

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
MEETING MINUTES
Wednesday, 8/17/2016
7:00 p.m.**

Approved: August 31, 2016

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

Public Present: Jean Houghton, Pete Houghton, Ed and LaVerne Gatch, Tim and Debbie Gatch, Nathan Gatch, and James Gatch.

Call to Order: 7:01 p.m.

Public Hearing: Appeal by Jean Houghton and Peter & Doris Houghton for area variances under Article IX Section 212-54 of the Town of Ulysses Zoning Law. The properties are located at 1349 and 1333 Taughannock Blvd, Tax Parcel Numbers 28.-1-13 and 28.-1-14. This is for the purpose of a boundary line realignment, or simple subdivision, between two existing nonconforming lots. The realignment would move the property line to the north approximately 25 feet along the lot frontage and approximately 44 feet along the lakeshore for a total of 0.06 acres. The two existing lots are located in the LS-Lakeshore District and currently do not meet a number of lot area and yard requirements. The property at 1349 Taughannock Blvd would lose 0.06 acres of land and would require the following variances: lot area (0.80 acres where 2 acres is required) and lot depth (95 feet where 250 feet is required). The setbacks from the lakeshore and road are not changing but are less than the required 50 feet. While the property at 1333 Taughannock Blvd would gain acreage and width, the following variances are needed for the new dimensions: lot area (0.284 acres where 2 acres is required); lot depth (82.2 +/- feet where 250 feet is required); lot width at the road (140 +/- feet where 250 feet is required); lakeshore frontage (144 +/- feet where 250 feet is required); lot coverage (12.6 +/- percent where 5 percent is required). The setbacks from the lakeshore and road are not changing but are less than the required 50 feet.

Mr. Houghton informed Board members of the proposed project involving two parcels – his own at 1333 Taughannock Blvd. and his sister, Jean's, at 1349 Taughannock Blvd. The siblings' father once owned both properties, and he established the current property line when he chose to subdivide the parcels in 1949. The property line runs right down the middle of a creek, which has been dry recently but flooded during heavy storms in 2014, causing damming at culverts and flooding onto route 89. Though the involved parties are siblings and have an informal understanding involving the creek, Mr. Houghton said it would be more practical if he assumed complete ownership of the creekbed so as to carry out regular creek maintenance and clean up. It would also state definitively who is responsible for the creek, in the event the properties are sold off in the future. Acknowledging existing nonconforming issues, Mr. Houghton said both his property and his sister's have several areas – like setbacks, minimum lot size and road frontage –

that fail to meet current zoning requirements. None of these nonconforming issues will change, he said. There will be no aesthetic changes or environmental impacts, he said.

Ms. Houghton said she agrees with the proposal. Ms. Kiley said the Town did not receive any correspondences in regard to the proposal. Responding to a question from Mr. Morreale, Ms. Kiley explained the action is considered a simple subdivision and is one action, even though two properties are involved.

Mr. Tselekis added that the properties become less non-conforming under the proposal.

Mr. Howarth MADE the MOTION to approve the variance request, and Mr. Hillman 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 variances are granted by considering the five statutory factors. The benefit sought by applicants is to move the property line so that a stream and its buffer are on one property, not two:

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 boundary line realignment will not produce an undesirable change in the character of the neighborhood. The difference in the resulting lots is that the owner of 1333 Taughannock Blvd will own both sides of a small stream.

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.

In order to make any changes to the boundary between the two existing nonconforming lots, variances are needed.

3. Whether the requested area variances are substantial.

All of the area variances are substantial but the existing conditions are also nonconforming, and these changes would make things no worse.

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

The variances will not have an adverse impact on the physical or environmental conditions of the neighborhood. If the variances are granted and the boundary line is north of the stream, one landowner, instead of two, will be able to make any necessary repairs and improvements along the stream banks.

