

**TOWN OF SILLWATER
ZONING BOARD**

FEBRUARY 25, 2008

**Town of Stillwater
Zoning Board Minutes
Meeting Of 2/25/08**

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

Also Present: James Trainor-Attorney for the Town, Michael Welte-Town Engineer, Ray Abbey-Building Department, Shawn Connelly-Supervisor

7:30 P.M. Chairman Ferris called the meeting to order. The Board reviewed the January minutes and made some corrections. Chairman Ferris requested a motion to approve the amended minutes of the 1/28/08 meeting.

MOTION to approve the amended minutes of the
January 28, 2008 Zoning Board of
Appeals Meeting. Made by D. D'Ambro,
Seconded by J. Urbanski
MOTION CARRIED 4-0-1

Mary Rose Coreno
45 County Rte 75
Mechanicville, N.Y. 12118
Extension of Non-Conforming Use
(ZB-2007-12-261.2-1-52)

Attorney Trainor informed the Board that Mrs. Coreno's Property is currently a nonconforming lot within Low-Density Residential area. There has been a request to expand the garage approximately 30ft to the rear of the existing garage. When first proposed in October 2007, the ZBA requested a survey be done to depict appropriate dimensions. They requested clarification as to the distance between the two garages, that of the applicant and that belonging to the neighbor. The survey was completed and the letter states that there is 10ft between the two garages for emergency vehicle access. Attorney Trainor informed the Board that he couldn't pick that up on the survey and requested for the applicant's help with the emergency access.

Attorney Trainor requested the applicant further interpret the survey and help with the emergency access.

Mary Rose Coreno is being represented by Elizabeth Coreno ESQ. MS. Coreno understands the difficulty with the measurements on the survey map. She had requested assistance from Building Inspector Abbey to help her understand it. After examining the survey it was noted that the one story wood frame home (#46), has a boundary line moving south out of northeast corner that says 4.3 feet right next to the line. The southwest corner of the garage on the adjoining parcel, has similar boundary line says 5.5 feet. Together that distance is 9.8 were the buildings are at their closest point, which is a preexisting condition.

According to the survey, the neighbors' garage moves back at an angle at the property line. The proposal by the applicant will extend the line back 30ft and the adjoining parcel's garage essentially moves farther away. Attorney Coreno stated that it is her understanding that the New York State Building Code requires that for fire safety purposes there be 3ft from the property line to the edge any structure. Reference to such is found in section 302.1 of the NYS Building Code.

The proposed extension is a 450 sq. ft. addition and will be used for storage and possibly a garage stall access to park the cars bumper to bumper. There would be no living quarters in the garage, however, there would be a concrete breeze way leading from the house to the backyard.

Attorney Trainor informed the Board that he has a letter from Mrs. Coreno's neighbor indicating that she opposes the application due to emergency access. Attorney Trainor indicated that he is unaware if she appeared in October. Attorney Coreno stated that she did not appear.

MOTION to take the proposal of Mary Coreno
off the table for discussion
Made by D. D'Ambro, seconded
by Alec Mackey

Engineer Welti expressed concern over the rear yard setback. According to the survey it appears that they have slightly more than 55ft from the rear property line to the existing edge of the garage that is going to be extended. If it goes 30ft back as proposed, it may encroach upon the rear yard setback.

Mr. D'Ambro pointed out that the south opening of this property appears to have no more than 2ft distance between the elevation of the back wall of the house and the garage. That still isn't going to be enough to make up the distance that is needed.

Chairman Ferris requested clarification from Attorney Trainor on the Nonconforming Use status which is what this application is for, and could carry consideration. Attorney Trainor stated that this application falls into ARTICLE 13 of the Zoning Code which refers to ARTICLE 15 Use Variance. Chairman Ferris stated that the special extension could be more than one of pieces to the extension that they are seeking.

Mr. Mackey inquired of the applicant if they would consider bringing the garage to 40 feet from 45feet, and that would bring the rear yard set back into compliance. Is this some thing that the applicant would be interested in?

Attorney Coreno stated that if this what it takes to get the extension, then the applicant would consider that?

Mr. Urbanski stated that they have always tried in the past not to create more problems than they solve. He further stated by encroaching in the 30ft set back he believes they will create another variance issue. If the applicant is willing to avoid encroaching upon the rear setback, then he believes it will be acceptable.

Mr. Mackey inquired if the applicant is willing to shorten the length of the garage so that it doesn't go into the 30ft setback required.

Attorney Coreno stated that the applicant would abide by the Boards requirements, so the answer to the Boards question is yes.

