

TOWN OF ULYSSES
BOARD OF ZONING APPEALS
Wednesday 02/18/2015
7:00 p.m.

Approved: 4/15/15

Present: Chairperson George Tselekis, **BZA Members:** David Means, Stephen Morreale, and Cheryl Thompson. Ms. Thompson was named an alternate member in place of Andy Hillman, who was excused.

Excused: Bob Howarth, Andy Hillman

Public Present: Brent Katzmann, Genevieve Randall, Ernie Bayles, Doug Hanawer, Umit Sirt, and Mae Xun.

Public Hearing: Appeal of Frederick and Genevieve Randall for area variance(s) under Article XXIV Section 24.9 of the Town of Ulysses Zoning Law. This is for the purpose of constructing a new garage, where the height would be approximately twenty-five (25) feet and twenty (20) feet is the height limit for accessory buildings. The property is located in the R1-Rural Residence District at 9802 Watermark Rd, Town of Ulysses, Tax Parcel Number is 13.-7-2.11.

Mr. Bayles gave a brief overview of the project, stating the proposed garage sits on a parcel that straddles the Tompkins and Seneca county line. Due to the slim size of the lot, and the location of a nearby slope, Mr. Bayles and the applicant feel a two-story structure would better suit the applicant's needs and make the most efficient use of the property. Roof pitches on the proposed garage are similar to those on the existing home, which was built in 2004.

The BZA did not receive any correspondences from neighbors in regard to the proposed project.

Mr. Tselekis said the proposed garage is well isolated and does not block any views.

Responding to questions from Mr. Morreale, Mr. Bayles said the nearest neighbor resides across the street and downhill from the Randall property. The loss of storage space was cited as the reason for not adhering to the Town's 20-foot maximum height threshold. Instead, the applicants have chosen to build higher instead of increasing the garage's footprint because a larger footprint would impede too closely to a nearby slope, not look attractive and disrupt the natural environment.

Mr. Means MADE the MOTION to approve the variance, and Ms. Thompson 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 height variance is granted by considering the following five statutory factors. Benefits sought by applicants

are to build an accessory building that is approximately 5 feet taller than allowed by the Zoning Law in order to have a second story storage area:

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 the proposed garage will produce an undesirable change in the neighborhood character or cause a detriment to nearby properties. The garage will match the architectural style of the existing house on the property, and will not block any views from neighboring 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.

The garage could meet the accessory building height requirement but the footprint would be larger to accommodate the desired amount of storage achieved with a second story.

3. Whether the requested area variance is substantial.

An accessory building height of 25 +/- feet versus 20 feet is 25% greater than allowed and not substantial.

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. The proposed garage location is relatively flat.

5. Whether the alleged difficulty was self-created.

The difficulty is self-created because the applicant is choosing to build a new structure.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, even though the difficulty is self-created and there are alternatives to the building height, which would increase the building footprint, the benefit to the applicant outweighs 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 area variance is granted.

The vote was as follows:

Mr. Tselekis AYE
Mr. Means AYE
Mr. Morreale AYE

Ms. Thompson AYE

Result: Variance granted.

Public Hearing: Appeal of Courtney Royal and Umit Sirt for owners Richard and Connie Evans for area variance(s) under Article X, Section 10.5 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 following lot area requirements of the Conservation District: lot area, 3.78 +/- acres where 5 acres is required; and lot width, 398 +/- feet where 400 feet is required. The property is located at 1045 Perry City Rd, Town of Ulysses, Tax Parcel Number 32.-1-4.2.

Mr. Sirt told BZA members he and his family are interested in purchasing the property but realize there are many zoning constraints to overcome. The Conservation District is intended to protect nature and ecological features, and he is requesting a subdivision of the 3.78 acre parcel because he feels it is the best option to protect the land rather than adding on the additional 1.22 acres to meet the Town's 5-acre subdivision minimum. The added acreage is for farming and would not be put to its intended use if he were to purchase it. He does not plan to farm on the property. He would also need to construct a pedestrian bridge to access the 1.22 acres since a creek and steep gorge separate the two parcels.

Mr. Katzmann said the gorge and creek act as a natural boundary. The proposal aligns with the intent of the Conservation District, which aims to protect steep slopes, trees and natural elements.

Mr. Tselekis explained that the 5-acre minimum was established when the Town Board approved new zoning parameters for the Conservation District. The minimum used to be 2 acres but was increased to 5 acres for parcels located near Cayuga Lake.

Mr. Morreale asked Mr. Sirt why he had chosen not to purchase the full 5 acres. Mr. Sirt said the added acreage includes a steep slope and creek – a potential safety risk for his two children – and the 3.78 acres is enough land. Cost is also a concern. Mr. Katzmann added that the current property owner had considered selling the full 5 acres, but it would be unaffordable for Mr. Sirt. He has no use for the additional 1.22 acres.

Mr. Means said Mr. Sirt could rent the additional acreage for farming. Also, the safety risk with the gorge and creek – since it separates the two parcels – would exist regardless of whether or not Mr. Sirt purchased the 1.22 acres.

Mr. Morreale felt uncomfortable with carving up parts of the Conservation District since a lot of work went into Zoning. There are other small lots in the area, and though it seems unfair to deny the variance, Zoning states that Conservation Districts are to be protected and preserved. He felt the BZA ought to be having a conversation with the property owners. His concern is not with the applicant's desire to reside on the parcel but in potentially allowing the landowner to subdivide a parcel that falls under the Town's minimum lot size within Conservation Districts.

Mr. Tselekis said the Town did receive a letter from the property owners who support the subdivision request.

