

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
FINAL MINUTES
Wednesday, November 21, 2018**

Approved: February 20, 2019

Present: Board Chair Bob Howarth, and members Andy Hillman, and David Tyler; Town Planner John Zepko.

Public in Attendance: Michael Boggs, Michael Hojnowski, David Kooperman, and Cora Fellow.

Call to Order: 7:01 p.m.

Public Hearing: appeal by Jules and Michael Hojnowski for an area variance under Section 212-47F Lot Area and Yard Requirements of the Town of Ulysses Zoning Law, for the purpose of constructing a garage at the property located at 1690 Trumansburg Road, Town of Ulysses, Tax Parcel Number 34.-3-40.

After a brief project overview from Mr. Hojnowski, Mr. Zepko reported the Town received no public correspondences in regard to the project. BZA members posed a few questions to Mr. Hojnowski concerning the garage size, placement, and the removal of an existing shed on the property.

Resolution

Mr. Hillman MADE the MOTION to grant the variance request, and Mr. Tyler SECONDED the MOTION. Mr. Tyler offered an amendment to the resolution, which Mr. Hillman accepted. The resolution is as follows:

The action is a Type II action under SEQR, 617.5(c) (12) "granting of individual setback and lot line variances;", and requires no further environmental review.

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 the garage approximately 25 feet from the right of way.

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 BZA finds it unlikely to produce an undesirable change to the neighborhood. The new garage is limited in placement by a NYSEG easement as shown on the map.

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.

This has been discussed previously when the applicant came before the BZA during its August 15, 2018 meeting, and we find there is no feasible way to modify the application.

3. Whether the requested area variances are substantial.

The variance 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 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.

It is self-created because the applicant has parked vehicles at his property for years, without a garage.

Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows: that the variance is **unlikely to produce an undesirable change to the neighborhood; there is no feasible way to modify the application; the variance is substantial; the variance is unlikely to produce an adverse impact on the physical or environmental conditions of the neighborhood, and the difficulty is self-created.**

For the reasons set forth above, and upon the evidence, law and facts, the BZA hereby grants the variance.

The vote was as follows

Mr. Howarth	AYE
Mr. Hillman	AYE
Mr. Tyler	AYE

Result: Variance granted.

Public Hearing: An appeal by David and Denise Kooperman for three area variances under Section 212-47.D Lot Area and Yard Requirements and Section 212-13.A – Standard for Flag Lots, of the Town of Ulysses Zoning Law, for the purpose of subdividing two Flag Lots at the property located at 5288 Curry Road, Town of Ulysses, Tax Parcel Number 12.-1-13.2. The property is located in the R1 Zone. The applicant is seeking relief to create two flag lots with approximately 30 feet of frontage each, where 50 feet of frontage is required. A third variance is requested to permit the frontage on the parent lot to be reduced to approximately 203.64’, where 250’ is required.

The Town received two correspondences in regard to the Kooperman application, the authors of which expressed environmental concerns. Tompkins County Planning has recommended that the BZA require the applicant to delineate all wetlands on the property and to elaborate on how the proposed development will not negatively impact wetland functions.

Given that there were just three BZA members, and that approval of his variance requests would require a unanimous vote, Mr. Kooperman asked that the BZA delay action on the proposal and the public hearing be left open. The BZA consented.

Public Hearing: appeal by Cora Fellow for an area variance under Section 212-29.C Lot Area and Yard Requirements of the Town of Ulysses Zoning Law, for the purpose of allowing a simple subdivision at the property located at 7115 Halseyville Road, Tax Parcel Numbers 12.-4-16.2 and 12.-4-16.1. The property is located in the A1 Zone. The applicant is seeking relief from the requirement of 400 feet of frontage to subdivide a lot with 375.42 feet.

Ms. Fellow seeks to subdivide a lot off her existing parcel, and build a small home for her disabled son. The remaining third lot, which currently has a mobile home on it, would remain as farmland.

The Town received no correspondences.

Mr. Hillman expressed his concerns that, if granting the variance, two of the three lots would be nonconforming.

Mr. Howarth informed the applicant that Town law allows two houses to a parcel. Have they considered simply adding a second house to the existing parcel? Ms. Fellow feels her house is too big for her son to live in by himself, and her current house may be sold in the future after she passes. The current proposal – to build a second house on its own parcel – would ease any future sale of either parcel.

Mr. Zepko mentioned the possibility of a flag lot. What difference would that make? Ms. Cora's brother said; there would still be two driveway cuts, and his disabled brother would have a long driveway to maintain.

Resolution

Mr. Tyler MADE the MOTION to grant the variance, and Mr. Hillman SECONDED the MOTION as follows:

The action is a Type II action under SEQR, 617.5(c) (12) "granting of individual setback and lot line variances;", and requires no further environmental review

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 seek relief from the requirement of 400 feet of frontage to subdivide a lot with 375.42 feet.

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.

It is unlikely to produce an undesirable change, especially since the building lot will have the full 400 feet of frontage.

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 proposal, as presented, is the best way to subdivide the parcel.

3. Whether the requested area variances are substantial.

No. It's 6.5 percent of the minimum 400 feet of road frontage.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The applicant has weighed amenities to the mobile home lot and the existing house lot, and the proposal seems to be a good balance of requirements for each. It is unlikely to produce any adverse effect or impacts on environmental conditions.

5. Whether the alleged difficulty was self-created.

Yes, the applicant has proposed a subdivision. The self-created aspect of the application is not basis of denial.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows: that the variance is unlikely to produce an undesirable change in the character of the neighborhood; that the proposal presents the best way to subdivide the parcel; that the variance request is not substantial; it is unlikely to produce any adverse effects or impacts on the physical or environmental conditions in the neighborhood, and the difficulty is self-created.

For the reasons set forth above, and upon the evidence, law and facts, the BZA hereby grants the variance.

The vote was as follows:

Mr. Howarth	AYE
Mr. Hillman	AYE
Mr. Tyler	AYE

Result: Variance granted.

Meeting minutes (09/19/18)

Mr. Howarth MADE the MOTION to approve the September 19, 2018 meeting minutes, and Mr. Hillman SECONDED the MOTION. The motion was unanimously carried.

Mr. Boggs gave a brief update on ongoing zoning rewrites led by the Zoning Update Steering Committee (ZUSC), which is currently reviewing the draft in sections. ZUSC has voted to proceed with a variation of the BZA's 80/20 conservation/development proposal that would require property owners to preserve 80 percent of a parcel at the time of subdivision, leaving the other 20 percent open for development. ZUSC's variation is for a 70/30 split between conservation and development. 75/25 was also discussed.

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

Meeting adjourned at 7:56 p.m.

Respectfully submitted by Louis A. DiPietro II on December 16, 2018.