

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
March 29, 2010 7:30PM
STILLWATER TOWN HALL**

Present: Chairman James R. Ferris, Donald D’Ambro, Alec Mackay, William Ritter and Richard Rourke

Also Present: Jim Trainor, Attorney for the Town; Paul Cummings, Planner for the Town; Ray Abbey, Building/Codes Inspector and Jessica Valcik, Secretary for the Zoning Board

Chairman Ferris called the meeting to order.

Adoption of Minutes: Motion by A. Mackay and seconded by D. D’ Ambro to adopt the minutes of the January 25, 2010 meeting. Motion carried four-zero-one. D. D’Ambro abstained.

Old Business:
None

New Business:
Interpretation of structure: The board held a conversation on what the in depth definition of a structure is. They also referred to the zoning regulations book for the actual definition.
Billboards: The board held a brief conversation about billboards that need to be updated.

Denise Yocum-Public Hearing- 7:40pm
Area Variance
ZB2010-64
SBL# 242.-1-59

Denise Yocum spoke on her behalf. She is looking to put up a garage and is lacking the correct amount of space by a small amount.

A public hearing was opened. With no one to speak at the hearing, it was closed.

After a discussion with the board, they came up with the following resolution:

Resolution # 1 **(SEQRA-Approved)**
Motion by W. Ritter and seconded by D. D’ Ambro to adopt resolution # 1 as follows:

WHEREAS, Denise Yocum has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 47 Elmore Robinson Road, Stillwater, more fully identified as Tax Map Number 242.-1-59; 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, Denise Yocum, 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. 1 as follows:

Member Donald D'Ambro	Yes
Member William Ritter	Yes
Member Alec Mackay	Yes
Member Richard Rourke	Yes
Chairman James R. Ferris	Yes

Resolution No. 1 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on March 29, 2010.

Motion carried unanimously.

Resolution # 2

(Area Variance- Granted)

Motion by W. Ritter and seconded by D. D'Ambro to adopt resolution # 2 as follows:

WHEREAS, Denise Yocum has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a garage on the parcel with the existing single family dwelling on property located at 47 Elmore Robinson Road, Stillwater, more fully identified as Tax Map Number 242.-1-59; and

WHEREAS, the Applicant is seeking two Area Variances from the (1) 2 acre minimum lot size requirement, and (2) the 300 foot lot width 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 March 29, 2010; and

WHEREAS, the Zoning Board of Appeals has duly considered the application and the elements necessary to consider the granting of two Area Variances 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 there are similar structures on both sides;
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 opportunity to add acreage to the parcel;
3. The requested Area Variance is not substantial because it's only a .04 / acre difference and the lot width is only a few feet less than 300 feet;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because residential homes surround it already; and
5. The alleged difficulty was not self-created because purchased existing parcel; and be it further

RESOLVED, that the application of Denise Yocum for two Area Variances from the (1) 2 acre minimum lot size requirement, and (2) the 300 foot lot width to allow for the construction of a garage on the parcel with the existing single family dwelling on property located at 47 Elmore Robinson Road, Stillwater, more fully identified as Tax Map Number 242.-1-59, is GRANTED.

A roll call vote was taken on Resolution No. 2 of 2010 as follows:

Member Donald D'Ambro	Yes
Member William Ritter	Yes
Member Alec Mackay	Yes
Member Richard Rourke	Yes
Chairman James R. Ferris	Yes

Resolution No. 2 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on March 29, 2010.

Motion carried unanimously.

Courtenay Hall-Public Hearing-8:00

Use Variance

PB2010-65

SBL # 244.-1-4.1

Jim Vianna spoke on behalf of the applicants. They wanted to take 10.3 acres and subdivide the properties between his neighbors doing a 2-lot subdivision and a lot line adjustment.

After a discussion from the Board, they believed that it was not a use variance, but an area variance. The consensus of the Board was to table this public hearing for the time being.