Mr. Means expressed concern with nearby subdivisions in the future.

Ms. Thompson said the proposed subdivision is fair and logical. Mr. Tselekis agreed.

Mr. Morreale stated that he was uncomfortable that the owner was not present to answer certain questions.

Ms. Thompson MADE the MOTION to approve the variances, and Mr. Means SECONDED the MOTION as follows:

The BZA reviewed the record and weighed the benefits to the Applicants against the detriment to the health, safety and welfare of the neighborhood if the lot area variances are granted by considering the following five statutory factors. Benefits sought by applicants are to create a lot that is approximately 1.22 acres smaller than the 5 acre minimum with a width along the road frontage that is 2 feet less than the 400 foot minimum:

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.

There is no evidence that the proposed new lot will produce an undesirable change in the neighborhood character or cause a detriment to nearby properties. The properties on either side of the lot are 1.5, 1.6, and 3.9 acres.

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.

To create a 5 acre lot, approximately 1 acre of land would be inaccessible because of a stream and gorge.

3. Whether the requested area variance is substantial.

The lot area of 3.78 acres versus 5 acres is approximately 25% less than what is allowed and is not substantial. The lot width of 398 feet versus 400 feet is less than 0.5% than what is allowed and is not substantial.

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. The proposed new lot will not change the

overall density of the area. The property is located in a Unique Natural Area and any new development will be subject to Site Plan Review with the Planning Board.

5. Whether the alleged difficulty was self-created.

The difficulty is self-created because the applicants are choosing to subdivide the property with dimensions that do not meet the Zoning regulations.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, the variances are not substantial, the difficulty is self-created, and the site is limited stream and gorge, therefore the benefits to the applicant outweigh 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 area variances is granted.

The vote was as follows:

Mr. Tseleki AYE
Mr. Means AYE
Mr. Morreale AYE
Ms. Thompson AYE

Result: Variances granted

Public Hearing: Appeal of Nelson Miller for area variances under Article IX Section 9.6 and Article XXIV Section 24.9 of the Town of Ulysses Zoning Law. This is for the purpose of constructing a new accessory building, where the height would be approximately twenty-nine (29) feet and twenty (20) feet is the height limit for accessory buildings. The accessory building would be twenty-five (25) feet from the lakeshore, where 40 feet is the required setback for accessory structures. The property is located in the LS-Lakeshore District at 1379 Taughannock Blvd, Town of Ulysses, Tax Parcel Number is 28.-1-3.

Ms. Thompson excused herself at this time since she is the architect for the Miller project.

There were no correspondences from neighbors regarding this variance request.

Ms. Xun told BZA members of her intent to use the accessory building as a yoga studio. Ms. Thompson explained that she intends to incorporate the preexisting deck and shed into the new build, which increases the footprint from 12'x12' to 12'x16'. The structure would be two feet closer to Cayuga Lake to better incorporate the structure with a nearby cliff face and existing steps.

Ms. Xun said the space would not be used for sleeping. Partly outfitted for winter use, the building would have an insulated upper floor with electricity. It will not have bathroom facilities.

Referencing documents provided by Environmental Planner Darby Kiley, Mr. Tselekis said the proposed building would not affect views.

Ms. Xun said her lakefront property includes five large trees that would provide buffer coverage between the accessory building and the lakeside.

Mr. Means MADE the MOTION to grant variances, and Mr. Morreale SECONDED the MOTION as follows:

The BZA reviewed the record and weighed the benefits to the Applicant against the detriment to the health, safety and welfare of the neighborhood if the height and setback variances are granted by considering the following five statutory factors. Benefits sought by applicants are to build an accessory building that is approximately 9 feet taller than allowed by the Zoning Law in order to have a second story and to locate the accessory building 25 feet instead of the required 40 feet from the lakeshore:

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 the proposed accessory building will produce an undesirable change in the neighborhood character or cause a detriment to nearby properties. There is an existing building in approximately the same location and the proposed building will be two feet closer to the lakeshore. The proposed building will not block views from neighboring 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.

The proposed accessory building could meet the accessory building height requirement but would not meet the space needs desired by the applicants, and therefore, the footprint would be larger and additional setback variances might be needed. The location of the proposed building is 2 feet closer than the existing building. A cliff limits moving the proposed building farther from the lakeshore.

3. Whether the requested area variance is substantial.

An accessory building height of 29 feet versus 20 feet is 45% greater than allowed and is substantial. The lakeshore setback of 25 feet versus 40 feet is approximately 38% less than what is allowed and is substantial compared with the existing conditions. However, it is not substantial compared with existing conditions.

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. The proposed building location is in about the same footprint as the existing building, and the area is relatively flat.

5. Whether the alleged difficulty was self-created.

The difficulty is self-created because the applicant is choosing to build a new structure.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, the variances are not substantial, the difficulty is self-created but the alternatives reducing the building height would increase the footprint, the site is limited by a rock cliff, and the proposed structure will replace an existing structure, therefore the benefits to the applicant outweigh 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 area variances is granted.

The vote was as follows:

Mr. Tselekis AYE
Mr. Means AYE
Mr. Morreale AYE

Result: Variances granted

Meeting Minutes Review (12/17/2014): To include more members in on the voting process, the BZA came to a consensus to postpone action on the December 17, 2014 meeting minutes until its next meeting.

Mr. Morreale MADE the MOTION to postpone the vote on the 12/17/2014 meeting minutes, and Mr. Means SECONDED the MOTION. The vote was unanimous.

The meeting was adjourned at 8:25 p.m.

Respectfully submitted by Louis A. DiPietro.