

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
FINAL MINUTES
Wednesday, January 20, 2021**

This meeting was held via video conferencing due to COVID-19 virus.

Approved: February 17, 2021

Present: Board Chair Steve Morreale, and members Tom Butler, Andy Hillman, Robert Howarth, and David Tyler; Town Planner John Zepko, and Town Board Liaison Katelin Olson.

Cheryl Thompson was excused, and Mr. Butler was named a voting member in her absence.

Public in Attendance: Anne Korman, Sharon Bilotta-Withiam, Alan Withiam, Michael Boggs, Linda Liddle, Peter Wright, and Carolyn Kreisel.

Call to Order: 7 p.m.

Review of Meeting Minutes: December 16, 2020.

Mr. Howarth MADE the MOTION to approve the amended minutes, and Mr. Hillman SECONDED the MOTION. The motion was accepted, 4-0, with Mr. Tyler abstaining from the vote.

Public Hearing – Appeal by Sharon Bilotta, for an area variance from §212-29 G. (side yard setback requirement of the AR Zone). The applicant is seeking to construct a garage 15 feet from the east side yard line, where 30 feet is required. The existing property is approximately 25 acres in size and is located at 4314 Swamp College Road, Tax Map # 21.-1-9.3

Ms. Bilotta gave a brief overview of the proposal for a two-car garage, which includes an indoor workspace. She and her partner, Mr. Withiam, had not known about the Town's latest rezoning and were therefore unaware of the 30-foot minimum sideyard setback. The property has geothermal runs, a well and electric lines that make compliance difficult with the 30-foot setback, they said. Neighbors support the project, they said.

The Town received two letters of support from Ms. Korman and Ronald and Mary Schmidt. Notices of the public hearing were sent to 18 nearby homeowners, Mr. Zepko said. Mr. Hillman noted the application was inadvertently made out for a use variance rather than an area variance, though Mr. Zepko clarified notices to neighbors advertised the hearing correctly as an area variance.

During public comment, Ms. Korman, of 4348 Swamp College Road, spoke in favor of the neighbor's variance request and supports the garage's construction. Ms. Kreisel also spoke in favor of the project.

Mr. Howarth noted the applicant could fit the garage on the west side of the property and do so without a variance. Mr. Wright, a builder assisting the applicant on this project, said placing the garage on the west side is not feasible with the geothermal runs, septic, and electric utilities. A follow-up suggestion from Mr. Howarth about orienting the proposed garage in a north-south configuration was not deemed favorable; Ms. Bilotta said the proposed orientation and placement makes the garage easily accessible, and Mr. Wright added the garage's orientation, as designed, places the garage bays directly in line with the existing driveway.

Mr. Butler felt the applicant's proposal made perfect sense. He offered his support.

Mr. Hillman asked if the applicant had considered siting the garage closer to the roadway, so as to avoid the eastern side setback. Mr. Withiam said it had been considered, but construction there would make too much of an impact. Mr. Wright said the applicant would have to tear up their front yard and remove hedges and trees to accommodate a garage in that space.

Mr. Morreale emphasized that it's important BZA members consider alternatives; setback encroachments like this may be fine now for all involved property owners, but there could be a future problem if the property is sold, he said.

Mr. Butler noted the proposed location for the garage is located where two other adjacent properties meet. It's very unlikely any other structures would be built there anyway, he said.

Resolution

Mr. Butler MADE the MOTION to act on the resolution, and Mr. Howarth SECONDED the MOTION as follows:

Whereas, the appeal is by Sharon Bilotta for an area variance from §212-29 G. (side yard setback requirement of the AR Zone). The applicant is seeking to construct a garage 15 feet from the east side yard line, where 30 feet is required. The existing property is approximately 25 acres in size and is located at 4314 Swamp College Road, Tax Map # 21.-1-9.3; and

Whereas, the relief requested is to permit the construction of a garage with a side yard setback on the east lot line of 15 feet, where 30 feet is required; 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, the action does not require 239 review, per the agreement made with Tompkins County 24 November 2003.

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 to permit the construction of a garage with a side yard setback on the east side of 15 feet, where 30 feet is required; and

- 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.**

No undesirable change will be produced by granting this variance.

- 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.**

There is no reasonable method other than what the applicant has proposed to accomplish their goals.

- 3. Whether the requested area variances are substantial.**

Decreasing the side yard setback by 50 percent 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.**

There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood.

- 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 the eastern lot line from 30 feet to 15 feet will not have a negative impact on the character or the environmental conditions of the neighborhood. The variance is substantial, and the difficulty is self-created. However, the benefits to the applicant do 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 grant the area variance requested by the applicant to decrease the side yard setback at the eastern lot line from 30 feet to 15 feet.

Motion: Tom Butler

Second: Bob Howarth

	Aye	Nay	Abstain
Morreale	1		
Howarth	1		
Tyler	1		
Hillman	1		
Thompson			
(alt) Butler	1		

Result: Variance granted

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

Meeting adjourned at 8:11 p.m.

Respectfully submitted by Louis A. DiPietro II on February 17, 2021.