

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
April 23, 2012 @ 7:30 PM
STILLWATER TOWN HALL**

Present: Chairperson James R. Ferris (JF), Donald D'Ambro (DD), William Ritter (WR), Richard Rourke (RR) and Christine Kipling (CK)

Absent: Deanna Stickney; Planning & Zoning Board Secretary

Also Present: Daryl Cutler(DC), Attorney for the Town; Paul Cummings (PC) from the Chazen Companies; Richard Butler (RB), Director Building, Planning & Zoning; Ray Abbey (RA) Code Enforcement Officer

(JF) Chairperson, called the meeting to order at 7:30PM.

Adoption of Minutes:

First order of business was the reviewing of the minutes of February 27th. (WR) made a motion to approve that was seconded by (DD). One Change was made to revise the date to be 2012 in lieu of 2011 at top of first page. Unanimously approved

Misc.:

-(JF) asked (DC) what are the legal newspapers of the Town. (DC) responded that there were two; The primary one is the Express, however, the Schenectady Gazette can be used. The Express published the Gervais variance legal ad. (RB) stated that both the Oliver and the D. A. Collins hearings were published in the Gazette due to deadline issues.

PUBLIC HEARINGS

(JF) Chairperson stated that the Board has 3 Public Hearings scheduled for this evening.

#1 7:35 PM Gervais, 95 Cty Rt 75

Area Variance to allow for a single family house

SBL# 252.-2.71

-Applicant is asking for an area variance. A similar variance was previously granted, but it has expired. Mr. Gervais is asking for the same variance as previously granted.

-Public input was requested by (JF).

-Diane Feaser of 97 Cty Rt 75 asked about fill, wet conditions and expressed concern that nothing has been constructed on the property. Overgrown soil piles , grass and weeds were of concern to her. She has concerns about the creation of potential wetlands on the subject property. (PC) stated that there are no official wetlands on this parcel, and there are other steps performed by the Building Department that would take place if any indication of wetlands were to be substantiated.

- Anthony Belmonte of 87 Cty Road 75 spoke in favor of the project.

- Public portion was closed by (JF).
- Board comments were requested by (JF):

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 7**

WHEREAS, Robert Gervais has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 95 County Route 75, more fully identified as Tax Map Number 252.-2-71; 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, Robert Gervais is a (Type II) action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member Ritter, seconded by Member D’Ambro, to adopt Resolution No. 7 of 2012.

A roll call vote was taken on Resolution No. 7 of 2012 as follows:

Chairman James Ferris	Yes
Member Donald D’Ambro	Yes
Member Christine Kipling	Yes
Member William Ritter	Yes
Member Richard Rourke	Yes

Resolution No. 7 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on April 23, 2012.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 8**

WHEREAS, Robert Gervais has submitted an application to the Zoning Board of Appeals seeking an *Area Variance* in order to build a single family residence on property located at 95 County Route 75, Town of Stillwater, New York, more fully identified as Tax Map Number 252.-2.71; and

WHEREAS, the Applicant is seeking an Area Variance from the lot size, lot width and set back requirement contained Stillwater Zoning Code §3; 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 April 23, 2012; 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 applicants 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 lot width is the same size as other lots, and some lots are even smaller;
2. The benefit sought by the applicant cannot be achieved by some method, feasible to the applicants to pursue, other than an Area Variance because no other land is available without making other lots substandard;
3. The requested Area Variance is substantial in lot width, but not lot area, but to other lots in the are about the same in lot width;
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 very close in size to the other lots in the area; and
5. The alleged difficulty was not 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 this lot is similar in size to the other lots; and be it further

RESOLVED, that this approval shall be conditioned upon proof of filing a corrective deed; and it is further

RESOLVED, that the application of Robert Gervais seeking an *Area Variance* in order to build a single family residence on property located at 95 County Route 75, Town

of Stillwater, New York, more fully identified as Tax Map Number 252.-2.71, is GRANTED.

A motion by Member Ritter, seconded by Member D'Ambro, to adopt Resolution No. 8 of 2012.

