

**TOWN OF STONY POINT
ZONING BOARD OF APPEALS
Minutes of January 16th, 2025**

PRESENT:

Mr. Keegan (absent)
Mr. Anginoli
Mr. Lynch
Mr. Strieter
Ms. Davis
Mr. Veras
Chairman Wright

ALSO PRESENT:

Dave MacCartney, Attorney
John Hager, Building Inspector

Chairman Wright: Good evening. Welcome to the Stony Point Zoning Board of Appeals. I call this meeting of January 16, 2025, to order. Please rise for the Pledge of Allegiance.

The Pledge of Allegiance was recited, and roll call taken.

Chairman Wright called for the first item on the agenda.

Request of Alan Stoll – 173 Wayne Ave – App. # 23-03 (Area Variance)

1 Family - subdivide to build a new single-family house

Chapter 215, Article V Bulk Requirements, 215-15 A,
215 Attachment 14, Table of Bulk Requirements II, column 2 requires:
Minimum lot area required = 40,000sf
Lot area proposed = 23,411sf
Variance necessary = 16,589sf

Section: 15.01

Block: 4

Lot: 57

Zone: RR

BOARD OF APPEALS

TOWN OF STONY POINT, COUNTY OF ROCKLAND

In the Matter of Application #23-03 of Alan J. Stoll for an area variance from the requirements of the Town Code to permit a two-lot subdivision to permit the construction of a new single-family home providing less than required lot area, providing less than required lot area, providing preconstruction net lot area Proposed Lot No. 1 of 49,142 sq ft, and preconstruction net lot area on Proposed Lot No. 2 of 23,411 sq ft., on property located at 173 Wayne Avenue, Stony Point, New York, designated on the Tax Map as Section 15.01, Block 4, Lot 57 in the RR Zoning District.

WHEREAS members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about July 29, 2023; and

WHEREAS the Town of Stony Point Planning Board was declared lead agency under the New York State Environmental Quality Review Act, and issued a negative declaration on December 12, 2024; and

WHEREAS a public hearing was duly noticed and opened, conducted over the course of several dates, and closed at the conclusion thereof on January 2, 2024; and

WHEREAS all the evidence and testimony were carefully considered, and the Zoning Board of Appeals has made the following findings and conclusions:

The applicant is the owner of the subject parcel located at 173 Wayne Avenue, which is a corner lot located at the intersection of Wayne Avenue and McCarthy Circle. The parcel is presently improved with an existing single-family home in the area closest to Wayne Avenue. The applicant proposes to subdivide the parcel into two lots. Proposed Lot No. 1 will continue to contain the existing single-family home, which fronts Wayne Avenue. Proposed Lot No. 2 would be created toward the rear of the existing lot if viewed from Wayne Avenue. Proposed Lot No. 2 is proposed to front McCarthy Circle.

The existing parcel is oversized but also contains unregulated wetlands. The applicant has proceeded before the Planning Board on its subdivision application and SEQRA review for some time. The plan that has evolved before the Planning Board would require lot area variances due primarily to the existing unregulated wetlands requiring a reduction from the provided minimum lot area under the Code.

The Code requires a minimum lot area of 50,000 ft.², net of any statutory deductions. Because of the deductions required on this lot, mostly for the wetlands, Proposed Lot No. 1 provides 49,142 ft.², just shy of the required minimum. However, it was represented to this Board that as a result of the proposed post-subdivision construction, certain of the unregulated wetlands will be filled with the permission and approval of the Planning Board. Once those unregulated wetlands are filled in, the net lot area on Proposed Lot No. 1 will be at or about 51,000 ft.², which will comply with Code. Accordingly, in regard to Proposed Lot No. 1, the applicant requests a variance to permit the subdivision with lot area of 49,142 ft.², but with the understanding and condition that the post-construction condition will provide in excess of the 50,000 ft.² minimum.