Mr. Mackey made a MOTION to approve the amended application were the applicant agrees that the proposed garage addition does not to encroach the 30ft rear yard setback, and he believes it will not have an adverse or change the neighborhood because it is primarily residential, it is an addition to the garage, so, he doesn't believe that it will have a negative impact. It will not have adverse impact on the neighborhood. Mr. Mackey does request that they follow section **R302**, and that the over hangs are meant for fire code compliance and that appropriate drainage is planned to prevent any negative impact upon the neighbors property.

Motion to table the SQERA
MOTION PASSES 5-0

MOTION to approve SQERA
Type 2 action, Made by A. Mackey
Seconded by J. Ubanski
MOTION PASSES 5-0

MOTION to take off the table
Motion to approve the amended
application. Made by A. Mackey,
seconded by D. D'Ambro

Motion Carried: Chairman Ferris-Yes
Mr. D'Ambro-Yes
Mr. Mackey-Yes
Mr. Urbanski-Yes
Mr. Ritter-Yes

Mr. and Mrs. Thomas Amato
2 Leeward Lane
Saratoga Springs, N.Y. 12866
Area Variance
(ZB2008-20-203.17-1-15)
Public Hearing

Mr. and Mrs. Amato informed the Board that after attending the January 2008 Planning Board meeting, they were referred to the Zoning Board of Appeals from the Planning Board for an Area Variance for 5 Leeward Lane. Mr. Amato stated that if they receive approval for the Area Variance, then they can go back before the Planning Board for their Lot Line Adjustment.

Mr. Amato stated that they presently live at 2 Leeward Lane, but due to some personal issues they need to down size both house and holdings. They intend to build a smaller residence on the former camp property directly north on 5 Leeward Lane.

Mrs. Amato stated that she spoke to Town Officials in October 2007 and was informed that they should make 5 Leeward Lane a conforming lot. The Amato's hired a surveyor and while maintaining both properties, they took 75 feet from 2 Leeward Lane and adjusted it to 5 Leeward Lane. Mr. Amato stated they also increased the 2 Leeward's frontage on Route 9P 50 feet. Mr. Amato stated they wish to retain beach area that has 25 feet of frontage with 5 Leeward Lane.

Chairman Ferris opened the floor the for Public Hearing at 8:00 P.M., for any residents who would like to speak on behalf of concerns or need of clarification. Hearing non Chairman Ferris closed the Public Hearing at 8:05 P.M.

Mr. Urbanski inquired if the Board had proof that notifications went out for the Public Hearing. Attorney Trainor did not have the publication with him at that time, he

did state that he had been in contact with Christine Robbins and Sheila Silic. Attorney Trainor asked Ray Abbey if he had any information on whether the 500ft notices went out to the neighbors. Ray Abbey stated he did not have any thing with him at the time. Mr. Urbanski stated the reason he asked is because there was no one from the area at the meeting. Attorney Trainor stated that when it was before the Planning Board it didn't receive much attention either.

Mr. Mackey inquired why it was before the Board, he stated that lot 5 is a legal lot. Attorney Trainor stated that moving land from 2 Leeward to 5 Leeward to make it conforming leaves the other lot as nonconforming. Mr. Mackey stated that it was nonconforming because it had no road frontage. Mr. Welte stated they are adding road frontage to 5 Leeward Lane. Mr. Mackey stated that lot #2 has no road frontage where it had 25ft of road frontage before, which makes 2 Leeward the nonconforming lot and would need the Area Variance.

Mr. D'Ambro inquired if the driveway is part of lot #5. Mr. Amato informed the Board that the driveway is part of lot #5 with an access easement to Lot #2. Mr. D'Ambro inquired the purpose of the land swap. Mrs. Amato stated they would like to make lot #5 a conforming lot to enable them to build a new smaller residence in the near future. They are not certain when construction would begin.

Chairman Ferris was also concern with the Planning Board's direction. It appears that Lot #2 will be nonconforming and is in need of an Area Variance prior to any Subdivision action. Chairman Ferris stated that Lot #2 needs the Area Variance due to the fact that is even less conforming. Chairman Ferris requested that they move forward in that way, if it is the Board's choice to do so.

Mr. Mackey requested they review the SQERA form. He further stated that he would like to see item 8 changed to NO, item 2 changing the project name from Lot #5 to Lot #2, item 3 changing project location from Lot #5 to Lot #2, item 4 changing precise location from Lot #5 to Lot #2. Chairman Ferris had Mr. Amato agreed and initial and date the changes on the SQERA form in the file.

Motion regarding SQERA.
Type 2 action, no further review is necessary
made by A. Mackey, seconded
by D. D'Ambro.
MOTION CARRIED 5-0

Mr. Urbanski inquired if there was some way to give lot #2 road frontage. Mr. Mackey stated that there isn't enough room to park car and there is also a ditch.

Therefore, that wouldn't be a functional part of the property. Chairman Ferris stated that there is a road way easement that will go with lot #2.

