

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
MEETING MINUTES
Wednesday, 9/21/2016**

Approved: October 19, 2016

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

Absent: Cheryl Thompson

Public in Attendance: James Anderson, Kathleen Lamarre, and Pam Peabody.

Public Hearing: Appeal by James C. Anderson for area variances under Article V, A1-Agricultural District, Section 212-29 of the Town of Ulysses Zoning Law. The existing lot with two single-family residences is 3.29 +/- acres with 570 +/- feet of lot depth, and 242.53 +/- feet of width at the front lot line, which is an existing nonconforming lot width. The applicant would like to subdivide the parcel so that the existing houses would be on separate lots. After subdivision, Parcel A with house number 5130 would have a width at the front lot line of 114.58 +/- ft where 400 feet is required. All other dimensions for Parcel A meet the zoning requirements. Parcel B with house number 5128 would have a width at the front lot line of 127.95 +/- where 400 feet is required, and a lot area of 1.23 +/- acres where 2 acres are required. The side yard setback for the house, 23.7 +/- feet where 30 feet is required, and the side yard setback for the accessory building, 9.8 +/- feet where 24 feet is required, are existing nonconforming setbacks. The property is located at 5128 and 5130 Iradell Rd, Tax Parcel Number 34.-1-28.

Mr. Anderson introduced himself and provided a brief history of the properties at 5128 and 5130 Iradell Road. Many years ago, a property line existed that separated both properties. However, over the years and prior to Town Zoning, the two properties – each with a residence on the lot – were combined into a single parcel. Mr. Anderson said he lives in Florida now, and it has become increasingly difficult to make the drive back to Town and do maintenance on his house. His sister-in-law lives in the other house and is unable to pay the \$5,000 annual taxes for both parcels. Instead, he'd like to subdivide and liquidate his share of the property. He hopes to do a quick claim deed to his sister-in-law, he said. Each house has its own well, septic, electric, and is heated by natural gas, he said.

The Town did not receive any correspondences in regard to this variance request, Ms. Kiley said.

Asked how old the homes are, Mr. Anderson said one home was built in the 1990s and the other was built long ago. Ms. Kiley added that the assessment records do not go back far enough to determine when the two lots were combined.

Mr. Howarth noted that, under the Town's current zoning, each fragmented lot would be allowed to build a second home if the single lot were subdivided. He would hate to do that if the project

included new construction. Both parcels are non-conforming, but there will not be a change in use. He specified that he did not want to see second homes on each subdivided lot. Ms. Kiley said she anticipated the Board would have concerns about this. The Town Attorney has advised it is reasonable for the BZA to apply to its resolution a condition prohibiting second homes on the subdivided lots. Mr. Howarth and Mr. Means said they would be fine with the variance request, so long as such a condition is applied to the resolution.

Mr. Morreale expressed concern about the small size of Parcel B, which would be roughly 60 percent the size of what the Town requires. That is substantial and would change the nature of the neighborhood. He also said he was concerned with the possibility of two more houses being added to those small lots. Four homes total would be extremely unacceptable. He would not vote in favor of the variances without a condition in place. Mr. Tselekis agreed with Mr. Howarth in that the BZA would not want to encourage new construction on the lots, and a condition is reasonable.

Mr. Means MADE the MOTION to approve the variance request, and Mr. Howarth 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 subdivide the parcel so that each existing house would be on separate lots:

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 subdivision is not likely to produce an undesirable change in the character of the neighborhood because the houses are already on the property. The zoning board will assure that the neighborhood will not change in the future by stipulating that no additional residential dwellings are permitted on either lot.

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 existing lot is just over 3 acres, and any subdivision would create at least one lot under the two acre minimum. The road frontage of the existing lot is less than the required 400 feet so any subdivision would require variances for both.

3. Whether the requested area variances are substantial.

The area variance for lot area for Parcel B – 1.2 acres versus 2 acres - is substantial; and the road frontage for both lots is substantial – both are less than 130 feet where 400 feet is required.

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 likely have an adverse impact on the physical or environmental conditions of the neighborhood, because there are two existing houses on the property. The zoning board will assure that the neighborhood will not change in the future by stipulating that no additional residential dwellings are permitted on either lot.

5. Whether the alleged difficulty was self-created.

The lot width is an existing nonconforming condition. The need for any variances is self-created because the applicant is applying for a two-lot subdivision instead of keeping both houses on the same lot.

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 lot area and lot width are substantial variances. The difficulty is self-created. 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 on the condition that no additional residential dwelling is permitted on either lot at the address 5128 and 5130 Iradell Road.

Mr. Howarth offered a friendly amendment to add the following line to Nos. 1 and 4: “The zoning board will assure that the neighborhood will not change in the future by stipulating that no additional residential dwellings are permitted on either lot”; and, further, to add similar language to the closing paragraph of the resolution.

