

**STILLWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
September 23, 2013**

MEMBERS PRESENT: Mr. Sarni, Mr. Stachura, Mrs. Galante, Mr. Powell

MEMBERS ABSENT: Mr. Hammond, Mr. Lippencott

ALSO PRESENT: Board Attorney Robert Morgenstern
Board Engineer Ted Rodman

A REGULAR MEETING OF THE Stillwater Township Zoning Board of Adjustment was held on Monday, September 23, 2013 at 7:30 p.m. at the Municipal Building in Middleville, New Jersey. The meeting was called to order by Chairman Powell in accordance with the Open Public Meetings Act.

The flag was saluted and roll call taken.

MINUTES

Mr. Sarni made a **motion** to approve the minutes of July 22, 2013, seconded by Mr. Stachura.

Roll Call Vote: Mr. Sarni, yes, Stachura, yes, Mrs. Galante, yes, Mr. Powell, yes

HEARING

Theresa Martin, Block 3305, Lot 6, Cal. No. 585 – Addition to Existing Garage

Theresa and William Martin were sworn in. All notices appeared to be in order. The applicant would like to construct a 20' x 40' addition to the existing garage, 12'6" in height. There will be no garage door on the new addition and access would be through the existing structure; a one man door will be installed. Trees were removed to prepare for the addition and the excavator pulled several stumps causing soil erosion. Mr. Rodman provided photographs marked as ZBA-1 and ZBA-2 as follows:

ZBA-1: 6 photos

- 1 – Catch basin
- 2 – Wall and rear property
- 3 – Access to existing garage
- 4 – Post marker
- 5 – Yard, existing garage and gazebo
- 6 – Existing fence on property line

ZBA-2: 6 photos

- 1 – Existing garage and road
- 2 – Driveway
- 3 – Neighboring property
- 4 – Garage/gazebo
- 5 – Other side of gazebo/hot tub
- 6 – Catch basin

The addition is necessary for the parking of vehicles and due to flooding of the basement during Hurricane Sandy additional storage space is also needed. There will be no commercial use of the space, it will be used strictly for storage and parking of the vehicles. The addition will consist of a 29 gauge panel pole barn which will blend with the existing garage using the same materials, colors (green/white) and will be aesthetically pleasing with a cupola. The addition will be one foot to the retaining wall and Bill Jackman, Excavator, has been hired to stabilize the wall and install French drains. Mr. Rodman reviewed his report dated 8/23/13 as follows:

This application is to build a 24'-0" x 40'-0" garage addition on an existing garage in the R-5 Zone. This is a corner lot and therefore has two front yards fronting on Fredon Road and Cedar Ridge Road. The definition section of the Ordinance states that front yard for a corner lot is on the side the driveway is located. The driveway for this lot is located on Cedar Ridge Road. The existing garage is located in the front yard fronting Cedar Ridge Road. The addition would make a non-conforming condition more non-conforming.

The drawings show a front yard setback of 4' and 5' for the proposed new addition to the garage. The existing garage encroaches into the Cedar Ridge Road right-of-way by 3 feet. Section 240-107D(4) prohibits accessory buildings in the front yard and gives a minimum setback of 50 feet from the street line.

Lot coverage calculations were not provided. The ordinance states for areas of lots less than two acres (this lot is 0.45 acre) maximum coverage is 15%. I believe this may require another variance.

The applicant has indicated that this garage addition is for storage of seasonal items and parking of the owner's personal vehicles. The applicant has indicated that because of recent flooding, their basement can no longer be used for storage.

It appears that construction has started on this project. The Zoning Officer has informed me she issued a "Stop Work" notice, pending any approval of a variance request.

Arlene Fisher, the Zoning Officer, has deemed this application complete with waivers on August 8, 2013. The applicant must still provide certified list of adjacent property owners within 200 feet. Also, certification of paid taxes provided indicates taxes were paid through May 2013. A revised certification should be provided.

The following **additional comments** are made at this time:

1. This application seeks variance relief from Section NJSA 40:55D-70C of the MLUL. The applicant should provide testimony stating why the benefits of this deviation would substantially outweigh any detriment.
2. The proof of taxes received states taxes are paid thru May 2013. A current status should be provided. *This item has been provided.*
3. Three courses of concrete barriers have been installed at least six feet high as a retaining wall. This retaining wall holds back Cedar Ridge Road. I would recommend an engineer certify that this retaining wall is adequate or to provide an alternate design.
4. The application form states that this building is for the "storage and enclosed parking spaces for the residence". Since there is not garage door, I assume that the existing garage will be used for vehicle storage and this building will be used for just storage.
5. No height of the building is shown. This should be provided to determine if any additional variances are required. Section 240-104G(10)(b)[2] limits the height of garages to 15 feet. This section 240-104G(c)[5] also states that garages shall contain no more than three motor vehicles. *Height has been provided on the elevation plan submitted.*
6. The applicant states that the existing garage encroaches 3' over the property line onto Cedar Ridge Road right-of-way. The drawing shows a setback of 4' and 5' for the new addition, however, it does not appear the addition drawn is to any scale. A would recommend the applicant provide the exact setback being requested.

7. The existing driveway is inadequate. It has poor sight distance. However, since there will be no increase in vehicles, Arlene Fisher, the zoning official, said she would not require improvement of this driveway.

