

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
August 27, 2012 @ 7:30 PM  
STILLWATER TOWN HALL**

**Present:** Chairperson James R. Ferris (JF), Donald D'Ambro (DD), William Ritter (WR), Richard Rourke (RR) and Christine Kipling (CK)

**Also Present:** Daryl Cutler(DC), Attorney for the Town; Paul Cummings (PC) from The Chazen Companies; Ray Abbey (RA) Code Enforcement Officer; Richard Butler (RB), Director Building, Planning & Zoning; Ed Kinowsli (EK), Supervisor (for last hearing)

**Absent:** N/A

**(JF) Chairperson, called the meeting to order at 7:30PM.**

**Adoption of Minutes:**

-First order of business was the approval of the minutes of July 23, 2012.  
Motion to approve the minutes with revisions was made by (DD), seconded by (WR). All in favor.

**7:35 PM Noiro Area Variances**

SBL#261.44-1-24.14  
Pittsburgh Avenue  
3 lot minor sub-division  
(continuation)

- (JF) asked for motion to remove the action from the table. All agreed.
- Nancy Hewitt Atty. spoke on the Owner's behalf regarding the shape and dimensions of the most easterly parcel. Ms Hewitt described a revised (but not proposed) easterly parcel that would negate the need for the variances by widening the parcel at its northerly part. She presented a case for not revising the original parcel boundaries due to the steepness of the site, especially at its northerly portion and the necessity for retaining walls. It would also cause the proposed house to be much further up the hill. All three of the parcel's houses would also not be in alignment.
- (JF) mentioned that there were several ways to make the parcel conform without the need for variances. The applicant was reluctant to make boundary adjustments, as suggested by (JF), due in part to the steepness of the site and character of the area.
- The applicant wishes to have the Board consider the Application as originally proposed to the Board last month.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS**

**2012 RESOLUTION NO. 20**

WHEREAS, Gerald & Lisa Noirot have submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on Pittsburg Avenue, more fully identified as Tax Map Number 261.44-1-24.14; 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, Gerald & Lisa Noirot, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member Ritter, seconded by Member D’Ambro, to adopt Resolution No. 20 of 2012.

A roll call vote was taken on Resolution No. 20 of 2012 as follows:

|                          |     |
|--------------------------|-----|
| Chairman James Ferris    | Yes |
| Member Donald D’Ambro    | Yes |
| Member Christine Kipling | Yes |
| Member William Ritter    | Yes |
| Member Richard Rourke    | Yes |

Resolution No. 20 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 27, 2012.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2012 RESOLUTION NO. 21**

WHEREAS, Gerald & Lisa Noirot have submitted an application to the Zoning Board of Appeals seeking an *Area Variance* in order to subdivide property located on Pittsburg Avenue, Stillwater, New York, more fully identified as Tax Map Number 261.44-1-24.14; and

WHEREAS, the Applicants are seeking an Area Variance from the lot size requirement contained Stillwater Zoning Code §3; 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 July 23, 2012; 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 applicants 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 size of the lot is similar, if not larger, than the majority of the lots in the area;
2. The benefit sought by the applicant can be achieved by some method, feasible to the applicants to pursue, other than an Area Variance by altering lot lines, but the extreme slope in the back of the lot would make it difficult or impractical;
3. The requested Area Variance is not substantial because the majority of the surrounding properties are a similar size;
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 in the area are of similar size; and
5. The alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the Area Variance, because the other lots in the area are of similar size; and be it further

RESOLVED, that the application of Gerald & Lisa Noirot for an Area Variance to subdivide property located at Pittsburg Avenue, more fully identified as Tax Map Number 261.44-1-24.14, is GRANTED, with the following condition:

- **Applicant shall obtain water and sewer services from the City of Mechanicville.**

A motion by Member Ritter, seconded by Member D'Ambro, to adopt Resolution No. 21 of 2012.

A roll call vote was taken on Resolution No. 21 of 2012 as follows:

|                             |     |
|-----------------------------|-----|
| Member Donald D'Ambro       | Yes |
| Member Christine Kipling    | Yes |
| Member William Ritter       | Yes |
| Member Richard Rourke       | Yes |
| Chairperson James R. Ferris | No  |

Resolution No. 21 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 27, 2012.

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**-(JF) Chairperson stated that the Board has 3 Public Hearings scheduled for this evening.**

**III. Public Hearings:**

**#1 7:55PM Sadlemire Area Variances**

SBL# 231.-2-26  
406 Cty Route 75

-Michael Sadlemire spoke on behalf of his application. He admitted that he made mistakes with the construction of his garage after the issuance of a building permit.. He has constructed the building larger and in a different location than the approved variance application indicated. He is requesting that the new variance application be approved for a new location and size.

