

Meeting Minutes  
Ad Hoc Zoning Committee  
Town of Ulysses

May 22, 2013

***Approved 5/30/13***

**Attendees:** Rod Hawkes (chairperson), Darby Kiley, Don Wilson, Dave Kerness (on phone)

**Public:** Tim and Betsy Fallon, Heinz and Anna Riederer, Lawrence McCann, Cheryl Chalmers, Frank Flannery, Mario Del Rosso, Liz Thomas

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

There were no changes to the agenda.

Meeting minutes from May 8 were accepted by the Chair with no changes.

**PRIVILEGE OF THE FLOOR**

Heinz Riederer read a letter, which is attached.

Tim Fallon read a letter and provided additional information, which are attached.

Lawrence McCann stated that months ago he asked for an explanation on audience attendance at committee and board meetings. He stated that he did not receive a response for several months. He stated that the meetings do not have an inclusive structure, see attached letter.

**REVIEW OF OUTSTANDING RECOMMENDATIONS**

Ms. Kiley reviewed several topics that remain for decision making.

Regarding **accessory buildings** adjacent to the lake, one member of the public had suggested allowing small accessory buildings closer to the lake than the required setback, that is remove the setback requirement. Ms. Kiley reviewed the County's database and collected the following information for existing accessory buildings:

56 out of 182 properties have accessory buildings (that are not boathouses)

Accessory Buildings

≤ 144 square feet: 33

> 144 square feet: 23

≤ 200 square feet: 42

>200 square feet: 14

Mr. Wilson stated that 200 square feet would be a more reasonable size because of the length of some watercraft. Mr. Kerness asked why should any buildings be allowed in the setback area; what is the

objective. Mr. Hawkes responded that it is for convenience and easy access. Mr. Kerness recommended that any accessory building should meet the setback requirement and the variance process can be used for landowners with special circumstances where their land does not allow them to meet the setback.

**Water Rights:** Ms. Kiley stated that the water rights concerns had been briefly discussed but the committee had not reached any conclusions. The draft zoning proposes to use the Colonial method, similar to the Town of Ithaca, but also adds in language where neighbors can come to an agreeable solution and that water rights line survey is filed with the county clerk. Mr. Wilson stated that the method is fair and provides a documentable line, and the USACE would still have to respond to navigation obstructions. Mr. Wilson recommended keeping the method as it was proposed as it is fair and reduces the chance of conflicts.

**Driveways and Parking:** Ms. Kiley stated that in the draft zoning language the following statement is found in the Lot Area Requirements section: the combined dimensions of impermeable walkways and ground level stairs shall be no more than 800 square feet in total area. The other members recalled that language was proposed to be removed because the section on driveways and parking was expanded. Mr. Wilson noted that additional language was recommended that engineering or construction plans be included in section 9.8.6.

**Moorings:** Mr. Kerness asked why the number of moorings per lot was not the same as the docks (1 per 200 ft of lake frontage). Mr. Wilson stated that based on the information presented by Mr. Riederer from Navigation Law, only one mooring is permitted per lot. Mr. Kerness said that this was not as clear to him because there are areas such as the Girl Scout Camp that have more than one mooring.

**Lot Coverage:** Mr. Kerness mentioned the language in section 9.7 (Maximum lot coverage shall be five (5) percent of the lot area) needed clarification so that it refers to building footprint.

**Boat Hoists:** This topic has been discussed but no recommendations have been approved by the committee. Mr. Wilson suggested that the pitch limit could be eliminated or could be agreed upon by neighbors. Mr. Kerness said that we can't put that in the zoning law. Mr. Wilson asked if roof pitch is a hypothetical or a real problem. Mr. Kerness stated that it is a real problem. Most boat hoists have a small profile, some do not, and the zoning should define what is required and a variance could be sought if there are reasons to do otherwise. Mr. Hawkes stated that the steep roof pitches can block the view from neighboring properties. The committee also discussed the boat hoist dimensions. The draft zoning numbers were 22 feet by 14 feet for a total of 308 square feet. Ms. Kiley referenced the existing conditions numbers: average of 26 feet by 17 feet = 442 square feet. Mr. Wilson asked about the rationale for having specific length and width limits instead of just a square footage. Mr. Hawkes suggested that a total of 400 square feet is the limit but without specific length and width dimensions.