MOTION to approve AREA VARIANCE For 2 Leeward Lane. Mr. Mackey does not believe it will make an undesirable change to the neighborhood, it is within Resort residential zone. The lots are small irregular lots and this creates a conforming and slightly less nonconforming lot. The Area Variance is substantial because now Lot #2 has no road frontage and the requirement is 50ft. This is Resort Residential and there aren't many lots that have no road frontage so, this is not something that is detrimental to the neighborhood. The proposal will not have adverse impact to the fiscal environment conditions. The applicants are adding a house and it will be on the legal lot, not the lot we are dealing with. These lots are a strange layout to begin with. With that basis in mind, it should be approved. The motion was seconded by Donald D'Ambro.

Chairman Ferris-Yes
Mr. D'Ambro-YES
Mr. Mackey- YES
Mr. Urbanski-YES
Mr. Ritter- YES

MOTION CARRIED 5-0

John J. Shook
174 County Rte 76
P.O. Box 798
Stillwater, N.Y. 12170
(ZB2008-21-232.-1-70.11)

Mr. Shook was representing himself and he distributed revised maps for the Board members with the changes that the Planning Board suggested. Mr. Shook stated that in the past year he has worked with several Town Officials in order to get a 3 lot subdivision and all zoning requirements for the Low Density Residential zone have been met. Mr. Shook stated that he first went in front of the Planning Board back in August 2007 for a sketch plan review. There was a firm understanding of the plan and there was 150feet of road frontage and each proposed lot conformed. He was further encouraged to file an application for the subdivision project. On January 21, 2008 Mr. Shook meant

with the Planning Board seeking approval of the 3- lot Minor Subdivision. Each proposed lot contains a minimum of 2 acres and each lot has a minimum of 300 feet that is needed at the proposed building line. The lots have met the necessary setbacks, lot coverage requirements, and meet the 50feet of road frontage on County Route 76 according to section 12.12 of the Stillwater Zoning Law.

The application was denied from the Planning Board on the basis that he doesn't have 50feet of road frontage. The Planning Board Chairwoman alleged that 50feet road frontage required must extend back throughout the entire parcel, Mr. Shook respectfully disagrees.

According to New York State Law Article 16 Section 280-A the state of New York determines that 15ft.of road frontage shall be sufficient to allow adequate ingress and egress of emergency vehicles. As indicated above each proposed lot has 50ft of road frontage along County Rte 76. There is one driveway for all 3 lots which is a minimum of 20ft wide with an emergency vehicle turn around.

Mr. Shook is respectfully seeking interpretation of the Zoning Board of Appeals for the proposed 3 Lot Minor Subdivision that he believes meets the road frontage requirements of the Town of Stillwater Zoning Law. Mr. Shook stated that the sole purpose of this meeting is for interpretation of the frontage. Mr. Mackey inquired about the 50ft , if it is at the road or does run all the way back to the lots. Mr. Shook stated that the 50ft frontage is at the road.

Chairman Ferris inquired if this is a Public Hearing although it is an interpretation of an administrative decision. Attorney Trainor stated that it is a public hearing. Chairman Ferris opened the floor for the Public Hearing at 8:20 P.M. to any residents who may have concerns or would like clarification. Hearing none the Public Hearing was closed at 8:25 P.M.

Mr. Mackey inquired what the process is that the Board will take to determine if the 50ft is legal or not legal. Attorney Trainor stated that Mr. Shook is asking for an interpretation of the code as it exist. Attorney Trainor also stated the Zoning Board is setting policies that will guide the Zoning Board as well as the Planning Board in the future.

The interpretation of Mr. Shook's application is that he needs only 50ft of road frontage and 15ft access for each principle to be built upon, which means that each parcel needs it's own driveway. In regards to the administrative hearing that is a Planning Board issue and should not be before the Zoning Board. The Zoning Board has asked for 50ft at the front not 50ft all way back to the opening.

MOTION to direct the applicant to the Planning Board. The parcel doesn't need

50ft of width to the lot, just 50ft of road frontage, and would like to add that the Planning Board review the language in regard to shared driveways which Mr. Mackey feels is in conflict of 12.12. so there is no future complications of shared driveways verses Planning Board Law or Town Law.

Motion made by A. Mackey,
Seconded by D. D'Ambro

Discussion of the motion to interpret as Mr. Mackey has so stated.

Chairman Ferris-Yes
Mr. D'Ambro-Yes
Mr. Mackey-Yes
Mr. Urbanski-Yes
Mr. Ritter-Yes

There was no Old Business.

There was no New Business.

Meeting Adjourned at 9:20 P.M.

MOTION to Adjourn
Made by A. Mackey,
Seconded by J. Urbanski
MOTION CARRIED 5-0

Respectfully Submitted,

Sheila Silic

Sheila Silic

