

TOWN OF ULYSSES
BOARD OF ZONING APPEALS
Wednesday, October 1, 2014
7:00 PM

Approved: 11/19/14

Present: Chairperson George Tselekis, BZA Members: Andy Hillman, Andy Glasner, David Means, Town Environmental Planner Darby Kiley

Public present: Peter Houghton, Kate Seaman, Jonathan Culler, Don Smith, Jenny Smith, Sharon Tennyson, Steve Coate, Frank Santelli, Ty Allen, Bruce Fredericks, Ken Zeserson, Dave Kerness, Liz Thomas, John Wertis, Sarah Adams, Andy Rice, David Blake

PUBLIC HEARING: Consider a request from a member of the Town of Ulysses Planning Board for review of a determination of the Zoning Officer pursuant to Section 3.1.4 of the Town of Ulysses Zoning Law.

Mr. Tselekis reviewed the history of the case.

It was stated that the applicants were unable to attend the meeting.

Mr. Tselekis read a neighbor submission from Jean Houghton who was in favor of the variance being granted.

Ty Allen, the project architect, stated that the applicants are in the process of purchasing the land and wish to build a wonderful home. The land, as is, is in a state that is not feasible for repair. They are seeking a variance and feel that it is not undue hardship and that it is not an unreasonable request.

Peter Houghton made a statement about the need for eight points of consideration. He advised the BZA to consider it as two separate lots.

John Wertis submitted a signed letter from the Planning Board. See addendum 1.

Dave Kerness questioned whether the Planning Board could speak as a Board or as individuals.

John Wertis stated it was not the intention of the Planning Board to speak as a board, but only as individuals.

Mr. Tselekis stated that the letter was stating opinion, and was not an official vote.

Ken Zeserson made a statement regarding the development of the zoning law and how it is based on the comprehensive plan and protection of land. He stated that the BZA has ignored the intent of the zoning law.

Sarah Adams stated that the Planning Board was put in a difficult position when the BZA did not look at the entire list of variance criteria factors. She stated that in her opinion, it is a new lot.

David Blake stated that he believes that it creates a new lot as there are new lot dimensions when two existing lots are combined.

Jenny Smith stated that she personally approves of the home and that the density of homes would decrease as the plan calls for one home opposed to the currently existing two. Ms. Smith stated that the applicants are working with a builder who is environmentally friendly.

Don Smith stated that the applicants are highly desirable neighbors and that he is strongly in support of the application. He stated that people were speaking that were not familiar with the plan. Mr. Smith mentioned that the proposed home is an asset to the neighbors, that it is a quality home that is appropriately placed on the lot. He mentioned the existence of asbestos in the current structures and that the purchase of the lot by the applicants is contingent on variance and that it has been a very confusing process.

Sarah Adams stated that she would like to clarify that the Planning Board was familiar with the proposal.

Mr. Tselekis stated that the Town Lawyer stated that the lot is not grandfathered, which overturns the Zoning Officer's determination.

Mr. Glasner made the motion, Mr. Hillman seconded the motion as follows:

WHEREAS, the Town of Ulysses Board of Zoning Appeals has reviewed the proposed consolidation of 1325 and 1327 Taughannock Blvd, Tax Parcel Numbers 28.-1-15 and 28.-1-16; and

WHEREAS, the Board of Zoning Appeals held a public hearing on October 1, 2014 to allow comments;

WHEREAS, the Board of Zoning Appeals listened to the comments and feedback of the public as well as of the comments of town counsel;

THEREFORE BE IT RESOLVED, that the Board of Zoning Appeals hereby finds that by consolidating two existing nonconforming lots, the "Existing Lots" provision of Article XXIV, Section 24.2 of the Town of Ulysses Zoning Law is not met and is not applicable. Any change to the nonconforming lots constitutes a new lot, and therefore Area Variances are required for consolidation.

Mr. Tselekis AYE
Mr. Hillman AYE
Mr. Glasner AYE

Mr. Means AYE

Result: Motion passes; Zoning Officer determination is overturned.