Mr. Powell noted the lot encroaches on the right-of-way (ROW) line, not the front setback line. Mr. Morgenstern agreed. Mr. Rodman stated the front of the property is the driveway side. In response to Board questioning, Mr. Martin indicated the addition would be two times as long as the existing garage. A brief discussion was held on the distance to the Paulinskill River and the Board determined the river was not a C-1 designation. Mr. Martin described the location of the wall and the catch basin, indicating the wall was installed to stabilize the road as there has been continuous run-off into the yard over the years. Mr. Stachura felt the wall may have to be improved if it is not structurally sound. Mr. Martin testified as to the location of the septic system and gazebo, noting the proposed location for the garage is the only location on the lot suitable. Mr. Morgenstern noted a lot coverage variance may also be necessary as only 15 percent coverage is permitted and he asked what the square footage of the house located on the property was in order to determine an accurate lot coverage calculation. The applicant was unsure of the square footage.

Mr. Morgenstern reviewed section 240-113E of the ordinance indicating walls over 24 inches are considered accessory structures and are not permitted in the front yard; he noted a variance would be necessary for the wall.

Following further discussion, the Board requested the applicant submit the following items:

- 1) Detailed survey including setbacks
- 2) Engineer certification for the retaining wall

At this point, this portion of the meeting was opened to the public at 8:15 p.m. There being no members of the public wishing to speak, this portion of the meeting was closed at 8:15 p.m.

Mr. Stachura made a **motion** to carry the application to October 28, 2013, seconded by Mr. Sarni, additional information to be submitted by the applicant, no further notice being required.

Roll Call Vote: Mr. Sarni, yes, Stachura, yes, Mrs. Galante, yes, Mr. Powell, yes

At this point, Mrs. Martin expressed concern with run-off from the road and its stabilization. The Board agreed to have Township Engineer Michael Vreeland conduct an inspection for recommendations to address any issues there may be.

RESOLUTION

Dropchinski, Block 2401, Lot 19.04, Cal. No. 584 – Outdoor Wood Furnace (OWF)

Mr. Sarni made a **motion** to adopt the Resolution, seconded by Mrs. Galante, with the following terms and conditions applying:

The furnace shall remain in its present location and shall be a minimum of 72.2 feet from the southerly sideline of the lot.

The furnace shall be located a minimum of 190 feet from the northerly sideline of the lot. The furnace shall remain in its present location and shall be located a minimum of 222.6 feet from the sideline of Stillwater Road. It shall not be located in the front yard of the lot.

The furnace shall be operated in accordance with the regulations of the New Jersey Department of Environmental Protection governing wood furnaces including without limitation N.J.A.C. 7:27-3.1 et seq.

The furnace shall be operated in accordance with Section 24-114P of the Stillwater Ordinance except for the setback from the southerly and northerly sidelines for which variances are granted.

The furnace shall be operated in accordance with the regulations of the Sussex County Health Department with respect to the operation of wood furnaces.

Any subsequent property owner shall obtain a new permit from the Stillwater Township Building Inspector to operate the furnace in accordance with Section 240-114P 3H.

Applicant shall sign an Affidavit of Knowledge on a form required by the Stillwater Township Building Inspector.

Applicant shall obtain a building permit and a Certificate of Compliance from the Township Building Inspector.

The height of the chimney stack on the furnace shall in no case be less than 5 feet above the roofline of the furnace unit.

Applicant shall comply with the following terms and conditions of the Stillwater Township Zoning Board Engineer, Ted Rodman, P.E. dated July 16, 2013 annexed: Paragraphs 2, 3 and 5.

Applicant shall file a revised survey map showing the northerly sideline setback for the furnace.

No permanent Certificate of Occupancy shall be issued until all of the conditions of this Resolution have been met.

All taxes and fees shall be paid to the Township of Stillwater.

Applicant shall obtain all required governmental permits for the wood furnace.

Applicant shall comply with all laws, rules and regulations in the construction of the wood furnace and in the operation of the wood furnace.

The variances expire within nine (9) months from the date of this Resolution unless implemented pursuant to the Ordinances of Stillwater Township.

Roll Call Vote: Mr. Sarni, yes, Stachura, yes, Mrs. Galante, yes, Mr. Powell, yes

BILLS

Mr. Sarni made a **motion** to pay the following bills, seconded by Mr. Stachura:

<u>Dolan & Dolan:</u>	General – July 2013	\$ 85.98
	General – July 2013 Meeting	\$155.00
	General – August 2013	\$ 89.90
	Escrow – Cellco Partnership	\$ 38.75
	Escrow – Mueller	\$348.75
	Escrow – Poust	\$181.35
	Escrow – Poust	\$155.00
	Escrow – Dropchinski	\$193.75
	Escrow – Dropchinski	\$116.25
	<u>Rodman Associates:</u>	General – July 2013
Escrow - Dropchinski		\$339.00
Escrow – Dropchinski		\$113.00
<u>NJH:</u>	Poust Resolution	\$ 11.70
	Mueller/Tanis Resolutions	\$ 20.40

Roll Call Vote: Mr. Sarni, yes, Stachura, yes, Mrs. Galante, yes, Mr. Powell, yes

Correspondence:

Budget Request Worksheet 2014

At this point, this portion of the meeting was opened to the public at 8:25 p.m. There being no members of the public wishing to speak, this portion of the meeting was closed at 8:25 p.m.

Committee Liaison Report: Mayor Charles Gross

Mr. Gross briefly addressed the condition of Cedar Ridge Road, noting there is a groundwater issue and the township installed drains.

There being no further business, Mr. Sarni made a **motion** to adjourn the meeting at 8:30 p.m., seconded by Mr. Stachura. In a voice vote, all were in favor.

Respectfully submitted,

Kathy Wunder, Board Secretary

Eric Powell, Chairman