

TOWN OF STONY POINT
ZONING BOARD OF APPEALS
Minutes of September 18th, 2025

PRESENT:

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

ALSO PRESENT:

Dave MacCartney, Attorney
John Hager, Building Inspector

Acting Chairman Anginoli: Good evening. Welcome to the Stony Point Zoning Board of Appeals. I call this meeting of September 18, 2025, to order. Please rise for the Pledge of Allegiance.

The Pledge of Allegiance was recited and roll call taken.

Acting Chairman Anginoli called for the first item on the agenda.

Request of Thomas Sullivan – 41 Beach Rd – App. #25-05 (Area Variance)

New 1 FAMILY DWELLING & APPURTENANCES – construct new 3 bedroom, 2.5-bathroom home (elevated for flood standards compliance)

Town Zoning Code chapter 215-15 A Bulk Table, attachment 16 part II
Use group h.1, column 4, Required front yard depth/setback:
Minimum front yard depth/setback required = 35’/35’
Existing front yard setback = N/A (vacant)
Proposed front yard depth/setback = 18.0’/18.0’
Front yard depth/setback variance required = 17’
**Additionally, a Flood Plain Development permit must be applied for in this location. **

Section: 20.08	Block: 1	Lot: 16	Zone: R1
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Acting Chairman Anginoli called for the applicant or representative to please come forward. No response given – applicant was not present. He adjourned the application to be discussed at the next meeting.

Acting Chairman Anginoli called for the next item on the agenda.

Request of Isaack Goldberg – 2 Timmel Lane – App. #25-03 (Appeal)

Chapter 215, Article III Districts; Map
Section 215-9 Compliance required,
215-9 D Uses identified as special permit uses or conditional uses shall be deemed prohibited unless a valid special permit shall be issued by the Town Board therefor or appropriate conditional approval granted by the Planning Board.
This application requires Planning Board review and approval of a Conditional Use permit

Chapter 215, Article IV Use Requirements,
Section 215-11 Use Table,
(215 attachment 9) Table of General Use Requirements Part I Residential Districts RR District,
Column ‘C’ Conditional Uses by Planning Board (subject to Article XI and XII)
#4) 1-family detached residences with municipal sewer and water and located in an area having slight or moderate development limitations
This application is for construction of a 1-family residence with municipal sewer and water

Chapter 215, Article IV Use Requirements,
Section 215-12 Utilization of Use Table

215-12 C...All uses listed in Column C are permitted only upon approval of the Planning Board and are conditional thereon pursuant to § 274-a of the Town Law. ... All special permit uses and conditional uses also require site development plan approval by the Planning Board in accordance with Article X.
This application requires Planning Board review and approval of site-plan and Conditional Use permit

Section 215 Article XII Conditional Use and Approval by Planning Board
Section 215-73 General requirements,
The uses listed in Use Table, Column C, are conditional uses permitted only upon approval by the Planning Board in accordance with the procedures and standards herein. After approval, such uses shall be deemed permitted uses in the districts wherein located, subject to any conditions attached thereto.
This application requires Planning Board review and approval of site-plan and Conditional Use permit

Section: 19.02 Block: 4 Lot: 67 Zone: RR

Acting Chairman Anginoli called for a motion to read the determination of this application, read by Mr. Lynch.

**BOARD OF APPEALS
TOWN OF STONY POINT, COUNTY OF ROCKLAND**

In the Matter of Application #25-03 of Bizzel Timmel, LLC, which appeals and seeks a reversal of the interpretation of the Town of Stony Point Building Inspector in a letter dated April 23, 2025, determining that Planning Board review and approval is required in connection with the applicant’s request for a building permit to construct a new, larger single family dwelling on property currently improved with an existing single family dwelling with connections to municipal sewer and water, relating to property located at 2 Timmel Lane, Stony Point, New York, designated on the Tax Map as Section 19.02, Block 4, Lot 67, in the RR Zoning District.

