

**TOWN OF ULYSSES  
BOARD OF ZONING APPEALS  
MEETING MINUTES  
Wednesday, March 21, 2018**

**Approved: April 18, 2018**

**Present:** Board Chair Bob Howarth, and members Andy Hillman, Steve Morreale, Cheryl Thompson, and David Tyler; Town Planner Darby Kiley.

**Public in Attendance:** Brandi Smith, Don and Ruth Murray, Cameron Berger, Chad Doolittle, Ed Abelson, Lora Gruber-Hine, Terri Gruber-Hine, Hillary Conroy, Don Ellis, Geraldine Keil, and Gunther Keil.

**Call to Order:** 7:00 p.m.

**Privilege of the Floor:** No one addressed the Board at this time.

**Public Hearing:** Appeal by Amy and Edward Abelson for area variances under Section 212-29C Lot Area and Yard Requirements for the A1-Agricultural District of the Town of Ulysses Zoning Law. This is for the purpose of a two-lot subdivision, where a vacant lot (Parcel B) would have 290.87 +/- feet of road frontage, which is less than the 400 feet required. This lot would be 4.72 acres with a lot depth of 645.33 +/- ft. The other lot, on which the Lakshmi Institute is located (Parcel A), would include 18.34 acres with a lot width of 539.82 +/- ft and lot depth of 733.72 +/- ft. The property is located at 1966 Trumansburg Rd, Town of Ulysses, Tax Parcel Numbers 20.-3-9.21.

Mr. Abelson said he would like to divide the lot into two because he has a potential buyer for parcel B. However, to achieve the 400 feet of road frontage for the parcel, it would have to extend into an existing driveway at Lakshmi and across a ditch.

The Town did not receive any correspondence relating to the proposal.

A neighboring resident had some questions about the property and commented that her well water is not the best quality. Mr. Abelson said the Lakshmi property has excellent water quality and pressure.

Ms. Conroy owns and operates Smart Start in Jacksonville. She said she approached the Abelsons to purchase and build on parcel B, since she currently rents her Jacksonville location. Responding to a question from Ms. Smith, a neighboring property owner, Ms. Conroy said she has no problems having her business in a rural/agriculture area and does not foresee having complaints regarding ag-related activities.

Mr. Howarth offered a brief history of the property: the current lot was designated as a Development District in 2008 to accommodate a mini-golf course. When the business folded, the Town dissolved the Development District in 2013, returned it back to A1, though the property

was then developed for another commercial use. That development history affects the reality now, he said. Parcel B is currently a hayed lot, Ms. Kiley said, adding that schools are a permitted use in the A1 zone.

A discussion ensued regarding the placement of a driveway that would provide access to a farm field at the back of Parcel B. Depending on where it was sited, the applicant could free up additional road frontage.

Mr. Howarth said he is sympathetic to the applicant's aim, but the road frontage requirement is a particularly important aspect of zoning that he takes seriously. The difference between 290 and 400 feet of road frontage is large and would affect the visual view of the lot, he said. Ms. Thompson felt developing the lot makes sense but finds the variance to be substantial. She feels the applicant can find ways to add road frontage. Ms. Conroy said she did not see how adding 15 feet or so of road frontage would make sense from a practical standpoint. Visually, the school building would be sited in the same location, she said. Mr. Hillman noted the large size of the existing parking lot at the Lakshmi site, and said he would be more inclined to consider the proposal if it were a less substantial variance.

Ms. Thompson suggested using the existing driveway as both an entry to the Lakshi and an access point for the back field, and then have a culvert installed over the existing ditch between the Lakshmi site and parcel B. Eliminating the southern side driveway would bring frontage up to around 300 feet. Is there any possibility of a shared driveway? Mr. Howarth asked. Traversing the drainage ditch between the two sites is not a huge issue, Ms. Conroy said, but it is not ideal.

Mr. Tyler advised the applicants to revise their proposal, or the BZA address the proposal as written. This way, the BZA would be addressing a formal proposal rather than offering changes on the fly.

Ms. Kiley cautioned that the BZA could be creating a hardship for the applicant by encouraging a shared driveway. She also noted that whatever structures are built at the site must also meet setback requirements.

Mr. Tyler suggested bumping out the dividing property line near the roadway, which would give Parcel B additional road frontage, possibly up to 350 feet in total. However, Ms. Conroy questioned whether such a move made any practical sense. Mr. Howarth stressed that the BZA strives to be consistent in enforcing the zoning law; if the BZA were to allow 290 feet with this proposal, another applicant could request a variance of 260 feet.

BZA members discussed whether or not to table the discussion and allow the applicant to reconsider their proposal.

