

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
October 9, 2018 @ 7:00 PM
STILLWATER TOWN HALL**

Present: Chairman Donald D'Ambro
Joseph Urbanski, Member
Richard Rourke, Member
Christine Kipling, Member
Timothy Scrom, Member
Charles Dyer, Alternate Member

Also Present: James Trainor, Attorney for the Town
Edward Kinowski, Town Supervisor
Lindsay Zepko, Director of Building and Planning
Ellen Vamocka, Town Councilwoman
Sheila Silic, Secretary

Absent: Paul Male, Town Engineer

Chairman D'Ambro called the meeting to order at 7:00 P.M.

Review and Approval of Minutes of Zoning Board of Appeals:

Mr. Scrom made a motion to approve the minutes from the September 10, 2018 meeting, seconded by Ms. Kipling.

ZBA2018-02, Cimino Area Variance, Sirchia Road

Chairman D'Ambro recognized Mr. Frederick Metzger Jr. of Frederick Metzger Land Survey who is representing Ms. Laurie Cimino. Mr. Metzger stated that the proposed subdivision is located between 21 and 29 Sirchia Road. Mr. Metzger stated that they are seeking an Area Variance to reduce the minimum lot width of both lots from 100 Ft. to 90 Ft. which is a reduction of 10 Ft. Mr. Metzger stated that the lots would meet all the other required setbacks and would leave an ample building envelope. Mr. Metzger stated the existing parcel is 27,000 Sq. Ft located in the T3N Zoning District with a minimum lot size of 10,000 Sq. ft. with public water and public sewer which the parcel has access to. Mr. Metzger stated that the applicant would like to subdivide the parcel into two lots with each lot consisting of 0.3099-acres. Mr. Metzger stated that Ms. Cimino would like to convey one lot to each of her sisters and the applicant would retain the single family dwelling located at 31 Sirchia Road.

Chairman D'Ambro asked if the applicant intends to build on either of these lots. Mr. Metzger stated that there are no intentions to build on either lot at this time. Chairman D'Ambro stated that the application as it is presented is subdividing a conforming lot into two nonconforming lots. Mr. Metzger stated that is correct. Chairman D'Ambro stated that the application does not

meet the Zoning Ordinance that the Zoning Board of Appeals has to abide by. Chairman D'Ambro stated that they may want to review other possibilities for the parcel such as reconfiguring the lots. Chairman D'Ambro stated that another possibility would be a Lot Line Adjustment and then the applicant would not have to come back before this Board. Mr. Metzger stated that they had discussed the possibility of a Lot Line Adjustment but both sisters have mortgages and with the paperwork that this would entail the Lot Line Adjustment is not cost effective. Mr. Metzger asked if new application would have to be submitted. Chairman D'Ambro asked Mr. Cutler for clarification regarding the application. Mr. Cutler stated that the current application can be amended. Mr. Cutler stated that the Public Hearing can be left open with the understanding that there may changes to the application.

Mr. Rourke asked if the property could be acquired from 21 and 29 Sirchia Road to make each of the proposed lots conforming. Mr. Urbanski stated that may interfere with the side yard setback of 21 and 29 Sirchia Road.

Mr. Urbanski stated that if you were to move the property lines at an angle then the 10 Ft. could be acquired for two conforming lots. Mr. Metzger stated that would make to boot shaped lots and they are trying to keep the property lines uniformed with the surrounding properties.

Mr. Scrom asked about selling the parcel as it is now and dividing the proceeds after the property is sold between the sisters. Mr. Metzger stated that each sister wants to be able to sell the lots individually if the need arises in the future.

Chairman D'Ambro proceeded to open the public hearing and asked if anyone wished to provide public comment.

Frank Funaro 82 Hulin St

Mr. Funaro stated his concerns with the water runoff that the construction will cause to his property. Chairman D'Ambro stated that this particular application is for an Area Variance and not to building application.

