attorney Cutler stated that he didn't believe it would be appropriate. His recommendation was to table action until the next ZBA meeting conditioned upon County approval. Discussion was held on the time frame the County has to respond which is thirty days and if no response the Town may move forward with the application without County recommendations.

Motion by D. D'Ambro and seconded by A. Mackey to table action until the next ZBA meeting. **Motion carried unanimously.**

New Business

June Meeting: Chairman Ferris stated that he could not make the meeting of the June 22, 2009 and suggested that they meet on June 29th.

A, Mackey also stated that he could not make the meeting of June 22nd.

After a brief discussion on the next ZBA meeting it was decided that the next meeting would be June 29th.

Motion by A. Mackey and seconded by D. D'Ambro to hold the next ZBA meeting on June 29th. **Motion carried unanimously.**

Note: Chairman Ferris informed Mr. Tacy that his application would be put on the agenda for 7:35 on June 29, 2009.

Top Cat Landscaping: Chairman Ferris brought up a communication received from R. Abbey, Building Inspector/Code Enforcement Officer and asked Mr. Abbey to explain the communication.

R. Abbey stated that in the Zoning Ordinance under the definition of mobile homes it refers to almost anything on wheels tailored to a site. What it doesn't address is what is allowed in the industrial zone when it comes to temporary offices. He was asking the ZBA board for clarification on a mobile home being used strictly as a temporary office so that he may instruct the applicant as to what he needs to do.

Discussion was held in regard to Mobile Home vs. Modular, mobile home being used for an office, the floor plan, if it would have facilities, if it would be put on a foundation, if the wheels would be removed and location in question.

Attorney Cutler stated that it would be appropriate for the applicant to seek an interpretation or a variance. If the applicant in trying to save time, could seek an interpretation and if the interpretation fails they have already at the same time filed a variance.

The applicant was informed that there will be costs that would be incurred by this process.

Chairman Ferris also noted that R. Abbey could interpret in favor of the applicant, then the applicant would not have to come before the ZBA.

Expansion Application: Attorney Cutler stated that there is an applicant that would like to build on property that is actually in both residential and business zone. He believes that an area variance is what is needed.

Chairman Ferris recalled that in the zoning ordinance if a property was in two different zones the owner could choose which use they want.

Attorney Cutler stated that the difference was that there was one building on two different lots.

Note: The applicant was in attendance and stated that she recently combined the two lots into one with the assessor.

A discussion was held on the building lot, zoning and the location of the proposed garage.

Chairman Ferris commented that it was definitely an area variance they would be requesting or if the proposed garage met the setbacks required they can just get a building permit.

Ray Abbey will check to see if the proposed garage meets setbacks.

Zoning Changes: Ray Abbey informed the ZBA of proposed zoning changes and that the Town Board was seeking input from the Planning and Zoning Board. The zoning changes proposed deal with section 3.5 Use and Area Regulations and Article 13 Non-Conforming Uses, Structures & Lots.

P. Cummings briefly went over the reason for the proposed changes.

The ZBA members had a brief discussion and had some concerns with one acre lots that are pre-existing and the consensus was to put this topic on the agenda for the June 29th meeting.

Motion by A. Mackey and seconded by W. Ritter to adjourn the ZBA meeting at 9:10 PM. **Motion carried.**

Respectfully submitted by

Sue Cunningham
ZBA Secretary