

**Town of Stillwater
Zoning Board of Appeals Meeting
May 27, 2008 7:30 PM
Stillwater Town Hall**

Present: James Ferris, Chairman
William Ritter
Joe Urbanski
Alec Mackey

Also Present: Daryl Cutler, Attorney for the Town
Chris Rounds, Engineer for the Town
Paul Cummings, Planner for the Town
Ray Abbey, Building Inspector/Code Enforcement Officer
Sue Cunningham, Town Clerk

Absent: Donald D'Ambro

Chairman Ferris called the meeting to order.

Adoption of Minutes: Motion by A. Mackey and W. Ritter to adopt the minutes of the April 28, 2008 Zoning Board of Appeals Meeting.

Review and Discussion was held.

The following corrections were requested by the members of the Zoning Board: Page 22-1st sentence should read neighbors have submitted; Page 23- 1st para. 5th line, change than to then; 4th para. 2nd sentence should read width of lot at building line; last para. 1st sentence remove parenthesis from around not; and under motion to deny should be motion passed 4-0-1; Page 25- 5th para. 2nd sentence should be slide the line; Page 27-1st para. last sentence the word should be recreational not creational; and Page 28 1st para. should read "The alleged difficulty was not self-created"; under motion to deny it should read motion carried 3-2.

Motion carried. Minutes of the April 28th meeting were adopted as amended.

Chairman Ferris wanted to address some concerns that he had regarding his packet which was extremely incomplete. He stated that there was no denial letter therefore the applicant has no standing before the Board, there is no legal notice or listing of property owners who live within 500 ft who have been contacted, there is also no file number on the application, and lastly if it is within an industrial zone as it states; he believes that they would be dealing an Extension of a Nonconforming Use and not an Area Variance. He requested clarification.

Attorney Cutler stated that in his packet he has a denial letter dated April 14th, a list of the mailings sent out and a copy of the public notice.

Further discussion relating to packets in general took place. A consensus of what items should be included in the packets was understood.

Chairman Ferris wanted it noted for the record that in the future they will not hold any Public Hearing if the packets are incomplete.

7:40 PM Public Hearing

Purpose: Michael Mone---Area Variance (ZB2008-28-253.-1-45)
38 Brickyard Rd. Mechanicville, NY 12118

Michael Mone stated that he was requesting to replace an existing deck with an addition on his residence. He stated that the current deck was in disrepair and the damage was spreading to the main structure. He stated that the addition he requests permission to add is basically the same size as the current deck.

Public Input

Lois Koper, 36 Brickyard Rd stated that she lives next door and she has no objections to the proposal.

Frank Koper, 36 Brickyard Rd. stated that he has no objections.

With everyone having the opportunity to be heard Chairman Ferris declared the public input closed.

J. Urbanski requested clarification on the denial and whether the variance being requested was on the existing structure or the addition.

Attorney Cutler stated that there were two points for the denial: The applicant does not have minimal lot width and does not have the minimal side yard setback.

Further discussion was held on the denial and variance requested. Chairman Ferris questioned whether the Board was in a position to deal with this under the Area Variance law.

Attorney Cutler stated that the Board has to deal with the fact that they have property that is a Non-Conforming Use, as well as, the fact he is changing it and not asking for any additional variances other than those that have already been grandfathered. The Ordinance still requires him to come before the Board and get permission, in essence, to reaffirm the fact that he has a grandfathered Non-Conforming Use.

A. Mackey questioned why the application is in the format of an Area Variance and not an Extension of Non-Conforming Use.

Engineer Rounds stated that it was not an expansion of non-conforming use. It is an expansion of non-conforming structure which would be an Area Variance.

Further discussion continued on the topic of the application being an Area Variance or should it be an application of Non-Conforming Use and how it was treated historically.

Chairman Ferris stated that on Council's recommendation they will move forward with this as an Area Variance.

Attorney Cutler stated that he would be comfortable with that because if his porch needed a setback variance, they would be asking for ratification of his other area variance issues that have been grandfathered, plus the additional setback variance that the porch creates. In this particular case, what they are doing, in essence, is just reaffirming the grandfathered Area Variances.

At this time the Zoning Board reviewed the SEQRA and made the following changes: #2—Addition; #5—expansion; #7—1.10 acres; #8—width at building-side yard setbacks. Chairman Ferris requested that the applicant initial and date the changes if he agrees. The applicant initialed and dated the change to SEQRA.

Resolution #17
SEQRA—Mike Mone,
Area Variance (ZB2008-28-253.-1-45)
Motion by Alex Mackey
and seconded by Joseph Urbanski to approve the SEQRA,
a Type II Action and requires no further action
or further review by the Zoning Board.
Motion was adopted unanimously. 4-0.
(Copy attached and made part of the minutes).

Resolution #18

Area Variance—Mike Mone (ZB2008-28-253.-1-45)
Chairman Ferris made a change line #6 of the application from Industrial to RM and requested the applicant to initial and date the change. The applicant did so.

