

**DRAFT**  
**TOWN OF STILLWATER**  
**ZONING BOARD OF APPEALS**  
**April 14, 2014 @ 7:30 PM**  
**STILLWATER TOWN HALL**

**Present:** Chairman William Ritter  
Donald D'Ambro  
Richard Rourke  
Christine Kipling

**Also Present:** Daryl Cutler, Attorney for the Town  
Paul Cummings, Engineer for the Town  
Lindsay Zepko, Town Planner  
Eric Rutland, Code Enforcement Officer/Building Inspector

**Absent:** Paul Male, Acting Director of Building, Planning and  
Development

Chairman Ritter called the meeting to order at 7:30 P.M. and led everyone in the Pledge to the Flag.

**Approval of Minutes, March 10, 2014**

Mr. D'Ambro made a motion to approve; Mr. Cummings requested one minor change; the minutes, with the minor change, were seconded by Mrs. Kipling and approved, 4-0.

## **Workshop, Chris VanPelt Area Variance. 576 Route 9P, ZBA2013-24**

Chairman Ritter recognized the land surveyor for Mr. Van Pelt who requested to come before the Board for additional guidance regarding Mr. Van Pelt's original application for an Area Variance. This application originally came before the Board at the October 28, 2013 meeting, at which time a public hearing was scheduled. Because no positive decision could be reached at the October meeting, coupled with comments voiced by neighbors, Mr. Van Pelt opted to have his application tabled to amend his proposal. He was allotted up to six months to provide additional information. Without this information, the Board could not consider moving forward on approving the application.

Mr. Van Pelt's proposal was to construct a 14 feet x 18 feet single story addition over an existing concrete block patio which already encroaches onto the neighbor to the north by 1.7 +/- feet. In addition, there are two other encroachments, one to the south of 0.8 +/- feet and a wooden retaining wall located on the right-of way of NYS Route 9P.

For the Board to consider approving the addition, the possible avenues to rectifying the encroachments at the October meeting had to be resolved. Mr. Van Pelt's representative stated that Mr. Pelt has received verbal approval from neighbors as to the property lot lines in question. He stated that even though no one was willing to sell additional land, there was an even swap that was being considered. Chairman Ritter advised that there were still issues with lot size and lot coverage even if the neighbors were amenable to rectifying the encroachments with such a "swap". There was a thorough discussion of the multiple issues.

The Board, Mr. Cutler and Mr. Cummings made recommendations specific to correcting the encroachments, the lot line adjustments, and the continuing need for a variance, even with the changes. Mr. Cummings stated that the proposed change would be creating a non-conformity which would also require a variance. It was determined that with all of the issues remaining, no verbal approval of the new plan could be made. It was discussed that three lot line adjustments were needed. There would be a need for a variance because they would be non-conforming lots. Mr. Cutler stated that the Planning Board would not have the authority to approve a non-conforming lot. Ms. Zepko requested clarification. There was extensive discussion.

Mr. Cutler expressed his opinion that this plan could not be approved by this Board when there is an encroachment. Mr. Cummings stated that the roofline also has to

be considered, indicating that any variance granted stays with the land and that, in the future, neighbors may not be so amenable. Further discussion included the 0” setback. Mr. Cutler re-stated that for this Board to approve this proposal, the encroachments have to be taken care of. Mr. Cutler stated that in his legal opinion, this Board has no ability to grant this variance. Mr. Van Pelt’s representative stated that they would continue to research the possibilities that would allow for construction of the addition.

### **Public Hearings/New Business:**

#### **Janet Larsen, Area Variance, 4 Cedar Bluff Court, ZBA2014-27**

Chairman Ritter recognized Janet Larsen and her representative. They presented the details of her application before the Board to construct a single family home requiring an Area Variance. Ms. Larsen stated that she had applied for and had been granted a variance in 2005 but was not able to move forward on her building plans at that time. Details of the plan, including a copy of the survey and the floor plans were provided. The Board did not have any additional questions and Chairman Ritter proceeded to open the public portion of the public hearing.

