

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
MINUTES
Wednesday, 07/15/2015
7:00 p.m.**

Approved: August 19, 2015

Present: Chairperson George Tselekis; **BZA Members:** Bob Howarth, David Means, Andy Hillman, and Cheryl Thompson; **Town Environmental Planner** Darby Kiley.

Public Present: Rod Kearl, and Ted and Leslie Webster.

Call to Order: 7:02 p.m.

Public Hearing: Appeal by Kenneth and Patricia Kearl for area variance(s) under Article IX Section 9.6 of the Town of Ulysses Zoning Law. This is for the purpose of constructing two new accessory buildings, where the distance for both buildings from the lakeshore would be 15 +/- feet, and 40 feet is the required setback for accessory buildings. The property is located in the LS-Lakeshore District at 1513 Taughannock Blvd, Town of Ulysses, Tax Parcel Number is 18.-1-19.8.

Mr. Kearl, the brother of Ken Kearl and the project's landscape architect, told the Board that the development plans include a beach patio to be installed on the lakeshore. Atop the patio, the Kearls intend to build an 8-foot by 8-foot sauna. Plans also include a nearby beachfront building for storing of general lake-related items, like coolers and life jackets. He said the Kearls already have the Department of Environmental Conservation permit for the patio.

The Board received one correspondence related to the project:

Ms. Kiley-

We have no objections to the zoning variance request for the beachfront of the adjacent property of Ken Kearl.

Thank you-

Shari Kearl and Bob Sprole (1517 Taughannock Blvd)

Mrs. Webster, of 1509 Taughannock Blvd, asked about the basis for the Town's 40-foot setback requirement in the Lakeshore District, and whether or not the potential for flooding was the reason for the setback requirement.

Ms. Kiley said it is hard to say if flooding hazards played into the setback condition, considering the Town's Zoning Laws in the Lakeshore District were written after several years of thoughtful discussion. When the Town Board adopted Lakeshore Zoning, they did so knowing there would be sensitive areas – including some with steep cliffs – along the lakeshore. The general goal was to preserve the District's natural character by limiting the number of structures located directly on the lakeshore.

Responding to concerns about flooding, Mr. Kearl said the beach patio, sauna and storage shed are to be installed flush with the dock, at an elevation of 385.5 feet above sea level. Ms. Kiley said the mean height of the Cayuga Lake water level is about 383.5.

Mrs. Webster said water was up over some docks near her home during the spring floods.

Mr. Kearl said permits from the Army Corps of Engineers and the Department of Environmental Conservation are already in-hand.

Mr. Means said the Board has in the past approved similar accessory buildings in sensitive areas, but the buildings were anchored down. He asked if the storage shed would be anchored down. Mr. Kearl said the storage building would be built atop a concrete slab and anchored to it. However, he said he has no drawn plans for the storage building, citing his experience in having built so many similar structures.

Board Members briefly discussed the option to include provisions requiring the two accessory buildings be anchored down. Responding to Mr. Kearl's claim that the proposed structures would not be an environmental concern, Mr. Howarth said they could be, particularly if the storage building contained oil and/or gas and was flooded out.

Mr. Hillman asked Mr. Kearl why the applicants had not considered locating the two structures further back onto the property and within the 40-foot setback requirement. Mr. Kearl cited a nearby hillside and said the present proposal is more convenient. Mr. Howarth said he understood the convenience of the storage shed's location, but not the sauna. He thought the sauna could be relocated further up the property and away from the lakeshore.

Ms. Thompson questioned Mr. Kearl on elevations and asked about the possibility of extending the beach patio surface to incorporate the storage shed. Mr. Kearl said extending the patio is not possible due to a swale located between the patio and the proposed storage building. He wants to keep the building out of the pre-existing drainage path. In terms of needed utilities, the sauna will require power, but the storage shed will not, he said. Ms. Thompson said she was still unclear how the storage shed would remain above high lake levels. Responding to Mr. Hillman's comment that the proposal would change the look of the lakeshore property, Mr. Kearl agreed.