Motion to table by A. Mackay and seconded by W. Ritter. **Carried Five-Zero-Zero.**

Courtenay Hall-Public Hearing

Zoning Interpretation

ZB2010-68

SBL # 244.-1-4.1

The Board held a brief discussion on the Zoning Interpretation and came to the following conclusion:

Resolution # 3

(Zoning Interpretation-Denied)

WHEREAS, Courtenay Hall has submitted an application to the Zoning Board of Appeals seeking a Zoning Interpretation that the 1990 Area Variance for frontage granted to the property was still valid on property located at 136 River Road, Stillwater, more fully identified as Tax Map Number 244.-1-4.1; and

WHEREAS, the Applicant is seeking a Zoning Interpretation that the 1990 Area Variance for frontage from the requirement contained Stillwater Zoning Code §3.5(D) is still valid; 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 March 29, 2010; and

WHEREAS, the Zoning Board of Appeals has duly considered the application and the elements necessary to consider the granting of a Zoning Interpretation 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:

6. The 1990 Area variance for road frontage to Parcel #2 (Smith

residence) was specifically granted for a parcel which was 200 feet by 225 feet in size; and

7. The current Area Variance application for road frontage is for a parcel significantly larger in size from that existing in 1990; and be if further

RESOLVED, that the application of Courtenay Hall for a Zoning Interpretation on property located at 136 River Road, Stillwater, more fully identified as Tax Map Number 244.-1-4.1, is DENIED.

A roll call vote was taken on Resolution No. 3 of 2010 as follows:

Member Donald D’Ambro	No
Member William Ritter	Yes
Member Alec Mackay	Yes
Member Richard Rourke	Yes
Chairman James R. Ferris	No

Resolution No. 3 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on March 29, 2010.

Motion carried three-two-zero.

Courtenay Hall
Use Variance
PB2010-65
SBL # 244.-1-4.1

The Public Hearing was opened back up as an area variance at 8:50pm.

Motion to reopen the public hearing by A. Mackay and seconded by D. D’Ambro.
The hearing was opened to the public.

Edward Skorupski of Route 4 questioned what the applicant is proposed to do and what the properties were in question. He gave no objections.

Edward Hinchey of Route 4 said that it would make the property more adaptable.

Dale Koehrsen of Riverside Ct wanted to make sure that there was no new construction planning to be done.

The Public Hearing was closed at 8:55. After a discussion from the Board members, they offered the following resolution:

Resolution # 4

(SEQRA-APPROVED)

WHEREAS, Courtenay Hall has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 136 River Road, Stillwater, more fully identified as Tax Map Number 244.-1-4.1; 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, Courtenay Hall, 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. 4 as follows:

Member Donald D'Ambro	Yes
Member William Ritter	Yes
Member Alec Mackay	Yes
Member Richard Rourke	Yes
Chairman James R. Ferris	Yes

Resolution No. 4 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on March 29, 2010.

Motion carried unanimously.

Resolution # 5

(Area Variance-Granted)

WHEREAS, Courtenay Hall has submitted an application to the Zoning Board of Appeals seeking Use / Area Variances for a Preexisting Nonconforming Use on property located at 136 River Road, Stillwater, more fully identified as Tax Map Number 244.-1-4.1; and

WHEREAS, the Applicant is seeking (1) a Use / Area Variance as a Preexisting Nonconforming Use, and (2) an Area Variance from the 50 foot Road Variance for Parcel 2 requirement 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 March 29, 2010; and

WHEREAS, the Zoning Board of Appeals has duly considered the application and the elements necessary to consider the granting of Area Variances 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:

8. 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 Variances because there is no change to existing use as the dwellings on the property already exist;
9. The benefit sought by the applicant cannot be achieved by some method, feasible to the applicant to pursue, other than the Area Variances because the zoning was changed by the Town and there is no other road frontage available;
10. The requested Area Variances are not substantial because there currently is no frontage on a public road for Parcel 2 and 50 feet is requested;
11. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because the dwelling on Parcel 2 already exists and the owner utilizes the driveway; and
12. The alleged difficulty was self-created because the dwelling on Parcel 2 was built without prior subdivision and frontage variance approval; and be it further

RESOLVED, that the Public Notice published for a Use Variance Public hearing provided sufficient notice to the public for the Zoning Board of Appeals to consider Area Variances for insufficient road frontage and for the preexisting nonconforming use regarding Parcel 2; and be it further

RESOLVED, that Parcel 2 shall be permitted to continue as a preexisting, nonconforming residential use; and be it further

RESOLVED, that the application of Courtenay Hall for (1) a Use / Area Variance as a Preexisting Nonconforming Use, and (2) an Area Variance from the 50 foot Road Variance for Parcel 2, Stillwater, on property located at 136 River Road, Stillwater, more fully identified as Tax Map Number 244.-1-4.1, is GRANTED.

