

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
FINAL MINUTES
Wednesday, June 20, 2018**

Approved: January 16, 2019

Present: Board Chair Bob Howarth, and members Andy Hillman, Steve Morreale, and Cheryl Thompson; Town Planner John Czamanske.

Public in Attendance: Marcus Robertson and Nick Robertson

Call to Order: 7:00 p.m.

Public Hearing: Appeal by Marcus Robertson for an area variance from the requirements under Section 212-29 E, Front Setback Requirement, in the A1-Agricultural Zoning District of the Town of Ulysses Zoning Law. This is for the purpose of constructing a single-family residence located approximately 51 feet from the road right-of-way, where 75 feet is the required front yard setback. The property is located at 3252 Mekeel Rd, Town of Ulysses, Tax Parcel Number 24.-2-6.

Both Robertsons offered an introduction to the project. Nick Robertson said there was an existing building that was taken down once the property was purchased. The plan is to build a ranch house, with a monolithic slab on grade. The applicant tried to site the house as far back as possible without having to take down too many mature trees, which are part of the property's appeal. Thus far, they have taken down 25 trees. The grade of the property also presents a challenge for siting the house's pad; the proposed location has a 2-foot, 10-inch elevation drop, whereas, on other areas of the property, there is a 5- to 6-foot change in grade. It is more affordable for the applicant to site the house as proposed. It would be even less costly to build the house if it were sited another 10 feet closer to the roadway, he said.

The Town received one written correspondence: Town Code Enforcement Officer Tom Myers supports the project and urged the BZA to consider the time, effort and money the Robertsons have put in to clean up the site.

Responding to questions from Mr. Morreale. Mr. Nick Robertson said they would have to take down an additional 15 to 20 trees if the house were sited out of the right-of-way setback. Mr. Howarth asked for clarification on Mr. Robertson's comment that the project would be cheaper if the house were built 10 feet closer to the roadway. Mr. Robertson said, at a 2-foot, 10 inch grade, the project requires roughly \$1,500 to \$2,000 for structural fill and grading. The property is flatter closer to the roadway.

A question was posed concerning setback to a nearby creek, but Mr. Nick Robertson was confident that the distance from the proposed house to the creek is far more than the 50 feet minimum setback. Mr. Howarth noted the Town's Zoning Updates Steering Committee – on which Mr. Howarth serves – is currently in favor of changing the frontyard setback in the R1

Zone to 50 feet. The previous house was located far closer to the roadway than the proposed house, he said, adding that it does not make sense to push the house further back and remove more trees.

Resolution

Mr. Morreale MADE the MOTION to grant 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 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 a single-family residence located approximately 51 feet from the road right of way in the RI-Rural Residence District, where 75 feet is the required front 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 proposed house 51 feet from the road right of way is not likely to produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The previous derelict house (now demolished) was more unsightly and much closer to the road than the house proposed by Mr. Robertson.

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.

According to the information submitted by the applicant, other methods have been considered but would require substantial fill and removal of several mature trees.

3. Whether the requested area variances are substantial.

The proposed house would achieve approximately two-thirds of the required front setback (51 feet versus 75 feet required), a 35-percent change, which 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 granting the variance would have an adverse impact on the physical or environmental conditions of the neighborhood. Rather, the environmental conditions have been vastly improved by the applicant.

5. Whether the alleged difficulty was self-created.

The difficulty is self-created because the applicant is seeking to build the proposed house within the front setback area.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, **construction of the proposed house 51 feet from the road right of way versus the 75 feet required will not have a negative impact on the character of the neighborhood, nor on environmental conditions. The front setback variance is substantial, and the difficulty is self-created. However, the benefits to the applicant outweigh the detriment to the health, safety and welfare of the neighborhood.**

For the reasons set forth above, with the expectation that the proposed setback will indeed be compliant with the likely, near-future zoning requirements, and upon the evidence, law and facts, the BZA hereby grant the area variance requested by the applicant for construction of a single-family residence located approximately 51 feet from the road right of way in the RI-Rural Residence District, where 75 feet is the required front setback.

The vote was as follows:

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

Result: Variance granted

Meeting Minutes Review (05/16/2018)

The BZA tabled action on the May 16, 2018 meeting minutes in order to clarify language in the Brown resolution.

Discussion on draft zoning

Mr. Morreale said the ZUSC is attempting to standardize lot coverage townwide because it varies from zone to zone, and recent applications to the Town have raised concerns over max lot coverage and whether or not impervious surfaces, like driveways and possibly even pools, should count toward max lot coverage. Mr. Morreale has proposed – for ag, rural residential, lakeshore and conservation zones, but not in the Hamlet or other high-development zones – a 5-percent maximum lot coverage area for buildings and a 7.5 percent maximum total lot coverage for all buildings and impervious surfaces.

Mr. Czamanske cautioned that calculating lot coverage with buildings is much easier, and much less onerous for the applicant, than calculating driveways. Some applicants may be forced to hire somebody to determine surface area of a proposed driveway, he said.

Mr. Morreale said the Town currently has no ability to deal with impervious surfaces, and the ZUSC zoning effort presents a chance to shore up parameters. It bothers him that a property owner in the steep slopes area or the Lakeshore Zone can have a three-car garage and a concrete pad. He wants to encourage semi-permeable surfaces.

The BZA unanimously endorsed Mr. Morreale's proposal for max lot coverage.

Mr. Morreale said ZUSC also discussed zoning parameters in Jacksonville, including the proposal for 5-foot sideyard setbacks and 10-foot frontyard setbacks, both of which he strongly opposes. BZA members also opposed the 5- and 10-foot setbacks.

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

Meeting adjourned at 7:54 p.m.

Respectfully submitted by Louis A. DiPietro II on July 29, 2018.