

Ad Hoc Zoning Committee

Town of Ulysses  
Meeting Minutes

March 14, 2013

**Approved 3/28/13**

Attendees: Rod Hawkes (chairperson), Darby Kiley, Dave Kerness, Rebecca Schneider, Don Wilson

Public: Tim and Betsy Fallon, Lawrence McCann, Cheryl Chalmers, Liz Thomas

Mr. Hawkes called the meeting to order at 7:00 PM.

Ms. Kiley announced that Don Smith resigned from the committee. The Town Board appointed Dave Kerness at their meeting on March 12, 2013.

Mr. Hawkes asked if there were any additions to the agenda: Ms. Kiley would like to discuss Navigation Law recommendation to the Town Board and that will be discussed last on the agenda.

**STREAM SETBACK**

Ms. Schneider distributed three handouts: "Crafting a Lake Protection Ordinance" by Karen Capiella and Tom Schueler; Appendix 3: Municipally adopted buffer bylaws, as of 2007 from "Act 110 River Corridor Management and Lake Shoreland Management Programs" by the VT Department of Environmental Conservation (found here: <http://www.leg.state.vt.us/reports/2011ExternalReports/265312.pdf>) and "Lake Management Jurisdiction, City of Shell Lake, Wisconsin, Zoning Code."

In the document, "Crafting a Lake Protection Ordinance," Ms. Schneider pointed out the following sections:

P. 757 A common base width for a shoreline buffer is 75 feet (Heraty, 1993), although widths typically range from 50 to 150 feet. If a lake is used as a source of drinking water or is very pristine, buffer widths of 200 to 300 feet are often used (RICRMC, 1994; Standing *et al.*, 1997; Kitchell, this issue). The base width of a shoreline buffer should be expanded to include steep slopes or wetlands, or contracted when pre-existing development is located close to the shoreline.

P. 756 Most communities allow minor alterations along the shoreline to provide reasonable access and recreational use. For example, most typically allow only one pier or dock on each frontage lot, along with a limitation on its total length and extension into the lake (50 feet is common; Standing *et al.*, 1997). This provision prevents the proliferation of docks from detracting from the scenic character of the natural shoreline.

P. 758 Allowable uses in the shoreline buffer should be limited to clearing for shoreline access paths and view corridors. Many communities also permit trails and passive recreation within the buffer zone. In addition, boathouses and other accessory structures may be allowed within the buffer, but must be set back at least 25 feet from the shoreline. Some shoreline zoning ordinances also place limits on the number and square foot area of boathouses and other structures (Bernthal and Jones, 1998).

In Appendix 3: Municipally adopted buffer bylaws, as of 2007 from “Act 110 River Corridor Management and Lake Shoreland Management Programs,” Ms. Schneider drew attention to the list with stream buffer widths, lakeshore buffer widths, and building setbacks from streams or lakes. The building setback numbers ranged from 25 feet to over 200 feet, averaging more than 75 feet.

In the zoning code for the City of Shell Lake, Ms. Schneider pointed out that the vegetated buffer is either 50 or 75 ft and the building setback is either 75 or 100 ft.

Mr. Wilson said that the information presented is consistent and depressing, that everyone would need to tear down their house to meet these setback requirements. Ms. Schneider reminded him that the existing houses are grandfathered and these requirements would apply to new construction.

Mr. Wilson provided updated news that the Girl Scout councils have formed a regional group and some of the camps will be sold, but Camp Comstock is their gem and they are not going to sell and might even expand the camp.

Ms. Schneider stated that the committee has discussed stream setbacks at three meetings and would like to bring it to closure; the town does have zoning in place and if it’s not being enforced, we need a better fee/fine structure. She suggested three options: keep the existing numbers (25/50 feet); widen the buffer with one standard number; widen the buffer but have impermanent and permanent with different widths.

Mr. Kerness asked if this would cover streams created by culverts. Ms. Schneider responded that it would and that other municipalities do not make that kind of distinction.

