

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS**

OCTOBER 27, 2008

**Zoning Board of Appeals
October 27, 2008
7:30 P.M.**

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

Also Present: Paul Cummings-Planner for the Town, Daryl Cutler-Attorney for the Town, Ken Petronis-Councilman

Excused: Ray Abbey-Building Department, Joseph Urbanski

Chairman Ferris called the October 27, 2008 meeting to order at 7:30 P.M.

The first order of business was the approval of the minutes from September 27, 2008 and September 29, 2008 Zoning Board meeting. There was a discussion on the minutes and corrections were made to both sets of minutes.

**Motion to approve the
Amended minutes of
September 27, 2008
Made by A. Mackey,
Seconded by D. D'Ambro
MOTION CARRIES 4-0**

**Motion to approve the
Amended minutes of
September 29, 2008
Made by W. Ritter,
Seconded by A. Mackey
MOTION CARRIES 4-0**

**ABC Recycling
Brickyard Rd. Rear
Mechanicville, NY 12118
(ZBA 2008-38 253.-1-55.122)**

Donald Bonomo will be representing ABC Recycling this evening before the Board. Mr. Bonomo stated that he is also part owner of ABC Recycling, and is requesting that this application be adjourned for 30 days. Mr. Bonomo stated that in 1996 a complete application was made by ABC Recycling, getting approval for the issuance of receiving a license. The license was issued to ABC Recycling and they operated without any violations at that time but, in 2002 there was severe fire that destroyed ABC Recycling.

Mr. Bonomo stated that ABC Recycling applied for a renewal of the license in 2003 or 2004 but, for some reason the application was never acted upon and the license expired. Mr. Bonomo informed the Board that they are making a new application which has been filed with Paul Cummings and the Building Department. Mr. Bonomo stated that he believes the application meets all the requirements. The application has all the maps and specifications that are required by the State of New York. Mr. Bonomo stated that if the business was interrupted the people working for ABC Recycling would lose their jobs. Mr. Bonomo also stated that within this 30 day time period that he is requesting, a complete application will be reviewed by the Planning Board on November 3, 2008.

There was a discussion on the following: The concern that Attorney Cutler has is the continued operation of ABC Recycling. The interpretation is on the appeal of the work order and notice of violations that were issued by the Code Enforcement Officer. Mr. Cutler stated that statute says so, long as an appeal is filed to the Zoning Board of Appeals the stop work order is held in advance. The statute was to give the Zoning Board of Appeals the opportunity to decide if the Building Department acted in properly and if so, then there is no interruption of business. In this case to postpone this application for 30 days and to allow ABC Recycling to operate for an additional month is not within the intent of the statute. The purpose for going before the Planning Board is to receive Site Plan Approval. This type of business needs Site Plan approval yearly and what has happened is that ABC Recycling is operating without Site Plan approval. How long has the property been without its annual Site Plan approval? Mr. Cummings stated that the Building Department could not find a file or any record down stairs that ABC Recycling has gone through any subsequent Site Plan approval, after the Planning Board meetings in 2001. The business was in place and based on certificates of business from New York State before the fire and the site plan review did not occur, then the Town should have ensured that the review had been completed. Mr. Cummings stated that the applicant had inquired about the use of a mobile structure in order to operate his business. Mr. Cummings informed the Board that Mr. Abbey had informed the applicant that the Town Ordinance for that Business District had lapsed. Mr. Abbey followed up after several phone calls from neighbors and found that a mobile structure was being used as a business.

There was a motion to adjourn ABC Recycling application for 30 days, based on the fact that the applicant has been operating a business for an extended period of time and is actively seeking to become fully compliant with the Zoning Laws and the interpretation should be adjourned until the next regularly scheduled Zoning Board of Appeals meeting on November 24, 2008 to allow the applicant to present its application for a Special Use Permit to the Planning Board on November 3, 2008.