Cherys Funaro 82 Hulin St

Ms. Funaro asked if they would have to come back before Zoning Board of Appeals to build on the lots. Chairman D'Ambro stated that if the lots are conforming they would not have to come back before this Board. Chairman D'Ambro stated that they would have to go before the Planning Board and you would be able to state your concerns at that time.

Ed Kinowski 640 NYS Route 9P

Mr. Kinowski asked if the speakers were on because it very hard to hear the Board members. Chairman D'Ambro asked if the speakers were on and was informed that they were on.

Lauri Cimino 31 Sirchia Rd

Ms. Cimino stated that the lot that is before the Board this evening is located on the back side of Sirchia Road. Ms. Cimino stated that the property is not next to Mr. Funaro's property.

Sharon Scarey 86 Hulin St

Ms. Scarey stated that her concerns were also with the water runoff caused by the construction. Ms. Scarey stated that she believed the property was behind her residence and was unaware of the property location.

Chairman D'Ambro asked for a motion to table the Cimino Area Variance and to leave the Public Hearing open.

Mr. Urbanski made a motion to table the Cimino Area Variance and to leave the Public Hearing open until the next scheduled Zoning Board meeting seconded by Mr. Scrom. A roll call vote was taken.

Chairman Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member Richard Rourke	Yes
Member Timothy Scrom	Yes
Member Christine Kipling	Yes

Chairman D'Ambro stated that the applicant will be scheduled for the next Zoning Board meeting.

ZBA2018-03 Frontera Area Variance 638 NYS Route 9P

Chairman D'Ambro recognized Mr. Frederick Metzger Jr. of Frederick Metzger Land Survey who is representing Ms. Jennifer Frontera. Mr. Metzger stated that the property is located at 638 NYS Route 9P and consist of 7400 Sq. Ft in the RRD Zoning District. Mr. Metzger stated that they are seeking approval for two Area Variances this evening. Mr. Metzger stated that the first Area Variance is for relief from the minimum lot size of 21,750 Sq. Ft. and the second Area Variance is for required lot width on 75 Sq. Ft. Mr. Metzger that the property is being conveyed to Ms. Frontera who would like to build a single family dwelling on the site. Mr. Metzger stated that there was a dwelling on the property previously that burnt down. Mr. Metzger stated that this property is a pre-existing non-conforming lot.

Chairman D'Ambro asked if the applicant is present this evening. Mr. Metzger stated that the applicant is not present this evening.

Mr. Cutler asked Mr. Metzger when the previous dwelling had burnt down. Mr. Metzger stated that he did not have the exact year. Mr. Cutler asked if the new dwelling is larger or similar to the existing foot print. Mr. Metzger stated that the foot print is similar in size except that the decks are larger in size.

Mr. Scrom asked if a NYS DOT curb cut is needed for this parcel. Mr. Metzger stated that there is an existing curb cut from the prior dwelling.

Mr. Rourke asked if the previous dwelling was a summer residence. Mr. Metzger stated that he believes it was just a summer residence. Mr. Rourke asked if the applicant could acquire property

from the neighbors. Mr. Metzger stated no and the reason is the neighbors would not meet their setbacks to their lots.

Chairman D'Ambro proceeded to open the public hearing and asked if anyone wished to provide public comment.

Ed Kinowski 640 NYS Route 9P

Mr. Kinowski stated that he lives next to this parcel and in 2006 the dwelling caught fire and was taken down. Mr. Kinowski stated that this parcel has existing access from NYS Route 9P. Mr. Kinowski stated that a fire hydrant has been placed on the parcel. Mr. Kinowski stated that there was a covered porch on the prior dwelling. Mr. Kinowski stated that he is not willing to sell any of his property.

