

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
MEETING MINUTES
Tuesday, 3/16/2016
7:00 p.m.**

Approved: July 20, 2016

Present: Chair George Tselekis, and BZA members Robert Howarth, David Means, Steve Morreale, and Cheryl Thompson; Environmental Planner Darby Kiley.

Excused: Andy Hillman

Public Present: Frank and Sigrid Popowitch, Kent Garrison, Francesca Crannell, Lawrence and Cheryl McCann, and B. Hayes.

Call to Order: 7:02 p.m.

Public Hearing: Appeal by Frank and Sigrid Popowitch for area variances under Section 212-40 Lot Area and Yard Requirements of the Town of Ulysses Zoning Law. This is for the purpose of constructing a 16 ft by 18 ft addition and roofline modifications to an existing single-family residence, which is an old schoolhouse. The existing residence is five (5) +/- feet from the Perry City Rd right of way and the addition would also be five (5) +/- feet from the right of way. Fifty (50) feet is the required front yard setback in the R1-Rural Residence District. The addition would be 29 +/- feet from the rear property line and 35 feet is the required rear yard setback. There are existing structures that are 12 +/- feet and five (5) +/- feet from the rear property line. The existing lot coverage is 15.4% and with the addition the lot coverage would be 17.8%, where 5% is the maximum. The property is located at 6502 Perry City Rd, Town of Ulysses, Tax Parcel Number is 24.-4-5.

Ms. Popowitch told the BZA she and her husband have lived across the street from 6502 Perry City Road for several years now and recently purchased the property with plans to convert the old one-room schoolhouse into a handicap-accessible home for her parents. The current building needs a little more space, she said. It already has an 8-by-10 feet addition, and the couple wants to enlarge the addition. Plans call for the current garage to be nearly replaced. The couple is trying to stay within the existing building footprint, she said. The renovation will ultimately create a u-shaped orientation among the structures, with a central courtyard. The current setbacks will remain as they are, she said. As to the condition of the house, Ms. Popowitch said a new sill beam is needed, but the framing of the house – of post and beam construction – is still intact.

The Town did not receive any correspondences in regard to the project.

Asked by Mr. Howarth about the existence of any septic system, Ms. Popowitch said the plans show a sand-filter system. An existing septic and pump tank were installed in 1983 and only used for about five years. Other than having to replace the pump, the septic system is in good condition, and the County Health Department has deemed it fine. A drilled well is also on-site,

but the pipe has recessed over the years and will need to be raised to the appropriate grade, she said.

Mr. Tselekis said the current building is very rundown and commended the effort in restoring the structure. Though the variances, on paper, are quite substantial, they are not substantial when weighed against the building's condition. Repairing the structure will be a good improvement. Mr. Howarth also acknowledged and commended the restoration efforts. He does not find the variances to be substantial, since the restoration will remain on the existing footprint. Mr. Morreale said he sees the project only as an improvement. Ms. Thompson expressed her concern about the applicant's investing money into a structure that is so close to the roadway. Ms. Popowitch noted the building has been in its current location since 1826, with no motor vehicle incidences thus far.

Ms. Thompson also asked about the driveway's location near the intersection of Perry City and Podunk roads. Ms. Popowitch said the County has stated its preference for the driveway to enter from and exit to Podunk Road, as is reflected in the design. There is good sight distance off Podunk Road, she said. Mr. Means asked if there have been any accidents in the area. That is his only concern, he said. She said two people were recently involved in a motor-vehicle accident and needed to be airlifted to a hospital. Perry City Road is a fast road, Mr. Popowitch said.

Mr. Howarth MADE the MOTION to grant the variance requests, 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 variances are granted by considering the five statutory factors. Benefit sought by applicant is to restore the character of the school house and make usable space out of the deteriorating structures:

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 variances.

The addition is unlikely to produce an undesirable change and will be an improvement in the character of the neighborhood. The roof modifications would restore the character of the old schoolhouse. The addition allows the applicants to renovate the schoolhouse to its original interior configuration. Any renovations to the structures will beneficially improve the condition of the property.

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

The lot is very narrow and the addition would encroach on front and rear setbacks no matter where it is located. The lot coverage is already greater than the 5% maximum.

3. Whether the requested area variances are substantial.

The area variance for the front yard setback is substantial; the area variance for the rear yard setback is also substantial. The lot coverage variance is substantial, however, the lot is very small, and is not substantial compared to the existing structure

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 not likely that the variances will have an adverse impact on the physical or environmental conditions of the neighborhood. The addition will not impact sight distance for vehicles at the Podunk and Perry City Roads intersection. The renovation will improve the currently deteriorated state of the structures on the property.

5. Whether the alleged difficulty was self-created.

The difficulty is self-created because the applicant is choosing to increase the square footage of the structures; however with the existing lot size, front and rear yard setback variances would be needed for an addition in any location on the property.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, **the roof modification and renovation of the structure, including the addition, will have a positive impact on the character of the neighborhood, the lot size limits other options, the front yard setback, rear yard setback, and lot coverage variances are substantial, and difficulty is self-created. By granting the variances, the applicant would be able to restore the character of the schoolhouse and improve a degraded property. Therefore the benefits to the applicants 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 appeal for area variances be granted.

