

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
FINAL MINUTES
Wednesday, May 16, 2018**

Approved:

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

Public in Attendance: Dan and Sue Sheerer, Shawn Ritchie, Linda Liddle, Jean Houghton, Richie Moran, Mrs. Robert Brown, Nelson Miller, James Arey, Jerry Van Orden, and Bill George.

Call to Order: 7:00 p.m.

Continuation of Public Hearing: Appeal Robert Brown, Sr. for area variances under Section 212-29 C Lot Area and Yard Requirements of the Town of Ulysses Zoning Law. This is for the purpose of subdividing a parcel with the width of approximately 175.6 feet at the right of way, where 400 feet is required. The lot includes an existing single family residence. The remaining land is a development district (DD-9 Flo-Tech), for which the district boundaries were recently revised by the Town Board. The property is located at 7323 and 7325 Halseyville Rd, Town of Ulysses, Tax Parcel Number 12.-4-15.23.

Ms. Kiley said the Town Board approved a change for the Flo-tech Development District in March 2018. The Browns' intent is to subdivide the 3.81 acre parcel (referenced as the "southern" property here for clarity) from the 10-acre total and transfer ownership to the applicant's daughter. The Development District designation would remain with the 3.15 acre parcel (the "northern" property) that houses the Flo-Tech business. There was discussion about the feasibility of relocating the property line on the 3.81 acre parcel, moving it further north so as to allow for greater road frontage. However, this option is not feasible due to the location of a water well on the northern property. Repurchasing additional road frontage from the Carpenter property, located to the south, was also proposed as an option for meeting the minimum requirement.

The Town received no written correspondences from neighboring property owners.

Resolution

Ms. Thompson MADE the MOTION to deny the variance request, and Mr. Morreale 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 width variance is granted. The benefit sought by applicant is to separate an existing house from an existing business, and the house property lot width would be approximately 175.6 feet

where 400 feet is the required minimum lot width:

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 in the near future. However, reducing the road frontage to less than half that required by zoning allows for density along the road out of keeping with the character of that zone.

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.

There are other possible solutions for gaining additional road frontage. The applicant could consider incorporating the 39 (my version says 29) ft access area to the rear field into this lot width and designate it as a right of way. The boundaries of the development district limit the available frontage beyond that to the North. The applicant could consider buying back some of the land they sold off to the south.

3. Whether the requested area variance is substantial.

The area variance of approximately 175.6 feet versus 400 feet is extremely 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 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 in that the applicant had created this arrangement of buildings and land.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows: **This subdivision will not immediately produce an undesirable change in the character of the neighborhood nor will it produce an adverse effect on the environmental conditions, but it is an extremely substantial variance, the difficulty is self-created, and other alternatives for additional road frontage could be pursued, so the benefits to the applicants do not 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 denies the area variance requested by the applicant for a minimum lot width of approximately 175.6 feet where 400 feet is required.

The vote was as follows:

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

Result: Variance denied

Public Hearing: Appeal by Lady 515 LLC (Maynard and Megan Fahs) for area variances under Section 212-61 Lot Area and Yard Requirements of the Town of Ulysses Zoning Law. This is for the purpose of constructing a single-family residence. The proposed side yard setback on the southern boundary would be 20 feet where 50 feet is the required side yard setback, and the proposed rear yard setback would be 30 feet where 50 feet is the required rear yard setback. The property is located in the Conservation District across from 1371 Taughannock Blvd, Town of Ulysses, Tax Parcel Number 18.-3-9.

The architect for the project asked the BZA if it were possible to grant the variance on the condition that he works with the Town Planning Board to ensure the project is more in line with Town zoning.

The Town received no written correspondences from neighboring property owners.

BZA members characterized the variance request as substantial. Mr. Tyler said he would be inclined to vote no since the proposal is antithetical to the Conservation Zone's intent. Mr. Morreale felt the request was substantial and that the benefits to the applicant are not clear. With the Planning Board not supporting the project as is, it is hard for the BZA to approve the request, Mr. Howarth said.

Mr. Morreale MADE the MOTION to table discussion of the proposal until the Planning Board concludes its own formal review, and Mr. Hillman SECONDED the MOTION. The motion was unanimously carried, 5-0.

Public Hearing: Appeal by Glen Miller for area variances under Section 212-40 F Lot Area and Yard Requirements of the Town of Ulysses Zoning Law. This is for the purpose of constructing a 12 ft by 10 ft storage shed north of the driveway, which would be located approximately two (2) feet from the side property line and 12 feet is the required side yard setback in the R1-Rural Residence District. The property is located at 8087 Falls Rd, Town of Ulysses, Tax Parcel Number is 13.-5-15.126.