WHEREAS this interpretation is a Type II Action pursuant to the New York State Environmental Quality Review Act; and

WHEREAS a public hearing was properly noticed and conducted on July 3 and July 17, 2025, during which the Board heard and accepted abundant testimony and documentary evidence; 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 property located at 2 Timmel Lane in the RR Zoning District. The property is currently improved with an existing two-story single-family home with a footprint of approximately 1,852 square feet and a height of approximately 26’. The applicant proposes to demolish the old home, remove a major portion of the existing foundation, construct a new foundation and expand the footprint to approximately 3,732 square feet, and construct a finished basement and a full height attic resulting in a total structure height of 34’, all resulting in a three-story structure with total floor area of approximately 12,840 square feet. The existing property has connections to municipal sewer and water as well as the proposed new structure.

The applicant applied for a building permit and by letter dated April 23, 2025, the Building Inspector denied the building permit application based on his determination that the application requires review and approval by the Town Planning Board based on his interpretation and application of Town Code Sections 215-9, 215-11, 215-12, and 215-73, including the Table of General Use Requirements for the RR Zoning District (Attachment 9 of Section 215) (the "Use Table"). He referred to the applicant to the Planning Board in that regard, and the applicant has appealed that determination to this Board.

For the reasons set forth below, the Board herein determines and finds that the Town Code prohibits the issuance of a building permit under these circumstances for this property in the absence of review and approval by the Planning Board including the issuance of a Conditional Use Permit pursuant to Article XII of the Code.

Pursuant to Section 215-9(D), any uses identified as a conditional use are deemed prohibited unless appropriate conditional approval is granted by the Planning Board.

For the RR Zoning District (in which this property is located) the Use Table sets forth in Column B the uses permitted by right without any further approvals necessary from the Town Planning Board or the Town Board, and in Column C, it sets forth the uses permitted only with a Conditional Use permit issued by the Planning Board.

Town Code Section 215-12 confirms that all uses listed in Column C of the Use Table are permitted only upon approval of the Planning Board, and that "[a]ll special permit uses and conditional uses also require site development plan approval by the Planning Board in accordance with Article X."

Further, Section 215-73 of the Code likewise provides that the uses listed in Column C of the Use Table are conditional uses permitted only upon approval by the Planning Board in accordance with the procedures and standards stated therein.

For the RR Zoning District (where this property is located), the Use Table (Sec. 215, Attachment 9) provides in Column C, paragraph number 4, that "1-family detached residences with municipal sewer and water and located in an area having slight or moderate development limitations" are a Conditional Use permitted only if Conditional Use approval is issued by the Town Planning Board. The Code provides in Footnote 1 with that provision that the "development limitations" referred to are "as depicted in the Town of Stony Point Development Plan, 1973."

The record evidence before this Board was abundant and clear that the above Code provisions all apply directly to the applicant's proposal and building permit application herein. It is undisputed that the applicant is proposing a one-family detached residence with connection to both municipal sewer and water. Further, the testimony and documentary evidence presented established that pursuant to the Town of Stony Point Development Plan of 1973 (the standard required by the Code), this property is within the area designated as having "slight or moderate development limitations."

Therefore, based upon the plain, clear, and unambiguous language of the Code and the factual evidence before this Board, it is beyond any reasonable dispute that the applicant is proposing a "1-family detached residence with municipal sewer and water and located in an area having slight or moderate development limitations." The Building Inspector therefore correctly interpreted the Code according to its plain words and meaning and properly found that the applicant's building permit application could not be granted as of right; rather, Conditional Use approval by the Town Planning Board is a prerequisite and he properly referred the applicant to the Planning Board in that regard.

The applicant presents no concrete factual proof or legal arguments contradicting the above facts or wording of the various Code sections. Rather, the applicant argues that paragraph 4 of Column C of the Use Table was not previously used or applied by the Building Department to existing lots but was only previously applied to new subdivision requests and so it must now be interpreted to apply only to new subdivision applications. This argument fails for several reasons.