In regard to Proposed Lot No. 2, the applicant proposes a gross lot area of over 40,601 ft.². However, because of the unregulated wetlands and any other applicable deductions, the net lot area provided on Proposed Lot No. 2 is only 23,411 ft.². Like Proposed Lot No. 1, it has been represented to this Board that as a result of the post-subdivision construction of the new proposed single-family home and all related improvements, including the new drainage system, certain unregulated wetlands will be filled on that lot, which will result in post-construction net lot area of 40,601 ft.². While still just over 9,000 ft.² less than the required minimum of 50,000 ft.², this proposed net lot area is nevertheless a substantial improvement over the pre-fill net shown on the plan of 23,411 ft.².

Substantial testimony was heard at the hearing from the applicant and his professionals, as well as many members of the public, including many neighbors either directly adjacent or nearby the subject property. The overriding theme of all concerns received from those neighbors was in regard to existing water and drainage conditions and whether the construction would result in new problems or an exacerbation of existing conditions. Although the engineering and drainage are primarily in the purview and jurisdiction of the Planning Board, this Board was very mindful of this concern and addressed it with the applicant. The applicant represented that substantial drainage engineering has been prepared, some of which is shown in the proposed Grading and Utilities Plan dated last revised November 20, 2024. The drainage has been under review by the Planning Board and the Town Engineer in detail and will continue to be so reviewed.

While it is expected that the engineered drainage plans will be fully protective of the environment and neighboring properties and will be in full compliance with all requirements of law and those imposed by the Town Engineer and the Planning Board, such review and approval is made an express condition hereof. Stated otherwise, if the applicant does not establish to the satisfaction of the Planning Board and Town Engineer that the drainage improvements are acceptable and in accordance with law and good and accepted engineering practice, and protective of the neighboring property owners and environment, the variances granted herein will be deemed null and void.

This matter was referred to the Rockland County Department of Planning for review under the General Municipal Law. County Planning issued its review letter on October 17, 2023, recommending disapproval for various reasons.

Comments 1, 2, and 3 are based on the presumption that Proposed Lot 2 is in a federally regulated wetland, but that has proven to be inaccurate. These are unregulated wetlands, as established by Peter D. Torgersen in his various reports. This basis for disapproval is therefore overridden.

Comments 4 and 5 require a review by the County Highway Department and County Department of Health respectively. The application was sent to the County Highway Department, and it issued a review letter dated August 13, 2024, addressed to the Planning Board. All those comments relate to planning issues and no action need to be taken by this Board in that regard. Compliance with any requirements of the County Health Department is made a condition hereof.

Comment 6 requires the development coverage and FAR calculations to be placed on the site plan and verified. That has been accomplished.

Comment 7 requests an opportunity to review the subdivision. That is within the purview and jurisdiction of the Planning Board.

Comments 8 and 9 are restatements of legal principles with which this Board will comply.

Comments 10 through 10.4 are duly noted.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for variances, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that on the conditions stated herein, the benefit to the applicant if the variances are granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

(1) There was no evidence presented that the proposed variances would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties, on the conditions imposed herein. The post-construction net lot area is not out of line with the remainder of the neighborhood as there are other similar lots of similar size. The drainage is the primary issue of concern, and it is in the jurisdiction of the Planning Board. That Board, along with the Town Engineer, is conducting a full review of all engineering and drainages plans, and final review and approval of same is made a condition herein.

(2) There was no evidence presented of any other feasible means to achieve the benefit sought without the variances requested.

(3) The variance for Lot 1 is not substantial. The variance for Lot 2 is substantial, but on the conditions stated herein, the substantiality of that variance does not outweigh the benefit to the applicant.

(4) There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district, on the conditions stated herein, including specifically in regard to the drainage.

(5) The alleged difficulty was self-created.

NOW, THEREFORE, BE IT RESOLVED, that the application for area variances is hereby approved on the conditions set forth below:

CONDITIONS:

1. Final review and all required approvals of the Town Planning Board, Town Engineer, and Building Inspector, including but not limited to specifically relating to the drainage plans and related improvements, and the applicant's compliance with any and all conditions imposed. If the applicant fails to design and implement drainage improvements to the satisfaction and approval of the Planning Board, Town Engineer, and Building Inspector, the variance(s) granted herein shall be deemed null and void.
2. Post-construction net lot area on Proposed Lot No. 1 shall be no less than the 50,000 ft.² minimum required.
3. Post-construction net lot area on Proposed Lot No. 2 shall be no less than 40,601 ft.²
4. Compliance with the latest plans submitted to this Board dated November 7, 2024 (Proposed Planimetric Plan) and November 20, 2024 (Proposed Grading and Utilities Plan).
5. Review and approval by County Health Department.
6. Payment of all due fees and compliance with all other applicable laws, rules, codes, and regulations.