5. Whether the alleged difficulty was self-created.

Yes, the difficulty is self-created, because the landowners do not need to move the property line.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, **the subdivision will not create an undesirable change to the neighborhood nor have an adverse impact on the physical or environmental conditions. The variances are substantial; however, 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. Hillman	AYE
Mr. Howarth	AYE
Mr. Means	AYE
Mr. Morreale	AYE

Result: Variances granted

Public Hearing: Appeal by Edward and LaVerne Gatch for area variances under Article VII Section 212-40 of the Town of Ulysses Zoning Law. This is for the purpose of a two-lot subdivision. The existing lot is 2.43 +/- acres with 470 +/- feet of width at the front lot line, and 225 +/- feet of lot depth, which is an existing nonconforming lot depth. After subdivision, the resulting two lots would each have 1.214 +/- acres, 235 +/- feet of width at the front lot line, and 225 +/- feet of lot depth. The requirements of the R1-Rural residence district are 2 acres, 250 feet of width at the front lot line, and 250 feet of lot depth, therefore area variances are needed for these three lot requirements in order to receive subdivision approval. The property is located on Jacksonville Rd between house numbers 4256 and 4128, Tax Parcel Number 26.-3-13.21.

Mr. Gatch said he and his wife purchased their land around 1974 and subsequently purchased additional property to bring their parcel to 12.5 acres on Jacksonville Road. At that time, lot depth was listed as 250 feet, the distance from the center of the roadway to the lot rear. Since new zoning was enacted, lot depth is now 225 feet. He said there are no options to purchase additional land to meet zoning criteria: neighboring property owner George Holmes owns a field behind the lot and to the left of the Gatch property, and he is not willing to sell. Mr. Gatch's son owns the property to the right. The acreage is not there; their property is land-locked, he said, adding that 470 feet of land is so much.

Continuing, Mr. Gatch said he and his wife raised their family in the area and intended for their children to build on the property. Since the Gatch's bought the property, they have had four houses built there. Each one of the properties is 225 feet deep. This is the first time in 40 years he has had to ask for a variance for a subdivision. The previous homes did not need one. This, to me, is a simple variance because it divides the lot in half, he said. He does not foresee any

adverse effects – the field is wide open, and they will not be cutting down trees, only adding them. If the variances are approved, a house will be built for his grandson, keeping the family close by. Family is important to us, he said. The approved variance will allow for two new homes, which increases the tax base, and both homes have access to municipal water, he said. The line for the Hamlet of Jacksonville lies just beyond a 30-foot strip of land owned by Mr. Holmes.

Mr. Gatch's son, Tim, said he and his wife own property adjacent to the lot, and they have no issues with the proposal. The lot on which they currently live is smaller than the ones that would be formed if the variances were approved. He could understand the concern if they had to drill wells, but the lots will have access to municipal water. Another son, James, said he was granted a similar variance back in September 2013.

Mr. Gatch added both lots, if allowed variances, could accommodate septic systems.

Ms. Thompson noted the Town's current consideration of zoning changes that involve the Hamlet of Jacksonville. Could the Town's potential zoning changes positively affect the Gatch proposal? she asked. Mr. Tselekis, a member of the Town's Steering Committee on Zoning – the group leading the discussion for zoning changes in Jacksonville – said the group has not gotten that far yet in deliberations.

Mr. Howarth commented on the proposal, saying it is a major variance request given the current zoning. He said he has a hard time supporting such a large variance request for a property next to the A1 District. It is not the BZA's job to create the zoning law but to consider if the variance request is a substantial change when weighed against current zoning. It is, he said, and it is too far for his support.

Mr. Tselekis said the proposal includes three variance requests – for lot depth, lot width and lot size. The variances for lot depth and lot width are not of major concern, but the lot-size area is, he said. Mr. Howarth agreed.

Mr. Gatch said you do not get 2 acres when multiplying 250 feet by 250 feet. That is a contradiction in the zoning. Ms. Kiley said the Town measures from the right of way when calculating lot depth.

Mr. Means said the property is located in a transition area from farming and agriculture to the Hamlet. Access to municipal water is a substantial piece, he said.

Mr. Gatch said he felt he was being punished with the new zoning. Responding to a comment that Mr. Howarth had a hand in writing the current zoning, Mr. Howarth said he had nothing to do with rewriting the zoning law. He requested a call for order.

Mr. Morreale said, unfortunately, the property is located in an ag area and near the hamlet. Agreeing with Mr. Tselekis sentiment, he said the lot width and lot depth variances are not the major concerns but rather the proposal to subdivide to create two lots that are each 60 percent of what is acceptable. The lots are substantially smaller than what is allowed, he said. Why not put

a second house on the same lot? he asked. Later in the discussion, Mr. Gatch said no bank would ever finance two homes, owned by two different parties, on a single lot. Plus, his grandson wants his own place. James Gatch referenced homes on Honey Bee Lane and said each one is on 1.14-acre lots. That is plenty of room for a nice house, he said.

