

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
May 11, 2015 @ 7:00 PM
STILLWATER TOWN HALL**

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

Also Present: Daryl Cutler, Attorney for the Town
Paul Male, Acting Director, Building, Planning and
Development
Sheila Silic, Secretary

Absent: Lindsay Zepko, Town Planner

Chairman Ritter called the meeting to order at 7:00 P.M.

Review and Approval of Minutes of Zoning Board of Appeals:

Mr. D'Ambro made a motion to approve the minutes with minor changes from the April 13, 2015 meeting. Ms. Kipling seconded. The approval of minutes passed unanimously.

Public Hearings/New Business:

ZBA2015-4 James Flynn Area Variance, 1Eeast Cove Road

Chairman Ritter recognized Sal Speciale of 518 Remodel, who is representing Mr. and Mrs. Flynn. Mr. Speciale stated that Mr. and Mrs. Flynn would like to build a garage and due to the way the property is configured the garage would need a setback of 1.1 feet, 18.9 feet less than the rear yard setback. Mr. Speciale stated this why we are requesting an Area Variance for the garage due to its location on the property.

Chairman Ritter asked about the position of the garage and if the entire retaining wall would be taken down. Mr. Speciale stated no, but in the interest of the project a portion of the retaining wall will be removed and the high spot will be leveled off. Mr. Speciale stated the proposed garage is 10ft. from the retaining wall and the gutters will redirect the water to flow down the back side of the hill and not onto the neighbor's property or down the driveway. Mr. D'Ambro asked Mr. Male if the upper retaining wall would be considered a structure and would need a decision by the Board. Mr. Male stated that the retaining wall doesn't need a decision as it is considered the same as a fence and not a structure.

Chairman Ritter proceeded to open the public hearing and asked if anyone wished to provide public comment. There was no public comment and Chairman Ritter proceeded to close the public hearing.

Chairman Ritter asked about the possibility of the garage being washed away. Mr. Male stated that the hill is well defined with woods shrubs and brush and any roof water would flow back onto the property. Chairman Ritter asked if there will be a pitched roof on the garage. Mr. Speciale stated that it will be an 8 on 12 pitched roof with trusses and a frost wall foundation that will make the garage a solid structure. Mr. D'Ambro asked about the soil conditions. Mr. Speciale stated that the soil is gravel and if they hit clay, it will be dug out and taken away and they will bring in sand or crushed stone. Mr. Rourke asked if the property in the back was for sale. Mr. Flynn stated that he spoke to his neighbor about having some trees removed but didn't ask about purchasing any of the adjacent property. Mr. D'Ambro asked if the garage could be moved 3 ft. off the property line instead of the 1.1 ft. to maintain the garage without being on the neighbor's property. Mr. Speciale stated that the garage could be moved the 3 ft. off the property line.

Chairman Ritter asked if anyone had any additional concerns or questions and hearing none he asked to move to discussion of the SEQRA.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2015 RESOLUTION NO. 2**

WHEREAS, James Flynn has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 1 East Cove Road, Stillwater, more fully identified as Tax Map Number 218.8-1-34; 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;

WHEREAS, the Planning Board reviewed each of the 11 factors contained in Part 2 of the EAF and determined that the proposed action will have no, or only a small, environmental impact;

Now, therefore, be it

RESOLVED, that the Zoning Board of Appeals hereby determines that the proposed action by the applicant, James Flynn, 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 Rourke, to adopt Resolution No. 2 of 2015.

A roll call vote was taken on Resolution No. 2 of 2015 as follows:

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|---------------------------|-----|
| Member Christine Kipling | YES |
| Member Richard Rourke | YES |
| Vice Chair Donald D'Ambro | YES |
| Chairman William Ritter | YES |

Resolution No. 2 of 2015 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted May 11, 2015.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2015 RESOLUTION NO. 3**

WHEREAS, James Flynn has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to build a garage on property located at 1 East Cove Road, Stillwater, more fully identified as Tax Map Number 218.8-1-34; and

WHEREAS, the Applicant is seeking a variance regarding the setback requirement 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 11, 2015; 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 the design matches the home and borders the slope of a hill that would not be developable;
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 the applicant agreed to adjust the angle of the building to minimize the requested variance, the contour of the property limits the location of the garage and the neighbor does not wish to sell additional land;
3. The requested Area Variance is substantial because it is reducing the setback from 20' to 3', but the contour of the land makes placing the garage within the setback impractical;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because the setback location borders a steep hill so that the neighboring property will not be developed in that location; and
5. The alleged difficulty was not self-created because it is the contours of the land that create the conditions and there is suffice land to build within the setback, the sloping makes it impractical; and be it further

RESOLVED, that the application of James Flynn for a setback variance to allow for a 3' rear yard setback to build a garage on property located at 1 East Cove Road, Stillwater, more fully identified as Tax Map Number 218.8-1-34, is GRANTED conditioned upon the map and plan being modified to reflect a 3' setback and that the conditions contained in the May 11, 2015 review letter of the Town Engineer, Paul Male, P.E. are satisfied.

A motion by Member D'Ambro, seconded by Member Kipling, to adopt Resolution No. 3 of 2015.

A roll call vote was taken on Resolution No. 3 of 2015 as follows:

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|--------------------------|-----|
| Member Christine Kipling | YES |
| Member Richard Rourke | YES |

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|---------------------------|-----|
| Vice Chair Donald D'Ambro | YES |
| Chairman William Ritter | YES |

Resolution No. 3 of 2015 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on May 11, 2015.

A motion to adjourn was made by Mr. Rourke, seconded by Ms. Kipling, at approximately 8:07 P.M.

**The next Zoning Board of Appeals Meeting will be held on.
June 8, 2015**