**Motion to adjourn the
Zoning Interpretation
of ABC Recycling
Made by A. Mackey,
Seconded by D. D'Ambro**

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MOTION CARRIES 4-0

Donald D'Ambro Yes

Alec Mackey	Yes
William Ritter	Yes
Joseph Urbanski	Absent
Chairman Ferris	Yes

Raymond Stalter
15 Bancroft Street
Mechanicville, NY 12118
Area Variance
(ZBA2008-40 261.36-1-16)

Raymond Stalter will be representing himself and his sister this evening before the Board. Mr. Stalter stated they are applying for an Area Variance, so, they can receive a Lot Line Adjustment from the Planning Board. Mr. Stalter stated that according to the way the zoning reads in that particular area they need a variance to make the adjustments to the properties.

Chairman Ferris opened the public hearing at 8:00 p.m. to anyone who has questions or concerns. Hearing none Chairman Ferris closed the public hearing at 8:02 p.m.

There was a discussion on the following: There is one part of the application which is not complete that is Section 3B, the family is trying to create two parcels by dividing the third parcel, there are three parcels that will need multiple variances, the one lot will cease to exist, all of the parcels are owned by family, there needs to be three applications one for each parcel, the public notice specifically identified the property as tax map number 261.36-1-16 and Raymond Stalter as the owner, the application is tabled until November 24, 2008 at which time the republication of public hearing has occurred, the Town Planner will put the application incomplete order and working in concert with our Attorney it will be done in terms of the public notice in the news paper, there can be one application as long as it list all of the tax map numbers on the application.

There is a motion to table the Area Variance application until November 24, 2008 Zoning Board of Appeals meeting and that mailing and publication of public notices shall be performed which will cite each of tax map numbers of the parcels involved in the proposed lot line adjustment and the cost for the mailing and publication shall be borne by the Town.

Motion to table the
Area Variance until
November 24, 2008
Made by A. Mackey,
Seconded by W. Ritter

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MOTION CARRIES 4-0

Donald D'Ambro	Yes
Alec Mackey	Yes
William Ritter	Yes

Joseph Urbanski Absent
Chairman Ferris Yes

Jean-Marc Lescault
309 Route 423
Saratoga Springs, NY 12866
Area Variance
(ZBA2008-41 219.-1-96.2)

Charles Hartnick will be representing Jean-Marc Lescault this evening before the Board. Mr. Hartnick stated that part of this property was subdivided in 1993 into a 1.26 acre parcel and approved by the Planning Board. Mr. Hartnick stated that subdivision map was never filed with the Saratoga County Clerks Office. Mr. Hartnick stated that the applicants operated a store on the property for a period of time and then Mr. Lescault gave the store to his son. Mr. Hartnick stated that the son converted the store into a one family residence with an attached garage. Mr. Hartnick stated that the deed goes to the center of the road, they also have a cross easement as requested by the Planning Board for ingress and egress to access the garage and the shed. Mr. Hartnick stated that the easement has been filed and a copy of the easement has been made part of the application.

Chairman Ferris opened the public hearing at 8:30 p.m. to anyone with questions or concerns at this time.

Lana Cable
41 Luther Road
Saratoga Springs, NY 12866

Ms. Cable would like to know were her property is located in relationship to Mr. Lescault's property and what are they trying to do with the property? Mr. Hartnick stated that her property abuts the back of Mr. Lescault's property and they are trying to make the subdivision legal that was never filed with the Saratoga County Clerks Office.

Walter Sweet
346 Route 423
Saratoga Springs, NY 12866

Mr. Sweet stated that he owns property next to Mr. Lescault and has no objections to the Area Variance that they would like to obtain.

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Joan Easton
59 Luther Road
Saratoga Springs, NY 12866

Ms. Easton stated that she has no objections to the applicants request for an Area Variance.

Eshragh Motahar
41 Luther Road

Saratoga Springs, NY 12866

Mr. Motahar inquired if there would be any implications to back of the property that abuts the back of his property? Chairman Ferris stated that there would be no implication to the back portion of the property that is closest to Luther Road.

Chairman Ferris inquired if there was anyone else who had questions or concerns, hearing none the public hearing was closed at 8:35 p.m.

There is a motion to approve SEQRA as a Type II Action and requires no further action or review the application is very complete.

**Motion to approve SEQRA
As a Type II Action
Made by A. Mackey, seconded
by D. D'Ambro
MOTION CARRIES 4-0**

There is a motion to approve the Area Variance, an undesirable change will not be produced in the character of the neighborhood because the structures already exist on the site, the benefit sought by the applicant cannot be achieved by some other method because there is not enough lot width available to create two separate lots, the requested Area Variance is not substantial because the structures already exist, the proposed variance will not have an adverse effect on the physical conditions in the neighborhood because there will be no new structures, the alleged difficulty was self-created, but shall not preclude the granting of the Area Variance, because the other factors support granting the application.