The BZA did not discuss this item on the agenda and proceeded with the next project proposal.

Public Hearing: Appeal by Susan Sheerer for area variances under Section 212-47 G Lot Area and Yard Requirements of the Town of Ulysses Zoning Law. This is for the purpose of constructing an 18 ft by 24 ft addition behind (to the west) of the existing garage, which would

be located approximately 11 feet from the side property line and 15 feet is the required setback in the R2-Moderate Density Residence District. The addition follows the line of the garage but the property boundary is at an angle. The addition will be approximately 16 feet at the farthest location. The project also requires a lot coverage variance. The maximum lot coverage allowed is 7.5%, the existing lot coverage is approximately 9.3%, and with the proposed addition, the lot coverage would be 11.1%. The property is located at 4200 South St Ext, Town of Ulysses, Tax Parcel Number is 12.-2-9.1.

Ms. Sheerer said she and her husband have six cars, a trailer and a camper, and are running out of space. They have analyzed all options, and the back of the garage made the most sense for an addition.

The Town received no written correspondences from neighboring property owners. However, several neighbors addressed the Board.

Mr. George of 4144 South Street requested that if exterior lighting is to be installed it be pointed in a downward direction or shielded somehow. Mr. Van Orden, the Sheerer's nearest neighbor, has no objection to the proposal, so long as the building stays off his water line, which runs to the north of the property by 4 to 6 feet.

Mr. Hillman asked if swimming pools are considered in the lot coverage percentage and felt that they should be. However, as Ms. Kiley noted, lot coverage is determined by buildings and roofs and not by things like pools or driveways.

Mr. Morreale expressed reservations with the size of the addition, 18 feet by 24 feet. He added encroachment is not substantial, but the lot coverage is high. Mrs. Sheerer said her house is small, modular and narrow, and the basement is damp. At some point, she would like to have additional space to do photography work. Ms. Thompson felt similarly to Mr. Morreale, adding that putting more lot coverage there is not right for the lot. Have you considered buying additional land? she asked. Mrs. Sheerer said an alternative is to build up, like a double decker garage, but that would look awful. Later, she said she loves the neighborhood and desires to make the existing house work.

Mr. Tyler said he would be inclined to grant the variance because the applicant takes care of her property, and it is set back from the roadway, which minimizes the impact on the neighborhood. Mr. Hillman was not in favor of granting the variance, calling it substantial and noting that it is self-created.

Mr. Tyler MADE the MOTION to grant the variance, and Mr. Morreale SECONDED the MOTON

A discussion ensued about conditions on approval of the variance. Citing the neighbor's concern about lighting, Mr. Howarth felt a condition should address exterior lighting. Additionally, he suggested the roofline would be no higher than the existing roofline. These suggestions were offered as friendly amendments by Mr. Howarth and accepted by Mr. Tyler. The motion was proposed as follows:

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 construct an addition that would be as close as 11.2 feet from the side property line and an increase the lot coverage from 9.3% to 11.1%.

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 addition is not likely to produce an undesirable change in the character of the neighborhood. The addition will be located behind the garage and house. There is vegetation between the proposed addition and neighboring house located behind, or to the northwest.

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 septic system location behind the house limits construction in that direction. An addition on the front would change the aesthetics of the house. A shed is located behind the house on the southern property boundary. Regarding lot coverage, the existing structures already exceed the maximum coverage so any addition would require a variance. The irregularity of the lot determines that, and the variance on the setback is not uniform and is a small corner of the building.

3. Whether the requested area variances are substantial.

The area variance for the side yard setback – 11.2 ft vs 15 ft - is not substantial. The area variance for the lot coverage – 11.1% vs 7.5% 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 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 because the applicant is choosing to build an addition.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, **the addition will not have a negative impact on the character of the neighborhood, nor on the environmental conditions, the location of the septic system and existing shed limit other options. The side yard setback is not substantial but lot coverage variances is substantial, and difficulty is self-created. The benefits to the applicant 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 variances requested by the applicant for an addition that will be 11 feet on one corner of the lot line instead of 15 feet from the side property line and increase the lot coverage to 11.1% where 7.5% is the maximum allowed.

Subject to the conditions that any exterior lighting be dark-sky compliant and the roofline of the addition should be no higher than the ridgeline of the existing house

The vote was as follows:

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

Result: Variances granted

Public Hearing: Appeal by Richard and Patricia Moran for area variances under Section 212-54F Lot Area and Yard Requirements for the LS-Lakeshore District of the Town of Ulysses Zoning Law. This is for the purpose of constructing a tram that would be located 1 +/- foot at the closest point from the northern property line, where 12 feet is the required side yard setback for an accessory structure. The property is located at 1377B Taughannock Blvd, Town of Ulysses, Tax Parcel Number is 28.-1-4.1.