Mr. Howarth MADE the MOTION to table the discussion, pending further input from the applicant, and Mr. Hillman SECONDED the MOTION. The motion passed, 4-1, with Ms. Thompson voting no.

**Result:** Application tabled

The applicants left the meeting at 7:53 p.m.

**Public Hearing:** Appeal by Geraldine and Gunther Keil for area variances under Article VII §212-40 D Lot Area and Yard Requirements for the R1-Rural Residence District of the Town of Ulysses Zoning Law. This is for the purpose of a two-lot subdivision of an existing, irregularly shaped lot, where the proposed lot would not meet the 250 foot lot depth requirement of the R1-Rural Residence District. Lot depth is defined as the least distance measured perpendicular from the front lot line to the rear lot line of a parcel. The proposed parcel, with 2.42 acres, is located on the north side of Rabbit Run Rd, on the eastern boundary of the property where the existing lot depth is approximately 171.13 feet. The property is located at 4487 Rabbit Run Rd, Town of Ulysses, Tax Parcel Number is 12.-4-4.

Ms. Keil noted that only one end of the property fails to meet the lot depth requirement.

The Town received one comment from a neighbor, Julia Morehouse, who expressed her support of the project.

Responding to a question from Mr. Tyler, Ms. Keil said they have a potential buyer for the property and will apply for a subdivision once the variance is approved.

Ms. Thompson MADE the MOTION to approve the variance, and Mr. Hillman 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 lot depth variance is granted. Benefit sought by applicant is to subdivide the property where the existing lot depth is approximately 171 feet on the east side of the property, and 250 feet is the required minimum lot 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 no evidence that the land subdivision will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot width and area for the proposed lot and remaining land both exceed the minimum requirements for the R1 District.**

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 existing parcel has insufficient lot depth because of the shape of the existing parcel. There is no way to increase the lot depth on the eastern property line.**

3. Whether the requested area variance is substantial.

**The area variance of approximately 171 feet versus 250 feet is substantial. However, the entire remainder of the lot has depth greater than 170 feet, increasing up to 260 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 impact on the physical or environmental conditions of the neighborhood.**

5. Whether the alleged difficulty was self-created.

**The difficulty is self-created. However, the existing lot is nonconforming.**

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, **there will not be an undesirable change in the character of the neighborhood, nor will there be an adverse effect on the environmental conditions, the variance is somewhat substantial but the other lot dimensions exceed the minimums, there is no other feasible way to subdivide this parcel, and this is a self-created difficulty; 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, the BZA hereby grants the area variance requested by the applicant for a minimum lot depth of approximately 171.13 feet where 250 feet is required.**

Mr. Howarth thought the difficulty is self-created because the applicant is choosing to subdivide. Ms. Thompson accepted the change as a friendly amendment.

The vote was as follows:

Mr. Howarth	AYE
Mr. Hillman	AYE
Mr. Morreale	AYE
Ms. Thompson	AYE
Mr. Tyler	AYE

**Result:** Variance granted

### **Meeting Minutes (02/21/2018)**

Mr. Morreale MADE the MOTION to accept the February 21, 2018 meeting minutes, and Mr. Howarth SECONDED the MOTION. The motion was carried, 3-0, with Ms. Thompson and Mr. Tyler abstaining from the vote.

Mr. Howarth suggested the BZA formally elect a vice chair.

Mr. Howarth MADE the MOTION to appoint Mr. Morreale as vice chair of the BZA, and Mr. Hillman SECONDED the MOTION. The motion carried, 4-0, with Mr. Tyler abstaining from the vote.

### **Discussion on draft zoning**

With the Zoning Update Steering Committee meeting scheduled the following day, Mr. Howarth thought the BZA should discuss which option is best for preserving ag land. A document he and Roxanne Marino put together details the 80/20 proposal. ZUSC has asked stakeholder committees to weigh in on two possibilities: the original ZUSC proposal with 15 as the divisor to determine number of developable lots, and the 80/20 proposal from the BZA, where a maximum of 20 percent of a subdivided ag lot could be developed for residences and the remaining 80 percent would not be developable.

Ultimately, the BZA reached an informal consensus on the 80/20 proposal, finding that it offers flexibility to the landowner and limits development of ag land. Mr. Morreale noted that whether or not to continue to allow two primary residences per lot is a concern that needs to be addressed.

Flag lots were briefly discussed, with Ms. Kiley explaining that the current zoning has flag lots listed as a use whereas the proposed zoning removes it as a use because it is a type of subdivision.

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

Meeting adjourned at 8:54 p.m.

Respectfully submitted by Louis A. DiPietro II on April 11, 2018.