

**MINUTES  
TOWN OF ULYSSES  
ZONING BOARD OF APPEALS  
02/19/2014**

*Approved 4/16/14*

**PRESENT:** Chairman George Tselekis, Board Members-Andy Hillman, Bob Howarth, Carl Mann, Environmental Planner Darby Kiley, Town Attorney Mariette Geldenhuys.

**Excused:** Andy Glasner

**Public:** Robert Cooper and Lucy Keeler, Noah Demarest for Larson, Barbara Adams, Amylee Evans Barden, Steve Gordon, Mark Wheeler, Greg Reynolds

Mr. Tselekis called the meeting to order at 7:00 pm. He noted the members present.

He stated the first item on the agenda is an **appeal of Robert Cooper and Lucy Keeler for area variance(s) under Article VII Section 7.6** of the Town of Ulysses Zoning Law. This is for the purpose of increasing the height of the existing residence and extending a porch roof, where the existing residence is located within the required 50 foot front yard setback. According to Article XXIII, Section 23.1, no nonconforming building may be enlarged in a way which increases its nonconformity. The property is located at 2166 Perry City Rd, Town of Ulysses; Tax Parcel Number is 27.-2-7.

He asked the applicant to present their project.

Mr. Cooper stated he bought the house in 2005; it was built in the 1820's to 1830's and there is little to no insulation nor was any remodeling done in a sustainable way. They have 2 bedrooms on the second floor; the roof line goes from 7 feet to 4 feet. The rooms are virtually unusable in the summer due to heat and in the winter due to cold. They need to have a more usable space. They would like to raise the roof; there is a porch that runs along the front-this would be taken off and replaced with a smaller one.

Mr. Reynolds stated this sounds great, he resides at 1084 Glenwood Heights Road.

Ms. Adams stated she lives across the street in an identical house. She stated the current porch is enclosed and asked if the new one would be enclosed. The applicant showed her the plan with the maps and dimensions.

Mr. Reynolds stated he is in support of this project; Mr. Cooper is an active, professional painter that wants to improve his project and make the neighborhood better. He appreciates and supports this project as a neighbor.

Mr. Tselekis asked for any other questions or comments.

Mr. Howarth stated he appreciated the details of the plan. He also stated his appreciation of them not removing a lot of vegetation.

Mr. Hillman stated his appreciation of the applicant not removing the trees as well.

Ms. Keeler stated removing the trees would not be advantageous; they depend on these trees for shade and cooling as well as enjoying the beauty of them.

Mr. Mann MADE the MOTION, Mr. Howarth SECONDED the MOTION as follows:

Petitioners, Robert Cooper and Lucy Keller 2166 Perry City Road (Tax Parcel Number 27.-2-7), seek the following variance:

Setback: The existing residence is located within the required 50-foot setback, and the proposed construction will increase the nonconformity of the existing residence. (Town of Ulysses Zoning Law §7.6 and 23.1).

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 setback variance is granted by considering the following five statutory factors. Benefits sought by applicants are to increase the ceiling height of the second story rooms, allowing for the installation of insulation, and replacement of a rotting porch:

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. The existing house was built around 1900. There is no evidence that the proposed height increase or change in the porch will produce an undesirable change.

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

Short of moving the house, there is no feasible alternative.

Whether the requested area variance is substantial.

The variance is substantial; however the existing house is located within the 50-foot setback area.

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

There is already an existing structure, so the variance will not have an adverse impact on the physical or environmental conditions of the neighborhood.

Whether the alleged difficulty was self-created.

House has been there for over 100 years, the difficulty was not created by the applicant.

Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, even though the setback variance is substantial, the building has existed since before any zoning setback requirements, and the benefits to the applicant referred to above if the setback variance is 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 application for setback variance is granted.

The vote was UNANIMOUS, MOTION APPROVED. Variance granted.

Mr. Tselekis stated the next item on the agenda is an **appeal of Michael and Laura Larson for area variance(s) under Article IX Section 9.6** of the Town of Ulysses Zoning Law. This is for the purpose of the construction of a second floor addition to an existing residence, where the existing residence is located within the required 50 foot yard setback. According to Article XXIII, Section 23.1, no nonconforming building may be enlarged in a way which increases its nonconformity. The property is located at 1151 Taughannock Blvd, Town of Ulysses; Tax Parcel Number is 31.-2-7.

He asked the applicant to present their project.

Mr. Demarest stated he is the representative for Michael and Laura Larson; they live in Seattle and have the seasonal cottage on the lake. They hired a contractor to do some repairs and upgrades due to moisture issues. As they progressed, they realized they may as well as install windows and expand. They would like to open up the ground floor for a larger living area; they would add on 2 bedrooms and enclose a screened area for a 3<sup>rd</sup> bedroom. The building would not go to the lake; the plan calls for a cantilever construction.

