

ZONING BOARD OF APPEALS- MARCH 18, 2021-10:00 A.M. – VILLAGE HALL

**PRESENT: WAYNE SIMMONS, STEVE MARSHALL, RAYMOND WALKER
CLERK/TREASURER: SHERISTIN TEDESCO**

PUBLIC ATTENDANCE: 1

Wayne Simmons opened the meeting and stated the reason for the meeting. An area variance was applied for by Mr. James Doyle, Stillwater Landings 2015 LLC for relief from an area setback. The setback in the Form Based Code is 10 feet and actual setback is 9 feet 10 inches and asks the ZBA for 2 inches of side setback relief. The property is located at 2A Newland Rd (Tax Map # 244.54-1-29.)

There was only one piece of correspondence received regarding the topic. It was from Shawn & Lois McClements and it was in support of acceptance of the proposed variance.

**ZONING BOARD OF APPEALS
VILLAGE OF STILLWATER
March 18, 2021**

**FINDINGS, DECISION AND RESOLUTION
ON AREA VARIANCE APPLICATION**

WHEREAS, the Zoning Board of Appeals of the Village of Stillwater (the "Board") held a public hearing on March 18, 2021, at 10:00 AM on an Area Variance application by James G. Doyle, Stillwater Landings 2015 LLC requesting relief from a side setback for a single family building constructed on property located at 2A Newland Rd (Tax Map # 244.54-1-29); and

WHEREAS, in advance of the public hearing, notice of said hearing was published in the Village's official newspaper and sent by certified mailed to all property owners within 300 feet of the subject property per applicable law; and

WHEREAS, the Village Code Enforcement Officer has determined that the north side setback required by the Village of Stillwater Form Based Code is 10 feet and the actual setback of the building as constructed on the subject property is 9 feet 10 inches; and

WHEREAS, the applicant requests that the Board approve an area variance of 2 inches from said north side setback; and

WHEREAS, the members of the Board are familiar with the property and the surrounding neighborhood; and

WHEREAS, the Board shall have the power, upon an appeal from a determination of the Code Enforcement Officer or the Planning Board that the applicant's proposal cannot be approved by reason of its failure to meet the dimensional or area regulations of this Code, to grant area variances from the area or dimensional requirement of this Code; and

WHEREAS, the Board, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, based on the evidence and testimony taken at the public hearing held before the Board, and due deliberation upon all of the foregoing and the application as submitted to the Board,

NOW, THEREFORE IT IS RESOLVED AS FOLLOWS:

FINDINGS OF THE ZONING BOARD OF APPEALS:

The Village of Stillwater Zoning Board of Appeals hereby makes the following findings with respect to the specific criteria set forth in Village Law § 7-712-b, Article VII of the Village Form Based Code, and other applicable provisions of law:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Finding: Given the de minimis nature of the requested 2-inch variance, the Board finds that the requested variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Further, no adjoining landowner has objected to requested variance.

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Finding: The Board finds that because the building has already been constructed, that there is no alternative method that is feasible for the applicant to pursue, and that requiring the building to be moved would be an unreasonable hardship which an area variance can reasonably mitigate.

3. Whether the requested area variance is substantial.

Finding: The Board finds that the requested 2-inch variance is de minimis.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding: The Board finds that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district given the de minimis nature of the requested variance.

5. Whether 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.

Finding: The Board finds that the alleged difficulty was self-created.

DETERMINATION BASED ON THE ABOVE FACTORS:

It is hereby determined by the Village of Stillwater Zoning Board of Appeals that the requested Area Variance is **GRANTED** to James G. Doyle, Stillwater Landings 2015 LLC for the property at 2A Newland Rd (Tax Map # 244.54-1-29) for a variance of 9 feet 10 inches from the building's north side setback, with any conditions hereafter stated.

It is further found and determined by the Board that given the de minimis nature of the requested variance that the benefit to the applicant outweighs any potential negative impacts or detriment to the neighborhood or community; and that such area variance is the minimum necessary as adequate to grant relief and, at the same time, preserve and protect the character of the neighborhood and the safety and welfare of the community.

The Board further grants the authority to the Zoning Board of Appeals Chairman to certify all conditions have been completed without further resolution and to sign and date the plat at such time.

CONDITIONS of APPROVAL for the APPLICATION:

1. Payment of all outstanding fees to be paid in full.
2. Obtain a certificate of occupancy from the Village of Stillwater Building/Code Enforcement Department.

EFFECT of APPROVAL:

This Area Variance and associated conditions shall be binding upon the applicant and all successive owners of the land.

VOTE:	YES	NO	ABSENT
Wayne Simmons	<u> X </u>	_____	_____
Steve Marshall	<u> X </u>	_____	_____
Raymond Walker	<u> X </u>	_____	_____

I, Sheristin Tedesco, Village Clerk, do hereby verify that the foregoing is a true copy of a Findings, Determination and Resolution adopted by the Zoning Board of Appeals of the Village of Stillwater, Saratoga County, New York on March 18, 2021.

In closing, area variance is granted.

Meeting adjourned 10:15 AM

Respectfully submitted,

Sheristin Tedesco
Clerk/Treasurer