

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
May 24, 2010 7:30PM
STILLWATER TOWN HALL**

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

Also Present: Daryl Cutler, 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 W. Ritter and seconded by D. D’Ambro to table the March 29, 2010 minutes until the next meeting. **Motion carried unanimously.**

Old Business:

A Board Member spoke about an issue concerning a couple Mobile Homes put up on blocks and looked to be unstable. The Building/Code Officer will look into the issue.

Jesse & Christine Bentley-Public Hearing- 7:45pm

Area Variance

ZB2010-70

SBL# 209.-1-26.2

Christine spoke on behalf of their application. They are looking to build a garage, however, it is zoned in the B2 District and they are a little short in the back of required space.

The Chairman opened the Public Hearing to the residents. With no one to speak, the Public Hearing was closed.

After a brief discussion between the Board Members, they offered the following:

Resolution # 8

(SEQRA-Approved)

Motion by A. Mackay and seconded by W. Ritter to adopt resolution # 8 as follows:

WHEREAS, Jesse L. Bentley and Christine M. Bentley have submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 359 River Road, Stillwater, more fully identified as Tax Map Number 209.-1-26.2; 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 Applicants, Jesse L. Bentley and Christine M. Bentley, 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. 8 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. 8 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 24, 2010.

Motion carried unanimously.

Resolution # 9

(Area Variance-Granted)

Motion by A. Mackay and seconded by D. D'Ambro to adopt resolution # 9 as follows:

WHEREAS, Jesse L. Bentley and Christine M. Bentley have 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 359 River Road, Stillwater, more fully identified as Tax Map Number 209.-1-26.2; and

WHEREAS, the Applicants are seeking an Area Variance from the set back 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 May 24, 2010; 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:

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 is mostly residential development in the area, even though it is zoned as a Business District, and the Applicants are just adding a garage;

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 this is a very small parcel, Applicants are just adding a garage, and there is no other location to put it;
3. The requested Area Variance is substantial, but other factors outweigh this factor;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because this is just a garage being added in a mostly residential area; and
5. The alleged difficulty was not self-created because the property is a residential use already even though it is in a Business District; and be it further

RESOLVED, that the application of Jesse L. Bentley and Christine M. Bentley for an Area Variance from the set back requirements to allow for the construction of a garage on the parcel with an existing single family dwelling on property located at 359 River Road, Stillwater, more fully identified as Tax Map Number 209.-1-26.2, is GRANTED.

A roll call vote was taken on Resolution No. 9 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. 9 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 24, 2010.

Motion carried unanimously.

New Business:

The Board briefly held a discussion on the Zoning Ordinances regarding the 300ft. rule. It is at the Town Board, however, further information is needed. The Board held a brief conversation about Billboards.

James Dickson-Public Hearing-8:00

Area Variance

ZB2010-70

SBL # 231.-2-58.112

The applicant wants to build a two-car garage. The previous garage was torn down and there was no permit in time to re-build and needed to reapply.

The Chairman opened the floor for the Public Hearing. With no one to speak about the applicant the Public Hearing was closed.

The Board held a discussion about the application. The applicant's new garage will stick out further than the previous garage which causes the set back issues. The applicant does own the parcel behind his property and question what can be taken from it to meet requirements.

After a discussion the Board offered the following resolution:

Resolution # 10

(SEQRA-Approved)

Motion by R. Rourke and seconded by W. Ritter to adopt resolution # 10 as follows:

WHEREAS, James Dickson has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 408 County Route 76, Stillwater, more fully identified as Tax Map Number 231.-2-58.112; 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, James Dickson, 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. 10 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. 10 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 24, 2010.

Motion carried unanimously.

The Board Members held a discussion on the approval of the area variance and have decided to table it until further documents are provided.

Motion by A. Mackay and seconded by D. D'Ambro to table the applicant until further documents are presented. **Motion carried unanimously.**

DeCrescente Dist. Co.

Area Variance

ZB2010-72

SBL # 262.-1-11

Andy Laing spoke on behalf of the application. The sign they are wanting to put up in over the size limit. Andy spoke that they need it this size for people to be able to see the sign coming from the South. The sign adheres to the building.