Tom Patrizio 636 NYS Route 9P

Mr. Patrizio asked what the building lot sizes are in the Town of Stillwater. Mr. Patrizio asked if it is being built on the existing foot print. Mr. Patrizio stated that he is not willing to sell any of his property. Mr. Patrizio stated that they have future plans for their property. Mr. Patrizio stated that he wants to make sure that it is done appropriately. Mr. Patrizio asked why an Area Variance needed. Chairman D'Ambro stated that the Area Variance is needed to make sure that the proposed building fits within the profile of the setbacks. Chairman D'Ambro stated regarding the lot sizes in the Town of Stillwater it depends on the Zoning District that the parcel is in that determines the lot size. Chairman D'Ambro stated that the proposed building will be built on the existing foot print of the prior dwelling. Mr. Cutler stated that this lot is 7433 Sq. Ft. and the minimum requirement is 21,750 Sq. Ft. to make this parcel a conforming lot. Mr. Patrizio asked about the Cimino application and what the difference is between the applications. Mr. Metzger stated that the Cimino application was to receive an Area Variance in order to subdivide the parcel and make two new non-conforming lots. Mr. Metzger stated that this application is a pre-existing non-conforming to the present day Zoning Ordinance.

Nancy Patrizio 636 NYS Route 9P

Ms. Patrizio asked where the location of the new dwelling will be located on the parcel. Mr. Metzger showed Ms. Patrizio the map with the location of the proposed dwelling.

Chairman D'Ambro asked if anyone else wished to make public comment and hearing none he closed the public hearing.

Chairman D'Ambro asked if anyone on the Board had any additional concerns or questions and move to discuss SEQRA.

Mr. Urbanski stated that this is a pre-existing non-conforming lot which had a structure on the parcel that burnt and the proposed new structure is in the existing footprint.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2018 RESOLUTION NO. 3**

WHEREAS, Jennifer Frontera has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located on 638 Route 9P, more fully identified as Tax Map Number 219.05-2-3; 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, Jennifer Frontera, 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 Scrom, to adopt Resolution No. 3 of 2018.

A roll call vote was taken on Resolution No. 3 of 2018 as follows:

Chair Donald D'Ambro	Yes
Member Christine Kipling	Yes
Member Richard Rourke	Yes
Member Timothy Scrom	Yes
Member Joe Urbanski	Yes

Resolution No. 3 of 2018 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on October 9, 2018.

**TOWN OF STILLWATER
ZONING BOARD OF APPEALS
2018 RESOLUTION NO. 4**

WHEREAS, Jennifer Frontera has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to build on a pre-existing non-conforming lot on property located at 638 Route 9P, Stillwater, more fully identified as Tax Map Number 219.05-2-3; and

WHEREAS, the Applicant is seeking an area variance for the set-back requirement contained 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 October 9, 2018; 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 this is a pre-existing lot that had a seasonal residence on it that burnt down;
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 no additional land can be purchased from the neighboring properties and it cannot be built on absent the variance;
3. The requested Area Variance is substantial, but it is a pre-existing lot, both neighboring property owners spoke in favor of the project, and other lots in the area are so small;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because this is a pre-existing non-conforming lot that had a house before, but it burned down; and
5. The alleged difficulty was not self-created because the lot was created prior to zoning; and be it further

RESOLVED, that the application of Jennifer Frontera for an area variance to allow for a residence to be built on property located at 638 Route 9P, more fully identified as Tax Map Number 209.05-2-3 is GRANTED conditioned upon the applicant satisfying the comments contained in the Engineering Review Letter by Paul Male, PE dated September 19, 2018.

A motion by Member Rourke seconded by Member Kipling, to adopt Resolution No. 4 of 2018.

A roll call vote was taken on Resolution No. 4 of 2018 as follows:

Chair Donald D'Ambro	Yes
Member Richard Rourke	Yes
Member Timothy Scrom	Yes

Member Joe Urbanski	Yes
Member Christine Kipling	Yes

Resolution No. 4 of 2018 was adopted at a meeting of the Zoning Board of Appeals of the Town of Stillwater duly conducted on October 9, 2018.

Motion to adjourn made by Ms. Kipling, seconded by Mr. Scrom at approximately 7:59 pm.