Petitioners, Rob and Melissa Lewin, agents for the owners, Tax Parcel Numbers 28.-1-15 and 28.-1-16, located at 1325 and 1327 Taughannock Blvd, seek the following variances:

Area Variances: For the purpose of creating one lot by consolidating two existing nonconforming lots and constructing a new single-family residence, the newly formed lot will not meet the following lot area requirements of the LS-Lakeshore District: lot area, 0.59 +/- acres where 2 acres is required; lot width at the road frontage, 176 +/- feet where 250 feet is required; lot width at the Mean High Water Elevation, 196 +/- feet where 250 is required; lot depth, 111 +/- feet where 250 is required. (Town of Ulysses Zoning Law §9.6)

Dave Kerness stated that he was fully in support of the new construction as it reduces usage of land, two homes to one, reduced number of septic systems.

Andrew Rice stated that he would like clarification on the four variances that the BZA is considering.

Mr. Tselekis stated that the four variances are: lot area, lot width at the road, lot width on the lake side, and lot depth.

Andrew Rice asked about the percentage of lot coverage.

Mr. Tselekis stated that the variance for lot coverage was already been granted.

Sarah Adams stated that the decision regarding lot coverage was made when the lot was considered an existing lot, not a new lot.

Kate Seaman stated that she is the buyer agent for Rob and Melissa Lewin. She stated that this variance was the first residential property where zoning rules are being put to test. She said that Mr. Houghton brought up that it was clear that it would be very difficult for any existing property to be legal under the zoning law. She stated that if the parcels are kept separate it will likely mean the houses will remain in disrepair, which is not good for the community. She stated that she appreciates the Planning Board but when the law is applied to an actual property it does not work. She stated that it would be incredibly difficult to find another buyer for these properties given the conformity issues. Ms. Seaman added that the Lewin's have put in a huge amount of time and money. She stated that the property, in its current state, is dangerous.

Jonathan Culler stated that he is the property owner to the south and that he hopes the variance is grant as he believes the Lewin's will be very good neighbors. He stated that he believes the plan is well designed and a vast improvement.

Sarah Adams stated that she appreciates all the time and money the potential owners put in, there were many people who put in time and energy regarding Lakeshore zoning and that there

was a lot of work done in regards to lot size, lot coverage, amount of grading required, contours of site, tree removal, retaining walls and excavating. She stated that the Planning Board is required to analyze a variety of criteria in site plan review and that the discrepancy between the criteria the BZA uses and the criteria the Planning Board uses makes it difficult for the Planning Board to conduct a site plan review. She stated that this site is just south of where some major flooding recently occurred.

Ken Zeserson asked what the point of having zoning laws was if they are not observed. He said that the law states that this proposal is not an acceptable type of development.

Bruce Fredericks stated that in its current conditions, the individual properties have inaccessible beach access. He stated that consolidation of the two properties would improve the value of the property.

Sharon Tennyson stated that she is the neighbor two doors south of the property in question and that she is in favor of approving the variance. She understands the concerns about zoning laws. She stated that the only realistic alternative is to have those remain there as they are. She said that she would likely not be in favor of the proposal if the lots were currently vacant.

Steve Coate stated that the existing properties were in horrible condition. He stated that the proposal would boost property values.

David Blake stated that it does not matter what the current status of the property is. He stated that it is the responsibility of elected officials, staff and appointed board members to hold up the zoning law requiring 2-acre lots and to maintain the character of Ulysses, which in this area is historically summer homes, not year-round homes.

Peter Houghton stated that he commends the board for the first ruling. He made a statement of the criteria the BZA should consider for this ruling and various aspects of the variances. He said that he is in support of granting the variances as it will clean up the parcels.

Don Smith made a statement regarding the intent of the zoning law as he was chairperson of the first lakeshore zoning committee. He said that the intent was to permit development like this. He stated that a very significant number of variances were granted when he was on the board. He asked that the BZA listen to neighbors as every surrounding neighbor has stated that the Lewin's are very desirable neighbors.