#### **Additional Privilege of the Floor**

Mr. Hawkes opened the meeting up for discussion with the public.

**NEXT MEETING:**

The next meeting date is May 30 at 7:00 PM. The Committee will make recommended language decisions for docks, boat hoists, accessory buildings setbacks, water rights, and other miscellaneous changes.

The meeting was adjourned at 8:51 PM.

Minutes submitted by Darby Kiley.

TO: AdHoc Committee

FROM: H Riederer

DATE: May 22, 2013

SUBJECT: Resident Survey

At the request of former Town Supervisor, Roxanne Marino, this committee was provided with a critical analysis of the resident survey. (See – Minutes of February 28, 2013) - Subsequently, on April 25, 2013, I spoke about the lack of follow-up on this matter by the committee. My comments were directed toward the absence of any action and not as shown in the minutes as simply a complaint about a 'lack of discussion' and 'some errors'.

This committee based decisions regarding ultimate recommendations for new zoning on information, in part, obtained from this survey. (See –Minutes of March, 28, 2013)

In conclusion, I request that all decisions reached by the committee based on data from this survey be reversed.

Concurrently, it is recommended that a new controlled survey of lake shore property owners affected by this proposed new zoning be conducted. This should be accomplished during the summer months when most seasonal lake shore property owners are in residence.

Sincerely

HR

PS: On May 8, 2013, I provided the committee with existing NY State Law on moorings. My intent was to show no new law is needed. The committee subsequently proceeded to adopt said law 'verbatim' with only one minor modification. 'You made my point'. No new law is needed .....

Members of the Ad hoc committee,

Thank you for your time and service. It is a difficult job, and I think all of us passionately share the goal of a healthy Cayuga Lake, even if we strongly disagree on zoning. It was most unfortunate that greater participation of the affected property owners was not permitted because their participation would have surely provided balance and perspective.

For all the concerns expressed about the possibility of erosion and soil stability, I still rely on 37 years of Lakeside living observations. By and large development along the Lake has not caused huge issues, and where there have been minor issues, they have been rectified by the owners. My high density neighborhood was developed 117 years ago, and I don't think we are hurting the environment. The almost four decade observation of new construction along the Lake has seen steady and constant improvement. Items of public health and welfare such as septic systems, docks, and, emergency access driveways are all markedly better.

There continues to be a significant amount of misinformation being used or discussed by the Town and ad hoc committee.

- For example the WSHA 2013 survey is being used for decision making and justification, but its validity and usefulness as a survey has been challenged through verbal feedback, written notice to the town board, and written notice to this group.
- Local zoning applicable to certain other Finger Lakes has been used as zoning justification for the Town of Ulysses waterfront zoning in Cayuga Lake, when in fact there are several fundamental differences. Are you aware that Skaneateles Lake, Keuka Lake, and Canandaigua Lake crafted their lakeshore zoning because the Army Corps **DOES NOT** regulate pile driven docks on those lakes? Those lakes are **NOT** considered (Federally) Navigable waters as regulated under Section 10 of the Rivers and Harbors Act. The Army Corps has **NO** jurisdiction with respect to pile driven docks on Skaneateles, Keuka, or Canandaigua Lakes. Cayuga Lake dock construction **IS** regulated by the Army Corps under Section 10 of the Rivers

and Harbor Act, and their experience and expertise far exceeds the capability of our Town.

- Are you aware that the Army Corps does not and would not routinely permit the construction of a dock in front of a neighbor's property if that proposal was beyond the riparian rights of the permit applicant? (**Permit page 11**) The Army Corps expressed concerns for using power point presentations (as found on the Town web site) that may have been prepared for a purpose beyond the discussion of our particular issues, and instead encouraged reliance on the permit itself and phone calls for clarification. To paraphrase the Army Corps, '...building in front of a neighbor's property is not consistent with the Army Corps permit and they would not authorize...'. Furthermore, the Cayuga Lake bottom is owned by New York State and administered by the NYS Office of General Services (OGS), and the OGS would not allow dock construction in front on a neighbors littoral rights, and would not accept violation of a neighbor's littoral rights. On Lakes, OGS uses the word Littoral for Riparian.
- Are you aware that the Army Corps permit provides for redress if an approved application was incomplete or inaccurate? (**Permit Page 12**)
- Are you aware that the NYS Parks and Recreation already have rules in place which solves the Girl Scout mooring issue without the need for additional Town regulations?
- Etc. ....