The matter is remanded to the Planning Board, Building Inspector, and Town Engineer for further consideration in compliance with the terms and conditions hereof.

Chairman Wright called for a motion to approve the application.

*****MOTION: Mr. Lynch made a motion to approve the application.; seconded by Mr. Anginoli. All in favor; the motion was carried.**

Upon roll call, a vote to pass the foregoing resolution was as follows:

**Mr. Keegan-absent; Mr. Anginoli-yes; Chairman Wright-yes;
Mr. Lynch-yes; Mr. Strieter-yes; Ms. Davis-yes; Mr. Veras-yes**

Chairman Wright called for the next item on the agenda.

Request of Mountainside Manors LLC – 89 Lowland Hill Rd – App. # 25-01 (Area Variance)

Town of Stony Point Zoning Code section 215-94 (D) Noncomplying Lots

(1) "for all residential lots having less than 100 feet of lot width, the following minimum requirements shall apply:

(c) The minimum front and rear setbacks shall be 30 feet."

Proposed front setback = 6'

Front setback variance necessary = 24'

215-94 (D) Noncomplying Lots

(1) "for all residential lots having less than 100 feet of lot width, the following minimum requirements shall apply:

(c) The minimum front and rear setbacks shall be 30 feet."

Proposed rear setback = 10'

Rear setback variance necessary = 20'

215-94 (D) Noncomplying Lots

(1) "for all residential lots having less than 100 feet of lot width, the following minimum requirements shall apply:

(e) The maximum building height shall be 25 feet."

Proposed building height = 27.3'

Height variance necessary = 2.3'

Section: 20.07

Block: 3

Lot: 3

Zone: R1

Chairman Wright asked if they applicant or representative is present to please address the Board. Bill Sheehan, applicant, addressed the Board. Chairman Wright asked Mr. Sheehan for an overview of the application to determine if the Board will accept the application. Chairman Wright set the site visit for January 25th and the public hearing will begin on February 6, 2025. Mr. Sheehan continued by describing the proposed plans to construct a single-family house on a vacant non-conforming lot. He said there was previously a barn that was torn down in the 1960s, and nothing had been done on the property since that demolition. Chairman Wright asked Mr. Sheehan to confirm how many stories the house will be. Mr. Sheehan advised 3-stories in the front and 2-stories in the back due to an unfinished basement.

Chairman Wright asked if there were any questions about the application. No response was given.

Chairman Wright called for a motion to accept the application.

*****MOTION: Mr. Anginoli made a motion to accept the application; seconded by Ms. Davis. All in favor; the motion was carried.**

Chairman Wright called for a motion to conduct the public hearing on February 6, 2025.

*****MOTION: Mr. Anginoli made a motion to conduct the public hearing on February 6, 2025; seconded by Mr. Strieter. All in favor; the motion was carried.**

Chairman Wright called for the next item on the agenda.

Request of Richard Steinberg – 7 Highview Avenue – App. #24-11 (Area Variance)

1 FAMILY DETACHED DWELLING - construct new 2 story house & appurtenances

215-94 (D) Noncomplying Lots

"For all residential lots having less than 100 feet of lot width, the following minimum requirements shall apply:

(d) The minimum lot width and lot frontage shall be 75 feet."

Existing lot width = 50'

Proposed lot width = 50'

Variance necessary = 25' (width)

Existing lot frontage = 50'

Proposed lot frontage = 50'

Variance necessary = 25' (frontage)

Section: 20.07

Block: 3

Lot: 72

Zone: R1

Chairman Wright called for a motion to open the public hearing.