Mr. Tselekis clarified that neighbor opinion is important but that neighbors do not have a vote in this process.

Ty Allen asked how many currently existing lots comply to all seven points of criteria.

Mr. Glasner stated that lot coverage has come up several times during the meeting that that he would like to point out that the two existing lots have a 12% coverage and that the proposed plan is for 12.7% coverage.

Ms. Kiley stated that the Lakeshore District was adopted in 2013 and that all dimensions have been in zoning as part of R1 since 2005. She also stated that two other Lakeshore properties have gone through the variance process.

Peter Houghton stated that in this residential area lot size is difficult as it is limited by Route 89 and the lakeshore. He then stated that one of the houses on the properties in consideration had been a year round home since 1935.

Mr. Tselekis stated that there are two relevant points: the two lots that would be individually grandfathered in are proposed to be combined to make them more closely conforming than the current status and that this new lot is a reasonable size compared to others on lake.

Mr. Means stated that the proposed plan is a big improvement and that it is the best use for the lot. He stated that the acreage is adequate.

Mr. Hillman stated that he heard it said that the BZA cannot take variances case by case but that is exactly what the BZA does. The BZA weighs all facts and previous actions. He stated that in light of the vote earlier in the meeting, he believes variance should be granted.

Mr. Hillman made the motion, Mr. Glasner seconded the motion as follows:

The BZA reviewed the record and weighed the benefit to the Applicants against the detriment to the health, safety and welfare of the neighborhood if the area variances are granted by considering the following five statutory factors. Benefits sought by applicants are to consolidate two existing, nonconforming lots in order to construct a new residence:

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.

No. There is no evidence that consolidating two existing nonconforming lots in order to replace two residences with one residence will produce an undesirable change in the neighborhood character or cause a detriment to nearby properties.

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.

No. Any change to the existing, nonconforming lots would require area variances.

3. Whether the requested area variance is substantial.

The area variances are substantial: lot area of 0.59 +/- acres vs 2 acres required; lot width at the road frontage of 176 +/- feet vs 250 feet required; lot width at the Mean High Water Elevation of 196 +/- feet vs 250 feet required; lot depth of 111 +/- feet vs 250 feet required. However, in each of case, the two existing parcels also fall well below the minimum requirements.

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

It is unlikely that the variance will have an adverse impact on the physical or environmental conditions of the neighborhood.

5. Whether the alleged difficulty was self-created.

The difficulty is self-created because the applicants are proposing a change to existing, nonconforming lots, and they could use the existing nonconforming structures on the existing lots.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, **even though area variances are substantial and the difficulty is self-created, by consolidating the two existing nonconforming lots, the applicant would be removing multiple nonconforming buildings, and the benefits to the applicant referred to above if the area variances are granted are not outweighed by the detriment to the health, safety and welfare of the neighborhood.**

For the reasons set forth above, and upon the evidence, law and facts, it is the opinion of the BZA that the area variances are granted.

In addition, the BZA reaffirms the area variances granted on August 20, 2014 for the setback to the highway right-of-way (24 feet where 50 feet is required), setback to the Mean High Water Elevation (44 feet where 50 feet is required), and lot coverage (13% where 5% is required).

VOTE:

Glasner	AYE
Hillman	AYE
Means	AYE
Tselekis	AYE

Result: Area variances granted.

Review and Approval of Meeting Minutes (9/10/14)

Mr. Glasner MADE the MOTION to approve the minutes from the 9/10/2014 meeting, Mr. Hillman SECONDED the MOTION:

Tselekis	AYE
Hillman	AYE
Glasner	AYE
Means	AYE

Result: minutes of 9/10/2014 approved.

Mr. Means MADE the MOTION to adjourn the meeting, Mr. Glasner SECONDED the MOTION:

Tselekis	AYE
Hillman	AYE
Glasner	AYE
Means	AYE

Result: meeting adjourned at 7:55pm.

Respectfully submitted by Michelle E. Wright on: 10/15/2015