The vote was as follows:

Mr. Tselekis	AYE
Mr. Howarth	AYE
Mr. Means	AYE
Mr. Morreale	AYE
Ms. Thompson	ABSTAINED

Ms. Thompson said she was abstaining from the vote out of concern for the building's proximity to the roadway.

Result: Variances granted

Continuation: Appeal by Francesca Crannell and M. Kent Garrison for an area variance under Article IX Section 212-54 E of the Town of Ulysses Zoning Chapter 212. This is for the purpose of constructing a single family residence where the rear yard setback would be 45 feet, and the minimum rear yard setback is 50 feet in the LS-Lakeshore District. The property is located at 32 Maplewood Rd, Town of Ulysses, Tax Parcel Number is 27.-5-11.

Providing a brief overview of the project updates, Mr. Garrison said the house's orientation on the property was altered to be more parallel with the western property line. The house was also moved slightly south, and the roof pitch was brought to 4x12, lowering the overall height, he said. Now, it is only a matter of getting approval for a single variance for the western yard setback, he said.

Mr. Tselekis read the following information from the project materials: "The project is the construction of a single family residence at 32 Maplewood Rd. In the LS-Lakeshore District, the minimum rear yard setback is 50 feet, and in the original proposal, the rear yard setback was 35.8 feet. Based on input from the BZA and the Planning Board, the project has been revised and stormwater control measures have been incorporated. The REVISED rear yard setback is 45 feet. The house location meets the front yard setback of 50 feet."

Mr. Tselekis asked about improvements to the stormwater plans. Mr. Garrison said project engineer John Andersson drew up new plans that call for two sets of cisterns with drainage pipes and rip wrap. Water runoff from the roof would drain to the first cistern, then to a second cistern via rip wrap under the driveway, and out to the house's eastern side.

The Town received no correspondences in regard to the project.

Mr. McCann, a neighbor of the property, said he has no problems with the current design and is happy it meets all setbacks.

The project will need Planning Board approval, Ms. Kiley said in response to a question from Mr. Howarth. The Planning Board has received the plans but has yet to formally discuss them. They will do so at their next meeting on April 5, she said.

Ms. Thompson said the project plans still do not address water runoff off the steep slope; the slope leads directly down to the house instead of draining into a swale. Mr. Garrison relayed word from Mr. Andersson, who said he included a swale in his updated plans. Ms. Thompson noted drainage will be addressed by the building code enforcer when the applicants apply for a building permit.

On the issue of setbacks, Mr. Howarth said, the variance request is less than before. He appreciated the applicant's efforts in making the modifications. Mr. Morreale reiterated a similar sentiment, saying the applicant's addressed the concerns regarding water runoff, and the neighbors do not seem to be opposed.

Mr. Morreale MADE the MOTION to grant the variance request, and Mr. Howarth SECONDED the MOTION as follows:

By considering the five statutory factors, 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 setback area variance is granted. Benefits sought by applicants are to construct a single-family residence on an existing nonconforming lot with narrow depth:

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 little evidence that the character will be changed or there will be a detriment to nearby properties by the construction of a single-family residence. The property formerly had a residence that was dilapidated and demolished. Trees will not need to be removed for the building site.

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 width of the existing, nonconforming lot makes it difficult to meet the setback requirements.

3. Whether the requested area variance is substantial.

The lot depth of 45 feet versus 50 feet is not substantial. With the zoning change in 2013, the rear yard setback changed from 35 to 50 feet.

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 effect or impact on the physical or environmental conditions of the neighborhood. The house will be built in an existing clearing where trees will not need to be removed. The proposal includes stormwater controls.

5. Whether the alleged difficulty was self-created.

The difficulty is self-created because the applicant is choosing to build a new structure; however the zoning allows for the use of existing nonconforming lots and the existing conditions of the narrow property make it difficult to meet the setback requirements.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, **the new residence will not change the existing character of the neighborhood, nor cause any adverse environmental impacts, the alternatives for building locations are limited, and the variance is not substantial, however, the difficulty is self-created. The BZA has determined that 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 area variance is granted.

Mr. Tselekis	AYE
Mr. Howarth	AYE
Mr. Means	AYE
Mr. Morreale	AYE
Ms. Thompson	AYE

Result: Variance granted

Meeting Minutes Review (1/20/16): Mr. Howarth MADE the MOTION to approve the January 20, 2016 meeting minutes, and Mr. Means SECONDED the MOTION. The motion carried, 4-0, with Ms. Thompson abstaining from the vote.

Mr. Howarth MADE the MOTION to adjourn the meeting, and Mr. Morreale SECONDED the MOTION. The motion carried unanimously, 5-0.

Meeting adjourned at 7:38 p.m.

Respectfully submitted by Louis A. DiPietro II on March 18, 2016.