*****MOTION: Mr. Anginoli made a motion to open the public hearing; seconded by Mr. Veras. All in favor; the motion was carried.**

Chairman Wright asked for the applicant or representative please come forward. Justin Steinberg, representative of the applicant, addressed the Board. Chairman Wright asked for an overview of the proposed application. Mr. Steinberg presented the Board with a large rendering of the proposed house. Chairman Wright asked Mr. Steinberg to explain the updates that have been proposed from the previously denied application. Mr. Steinberg advised that the size of the house went from a 28x55 foot house down to 22x55 foot house, with the height decreasing to 22 feet. He also confirmed that there will be a 1-car garage, with additional parking in front of the house, as well as the space to add a driveway on either side of the house.

Chairman Wright asked if there was anyone from the public that would like to comment on this application to come forward.

Mr. Anginoli asked if the applicant had received a copy of the response letter from Rockland County Planning. Mr. Steinberg advised he had not received that and asked if the most updated map had been submitted to Rockland County Planning. Mrs. Flannigan confirmed they have reviewed the latest plans submitted to the ZBA.

Chairman Wright called for a motion to keep the public hearing open.

*****MOTION: Mr. Anginoli made a motion to keep the public hearing open; seconded by Mr. Lynch. All in favor; the motion was carried.**

John Hager added a comment on the Rockland County Planning letter, advising the Board that comment #6 could be overruled since only (1) variance is needed for this application. He suggested that the applicant revise the plan to reflect the correct information for the variance. Chairman Wright advised the applicant to provide the corrected update at the next meeting.

Chairman Wright called for the next item on the agenda.

Request of Stephen Pettipas – 74 Beach Road – App. #24-10 (Area Variance)

1 FAMILY DETACHED DWELLING - construct new 2 story house & appurtenances

215-94 (D) Noncomplying Lots

"For all residential lots having less than 100 feet of lot width, the following minimum requirements shall apply:

(c) The minimum front and rear setbacks shall be 30 feet."

Proposed rear setback = 24'

Variance necessary = 6'

215-94 (D) Noncomplying Lots

"For all residential lots having less than 100 feet of lot width, the following minimum requirements shall apply:

(e) The maximum building height shall be 25 feet."

Proposed building height = 32.6' *

Variance necessary = 7.6'

* Note: parcel located in the flood hazard zone which requires building to be elevated.

Section: 15.20

Block: 1

Lot: 11.1

Zone: R1

****Chairman Wright recused himself from this application due to conflict of interest. Mr. Anginoli is now Acting Chairman for the remainder of the meeting. ****

Stephen Pettipas, owner and applicant, addressed the Board. He began by explaining that the previous Building Inspector interpreted this property as a corner lot, which is not because it is not located on two intersecting streets. Mr. Pettipas goes on to say that Mr. Hager interpreted his property as being on one street, making it *not* a corner lot. He continues explaining this helps his situation because he has a 30-foot frontage but he doesn't need it on both sides. With the change in interpretation, he does not need as many variances. Acting Chairman Anginoli confirmed that this would have to be built on stilts, and Mr. Pettipas confirmed that is correct due to the flood zone. Mr. MacCartney and Mr. Pettipas discuss the measurements and positioning of the house, which go into detail in comparison to the original plans presented and denied in 2018.

Acting Chairman Anginoli asked if there were any members of the public that would like to speak on behalf of this application. Marc Johnson, resident of 65 Beach Rd, addressed the Board. Mr. Johnson lives across the street from this lot and is in favor of the project. He is happy to know who his neighbors are going to be and feels it will be an improvement in the neighborhood.

Mr. Hager added that the applicant should have his surveyor check the calculations on the plans and make sure they are correct, and this would take care of some of the comments on the county letter (the FAR).

Acting Chairman Anginoli called for a motion to keep the public hearing open.

*****MOTION: Mr. Lynch made a motion to keep the public hearing open; seconded by Mr. Strieter. All in favor; the motion was carried.**

Chairman Wright called for a motion to close the meeting of January 16, 2025.

*****MOTION: Mr. Lynch made a motion to close the meeting of January 16, 2025; seconded by Mr. Strieter. All in favor; the motion was carried.**

Respectfully submitted,

Nicole Flannigan

Secretary
Zoning Board of Appeals