First, this argument is contrary to the plain and unambiguous wording of the various code sections, including the Use Table, as set forth above. On an application to a zoning board seeking an interpretation, where the language of the disputed code section is clear and unambiguous, the board must interpret the words in accordance with their plain meaning. Nowhere in the Code does it say that this requirement for Conditional Use approval by the Planning Board applies only to new subdivisions as the applicant advocates. It would have been quite easy to have stated this either in the Use Table, in a footnote in the Use Table, or somewhere in the Code itself had this significant limitation been intended. In the face of unambiguous language to the contrary, and in the absence of any language remotely matching what the applicant is advocating, this board is not free to graft new words, terms, or limitations into the Code.

Second, although the applicant's representative purported to provide a list of nine properties where he advocates that building permits were previously issued for single family dwellings in the RR Zoning district that were not referred to the Planning Board (i.e. where he says the Building Inspector applied the Code differently than he is applying it here), the Building Inspector rebutted this and pointed out that 8 of the 9 applications cited by the applicant's representative did not involve a property in a location with "slight or moderate development limitations." Accordingly, in all but one of the nine cited instances, the subject Code section simply did not apply at all. While that does leave one prior instance of an apparent inconsistent application of the Code by the Building Inspector, a Building Inspector is not bound by one previously erroneous or inconsistent interpretation (or perhaps oversight) in the application of the Code. He is not estopped into forever making the same or similar error or oversight.

Of greater importance, this Board is not bound by the Building Inspector's one prior potentially inconsistent application of the Code. It is undisputed that this Board has never passed on this issue before and there is no precedent cited by the applicant or otherwise known to this Board where this Board has ever upheld the position advanced by the applicant's representatives herein. It is a matter of first impression before this Board.

The applicant also argues that Section 215-59 of the Code provides that no site plan shall be required for single-family residences and therefore the Building Inspector's interpretation herein must be erroneous. However, this argument overlooks that Column C of the Use Table is addressed specifically to Conditional Use approval being required by the Planning Board for the enumerated uses; there is not a separate column or requirement designating site plan approval in the abstract. Rather, Town Code Article XII is the article governing the standards of review to be applied whenever Conditional Use Approval by the Planning Board is required in Column C of the

Use Table. Within that Article XII is Sec. 215-74, which states that where a conditional use permit is required, the conditional use permit application is to be accompanied by the application for site plan approval, and that section further provides that the conditional use and site plan application may be processed concurrently. The Conditional Use Permit review standards are more rigorous and are typically considered standards to be applied and met over and above mere site plan review, and there is no question that the subject Code sections unambiguously require Conditional Use approval for the applicant’s proposed use here. It is for these reasons that the Building Inspector also included a referral for the applicant for site plan review while the applicant pursued the required Conditional Use review and approval.

NOW, THEREFORE, BE IT RESOLVED that the Building Inspector’s determination is affirmed, and the matter is remanded to the Building Department for further consideration consistent with this resolution.

Upon roll call, a vote to pass the foregoing resolution was as follows:
Keegan – yes; Anginoli – yes; Lynch – yes; Davis – yes; Strieter – yes; Veras - yes

*****MOTION: Mr. Lynch made a motion to accept the determination of this application; seconded by Mr. Keegan. All in favor; the motion was carried.**

Acting Chairman Anginoli called for the next item on the agenda.

Request of Erickson Hernandez – 39 Nordica Circle – App. #25-04 (Area variance)

Residential Addition - proposed two-story addition to existing single-family residence

Town Zoning Code chapter 215-A Bulk Table, attachment 16 part II
Use group h.1, column 6, Required rear setback:
Minimum rear yard setback required = 35’
Existing rear yard setback = 42.3’
Proposed rear yard setback = 15’
Rear yard setback variance required = 20’

Section: 15.04	Block: 5	Lot: 57	Zone: R1
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Acting Chairman Anginoli advised there will be a decision ready for next meeting, October 2nd, 2025.

Acting Chairman Anginoli called for a motion to close the meeting of September 18, 2025.

*****MOTION: Mr. Strieter made a motion to close the meeting of September 18, 2025; seconded by Mr. Keegan. All in favor; the motion was carried.**

Respectfully submitted,

Nicole Flannigan
Secretary
Zoning Board of Appeals