A roll call vote was taken on Resolution No. 8 of 2012 as follows:

Member Donald D'Ambro	Yes
Member Christine Kipling	Yes
Member William Ritter	Yes
Member Richard Rourke	Yes
Chairperson James R. Ferris	Yes

Resolution No. 8 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on April 23, 2012.

#2 7:55 PM Nicole Oliver, 22 Groncziak Road

Area Variance to allow for a garage

SBL#22.-1-72

-Nicole Oliver spoke on her and her husband's behalf. House sits on a slight slope. They wish to add a detached garage located to miss their septic system and to avoid relocating and disturbing an existing stamped concrete sidewalk. Building an attached garage would be difficult due to existing slopes and an existing porch.

-Public input was requested. No one spoke. Neighbor VanEtten submitted a letter in favor of the project.

-Public portion was closed by (JF).

-Board input was requested by (JF).

-(DD) asked for clarification of terrain in the area of the proposed garage location and neighbor's garage location.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 9**

WHEREAS, Nicole Oliver has submitted an application to the Zoning Board of Appeals for an AreaVariance regarding property located on 22 Groncziak Road, more fully identified as Tax Map Number 22.-1-72; 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, Nicole Oliver, is a (Type II) action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member D'Ambro, seconded by Member Ritter, to adopt Resolution No. 9 of 2012.

A roll call vote was taken on Resolution No. 9 of 2012 as follows:

Chairman James Ferris	Yes
Member Donald D'Ambro	Yes
Member Christine Kipling	Yes
Member William Ritter	Yes
Member Richard Rourke	Yes

Resolution No. 9 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on April 23, 2012

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 10**

WHEREAS, Nicole Oliver has submitted an application to the Zoning Board of Appeals seeking an *Area Variance* in order to build a detached garage on property located at 22 Gronczniak Road, Town of Stillwater, New York, more fully identified as Tax Map Number 22-1-72; and

WHEREAS, the Applicant is seeking an Area Variance from the set back requirement contained Stillwater Zoning Code §3; 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 April 23, 2012; 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 applicants 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:

6. 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 it is consistent with other properties in the area;
7. The benefit sought by the applicant cannot be achieved by some method, feasible to the applicants to pursue, other than an Area Variance because the porch is a poured in place foundation, and there are drainage issues that would be created if it were closer to the house;
8. The requested Area Variance is not substantial because it is only an 8 foot variance;
9. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because many of the other area properties have detached garages and it is supported by the neighbor; and
10. The alleged difficulty was not 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; and be it further

RESOLVED, that the application of Nicole Oliver seeking an *Area Variance* in order to build a detached garage on property located at 22 Gronczniak Road, Town of Stillwater, New York, more fully identified as Tax Map Number 22-1-72is GRANTED.

A motion by Member Kipling, seconded by Member D'Ambro, to adopt Resolution No. 10 of 2012.

A roll call vote was taken on Resolution No. 10 of 2012 as follows:

Member Donald D'Ambro	Yes
Member Christine Kipling	Yes
Member William Ritter	Yes
Member Richard Rourke	Yes
Chairperson James R. Ferris	Yes

Resolution No. 10 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on April 23, 2012.

**#3 8:15PM, D. A .Collins Construction
Area Variance**

SBL# 252.-2-35

0

-Jeff Cintula spoke on his company's behalf. He gave a general description of the Project and its history to date. The Project needs relief from a buffer requirement between the property and the adjacent house property to the immediate West that the company now owns, and secondly, relief from the requirement for landscaping within the subject parking area. A non-required landscaped berm is planned to be installed between the parking area and NYS Rt 67.

-(JF) asked for clarification concerning the temporary nature of the application. Mr. Cintula described the lease terms for relocating the trucking facility to another location either on or off the property. (RB) mentioned the public notice does not mention the word temporary. The applications before the Planning Board involve a two-year renewable Special Use Permit. (JF) requested that the word temporary be stricken from the ZBA application. All agreed, including the Applicant. Forms were modified to exclude the word temporary. 8.5D, 8.5E and 8.6A are the Zoning references from which the Applicant is seeking relief.

-Public comment was requested. None was provided.

-The Applicant's Atty. Jim Neary, introduced himself and thanked the Board for its support of the Project.