The Morans told the BZA they are in their 80s and can no longer traverse the 88 steps on their property.

The Town received one written correspondence from neighbor James Arey, who was in attendance. He supports the project, but his one concern is the location of his water line, which is located in the vicinity of the tram.

Mr. Miller is the neighbor to the north. He is concerned about the aesthetics of the tram being just a foot from his property line, and the possibility of erosion. It appears erosion is already an issue on the property, since the hill often washes out onto his property. He does not want to see anything that exacerbates erosion, like when a tree was removed from the Moran property. He suggested a privacy fence be installed or some erosion control. Ms. Moran said they cut down trees to open up their view.

A representative of Finger Lakes Tram, who will lead installation, said very little earth will have to be moved. The tram track is not invisible, he said: it would be 70 feet long with three sections of pipe and six sets of vertical pipe. Responding to a question from Mr. Morreale, the representative said the majority of the tram would be located inside the 12-foot buffer between the Moran and Miller properties. He also said Finger Lakes Tram would ensure that they are not installing any pipe near Mr. Arey's water line.

There was a difference of opinion between the Morans and Mr. Miller regarding erosion. Mr. Moran felt there has been no erosion on his property. However, BZA members expressed concern about erosion of the slope as well as the close proximity to the neighbor. The representative said Finger Lakes Tram installs a “jute mesh” and a ground cover to prevent erosion.

There are reasons for setbacks, Mr. Morreale said, and characterized Mr. Miller’s concerns as important to the discussion. Mr. Howarth agreed.

Mr. Miller suggested the Morans construct a six-foot high fence at the bottom of the tram, near the shoreline, to limit visual impacts. Ms. Thompson thought the fence to be a fair request.

A brief discussion ensued regarding surveying of the properties.

Ms. Thompson MADE the MOTION to approve the variance request, and Mr. Morreale 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 variance is granted by considering the five statutory factors. The benefit sought by applicants is to construct a tram on the north side of the property. The tram would be as close as 1 +/- ft from the side yard line where 12 feet is the required setback for accessory structures:

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 tram is not likely to produce an undesirable change in the character of the neighborhood nor be a detriment to nearby properties, although it is a small visible change and extremely close to the property line. The location will allow access from an existing deck at the top of the slope to the beach at the bottom of the slope.

2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance.

We heard from the applicant that there is no other alternative to this location. A ravine and the stairs are located on the southern boundary; the proposed location along the northern boundary utilizes an existing deck for a landing platform.

3. Whether the requested area variances are substantial.

The area variance of 1 foot instead of 12 feet is extremely substantial. The upper end of the tram does meet the setback requirement but gets closer to the property line as it goes downhill.

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 variance will have an adverse impact on the physical or environmental conditions of the neighborhood. The installation as described will include little land disturbance. We have discussed measures that should be taken to prevent increased erosion.

5. Whether the alleged difficulty was self-created.

The difficulty is self-created because the applicant is choosing to install a tram where the side yard setback cannot be met.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, **the tram will not have a negative impact on the character of the neighborhood except for a visual impact to the neighbor to the north. There may be a small impact on the physical or environmental conditions, and the proposed location is the most feasible for the installation. The proposed variance is substantial; the difficulty is self-created, however the benefits to the applicant outweigh the detriment to the health, safety and welfare of the neighborhood given some mitigating conditions.**

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 tram to be constructed 1 foot from the north property line where 12 feet is required under the following conditions: as part of this project, the owners will take measures to prevent any increase in erosion under or adjacent to the tram and will provide a section of aesthetically pleasing fencing at the bottom of the hill, on the applicant's property, and roughly 6 feet high that blocks views of the tram cabin from the neighbor.

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 Review (4/18/18)

Mr. Howarth MADE the MOTION to accept the April 18, 2018 meeting minutes, and Mr. Morreale SECONDED the MOTION. The motion carried, 3-0, with Mr. Hillman and Ms. Thompson abstaining from the vote.

Discussion on draft zoning

Mr. Howarth asked for Mr. Morreale to represent the BZA at the Zoning Updates Steering Committee's next meeting on May 24. He said ZUSC is proceeding with the 80/20 proposal but has yet to work out how to apply the proposal to parcels less than 10 acres. ZUSC will be discussing this at its next meeting. Mr. Howarth's proposed the BZA consider the following: for parcels less than 10 acres, allow one subdivision into two parcels and let road frontage be the determining factor.

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

Meeting adjourned at 9:43 p.m.

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