

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
FINAL MINUTES
Wednesday, November 20, 2019**

Approved: December 18, 2019

Present: Board Chair Bob Howarth, and members Thomas Butler, Steve Morreale, and David Tyler; Town Planner John Zepko.

Andy Hillman and Cheryl Thompson were excused. In a correspondence, Ms. Thompson recused herself, writing that she has a professional relationship with the Moran's neighbors and is concerned that that may appear as a conflict of interest.

Public in Attendance: Linda Liddle, and Pat and Richie Moran.

Call to Order: 7:03 p.m.

Mr. Howarth proposed, and the Board consented, to postpone action on the meeting minutes until later in the evening.

Public Hearing (continued) – Appeal by Patricia and Richard Moran, for an area variance from Section 212-54 F. (Side Setback Requirement of the LS zone), of the Town of Ulysses Zoning Law, for the purpose of permitting an addition 7.4 feet from the Northern property line where 15 feet is the required setback. The property is located at 1377 Taughannock Blvd, Tax Map # 28.-1-41

No one from the audience offered comment on the variance request.

Responding to a question from Mr. Morreale, Mr. Moran said the house addition was constructed about four years ago.

Putting aside the fact that the addition has already been constructed, Mr. Butler said he would be against granting a variance for a pre-existing, non-conforming structure to encroach even further into setback areas. Mr. Morreale agreed, calling it a substantial variance by percentage; we're talking about a few feet from the neighbor's property, he said.

Mr. Tyler noted the Board has one member missing. Should the Board give the applicants the opportunity to come back later, when the full Board is present? he asked. Mr. Tyler also pointed to New York State law, saying that if there are no objections to a proposal – in this case, an addition – within two years, then “no complaint lies.” To the first matter, Mr. Morreale said the Board has a quorum and should proceed with the evening's agenda. As to Mr. Tyler's second point, Mr. Howarth said the variance request was made this year, and the BZA is to take action on the variance request. He added the BZA is not enforcement and has been advised by Town Counsel to not consider enforcement.

Mr. Moran accused the northern neighbor of going back on what he told the Morans, saying he initially had no objections to the addition. There is a strange history between the Morans and the neighbor, he said. If the neighbor approved with the addition, would we get the variance? Mr. Moran asked.

Mr. Howarth responded no. The BZA uses its own judgement when weighing variance requests and encourages applicants to modify plans to be consistent with zoning law.

Mr. Tyler said he will abstain from any Board action because he does not feel he has enough information to know whether or not New York State law applies to this situation. The applicant has not provided the Board with a precise date of completion for the addition, he said. Further, the uncertainty surrounding what will happen to the Moran's addition if the Board denies the request is another reason Mr. Tyler is abstaining.

A lengthy discussion ensued among Board members regarding each of the five criteria in the resolution.

Mr. Butler MADE the MOTION to move the resolution, and Mr. Morreale SECONDED the MOTION. Several friendly amendments were offered and accepted. The final resolution is as follows:

Whereas, the appeal by Patricia and Richard Moran, for an area variance from Section 212-54 F. (Side Setback Requirement of the LS zone), of the Town of Ulysses Zoning Law at the property located at 1377 Taughannock Blvd, Tax Map # 28.-1-41; and

Whereas, the relief requested is for the purpose of permitting an addition 5.5 feet from the Northern property line where 15 feet is the required setback; and

Whereas, the action is a Type II action under SEQR 617.5(c)(16) "granting of individual setback and lotline variance..." and requires no further review; and

Whereas, by considering the five statutory factors, 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. The benefit sought by the applicant is for the purpose of permitting an addition 5.5 feet from the Northern property line where 15 feet is the required setback.

- 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 neighborhood itself is residential in nature and is likely to be negatively impacted by an addition to a residence. The existing structure is already nonconforming, but a further encroachment into the setback to the distance of 5.5 feet from the property line is too great.

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.

Yes, for example, sufficient room appears to exist on the Southern side of the property to construct an addition within the required 15' side yard setback area.

3. Whether the requested area variances are substantial.

The variance is substantial. The applicant is seeking a variance to decrease the side yard setback from 15 feet to 5.5 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 project will result in significant adverse environmental impacts.

5. Whether the alleged difficulty was self-created.

The difficulty is self-created.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS,

Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes that:

Decreasing the side yard setback from 15 feet to 5.5 feet to allow an addition to the existing home will have a negative impact on the character of the neighborhood but not on the environmental conditions of the neighborhood. The variance is substantial and the difficulty is self-created. The benefits to the applicant do not outweigh the potential detriment to the health, safety and welfare of the neighborhood.

For the reasons set forth above, and upon the evidence, law and facts, the BZA hereby does not grant the area variance requested by the applicant to decrease the side yard setback on the North side of the property from 15 feet to 5.5 feet.

Motion: Butler

Second: Morreale

Ayes: Howarth, Butler, and Morreale Nays: none Abstain: Tyler

Result: Variance denied

Public Hearing – Appeal by David and Beth Wilcox, for an area variance from Section 212-40 E. (Front Setback Requirement of the R1 zone), of the Town of Ulysses Zoning Law, for the purpose of permitting an addition 41 feet from the Northern property line where 50 feet is the required front yard setback. The property is located at 3489 Jacksonville Road, Tax Map # 35.-2-3

The applicant was not in attendance. The Board tabled the application.

Review of Meeting Minutes (10/30/19)

The Board opted to postpone approval of the minutes so that the completed CARS covenant could be included therein.

The Board postponed discussion on rules and procedures.

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

Meeting adjourned at 8:14 a.m.

Respectfully submitted by Louis A. DiPietro II on December 17, 2019.