-(JF) opened the hearing for public comment.

-Charles Neaton of 408 Cty Rt 75 spoke. He is the neighbor directly north of the subject parcel. It is his opinion that the size of the garage is too large and is not what was originally proposed to the Board. It is too close to his property line. May 4<sup>th</sup> was the original date that Mr. Neaton reports that he brought his concerns to the Building Department. He stated that there is a 4" drain line built into the floor and that the garage roof sheds water onto his property. He feels it is out of character and scale with the neighborhood.

-Ken Petronis of 8 Burrello Ct spoke basically in favor of the Project . He attended the ZBA public hearing. He does not want a dwelling unit within the second floor level. (RA) added that the zoning ordinance does not allow for a second dwelling unit on the subject property.

-Kelly Neaton, also of 408 Cty Rt 75 spoke. Both Mr and (Kelly), Mrs Neaton, have the opinion that they made every effort to inform the Town of inconsistencies in the progress of construction, that if acted upon sooner, would have prevented the significant expenditure by their neighbor, Mr. Sadlemire.

-Dominic Fruci spoke. He also resides in the area. He mentioned that the Applicant had the property surveyed and stated what he knew about the Project. (JF) told Mr Frucci that he was, in some respects, mis-informed.

-Mr. Neaton spoke again regarding his objections concerning the bulk of the building.

-(JF) mentioned that the building's height is within the Town's guidelines. There was no proposal of height with the application. Only area and location were of concern to the Board. This premise was verified by (PC).  
 -(JF) closed the public portion of the hearing.  
 -(JF) mentioned that the Applicant previously had mentioned that the building had to be located forward of the property to avoid conflicts with an existing septic system. (RA) stated that it proved to not be a septic system.

**TOWN OF STILLWATER  
 ZONING BOARD OF APPEALS  
 2012 RESOLUTION NO. 22**

WHEREAS, Michael Sadlemire has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 406 County Route 75, more fully identified as Tax Map Number 231.-2-27; 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, Michael Sadlemere, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A motion by Member Rourke, seconded by Member Kipling, to adopt Resolution No. 22 of 2012.

A roll call vote was taken on Resolution No. 22 of 2012 as follows:

|                          |     |
|--------------------------|-----|
| Chairman James Ferris    | Yes |
| Member Donald D'Ambro    | Yes |
| Member Christine Kipling | Yes |
| Member William Ritter    | Yes |
| Member Richard Rourke    | Yes |

Resolution No. 22 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 27, 2012.

-Board discussion concerning the area variance request:

-(RB ) clarified that the actual side setback to the foundation wall is 6'.

-(WR) asked about the old drainage system uncovered during construction . Mr. Sadlemire assumes it was from the house roof gutters.

- (RR) Asked about the house septic system; its location and extent.
- The Board requested more information from the Applicant concerning the septic system, the reputed floor drain in the garage i.e. its purpose and outfall, and the water-flow estimate off the north side of the garage roof.
- (DD) made a motion that the application be tabled, seeking more information regarding the prior item. The motion was unanimously approved.
- The hearing will be reconvened at 7:35 at the September 24<sup>th</sup> mtg, assuming the information is amply provided.

**#2 8:15PM Marla Gardner Area Variance**

SBL# 220.-1-68.14

177 Gronczniak Road

Proposed garage

- Marla Gardner spoke on her own behalf. She wants to construct a garage closer to her side property line than the Zoning Ordinance allows. She can't attach the garage to the side of the house due to existing windows and the back yard is a hill. Photos of the existing property were shown to the Board.
- (JF) opened the hearing for public comment.
- There were no public comments.
- (JF) closed the public comment portion of the hearing.
- (CK) asked for the side setback requirement. (RB) responded it is 25'. Proposed setback is 4.7'.
- (DC) Mentioned that section 13.8 of the zoning ordinance does not apply since there is greater non-conformity.
- (WR) Asked the direction of the roof pitch and if it was meant to be a one story garage. The roof ridge was requested to be perpendicular to the road. The Applicant agreed. The Applicant also agreed and also stated that it will be a one story garage.
- (JF) read a letter from Kim Crawford, the neighbor directly adjacent to the garage, stating no objections to the Application.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2012 RESOLUTION NO. 23**

WHEREAS, Marla Gardner has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 177 Gronczniak Road, more fully identified as Tax Map Number 220.-1-68.14; 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, Marla Gardner, 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 Ritter, to adopt Resolution No. 23 of 2012.