Mr. Tselekis stated the nearest neighbor is on the South side of the property.

Mr. Reynolds asked the Board to indicate on a map where this property is located.

Mr. Howarth asked how close to the lake this project is.

Mr. Demarest stated they are 24 from the face of the building to the cliff.

Ms. Kiley stated they are still within the 50 feet; they are not getting any closer to the lake.

Mr. Howarth stated he would support this with the plan remaining at 24 feet with no removal of the trees.

Mr. Tselekis asked if there were any additional questions or comments.

Mr. Mann asked if there were any correspondence received.

Ms Carlisle Peck stated none had been received.

Mr. Mann MADE the MOTION, Mr. Howarth SECONDED the MOTION as follows:

Petitioners, Michael and Laura Larson, 1151 Taughannock Blvd (Tax Parcel Number 31.-2-7), seek the following variance:

Setback: The existing residence is located within the required 50-foot setback, and the proposed construction will increase the nonconformity of the existing residence. (Town of Ulysses Zoning Law §9.6 and 23.1).

Mr. Howarth made the motion, Mr. Hillman 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 setback variance is granted by considering the following five statutory factors. Benefits sought by applicants are to add a second floor porch:

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. The existing house was built around 1890. There is no evidence that the proposed second story addition will produce an undesirable change.

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

There is no feasible alternative for adding a porch on the second floor which will not increase the nonconformity.

Whether the requested area variance is substantial.

The variance is substantial, however the existing house is located within the 50-foot setback area.

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

There is already an existing structure, so the variance will not have an adverse impact on the physical or environmental conditions of the neighborhood, particularly because the footprint will not change.

Whether the alleged difficulty was self-created.

The difficulty was created when the zoning required a 50-foot setback.

Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, even though the setback variance is substantial, the building has existed since before any zoning setback requirements, and the benefits to the applicant referred to above if the setback variance is 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 application for setback variance is granted.

The vote was UNANIMOUS, VARIANCE APPROVED

Mr. Tselekis stated the next item on the agenda is an **appeal of Margaret Rumsey Trust and Gordon/Wolffe Family Trust for an exception (or variance) to Town Law Section 280-a(1)**. The applicants seek a building permit for the construction of a residential building on a property that does not front on but has a shared easement to Taughannock Blvd. New York State Town Law Section 280-a (1) requires that a building permit can only be issued if the property directly abuts an existing state, county or town highway. The Board of Zoning Appeals has the power to make exceptions “if the circumstances of the case do not require the structure to be related to existing or proposed streets or highways” and/or to grant an area variance. The property is located at 1569 Taughannock Blvd, Town of Ulysses; Tax Parcel Number 18.-1-5.2. He stated Ms. Geldenhuys has information to present regarding this application.

Ms. Geldenhuys stated she had done research; she has determined this is not a variance but should be an Open Development Area to be determined by the Town Board. She recommended this Board hear the application; she will continue to review and provide additional recommendations at the next meeting.

Mr. Tselekis and the members agreed to this recommendation.

Mr. Wheeler presented the information regarding the application. He stated there must be ingress/egress for fire and EMS access. There is access to all cottages and lots; these have been in place using a private driveway. There would be no change to the character of the neighborhood. There is no other way to convey property; they have deeded easements in

place since 1958. Lot B has sold a couple of times with these easements. In they cannot do this here, they would not be able to do it anywhere. This statute does not make any sense. Mr. Wheeler stated that he is very concerned that a variance cannot be granted. Jason Fulton, Tburg Fire, is familiar with the road; he has provided a letter stating this is suitable for ingress/egress. They have 4 wheel drive vehicles to accommodate the lake properties. They believe the 280 section authorizes this Board to approve this.

Mr. Reynolds stated he is supportive of this.

Mr. Mann stated he would appreciate a final ruling before making a decision. This would allow the 2 lawyers to come to an agreement vs. being caught between their differing views.

Mr. Mann MADE the MOTION, Mr. Howarth SECONDED the MOTION to table the application until March 5, 2014 meeting.

The vote was UNANIMOUS, MOTION APPROVED.

Mr. Tselekis noted the next **application is for Ishka Alpern**, the item is an additional request similar to the previous.

Mr. Hillman MADE the MOTION, Mr. Howarth SECONDED the MOTION to table this application until the March 5, 2014 meeting.