Motion by J. Urbanski
and seconded by W. Ritter to approve Resolution #18.

J. Urbanski read the following findings:

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 an existing residential structure;

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 variances are on the existing structure and the proposed addition does not create any additional zoning non-conformities;

The requested Area Variance is not substantial because the addition does comply with zoning;

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 the replacement of a wooden porch with an addition of almost identical footprint size; and

The alleged difficulty was not 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 conditions of the structure which violate zoning pre-existed code.

A roll call vote was taken on resolution #18 as follows:

Chairman James Ferris	Yes
Alec Mackey	Yes
Donald D'Ambro	Absent
Joseph Urbanski	Yes
William Ritter	Yes

**Motion carried. Resolution #18 was adopted unanimously. 4-0 vote.
(Copy attached and made part of the minutes).**

8:15 PM Public Hearing

Purpose: Alan P. Klepper—Area Variance (ZB2008-29)
596 Route 9P, Saratoga Springs, NY

Chairman Ferris inquired about the legal notice and the notice of mailings.
Attorney Cutler stated that he has a copy of the legal notice and the notice of mailings.

Alan Klepper approached the Board with his request to modify his property on NY Route 9P. He explained the condition of his present structure and stated that he was looking to tear the existing place down and replace it with a modular. The modular would have a four-foot crawl space underneath. He added that the new place would be more energy efficient and enhance the neighborhood. The reason they are before the Board is because the modular is wider than the existing structure.

Public Input

No one was present for public input.

W. Ritter inquired if the two pieces of properties were now one and if they consider the property line between the two parcels as the setback.

Mr. Klepper stated that they were two separate deeds.

Attorney Cutler stated that his opinion is that even though he currently owns both parcels they would have to consider just this one parcel.

A brief discussion was held on the two parcels and if it would be in the best interest to make it one deed, lot size, set back requirements, lot width and frontage of the property.

J. Urbanski inquired if the applicant was willing to move the house forward 4ft. to eliminate the setback issue.

Mr. Klepper stated that he had no problem with that if the Board felt it was necessary.

At this time the Zoning Board reviewed the SEQRA and made the following change: #7—changed the acreage to reflect no change.

Chairman Ferris requested that the applicant initial and date the change if he agrees. The applicant initialed and dated the change to SEQRA.

Resolution #19

Alan Klepper—Area Variance (ZB2008-29)

Motion by Alex Mackey

**and seconded by Joseph Urbanski to approve the SEQRA,
a Type II Action and requires no further action
or further review by the Zoning Board.**

Motion was adopted unanimously. 4-0.

(Copy attached and made part of the minutes).

Resolution #20

Alan P. Klepper—Area Variance (ZB2008-29)

Motion by A. Mackey and seconded by J. Urbanski to approve Resolution #20.

A. Mackey read the following findings:

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 proposed change will be an improvement as the property will conform with the other modular homes in the neighborhood;

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 footprint is almost identical to the existing structure and it in fact improves the current zoning non-conformities because the proposed replacement structure is shorter than the existing structure thus lessening the non-conformity in the rear;

The requested Area Variance is not substantial because the replacement structure is almost identical in size to the existing structure;

The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because the replacement structure complies with and looks the same as the other structures in the neighborhood; and

The alleged difficulty was not 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 current structure is a non-conforming structure with pre-existed zoning.

A roll call vote was taken as follows on Resolution #20:

Chairman James Ferris	Yes
Alec Mackey	Yes
Donald D'Ambro	Absent
Joseph Urbanski	Yes
William Ritter	Yes

Motion was adopted unanimously. 4-0

(Copy attached and made part of the minutes).

Old Business

Chairman Ferris stated that he received some pictures and a letter expressing additional information regarding the Boldt case. It was requested that the additional information be included in the file from residents who spoke at the public session.

A. Mackey inquired if there was any additional information on Brigadier Estates.

Chairman Ferris stated that he is unaware of any additional information that has been received.

Attorney Cutler stated that he has spoken with his attorney and what they are doing is comparing the deed to the new property and combining them into one so it could be a lot line adjustment.

New Business: There was no new business.

Report from the Dept of Building, Planning & Development

There was no new report.

Ray Abbey stated that about a month ago he submitted a quarterly report to the Town Board and also forwarded the report to the Planning & Zoning Board. It was suggested by the Town Board to prepare a monthly report which he did. He apologized for not having a copy with him tonight to share with the Zoning Board but see to it that they receive one.

Chairman Ferris stated that the quarterly report was appreciated and if he wished to combine the new report with the next one that would be fine with him.

J. Urbanski commented on the packets that were prepared for the ZBA Members.

Paul Cummings stated that they are creating a new work plan which is being implemented in the Building Dept. The idea is not to have any more these inconsistencies.

Motion by A. Mackey and seconded by J. Urbanski to adjourn the Town of Stillwater Zoning Board of Appeals meeting at 8:40 PM.

Respectfully submitted by

Sue Cunningham
Town Clerk