A roll call vote was taken on Resolution No. 23 of 2012 as follows:

|                          |     |
|--------------------------|-----|
| Chairman James Ferris    | Yes |
| Member Donald D'Ambro    | Yes |
| Member Christine Kipling | Yes |
| Member William Ritter    | Yes |
| Member Richard Rourke    | Yes |

Resolution No. 23 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 27, 2012.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2012 RESOLUTION NO. 24**

WHEREAS, Marla Gardner has submitted an application to the Zoning Board of Appeals seeking an *Area Variance* in order to construct a 28' x 26' garage on property located at 177 Gronczniak Road, Stillwater, New York, more fully identified as Tax Map Number 220.-1-68.14; and

WHEREAS, the Applicant is seeking an Area Variance from the lot width and side set back requirement contained Stillwater Zoning Code §3; 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 August 27, 2012; 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 applicants 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 many of the properties in the area are 150' wide and other properties have garages that close and about that size;
7. The benefit sought by the applicant can not be achieved by some method, feasible to the applicants to pursue, other than an Area Variance because the steep slope of the backyard and the floor plan of the house does not allow for the garage to be attached;
8. The requested Area Variance is substantial because it is a reduction of the side set back by 4.7', but the driveway and entrance make it impractical to move the garage closer;
9. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because other properties in the area are the same width with garages of the same size; and
10. The alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the Area Variance, because the lot size was not self-created, but the addition of the garage was self-created; and be it further

RESOLVED, that the application of Marla Gardner for an Area Variance to construct a 28' x 26' garage on property located at 177 Gronzcnia Road, more fully identified as Tax Map Number 220.-1-68.14 is GRANTED, upon the following condition:

- **The garage shall be a 1 story garage, with the slope of the garage roof being the same direction as the house so that it slopes toward the road and the backyard.**

A motion by Member Ritter, seconded by Member D'Ambro, to adopt Resolution No. 24 of 2012.

A roll call vote was taken on Resolution No. 24 of 2012 as follows:

|                             |     |
|-----------------------------|-----|
| Member Donald D'Ambro       | Yes |
| Member Christine Kipling    | Yes |
| Member William Ritter       | Yes |
| Member Richard Rourke       | Yes |
| Chairperson James R. Ferris | Yes |



Resolution No. 24 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 27, 2012.

### **#3 8:35PM Byrne / Hietala Area Variance**

SBL# 218.-1-31.2

641 Rt 9P

Proposed 2 story dwelling

- Mr. Hietala spoke on his own behalf. There is a 2 season camp presently on the property. Their plan is to demolish it and construct a 4 season dwelling.
- The proposed footprint is 1286sf. The existing foot print is approx. 800sf. The proposed dwelling is planned to fit within the allowed setbacks. It is planned to be approximately 24' in height. It will be a two story dwelling. A firm house design was not presented. The floor plans submitted are meant to be generic.
- Robert Tate of 642 Rt 9P brought a computer file with slides relating to the subject site. He offered them for use at the hearing. His slides and plans of the site were shown and discussed at length.
- (PC) mentioned that since the site is located within the flood plain, the Project has to go through Site Plan Review by the Planning Board.
- (JF) opened the public portion of the hearing.
- Nancy Elliot of Rt 9P asked about the dwelling's floor elevation with respect to the flood plain. (PC) stated that the floor elevation must meet certain requirements required prior to a Building Permit issuance. Ms Elliot objected to no building elevations being presented. She also asked for parking information. The Applicant stated that there is room to park 6 cars on the lot as presented.
- Theodore Cmielewski of 645 Rt 9P spoke at length describing his concerns for the Project. He questioned the reputed parking capacity. He objected to the bulk of the Project, especially that it would obstruct his view of the lake. He also suggests that, if implemented, the Project would worsen already existing site drainage conditions.
- Robert Tate of 643 Rt 9P was of the opinion that his view of the lake would be obstructed. He objects to the building's size and height as proposed. He asked many questions regarding the design of the Project. (JF) mentioned that many of his questions were not pertinent to the ZBA application, but would be more appropriately answered by the Planning Board during the required Site Plan Review.
- Ed Kinowski, of 640 Rt 9P suggested that a Public Hearing be held by the Planning Board to air the many concerns stated by residents for the project. He also spoke about the character of many sections along the East side of the lake being composed of tight sites, with many existing obstructed views.
- Tom Patrizio of 636 Rt 9P spoke. He has no lake rights, but he presently has a view of the lake. He objected to the bulk of the proposed Project and the obstruction of his existing view of the lake should the project be approved. He also asked many questions that would be better answered at the Planning Board Site Plan Review stage.
- Loanne Norlei of 645 Rt 9P questioned the Applicant's statement of a planned 6 car parking capacity on site.

-Alfred Frontera of 636 Rt 9P stated that there were trees planted on the right of way adjacent to the south property line of the proposed Project.. He stated that the parcel floods occasionally. He stated that his view would be affected. He also questioned the parking capacity stated by the Applicant.