A brief discussion ensued regarding lot depth. The Gatches stated that one cannot get 2 acres when multiplying 250 feet by 250 feet. Mr. Tselekis reiterated his concerns with the small lot size but said the proposal has a good purpose, clearly fits in the character of the neighborhood, and has access to municipal water. For those reasons, he would support granting the variances.

Ms. Thompson said the request seemed like a considerable one at first look, but there is talk of increasing density in the Hamlet of Jacksonville. There does not seem to be a reason for a 2-acre minimum in that area, she said. If the Town Board wants to change the zoning law, that is within their purview, Mr. Howarth said. But it is not the BZA's job to predetermine zoning changes. Though the parcel is close to the Jacksonville Hamlet and in the R1 District, it is still near an agricultural area, he said. Mr. Means felt there would be plenty of room on the subdivided lots to accommodate two new houses.

Board members discussed how they would likely vote. Mr. Means said he was leaning toward approving the variances, as was Mr. Tselekis. Mr. Howarth said he would oppose it, and Mr. Morreale also said the lot size is a major consideration. Mr. Hillman, too, acknowledged the small size of the subdivided lots.

It is worth paying attention to what the Town is doing with the zoning law, Mr. Howarth said. Mr. Tselekis said the Steering Committee has not fully addressed the Hamlet of Jacksonville yet, but preliminary discussions seem to be favoring more density in the Hamlet. Ms. Kiley added that the water line location in the Hamlet is where denser development is likely to happen. Asked by James Gatch if a site visit would better inform their decision, several Board members said they had already visited the site.

Mr. Hillman MADE the MOTION to deny 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. The benefit sought by applicant is to create two lots out of an existing 2.4 acre lot:

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 land subdivision is not likely to produce an undesirable change in the character of the neighborhood. The property is adjacent to the hamlet district that allows for 6,000 square foot lots. The properties to the south are smaller than two acres. The properties to the west (across the street) have lot widths that are smaller than 250 feet.

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.

No.

3. Whether the requested area variances are substantial.

The area variance for lot depth is an existing condition and 225 feet versus 250 is not substantial. The area variance for lot width – 235 feet versus 250 feet is not substantial. The lot area – 1.2 acres versus 2 acres - is 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 not likely that the variances will have an adverse impact on the physical or environmental conditions of the neighborhood.

5. Whether the alleged difficulty was self-created.

The lot area is self-created because the applicant is choosing to subdivide the 2.4 acre lot area.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, **the subdivision will not create an undesirable change to the neighborhood nor have an adverse impact on the physical or environmental conditions. However, the area variance is substantial.**

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 not be granted.

The vote was as follows:

Mr. Tselekis NAY
Mr. Hillman AYE
Mr. Howarth AYE
Mr. Means NAY
Mr. Morreale AYE

Result: Variances denied

Mr. Gatch asked what his legal options were and was informed he could file an appeal. He said he would be talking with his lawyer about filing such an appeal.

Meeting Minutes Review (7/20/16)

Mr. Means MADE the MOTION to accept the July 20, 2016 meeting minutes, and Mr. Morreale SECONDED the MOTION. The minutes were unanimously accepted, 4-0, with Mr. Howarth abstaining from the vote.

Mr. Tselekis informed the Board of an open invitation from Steering Committee Chair Nancy Zahler, who has requested – on the Committee’s behalf – a non-voting liaison from each relevant Town board and committee to participate in discussions involving zoning rewrites. Mr. Tselekis already attends as an active member, but any member of the BZA is welcome.

Mr. Howarth MADE the MOTION to nominate Mr. Hillman as a BZA representative to serve as a liaison to the Steering Committee, and Mr. Morreale SECONDED the MOTION. Mr. Hillman accepted the nomination. The motion was unanimously approved.

Ms. Kiley informed the Board of a coming variance request and asked if the Board would consider meeting in two weeks to address it, rather than wait for the next scheduled meeting in five weeks. The applicant is hoping to begin construction as soon as possible. Ms. Kiley said she would email Board members to inquire about a meeting date.

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

Meeting adjourned at 8:06 p.m.

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