A roll call vote was taken on Resolution No. 5 of 2010 as follows:

Member Donald D'Ambro	Yes
Member William Ritter	Yes
Member Alec Mackay	Yes
Member Richard Rourke	Yes
Chairman James R. Ferris	Yes

Resolution No. 5 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on March 29, 2010.

Motion carried unanimously.
Edward Hinchey-Public Hearing
Area Variance
ZB2010-66
SBL # 244.-1-5

A public hearing was opened at 9:00 for the area variance for the proposed project, which goes with the Hall project. Jim Vianna is also the representative for the applicant. The hearing was opened to the public.

Edward Skorupski asked about if Hinchey would need to have any additional expenses for filing anything or a new deed? (Per Mr. Hinchey)

The public portion was closed.

After a brief discussion between the Board members of what to include in the motions, the Board offered the following resolution:

Resolution # 6 **(SEQRA_APPROVED)**

WHEREAS, Edward Hinchey has submitted an application to the Zoning Board of Appeals for an Area / Use Variance regarding property located on 132 River Road, Stillwater, more fully identified as Tax Map Number 244.-1-5; 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, Edward Hinchey, 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. 6 as follows:

Member Donald D’Ambro	Yes
Member William Ritter	Yes
Member Alec Mackay	Yes
Member Richard Rourke	Yes
Chairman James R. Ferris	Yes

Resolution No. 6 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on March 29, 2010.

Motion carried unanimously.

Resolution # 7 **(Area Variance-Granted)**

WHEREAS, Edward Hinchey has submitted an application to the Zoning Board of Appeals seeking Use / Area Variances for a Preexisting Nonconforming Use on property located at 132 River Road, Stillwater, more fully identified as Tax Map Number 244.-1-5; and

WHEREAS, the Applicant is seeking (1) a Use / Area Variance as a Preexisting Nonconforming Use, and (2) an Area Variance from the 50 foot Road Variance requirement 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 March 29, 2010; and

WHEREAS, the Zoning Board of Appeals has duly considered the application and the elements necessary to consider the granting of Area Variances 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:

13. 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 is no change to existing use as the dwellings on the property already exist;
14. The benefit sought by the applicant cannot be achieved by some method, feasible to the applicant to pursue, other than an Area Variance because the zoning was changed by the Town and there is no other road frontage available;
15. The requested Area Variance is not substantial because there currently is no frontage on a public road and 50 feet is requested;
16. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because the dwelling already exists and the owner utilizes the driveway; and
17. The alleged difficulty was not self-created because the dwelling was built without prior subdivision and frontage variance approval; and be it further

RESOLVED, that the parcel shall be permitted to continue as a preexisting, nonconforming residential use; and be it further

RESOLVED, that the application of Edward Hinchey for (1) a Use / Area Variance as a Preexisting Nonconforming Use, and (2) an Area Variance from the 50 foot Road Variance on property located at 132 River Road, Stillwater, more fully identified as Tax Map Number 244.-1-5, is GRANTED.

A roll call vote was taken on Resolution No. 7 of 2010 as follows:

Member Donald D' Ambro	Yes
Member William Ritter	Yes
Member Alec Mackay	Yes
Member Richard Rourke	Yes
Chairman James R. Ferris	Yes

Resolution No. 7 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on March 29, 2010.

Edward Hinchey-Public Hearing

Use Variance

ZB2010-66

SBL # 244.-1-5

The use variance did not apply in this case and therefore the Public hearing was not held.

Motion by R. Rourke and seconded by A. Mackay to adjourn the meeting at 9:50pm.

Motion carried unanimously.

Respectfully submitted by

Jessica Valcik
Secretary for ZBA