Mr. Kerness suggested that the three large streams (Taughannock Creek, Willow Creek, and Glenwood Creek) might benefit from wider buffers but that should be applied for the entire length and not just the lakeshore district, but that is not the intent right now. On further discussion it was mentioned that land around Taughannock Creek is owned by the State Parks, Glenwood Creek is surrounded by the Ithaca Yacht Club, and the land around Willow Creek is all owned by Don Wilson. It seems to be unfair to apply a wider buffer that would single out one landowner.

**Ms. Schneider made a motion, seconded by Mr. Wilson to continue with the existing numbers in the current zoning: 25 feet for impermanent and 50 feet for permanent streams. All members voted in favor – motion passed.**

## **LOT SIZE**

Ms. Kiley followed-up on the last meeting's discussion of lot size. Tax maps were distributed that highlighted which parcels could be subdivided with the existing zoning and with the proposed zoning. On most of those lots, houses already do exist that would make subdivision difficult under either zoning. Based on updated numbers, with the current zoning, 5 lots could be subdivided, creating 5 new lots; with the proposed zoning, 11 lots could be subdivided to create 13 new lots.

The committee discussed why was the one acre originally suggested, and Mr. Kerness' recollection was that the rationale would encourage development under a controlled environment. The previous analysis looked at what would happen under different scenarios.

**Mr. Wilson made a motion, seconded by Mr. Kerness to keep the lot size at 2 acres. Mr. Kerness suggested a friendly amendment to also keep the lot width at 250 feet, Mr. Wilson seconded the amended motion. All members in favor – motion passed.**

## **Driveways/Parking**

Mr. Hawkes said that he was not prepared for a full discussion. The draft lakeshore zoning currently states:

Semi-permeable and permeable surfaces for driveways and parking areas are to be encouraged to minimize runoff and erosion.

Driveways and parking areas should follow contour lines of the land as much as possible.

Regrading of slopes for parking areas shall be minimized.

For safety purposes, parking areas shall be designed and built to avoid the necessity for drivers to back their vehicles onto Route 89.

Previous discussions included limiting impervious walkways but that was separate from the provisions above. Ms. Schneider said that the intent is to protect the percent of land cleared. If driveway length is limited, there will be more development right along the road. This discussion will be continued at the next meeting.

## **Navigation Law authority**

Ms. Kiley stated that in order for the Town to regulate in-lake structures, the Town needs authority under NYS Navigation Law. That authority comes from the NY State Legislature. The Town would need to request this authority via the Assembly and Senate representatives. In order to request this before the end of the legislative session (in June), a request needs to be sent sometime in April. The Town Board asked for this committee's recommendation on how to proceed. There are three options: (1) if this committee recommends that the in-lake structures are not regulated by the town, the next step is

in the town board's control; (2) the committee could recommend that the town board proceed with requesting authority as soon as possible; or (3) the committee could recommend that the town board wait until the next legislative session, i.e. after completion of the review, but that might mean that if the zoning changes are adopted, they are not enforceable.

Mr. Wilson asked what the ramifications are of taking on the authority. He started reading through a list of concerns, such as wildlife issues and toxic spills, and Ms. Kiley read the section of Navigation Law into which the town wants to be added under Section 46-a(2), which states that those municipalities listed

“may adopt, amend and enforce local laws, rules and regulations not inconsistent with the laws of this state or the United States, with respect to the restriction and regulation of the manner of construction and location of boathouses, moorings and docks in any waters within or bounding the respective municipality to a distance of fifteen hundred feet from the shoreline.”

**Ms. Schneider made a motion, seconded by Mr. Kerness recommending that the Town Board proceed to request authority from the NYS Legislature to have authority under Navigation Law to regulated in-lake structures. All members in favor – motion passed.**

NEXT MEETING:

The next meeting will be held on March 28 at 7:00 PM. The discussion will cover the resident survey, “driveways and parking areas,” and docks.

The meeting was adjourned at 8:36 PM.

Minutes submitted by Darby Kiley.