

**Stillwater Zoning Board of Appeals**  
**August 24, 2009**  
**Stillwater Community Center**

**Present: Chairman James R. Ferris; Donald D'Ambro; Alec Mackay; Joseph Urbanski; William Ritter**

**Also Present: Paul Cummings, Planner for the Town; Daryl Cutler, Attorney for the Town; Sue Cunningham, Secretary for the Zoning Board of Appeals; Councilman Ken Petronis**

Chairman Ferris called the meeting to order.

**Adoption of Minutes:**

**Motion** by J. Urbanski and seconded by W. Ritter to adopt the minutes of the July 27, 2009 of the Zoning Board of Appeals Meeting. **Motion carried.**

**Old Business**

**Zoning changes:** A brief discussion was held on the recommendation that the Zoning Board would be submitting to the Town Board.

Attorney Cutler requested that Zoning Board approval to share the Zoning Boards recommendation with the Planning Board.

The Zoning Board members agreed to share their recommendations with the Planning Board.

**7:40 PM Public Hearing**

**John Maille**

**Area Variance**

**ZB 2009-57**

**SBL #232.-1-57**

John Maille gave a brief overview of why he was appearing before the Zoning Board of Appeals. He would like to build a garage which meets all setbacks, acreage but does not meet the 300 ft. building line.

Chairman Ferris opened the floor for anyone wishing to comment for or against the requested area variance.

With no one in attendance to speak for or against the requested area variance Chairman Ferris closed the public hearing 7:43 PM.

A brief dialog was held on the setbacks.

Chairman Ferris stated that he had concerns with the packet and that it was incomplete. He stated that he had two major concerns which was there was no denial letter and ½ the neighbors were missing from the contact list.

A discussion was held on why there was no denial letter and if the proper notifications were mailed out. The consensus was that the applicant had no standing before the ZBA without a denial letter.

Attorney Cutler advised the ZBA to table the public hearing until additional documentation on the denial letter and proper/additional notification was met and received from the Building Dept.

**Motion** by A. Mackay and seconded by D. D'Ambro to table the public hearing and all actions until the next meeting on Sept 28, 2009 for the purpose of receiving documentation on the denial letter and that proper notification was met. **Motion carried unanimously.**

**8:00 PM Public Hearing** (Tabled from last meeting)

**Dollar General**

**Area variance**

**ZB 2009-56**

**SBL# 262.1-4.112**

**Motion** by D. D'Ambro and seconded by W. Ritter to remove the public hearing from the table. **Motion carried unanimously.**

A brief discussion was held on the research done in regard to whether the Price Chopper Plaza was a PDD. The consensus was that the Plaza was not a PDD, the Planning Board was correct in sending them to the ZBA and now it is up to the ZBA to decide on approval.

Wayne Gendron of Handley Sign Co spoke on behalf of the applicant for Dollar General. He submitted 3 separate schematics of the building with and without the sign as requested. They are requesting to put up a sign on the store façade that is over the square footage called for in the Town Ordinance. The letters are two feet tall for a total of 56 square feet. The reason for requesting this size is for visibility from the street.

With no public input Chairman Ferris declared the Public Hearing closed at 8:05 PM.

After a brief dialog between the ZBA members and the applicant on the requested variance in respect to size of the letters, coloring, specific language in the original application, distance from the building to the street, visibility from the street and comparability to the previous sign the following resolutions were offered.

**Resolution #20 Dollar General Variance (SEQRA)**

**Motion** by A. Mackay and seconded by J. Urbanski, to adopt Resolution # 20 as follows:

WHEREAS, Dollar General has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct at 56.25 square foot sign at a 20 foot elevation over the entrance to the Dollar General store at property located in Price Chopper Plaza, Routes 4 and 32, Mechanicville, New York, more fully identified as Tax Map Number 262.-1-4.112; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (SEQRA), the proposed action is an unlisted 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, Dollar General, is an unlisted action and requires no further action or review by the Zoning Board of Appeals.

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

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

Resolution # 20 of 2009 was adopted unanimously.

**Resolution #21                      Dollar General Area Variance                      (Granted)**

**Motion** by A. Mackay, seconded by J. Urbanski, to adopt Resolution #21 of 2009as follows:

WHEREAS, Dollar General has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct at 56.25 square foot sign at a 20 foot elevation over the entrance to the Dollar General store at property located in Price Chopper Plaza, Routes 4 and 32, Mechanicville, New York, more fully identified as Tax Map Number 262.-1-4.112; and

WHEREAS, the Applicant is seeking an Area Variance from the sign size requirement contained Stillwater Zoning Code Article 11, §H(1); 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 July 27, 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: 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 there are already signs in the area and there was a larger sign there before;

The benefit sought by the applicant can be achieved by some method, feasible to the applicant to pursue, other than an Area Variance because the applicant could put up a smaller sign. However, there is a benefit to a larger sign with greater visibility. The additional size of the business retail space and the prior approval of the larger sign for the prior tenant support the application;

The requested Area Variance is substantial because it is approximately twice the size that is allowed under the current regulations. However, it is still smaller than the prior sign that was allowed originally;

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 just a sign and a question of how large the sign will be; and

The alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the Area Variance,

because the benefits outweigh this factor; and be it further RESOLVED, that the application of Dollar General for an Area Variance to permit construction of a 56.25 square foot sign at a 20 foot elevation over the entrance to the Dollar General store at property located in Price Chopper Plaza, Routes 4 and 32, Mechanicville, New York, more fully identified as Tax Map Number 262.-1-4.112, is (GRANTED).

A roll call vote was taken on Resolution # 21 of 2009 as follows:

Chairman Ferris commented that he believes the road sign draws people, not the sign on the building. The sign does not fit with other signage on the building and he can not support this area variance.

Chairman James Ferris	No
Member Alec Mackay	Yes
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member William Ritter	Yes

Resolution No. 21 of 2009 was adopted by a 4 to 1 vote.

The applicant was informed that they needed to appear back in front of the Planning Board for Site Plan Approval.

**Motion** by A. Mackay and seconded by J. Urbanski to adjourn into executive session for personnel matters at 8:55 PM. **Motion carried unanimously.**

**Motion** by A. Mackay and seconded by W. Ritter to adjourn back into the regular meeting at 9:14 PM. **Motion carried unanimously.**

**Motion** by J. Urbanski and seconded by A. Mackay to adjourn the ZBA meeting at 9:15PM. **Motion carried unanimously.**

Respectfully submitted by

Sue Cunningham  
Secretary to the Zoning Board of Appeals