**Motion to approve the
Area Variance
Made by W. Ritter,
Seconded by A. Mackey
MOTION CARRIES 4-0**

Donald D'Ambro Yes
Alec Mackey Yes

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William Ritter Yes
Joseph Urbanski Absent
Chairman Ferris Yes

**Peter & Lucy Yakowenko
676 NYS Route 9P
Saratoga Springs, NY 12866
Area Variance
(ZBA2008-42 219.5-1-8)**

Clark Wilkensen with Taragon Civil Engineering will be representing Mr. and Mrs. Yakowenko this evening before the Board. Mr. Wilkensen stated that he has a letter from Dave Jelenik stating that he can not make the meeting due to an illness and Mr. Wilkensen is representing him this evening. Mr. Wilkensen stated that the applicants would like to demolish the camp that is presently on the property and build a new single family residence on the site. The house has been cited to meet all the front set backs and the three car garage has been cited in the back to meet all rear yard and side yard set backs. Mr. Wilkensen also stated that property is an existing nonconforming lot and that there is public sewer and private well.

Chairman Ferris opened the public hearing at 8:45 p.m. to anyone with questions or concerns. Hearing none Chairman Ferris closed the public hearing at 8:46 p.m.

There was a discussion on the following: Was there a change in the distance to the frontage of the proposed house and it went from 15.8 feet to 20 feet, the parcel is north of Route 423, who will be taking care of sewer clean outs, the total acreage of this property is .41 acres.

There is a motion to approve SEQRA as a Type II Action, and requires no further action or review and having the applicant add .413 on line 7. Chairman Ferris had the applicant sign and date the SEQRA form.

**Motion to approve SEQRA
As a Type II Action
Made by A. Mackey, seconded
by D. D'Ambro
MOTION CARRIES 4-0**

There is a motion to approve the Area Variance, an undesirable change will not be produced in the character of the neighborhood because the applicant will be removing the camp that is falling down and replacing it with a new house which is a great benefit to the neighborhood, the benefit sought by the applicant cannot be achieved by some other method because most if not all of the parcels in the area are non-conforming and there is no extra land for the applicant to purchase, the requested Area Variance is not substantial

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because the applicant has 60 feet and needs only 75 feet, the proposed variance will not have an adverse effect on the physical conditions because he will be placing a new home on the same site, the alleged difficulty was not self-created because the parcel has been substandard for a long time.

**Motion to approve
the Area Variance
Made by A. Mackey,
Seconded by D. D'Ambro
MOTION CARRIES 4-0**

Donald D'Ambro	Yes
Alec Mackey	Yes
William Ritter	Yes

Joseph Urbanski Absent
Chairman Ferris Yes

Old Business: Mr. Cummings stated that a resident on Route 67 applied for a building permit for a shed and was denied because of set back issues. This is the same resident that has the junk pile on his property. Mr. D'Ambro inquired about the Palmieri Mobile Home Park on Routes 4 & 32 and when will the debris from the two mobile homes get cleaned up. Councilman Petronis inquired if they can replace the mobile homes that have been removed with one or two mobile homes.

New Business: Mr. Cummings stated that he felt that the people in the Building Department would benefit from some free training by the NY State Planning Federation, or written material that can help them understand the process better. Secretary Sheila Silic informed the Zoning Board that Councilwoman Whitman has informed her that as of January 1, 2009 that she will no longer be secretary for the Planning Board or the Zoning Board Of Appeals. Councilman Petronis stated that the Town Board has been talking to Sue Cunningham about becoming secretary to the Planning Board and the Zoning board of Appeals.

There was a motion to adjourn the October 27, 2008 Zoning Board meeting.

**Motion to adjourn the
October 27, 2008 meeting
Made by A. Mackey,
Seconded by D. D'Ambro
MOTION CARRIES 4-0**

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The meeting adjourned at 9:30 P.M.

Respectfully Submitted,

Sheila Silic

Sheila Silic