- Nancy and Paula Quenelle of 2 Cedar Bluff Court expressed concerns regarding the impact on their well, the ability of the sewer system to handle an additional property, storm water runoff, potential damage to their pool, their privacy and their property value.
- Thomas and Pamela Giammattei of 1 Cedar Bluff Court expressed concerns regarding grading, drainage, the impact on surrounding wells, and expressed their position that the PDD had expired and failed. They also submitted written documentation which expressed concerns about increased density, reduction in property values, storm water drainage, and a strain on the water system in the area.
- Evan Tublitz of 6 Cedar Bluff Court expressed concerns regarding the impact on surrounding properties’ wells, storm water issues, property values and concern that it would lessen property views of the lake. Mr. Tublitz submitted a geotechnical engineering report dated March 31, 2014 prepared by Daniel G. Loucks, PE. This report expressed concern regarding storm water drainage and potential impact on the

neighboring pool. Mr. Tublitz also submitted a hydrological investigation dated April 2, 2014 and prepared by Hanson Van Vleet, LLC. This report addressed concerns regarding the impact on the neighboring properties quantity and quality of water. Mr. Tublitz also submitted a statement prepared by Barry Hathaway which was submitted by Mr. Hathaway in an area variance request for lot 3 Cedar Bluff Court sometime in the past. This document argued that the Cedar Bluff PDD expired on or about January 11, 1992. The document then addressed the five area variance considerations and how they applied to the variance request for 3 Cedar Bluff Court which Barry Hathaway concluded was in the residential district (R-1). He then verbally asserted that the proposed house was too big for the lot in question as well.

- Chris Eatz of 2 Stone Creek Drive expressed the position that water quantity and quality has always been a problem for many of the residents on the east side of the lake and that property owners can dig a second well on their property which could have the same impact as this applicant having a well. He felt that the property values in the area could go up because of the Development just as likely as they could go down and that he was generally in favor of the project.
- Carol Dooley of 744 NYS Route 9P expressed concern regarding the impact on the neighboring wells.
- Complete written statements from neighbors are part of the record.

There was no further public comment and Chairman Ritter closed the public portion of the public hearing. After thorough discussion of not only this application but the status of the PDD, Chairman Ritter concluded that an interpretation would be required to determine the current status of the Cedar Bluff PDD prior to accurately applying the proper zoning requirements for this particular parcel. He further stated that before the Board could even address this variance request, the ZBA would need to first determine the status of the Cedar Bluff PDD. Further discussion included the history of the PDD and the inconsistency between the language in the PDD and the sizes of the 7 lots. Mr. Cutler stated that the language was clear in that after two years, site plan approval would terminate unless the proposed development has been “completed”. He stated that it could be left to interpretation, however, what constitutes the Development being completed, and once the site plan approval terminates after two years, what happens? Further

discussion included the fact that the development had not been completely built out within two years nor was the infrastructure completed within two years. The Board discussed that since the development plan approval terminated, what would be needed at this time in looking at this parcel. They discussed the possibility of the PDD remaining in existence, requiring site plan approval for any additional building permits to be issued. They also discussed the other possibility that the PDD has a two year sunset provision at which point the PDD terminates if not completely built out.

There was further extensive discussion regarding the pool encroachment, the impact of a well on neighboring properties and drainage of the site since the comments by the neighbors expressed concerns about storm water drainage issues, soil conditions and erosion. The applicant was advised that these concerns would have to be satisfactorily addressed before the Board could move forward on considering approving this proposal. The applicant needs to resolve the issue of pool encroachment, needs to provide an up-to-date survey, and should review documentation of the hydrologic study to determine if a well would affect neighboring properties. The applicant will also need to review the drainage of the site and resolve any issues/concerns relative to drainage. The application was tabled by Mr. D'Ambro and seconded by Mrs. Kipling, with all in favor, 4-0.

### **Other Discussion:**

Chairman Ritter asked if the other Board members had any outstanding issues. Mr. D'Ambro made inquiry as to the status of the mobile home park on County Route 76 and stated that he expected the one mobile home in dis-repair to be removed. Mr. Rutland advised that he was aware of this problem and was working on it. He added that the Building Department personnel would be meeting with all mobile home park representatives to address any concerns/issues.

### **Adjournment:**

A motion to adjourn was made by Mr. Rourke, seconded by Mrs. Kipling, at approximately 11:15 P.M.

**The next Zoning Board of Appeals Meeting will be May 12, 2014.**