Mrs. Webster said all of the property's trees were ripped out when it was purchased, and little is there to prevent further erosion. She is concerned she will lose hemlock trees located on her property. In response, Mr. Kearl said he put up an erosion control fence along the top of the embankment when the project was first proposed in 2003. He also laid down clover seed to prevent erosion. However, when the roadway was relocated, some of the lakeshore's heavy clay soil was spread around the site. Mr. Kearl believes the heavy clay choked off air and water from the trees' root system, and many of the property's trees were lost because of it.

Ms. Kiley noted that the Town Planning Board has signed off on the Kearl's plans.

Citing plans to anchor both structures, Mr. Tselekis said he did not expect either proposed accessory structure to float away due to high lake levels. Flooding should not be an issue with either building, he said. On several occasions in the past, the Board of Zoning Appeals has approved other proposals for storage buildings in close proximity to the lake. He said lakeshore owners deserve to have storage buildings on their properties, even if the buildings are to be located near the lakeshore due to natural limitations like steep cliffs. With such buildings, water toys are kept out of view. The sauna, however, is a different situation, but the BZA in the past has approved larger buildings located on the lakeshore.

Responding to a question from Ms. Thompson, Mr. Kearl said a natural vegetation buffer would remain between the Kearl property and its neighbors to the north. Ms. Kiley added that the nearest neighbor is Kearl's sister.

Mr. Howarth said he understands the logic behind the storage shed's location, but he also assumes the Town Board had good reasons for the 40-foot setback requirement. He is concerned about installing two concrete slabs near the lakeshore. He also felt the BZA did not have enough information, specifically the plans for both the patio and storage shed. As for the sauna proposal, he said there was no compelling reason to place it so close to lake. Relocating nearer to the home would be a wiser move.

Board Members were handed site drawings originally submitted to the Town Planning Board. The Board spent several minutes reviewing the plans.

Mr. Hillman said the lakefront area at the Kearl property would be drastically changed if the BZA approved the variance requests. He did not feel there was a compelling reason to construct the accessory buildings directly on the lakefront. He said he was not comfortable in approving what he felt would be a drastic change. In the past, the BZA may have approved accessory structures so close to the lake, but that does not mean the BZA should approve every request.

Mr. Tselekis reiterated his thoughts that the BZA has in the past approved structures located near the lake. He cited the recent approval of an accessory structure located just 8 inches from the lake. The presence of a cliff would make it difficult for the Kearls to move the proposed structures away from the lakeshore.

Mr. Howarth noted previous variance requests were approved with no stated concerns from neighbors. That is not the cause with the present request, he said.

Ms. Kiley suggested the BZA table action on the Kearl variance requests. Meanwhile, she would compile all variance requests from the last two to three years concerning accessory structures in the Lakeshore District. She added the 40-foot setback requirement was established before recent Zoning updates.

Both Mr. Howarth and Mr. Means expressed their interest in reviewing construction drawings for the Kearl proposal.

Ms. Thompson asked Mr. Kearl if the applicant would consider one accessory structure instead of two – possibly a combination sauna and storage structure – to which Mr. Kearl said they would consider that option. A composite design with one building serving both purposes could be drawn up, he said.

BZA Members reached a consensus to have Ms. Kiley compile a history of Lakeshore variance requests for accessory structures.

Mr. Howarth MADE the MOTION to table the variance requests until the applicants submit formal drawings and the BZA reviews the Town's historical information related to Lakeshore variance requests. Mr. Means SECONDED the MOTION, which was unanimously approved, 5-0.

Result: Variance requests tabled.

Meeting Minutes Review (6/17/15)

Mr. Means MADE the MOTION to approve the June 17, 2015 meeting minutes, and Mr. Howarth SECONDED the MOTION. The minutes were unanimously approved.

Mr. Hillman MADE the MOTION to adjourn the meeting, and Ms. Thompson SECONDED the MOTION. The motion was unanimously approved.

Meeting adjourned at 7:49 p.m.

Respectfully submitted by Louis A. DiPietro on July 18, 2015.