Relative to some supporting documents that have been used by the Ad Hoc committee and Town of Ulysses,

- Are you aware that Shell Lake in Wisconsin, even by Wisconsin standards, is a tiny lake of 4 square miles with a maximum depth of 38'? Map available. Cayuga lake is 66 square miles with a maximum depth of 433', average depth of 179'. That lake is a seepage lake where ours is a drainage lake. The situations are not comparable.
- In the URBAN LAKE MANAGEMENT article Table 1, several environmental concerns are expressed. In response, we have no shortage of white tail

deer, we do have nesting Bald Eagles in the back yard, I can well assure of our much appreciated song birds, and while not a fisherman, I observe great success for those fishing out front. The concerns summarized in Table 1 of the URBAN LAKE MANAGEMENT article are not seen along our waterfront.

- Additionally, are you aware that Hemlock Lake, previously cited for its particular zoning, is a forever wild wilderness Lake with no private water front ownership? Use of the zoning for that Lake for the Town of Ulysses zoning is not useful at all.
- Etc. ....

With all due respect, when pictures of erosion in Ethiopia are used as examples of items to be feared in the Town of Ulysses, I fear for the balance and perspective of your deliberations.....

In the concerns and discussion, there has been a common theme of erosion concerns, and little sense of the possibility of engineering solutions to the concerns. As a listener, I often heard many comments about preferences or likes. I'm Ok with folks having different likes and preferences than mine, but not when their differences of likes and preferences are being codified into zoning without justification and with subjective standards.

For those active in local government and who have expressed a desire for these new regulations and own property on the lake, whether by purchase of developed properties, or by having the pleasure of developing/rebuilding their properties like myself, or Dave Kerness, or Don Wilson, or Don Smith, or Ken Zesserson or Liz Thomas, do you really feel that your building activities, or those done before you, have been decidedly detrimental to the local environment? Rhetorically speaking, which of the proposed non-conforming features on your properties do you feel need to be removed for the sake of the environment? We have all enjoyed a responsible and good life with our properties, development of which for most of us is pretty much complete and to our personal satisfactions. The next generation of residents should be allowed the same responsible opportunities.

I think the Black Diamond trail is a wonderful idea, and we have used the trail on and off for decades. That being said, the recent construction activity has caused cutting and clearing of trees, and construction and grading along a creek that would send many of the zoning proposals most fervent supporters into an absolute frenzy. Here is a photo of some of the most recent erosion. Beyond that bridge- construction part of the project, the brush hog or other tree clearing operations have stripped back trees and vegetation that have taken decades to grow. Again, I have no complaints with the building activities of my fellow lake dwellers, and absolutely no complaint with the Black Diamond trail development because I think they will not have long lasting negative impacts on our local environment, and/or because they will take measures to correct issues if they arise. Your fellow citizens are equally capable.

As an ad hoc committee, you have the power to say you are either not there yet with your deliberations, or you could use some additional perspective and balance, and/or maybe this whole thing needs to be rethought. Thank you again for your time and expressed concerns for our shared passionate goal of a healthy Cayuga Lake.

Tim Fallon  
Secretary, ULA





Figures 2 and 3 are examples of shoreline lots with unregulated and regulated "improvements."

While the individual effect of each of these improvements is relatively minor, their cumulative impact on the integrity and attractiveness of a shoreline buffer can be severe. For example, a survey of users in a Minnesota lake found that a majority of the respondents felt that multiple shoreline structures and lawns had a negative impact on the lake (Warbach *et al.*, 1990).

When a person is on a lake, he wants to see a natural shoreline. Yet, when the same person is on the shore, he wants to see a lake. This can create a lot of pressure on the buffer, as property owners clear trees and remove vegetation to promote a better view of the lake. However, one individual's quest for a better view of the lake diminishes the quality of the view for another. Thus, all property owners share a common interest in limiting clearing along the shoreline to screen their neighbors, while still getting at least a decent glimpse of the lake

themselves. Consequently, an LPO needs to carefully prescribe how and where view corridors can be created, and include realistic measures to inform land owners on what uses, structures and activities are restricted or prohibited in the shoreline buffer zone.