The Board Members held a brief conversation about the application. The consensus of the Board was to offer the following resolution:

Resolution # 11

(SEQRA-Granted)

Motion by A. Mackay and seconded by D. D’Ambro to adopt resolution # 11 as follows:

WHEREAS, DeCrescente Distributing Co., Inc. has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 250 North Main Street, Stillwater, more fully identified as Tax Map Number 262-1-11; 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, DeCrescente Distributing Co., Inc., 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. 11 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. 11 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 24, 2010.

Motion carried unanimously.

Resolution # 12

(Area Variance-Approved)

Motion by A. Mackay and seconded by W. Ritter to adopt resolution # 12 as follows:

WHEREAS, DeCrescente Distributing Co., Inc. has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a sign for the Wellness Center on property located at 250 North Main Street, Stillwater, more fully identified as Tax Map Number 262-1-11; and

WHEREAS, the Applicants are seeking an Area Variance on sign 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 May 24, 2010; 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:

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 this is in an Industrial zone and Applicant is just asking for a large enough sign to allow adequate visibility;
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 a smaller sign is not adequately visible;
8. The requested Area Variance is substantial, because it involves a 50% increase in size, but there is not a negative impact on neighborhood;
9. 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 consistent with other signage of the business, and it is just a sign; and
10. The alleged difficulty was not self-created because the signage Law is now in effect, but they need it this size for visibility; and be it further

RESOLVED, that the application of DeCrescente Distributing Co., Inc. for an Area Variance in order to construct a sign for the Wellness Center on property located at 250 North Main Street, Stillwater, more fully identified as Tax Map Number 262-1-11, is GRANTED.

A roll call vote was taken on Resolution No. 12 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. 12 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 24, 2010.

Motion carried unanimously.

Recyck Auto
Zoning Interpretation
ZB2010-71
SBL # 253.-1-55.122

Jack Cox spoke for himself about the interpretation. He discussed the law of having to renew the Special Use Permit every year.

The Board decided to split the interpretation into two sections. First they will look at the actual ordinance of the Special Use Permit and the second part will be on the stop work order.

The Board spoke with the Town Attorney and has decided that the law is very clear about the renewal of the Permit and supports it. The Board offered the following resolution:

Resolution # 13 (Zoning Interpretation)

Motion by A. Mackay and seconded by D. D’Ambro

WHEREAS, Recyck Auto, Inc. d/b/a ABC Recycled Auto Parts, Inc. has submitted an application to the Zoning Board of Appeals for an interpretation regarding property located on 250 Walnut Road, Mechanicville, more fully identified as Tax Map Number 253.-1-55.122; and

WHEREAS, the Stillwater Town Planning Department and Code Enforcement Officer have rendered a determination that the Special Permit to allow the property in question to operate a junkyard expired after 1 year; and

WHEREAS, the Applicant seeks an interpretation to determine if this determination is consistent with the Stillwater Town Local Zoning Law;

RESOLVED, that the Stillwater Zoning Board of Appeals hereby determines that while at least one Board Member may feel it would be appropriate to amend the law to make such special permits renewable every five (5) years instead of every year, the Board has determined that §7.6(A)(2)(f) of the Town of Stillwater Local Zoning Law is very clear and that a Special Permit to allow the use of operating a junkyard are good for only one year and must be renewed annually.

A motion by Member Mackay, seconded by Member D’Ambro, to adopt Resolution No. 13 of 2010.

A roll call vote was taken on Resolution No. 13 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. 13 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 24, 2010.

Motion carried unanimously.

The second part of the interpretation was based on the stop work order. The ZBA has come to the consensus to table this part until the next ZBA meeting.

Motion by W. Ritter and seconded by D. D'Ambro to table the applicant until the next meeting on June 28. **Motion carried four-zero-one (A. Mackay voted no).**

New Business:

Flynn: A representative from Belmonte spoke on behalf of the Flynn project. They will be attending a ZBA meeting for an Area Variance. They were looking to make sure everything was in compliance and to hold a special meeting to grant the variance. The Board held a discussion and decided there wasn't a reason to hold a special meeting and will be on the June 28, 2010 ZBA meeting.

A Board Member expressed concern about an addition being put on top of a garage and what the purpose of it was for. After speaking with the Building/Codes Enforcement Officer, it will be looked into.

Motion by A. Mackay and seconded by W. Ritter to adjourn the meeting at 9:45pm.

Motion carried unanimously.

Respectfully submitted by

Jessica Valcik
Secretary for ZBA