-(JF) closed the public portion of the hearing at 9:45PM

-(CK) Asked if the Applicant would consider a house without a second floor. The Applicant answered, no.

-(JF) Questioned the applicability of section 13.8 of the Town's Zoning Ordinance in regards to this Application. He asked if this Application would result in greater non-conformity with the zoning requirements. He requested (DC)'s opinion. (DC)'s stated that the Board can move forward in one of three ways: 1) Move forward with the application as presented, 2) Table the hearing and research the applicability of section 13.8 in more depth, 3) Determine that the Variance as presented is not necessary.

-(DD) stated it was his opinion that section 13.8 applies in this case.

**TOWN OF STILLWATER  
ZONING BOARD OF APPEALS  
2012 RESOLUTION NO. 25**

WHEREAS, the applicant, Pamela Byrne and Kaarlo Hietala have submitted an application to the Zoning Board of Appeals seeking an *Area Variance* in order to replace the existing residence with a larger year-round home on property located at 641 Route 9P, Stillwater, New York, more fully identified as Tax Map Number 218.-1-31.2; and

WHEREAS, the Applicants are seeking an area variance from the lot size requirement contained in the Stillwater Zoning Code §3; and

WHEREAS, pursuant to §14.2(D) of the Stillwater Zoning Code, the Town properly and timely published a notice for a Public Hearing conducted on August 27, 2012; and

WHEREAS, at the Public Hearing, numerous neighbors expressed concern over the project due to the fact that the legal non-conforming lot is less than 1/4 of the required lot size under the current Code; and

WHEREAS, the neighbors expressed concern over the new construction blocking the view of the lake from their houses, the effect on the Applicants' ability to park vehicles on their lot, and possible impacts on the existing right-of-ways on the property which the neighbors use to access the lake; and

WHEREAS, in reviewing the Application, the Applicants advised the Planning Board that although the new residence will have a larger footprint than the existing residence, it will be within all of the set back requirements contained in the Stillwater Zoning Code; and

WHEREAS, the Zoning Board of Appeals, having been advised by the Applicants that the new footprint would be within all of the set back requirements, considered the fact that this is a legal non-conforming lot with an existing structure and that because the existing structure is being replaced with a new structure that creates no greater non-conformity in regard to any of the Zoning Code issues except lot size, the Zoning Board of Appeals must determine whether the Stillwater Zoning Code §13.8 applies, which would negate the need for a variance; and

WHEREAS, the Zoning Board of Appeals confirmed that although the lot size is less than 1/4 of the required lot size under the current Zoning Code, this is a legal non-conforming lot. Additionally, the Zoning Board of Appeals confirmed that the larger footprint for the proposed new construction was still less than 40% of the total lot size and, thus, created no greater non-conformity for the lot, except that there will be a larger structure on an undersized lot. The Zoning Board of Appeals reviewed §13.8 to consider the meaning of that section's requirement that the addition or the new structure does not create greater non-conformity. The Zoning Board of Appeals concluded that creating a larger footprint in an undersized lot does not create greater non-conformity for purposes of §13.8. §13.8 clearly anticipates that with undersized lots, the footprint of the new or modified structure would often be larger. §13.8's requirement that the addition or new structure does not create greater non-conformity is referring to greater non-conformity in regard to other areas of the Zoning Code;

Now, therefore, be it

RESOLVED, that although the Applicants will be increasing the footprint of the residence in a legal, non-conforming, undersized lot, it creates no greater non-conformity in any other area of the Zoning Code, so, §13.8 applies and no variance is required; and it is further

RESOLVED, that the Application of Pamela Byrne and Kaarlo Hietala for an area variance is DISMISSED as no variance is required; and it is further

A motion by Member D'Ambro, seconded by Member Rourke, to adopt Resolution No. 25 of 2012.

A roll call vote was taken on Resolution No. 25 of 2012 as follows:

|                             |     |
|-----------------------------|-----|
| Member Donald D'Ambro       | Yes |
| Member Christine Kipling    | Yes |
| Member William Ritter       | Yes |
| Member Richard Rourke       | Yes |
| Chairperson James R. Ferris | Yes |

Resolution No. 25 of 2012 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on August 27, 2012.

**OLD BUSINESS**

-None

**NEW BUSINESS**

- The Brigadier Estates Interpretation request was omitted from the evening's agenda at the request of the Applicant.
- The Board presented to (RA) and (RB) several properties within the Town that may be in violation. They asked that the properties be investigated. It will be a standard procedure at future meetings, that Board members present other potential violations to the BP&D Department for further investigation and potential enforcement.

**Building & Planning**

None

**Misc.:**

-Motion to adjourn was made by (RR) seconded by (DD) at approximately 10:30PM.