Mr. Means agreed to the friendly amendment.

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 Joseph and Kathleen Lamarre for area variance(s) under Article V, A1- Agricultural District, Section 212-29 of the Town of Ulysses Zoning Law. This is for the purpose of a two-lot subdivision. The parcel was originally subdivided in 2004, under previous zoning, and the two parcels were consolidated in March 2016. By now requesting a

resubdivision, one of the lots would have 189.97 +/- feet of width at the front lot line, where 400 feet is required. The property is located at 6056 Brook Rd, Tax Parcel Number 23.-1-8.1.

Ms. Lamarre explained she is attempting to reestablish a previous property line on her lot. Her family purchased the original lot in 2004 and, three years ago, purchased the adjacent property. In March, the applicant consolidated both lots into a single parcel for tax-savings purposes. Recently, her family made a real estate investment in the Village of Trumansburg, and now she would like to reestablish the previous property line – reverting back to two separate parcels. Portions of the full, consolidated acreage are currently leased for farming, she said. A potential buyer has expressed interest in purchasing the property and maintaining it for ag use.

Mr. Morreale initiated a discussion regarding the possibility of a flag lot. Ms. Lamarre said they were simply looking to reestablish the original line because it seemed like the easiest option with the least impact.

Ms. Kiley said the Town did not receive any correspondences in regard to the variance request.

After receiving more information about the project, Ms. Peabody – a neighbor – said she had no problem with the proposal.

Mr. Morreale said road frontage and acreage are two criteria within zoning that he considers extensively when weighing variance requests. The road frontage for the house lot – referred to as Parcel A – is far below the required minimum, and he would tend to find it unacceptable. However, it has only been six months since the two lots were consolidated, and the BZA would essentially be returning the property back to its original two-parcel configuration. With that said, he is okay with the proposal.

Mr. Howarth said he agreed with Mr. Morreale; he is also adamant on upholding zoning particularly in regard to road frontage and acreage. At this time, Ms. Lamarre clarified an error in the zoning packet that suggested Parcel B would have roughly 800+/- feet of road frontage; road frontage for Parcel B, after the subdivision, would actually be roughly 600 feet. That makes a substantial difference, Mr. Howarth stated, since 800 feet of road frontage could potentially mean Parcel B could be subdivided again without a variance. But, at 600 feet, the parcel could not be subdivided without a variance. Mr. Howarth said this influences his decision to vote in favor of granting the proposed variance.

Mr. Tselekis noted that, by granting the variance, it would be less likely that a future owner of Parcel B would need to install a bridge to traverse a stream that divides both parcels. Mr. Means thought it would be best to leave the creek alone. He was in favor of the current proposal.

Mr. Hillman MADE the MOTION to grant the variance request, 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 resubdivide the parcel to separate the house from the vacant 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 subdivision is not likely to produce an undesirable change in the character of the neighborhood. The applicants consolidated the parcels in March 2016 and would like to reestablish the same lot lines.

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 for the house parcel to have the required 400 feet, a little more than 200 feet could be removed from the adjacent parcel but that limits a future owner from accessing the property because of the stream bank for Taughannock Creek. The location of an existing culvert on the vacant parcel dictates the parcel boundary line. The opinion is based on current zoning that would not allow any further subdivisions of the two new lots due to insufficient road frontage.

3. Whether the requested area variances are substantial.

The area variance for road frontage – about 190 feet where 400 feet is required – is substantial, however the house has been on the property for over 100 years, and the property is adjacent to the Waterburg hamlet district where required lot width is 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.

The area variance will not likely have an adverse impact on the physical or environmental conditions of the neighborhood, because proposed subdivision line follows one that was established in 2004.

5. Whether the alleged difficulty was self-created.

The lot width was an existing nonconforming condition prior to the lot consolidation earlier this year. The land was previously subdivided under different zoning. The difficulty is self-created in that the applicant is choosing to follow the same boundary line but changing the line would limit access to the vacant lot.

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 lot width variance is substantial, but it is the only variance needed. The difficulty is self-created, however the subdivision line follows the boundary**

before consolidation. 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 the lot width area variance be granted.

Mr. Howarth offered a friendly amendment to add the following language to No. 2: “The opinion is based on current zoning that would not allow any further subdivisions of the two new lots due to insufficient road frontage.” Both Mr. Hillman and Mr. Morreale agreed to the additional wording.

The vote was as follows:

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

Result: Variances granted

Meeting Minutes Review (8/31/16)

Mr. Means MADE the MOTION to accept the August 31, 2016 meeting minutes, and Mr. Morreale SECONDED the MOTION. The motion was unanimously carried.

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

Meeting adjourned at 8:04 p.m.

Respectfully submitted by Louis A. DiPietro II on September 22, 2016.