*Recreational issues are paramount management concern.*

Lakes that are actively used for fishing, boating, swimming and other forms of recreation require direct access to the shoreline and across the buffer. While some lakes do have public access and central facilities (such as boat ramps, swimming beaches, etc.), many do not. In these lakes, each waterfront owner creates his or her own recreational access. This can create an inherent conflict between the property owners and outside users of the lakes. Therefore, although the shoreline buffer usually remains in private ownership, it is important to address issues of both public and private recreational access in an LPO.

**Table 1. Recent Research Documenting Ecological Benefits of Shoreline Buffers**

Key Finding	Reference	Location
Coarse woody debris positively correlated with riparian tree density and negatively correlated with lakeshore cabin density	Christensen <i>et al.</i> , 1996	17 north temperate lakes in northern Wisconsin and the Upper Peninsula of Michigan
Less fish activity, less fish feeding, and increased wave disturbance in fringe zones adjacent to lawns versus undeveloped shorelines	Collins <i>et al.</i> , no date	2 sites on Lake Rosseau, Ontario, an oligotrophic lake
Increase in development and decrease in vegetative cover is correlated with decrease in lakeside populations of white-tailed deer	Voight and Broadfoot, 1995	Lake Muskoka, Ontario
Increase in development and decrease in vegetative cover is correlated with decrease in shoreline populations of nesting bald eagles	Buehler <i>et al.</i> , 1991	Chesapeake Bay Shorelines
Increase in development and decrease in vegetative cover is correlated with decrease in lakeside populations of loons	Heimberger <i>et al.</i> , 1983	Northern Ontario lake
Increase in development and decrease in vegetative cover is correlated with decrease in lakeside populations of songbirds	Johnson and Brown, 1990	Eastern Maine lake
Species richness and abundance of fish were greater along undeveloped shorelines versus developed shorelines in nearshore and intermediate depth zones	Bryan and Scarnecchia, 1992	Spirit Lake, Iowa 2266 hectare glacial lake
Decrease in plant cover from human activity is correlated with a decrease in fish abundance	Chick and McIvor, 1994	Lake Okeechobee, Florida
Decrease in plant cover from human activity is correlated with a decrease in fish abundance	Hinch and Collins, 1993	Ontario

} DEER ARE PLENTIFUL!

} NESTING BALD EAGLE BEHIND MAPLEWOOD POINT

} WE HAVE EXCELLENT FISHING.

↖ WE ARE A RURAL TOWNSHIP



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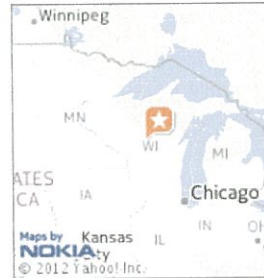
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Today  Partly Cloudy 77°F | 57°F  
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SHELL LAKE  
MAX DEPTH 38'  
SIZE: 2583 ACRES  
(4 SQ. MILES)

CAYUGA LAKE  
MAX DEPTH 433'  
AVE DEPTH 179'  
SIZE 66 SQ. MILES

Letter read to Ulysses Ad Hoc Committee 5/22/13

The AHC has not adequately addressed the Public Informational Meeting statements of October 24, 2012. The TB and AHC have not allowed an inclusive structure to allow citizen input. Instead a super-majority of TB and PB members populate the AHC.

We brought up Health and Safety issues; reading a letter to the AHC, at a recent meeting. That letter is not present in the official posted minutes, nor are our supporting documents which were presented at that meeting. This is improper procedure and a violation of Opening Meetings Law.

I am requesting that the AHC continue deliberations, allowing for the inclusion of public input and expertise, before the process of formalization of new zoning regulations begins. This process has been unfairly fast-tracked and Ulysses citizens, taxpayers and landowners deserve better from their elected officials and board members.

Slow the process, deliberate with facts and democratic input. What is the hurry?

Lawrence McCann  
Cheryl Chalmers