-Public portion was closed by (JF).

-Board comment was requested by (JF).

-(WR) requested minor changes to the SEQR form. They were incorporated and signed by the Applicant.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 11**

WHEREAS, D.A. Collins has submitted an application to the Zoning Board of Appeals for an Area / Use Variance regarding property located on Route 67, more fully identified as Tax Map Number 252.-2-35; 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, D.A. Collins, is a (Type II) action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member Ritter, seconded by Member Kipling, to adopt Resolution No. 11 of 2012.

A roll call vote was taken on Resolution No. 11 of 2012 as follows:

Chairman James Ferris	Yes
Member Donald D'Ambro	Yes
Member Christine Kipling	Yes
Member William Ritter	Yes
Member Richard Rourke	Yes

Resolution No. 11 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on April 23, 2012.

- Board comment requested by (JF):
- The landscaped berm proposed along Route 67 was described in detail at the request of (DD).

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2012 RESOLUTION NO. 12**

WHEREAS, D.A. Collins has submitted an application to the Zoning Board of Appeals seeking an *Area Variance* in order to have a parking lot on property located at Route 67, Town of Stillwater, New York, more fully identified as Tax Map Number 252.-2-35; and

WHEREAS, the Applicant is seeking an Area Variance from the landscape requirements contained Stillwater Zoning Code §8.5D, 8.5E, and 8.6; 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 April 23, 2012; 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 applicants 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 D.A. Collins owns the

adjacent residential property and there is already some trees buffering the property;

2. The benefit sought by the applicant can be achieved by some method, feasible to the applicants to pursue, other than an Area Variance because they can install trees, but it is not practical to put them where our Zoning requires;
3. The requested Area Variance is not substantial because there will still be trees, just in a different location;
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 does not really change the property; and
5. 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 this use is along the prior use of the property; and be it further

RESOLVED, that the application of D.A. Collins seeking an *Area Variance* in order to have a parking lot on property located at Route 67, Town of Stillwater, New York, more fully identified as Tax Map Number 252.-2-35, is GRANTED, under the following conditions:

1. The variances are for the area of the property that is being used as a truck parking lot under the proposed renewable special use permit;
2. The variance continues only so long as the renewable special use permit is maintained;
3. The Applicant maintains the existing landscape buffer between the property and the adjacent residential property; and
4. The Applicant installs a berm and landscape between the parking lot and Route 67.

A motion by Member Ritter, seconded by Member D'Ambro, to adopt Resolution No. 12 of 2012.

A roll call vote was taken on Resolution No. 12 of 2012 as follows:

Member Donald D'Ambro	Yes
Member Christine Kipling	Yes
Member William Ritter	Yes
Member Richard Rourke	Yes
Chairperson James R. Ferris	Yes

Resolution No. 12 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on April 23, 2012.

OLD BUSINESS

None

NEW BUSINESS

-Peter Hughes, Town Fire Marshal and 911 Coordinator made a presentation to the Board describing a history of code enforcement nationally and more specifically within the Town and generally described the complex and sometimes conflicting requirements for enforcing Building Code, Zoning Ordinance and Violation Enforcement provisions. He expressed that voluntary compliance is desired, when that does not work, legal enforcement, where and when properly funded, come into play.

Building & Planning

-Relative to (RB's) distribution of Department reports on permit activity, (JF)asked for clarification of how permit fees are determined. (RA) responded that there are formulas for determining permit fees. (RB) added that the fee structure is on the town's web-site and it is annually reviewed and issued by the Town Board.

-(JF) Informed (RB) that residential parcels do not have to be reviewed / approved by the County, (vis a vis a 239m form).

-(JF) asked why notifications are sent by mail to the ZBA regarding Lead Agency / Coordinated Review status. (PC) responded that Type 1 actions need to notify potentially affected agencies. The Department will attempt to avoid future mailing fees within its own agencies.

-(JF) mentioned that there will be a meeting of the zoning sub-committee tomorrow evening to review / discuss a second round of ordinance revisions / additions.

Adjournment

Motion to adjourn made by (RR), 2nd by (CK) at approximately 10PM.