The vote was UNANIMOUS, MOTION APPROVED

Mr. Tselekis stated the next item on the agenda is an **appeal from Richard and Connie Evans for area variance(s) under Article X, Section 10.6** of the Town of Ulysses Zoning Law. This is for the purpose of a two-lot subdivision, where one of the proposed lots will not meet the minimum lot area requirement of 5 acres, having only ~3 acres, and will not meet the minimum lot depth requirement of 450 feet, having only approximately 355 feet. The property is located at 1045 Perry City Rd, Town of Ulysses; Tax Parcel Number 32.-1-4.2. He asked the applicant to present the project.

Ms. Barden stated she is representing her parents. This property has been in her family for years; her Great Grandparents originally purchased the property, handed down to her grandparents, then her parents. She and her sister are trying to purchase to keep the property intact, they cannot afford 5 acres thus requesting the variance for the creation of a three acres. They would like to purchase to protect the woods and stream. They have experienced wash outs and feel maintaining this as a wooded lot would be beneficial.

Mr. Reynolds stated he owns the buffalo farm contiguous to this. He is also related to the family and had offered to purchase to expand his farm. He asked if there were any other variances being requested other than the acreage.

Ms. Kiley stated they were not considering other variances; the family felt it would be the best way to keep the property natural.

Mr. Mann asked if they could request they keep the area natural if they issue the variance.

Ms. Barden stated she is a real estate agent and is trying to hold onto the value of the property. She is realistic, however, if they sell, a house would be put on the property.

Mr. Reynolds reviewed the map and stated that the woods and stream are not part of the property for the variance.

Mr. Tselekis stated this is the first variance under the Conservation Zone; they appreciate that this property has been in the family since 1909.

Mr. Reynolds stated this use would be congruent for current area.

Mr. Tselekis stated the variance is not that far off, it is similar to the neighborhood. He asked for other questions or comments.

Mr. Howarth stated due to the location of this area with the steep terrains, and close to a UNA he cannot support this request. The Planning and Town Board put a lot of time in developing the Conservation Zone; he feels it is his job to honor the zoning.

Ms. Barden noted this is not in the slope overlay district.

Ms. Kiley stated none of the field is in the slope overlay, she reviewed the map provided with the members.

Mr. Tselekis asked for additional questions or comments. None were offered; he asked for a motion from the Board.

Mr. Tselekis MADE the MOTION, Mr. Mann SECONDED the MOTION.

Whereas, there will not be an undesirable change to the neighborhood, this is an open field in a rural area and no effect on the nearby properties; and

Whereas, the benefit sought by the applicant cannot be achieved by some method other than an area variance – this is a sensible way to lay out the lots without getting into the steep areas behind this lot; and

Whereas, the variation is not very substantial, 3 acres vs 5 acres, 5 acres is a new, greatly increased requirement, and the depth variance of 354 feet vs. 450 feet is not substantial compared to what has been granted in the past; and

Whereas, this will not have an adverse impact on the physical or environmental conditions in the neighborhood; and

Whereas, the alleged difficulty is self-created because the applicant wants to form a lot that is not conforming, but does not mean the variance cannot be granted, and the applicant missed the deadline for the change in the zoning;

Be it therefore resolved that an area variance be granted to the applicant from the requirements for the lot area and minimum lot depth to create this lot.

The vote was taken as follows:

Mr. Hillman NAY  
Mr. Howarth NAY  
Mr. Mann NAY  
Mr. Tselekis AYE

The MOTION FAILED, Variance was DENIED.

Mr. Howarth stated he is sympathetic to the applicant; the Town Board's took years of drafting and editing the Conservation Zone before adopting this year.

Mr. Reynolds stated there are families that have owned property in Ulysses for 90 years; they have a lot of memories of this area. They are town members and tax payers; they do not have 401K's, he is concerned zoning like this will push people out of Ulysses. They are encouraging building vs. preserving. He is sorry they voted the way they did but appreciates the service of the members.

Mr. Mann asked for an update on the sheep farm.

Ms. Kiley stated she is waiting for information as requested at the December meeting. She stated that she has been working with an applicant on a variance since July and that will be scheduled for March 5. Also, the Town Board approved the use of an alternate for the zoning and planning boards. She asked what the members thought of this. She noted Mr. Glasner travels frequently for work this may benefit this Board.

The members briefly discussed the pros and cons of the use of alternates. Use for conflict of interest, or absent member due to travel or illness. Have the alternate engage in discussion but not vote. Would a resident want to do that type of work?

Mr. Reynolds stated he had applied to the Zoning Board as a member and would be willing to serve as an alternate.

Mr. Tselekis adjourned the meeting at 8:15pm.

Respectfully submitted,

Robin Carlisle Peck  
Administrative Assistant