

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
June 28, 2010 7:30PM
STILLWATER TOWN HALL**

Present: Chairman James R. Ferris, Donald D'Ambro, Alec Mackay 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

Absent: William Ritter

Chairman Ferris called the meeting to order.

Adoption of Minutes: Motion by A. Mackay and seconded by D. D'Ambro to adopt the March 29, 2010 minutes. **Motion carried four-zero.**

Motion by A. Mackay and seconded by R. Rourke to adopt the May 24, 2010 minutes. **Motion carried four-zero.**

**James Dickson
Area Variance
ZB2010-70
SBL# 231.-2-58.112**

The applicant came back to the Board with the documents that were required to move ahead with the proposed project.

The Board held a discussion about the two parcels that were in question of if they could be corrected.

A **motion** was made by A. Mackay and seconded by D. D'Ambro to remove from the table and continue with the area variance. **Motion carried four-zero.**

The Board has already approved the SEQRA for the project and has offered the following resolution with conditions to the applicant to proceed:

Resolution # 14 **Area Variance-Granted w/conditions**
Motion by A. Mackay and seconded by D. D'Ambro to adopt resolution # 14 as follows:

WHEREAS, James Dickson has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct an addition of a garage to the existing single family dwelling on property located at 408 County Route 76, Stillwater, more fully identified as Tax Map Number 231.-2-58.112; and

WHEREAS, the Applicant is seeking an Area Variance from the set back requirements contained in 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 Applicant is just adding a garage;
2. The benefit sought by the Applicant cannot be achieved by some other method, feasible to the Applicant to pursue, other than an Area Variance with regard to the front set back, as long as area is increased to a minimum of 2 acres;
3. The requested Area Variance is not substantial if it is made into a minimum of 2 acre lot;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because most of the other lots have 2 car garages; and
5. The alleged difficulty will be deemed as being not self-created so long as it is made a minimum of 2 acre lot;

and be it further

RESOLVED, that the application of James Dickson 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 408 County Route 76, Stillwater, more fully identified as Tax Map Number 231.-2-58.112, is GRANTED with the condition that the acreage for the lot be increased to a minimum of two (2) acres and approval of the Planning Board.

A roll call vote was taken on Resolution No. 14 of 2010 as follows:

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

Resolution No. 14 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 28, 2010.

Motion carried four-zero.

James Flynn- Public Hearing-8:00pm

Area Variance

ZB2010-73

SBL # 218.8-1-36

There was no applicant present at the meeting to speak.

The Public Hearing was opened to the floor.

John Vanamburg from 14 Chesnut Lane, Saratoga Hills spoke of Mobile Home Regulations. He was misinformed about what the Public Hearing was for. The proposed variance that was being requested was not for a mobile home.

Stella Wallatis of 5 East Cove wanted to know what the proposed plans were and what was to be built.

With no one else to speak, the Public Hearing was closed.

After a brief discussion with the Board, the consensus was to table the application until the applicant was able to attend and speak.

Motion by A. Mackay and seconded by D. D'Ambro to table the applicant until they are available to speak on their behalf. **Motion carried four-zero.**

Recyck Auto (tabled from 5/24/10)

Zoning Interpretation

ZB2010-71

SBL # 253.-1-55.122

There was no applicant present to speak on behalf of the application. The Board made a motion to remove the applicant from the table and continue.

Motion by A. Mackay and seconded by D. D'Ambro to remove the applicant from the table. **Motion carried four-zero.**

The Board held a discussion of how to handle the applicant's matter. The application before the Planning Board for a Special Use Permit is still not complete. The Board discussed what the applicant was supposed to submit to both the Planning Board and the Zoning Board of Appeals; a motion was made to sustain the stop work order.

Motion by A. Mackay and seconded by D. D'Ambro to sustain the notice of violation and the stop work order effective immediately.

The Board offered the following resolution:

Resolution # 15

Notice of Violation/Stop Work Order- Sustained

Motion by Member Mackay, seconded by Member D'Ambro, to adopt Resolution # 15 as follows:

WHEREAS, upon the application of Jack Cox, owner of Recyck Auto, Inc., appealing the Notice of Violation / Stop Work Order issued by the Stillwater Town Code Enforcement Officer, regarding the use of the property located 250 Walnut Road, Mechanicville, also known as ABC Recycled Auto Parts, Inc.; and

WHEREAS, upon the appearance of the Applicant at the regularly scheduled meeting of the Zoning Board of Appeals on May 24, 2010, and the matter having been tabled until the next regularly scheduled Zoning Board of Appeals meeting on June 28, 2010, to determine if the Applicant submits the necessary and requested documentation to the Planning Board in order for his application for a Special Use Permit to be deemed complete. The Applicant was advised that the application would be heard on June 28, 2010, and that his efforts to actively complete the application for the Planning Board would be a factor considered by the Zoning Board of Appeals at that meeting; and

WHEREAS, that the Applicant did not appear before the Zoning Board of Appeals at the June 28, 2010 meeting; and

WHEREAS, that a motion was made by Member Alec Mackay and seconded by Member Don D'Ambro to sustain the actions of the Building Department and Code Enforcement Officer; to sustain the Notice of Violation and Stop Work Order; and to make the Notice of Violation and Stop Work Order effective immediately; and

WHEREAS, the Board considered the fact that the Town Zoning Code clearly required the Applicant to have a Special Use Permit for the use of the property as a junkyard, that the Applicant is using the property in a manner that is defined as the operation of a junkyard, that the Applicant does not have a Special Use Permit to operate a junkyard at the premises, and that the Notice of Violation / Stop Work Order was appropriate. When considering the effective date for compliance and remedy of the violation, the Board noted the Applicant was advised by the Town of the need to submit an application prior to February 2010, was requested to do so thereafter, and once the Applicant did finally submit an application, the Applicant was advised that it was incomplete. The Town advised the Applicant of what documentation was necessary for the Application to be complete. The Applicant still had not submitted the necessary and requested documentation to the Planning Board in order for his application for a Special Use Permit to be deemed complete. Further, despite being advised that this matter was on the agenda for this meeting, the Applicant failed to appear to offer any excuse or explanation for his failure to submit the documentation to the Planning Board;

Now, therefore, upon due deliberation be it

RESOLVED, that the actions of the Town of Stillwater Building Department and Code Enforcement Officer are sustained; and be it further

RESOLVED, that the Notice of Violation / Stop Work Order is sustained; and be it further

RESOLVED, that the automatic stay is terminated and the effective date of the Stop Work Order and the remedy date of the Notice of Violation is June 28, 2010; and be it further

RESOLVED, that the Code Enforcement Officer is directed to post the Notice of Violation and Stop Work Order at the site on June 29, 2010 and to serve such notice upon any persons present at the site at that time.

A roll call vote was taken on Resolution No. 15 of 2010 as follows:

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

Resolution No. 15 of 2010 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on June 28, 2010.

Motion carried four-zero.

Old Business:

A brief discussion was held on the Mobile Home Park on Rt. 76 (Grayson). There has been activity going on and Mobile Homes moving into spaces. Questions about the age of Mobile Homes to be brought in were asked. Ray (Building/Code Enforcement Officer) gave an update that 3 Mobile Homes will be moving in and will comply with regulations. More will be looked into.

The Board held a brief discussion on the update on the Billboards and compliance. A letter is in draft and there will be a follow up with any progress made.

New Business:

None

Motion by R. Rourke and seconded by A. Mackay to adjourn the meeting at 8:55pm.

Motion carried four-zero.

Respectfully submitted by

Jessica Valcik
Secretary for ZBA