

**TOWN OF ULYSSES  
BOARD OF ZONING APPEALS  
FINAL MINUTES  
Wednesday, August 19, 2020**

**This meeting was held via video conferencing due to COVID-19.**

**Approved:** December 16, 2020

**Present:** Board Chair Steve Morreale, and members Tom Butler, Robert Howarth, and Cheryl Thompson; Town Planner John Zepko.

Board members Andy Hillman and David Tyler were excused. Mr. Butler was named a voting member.

**Public in Attendance:** James Gatch, Carl Deitrick, and Linda Liddle.

**Call to Order:** 7 p.m.

**Review of Meeting Minutes:** June 17, 2020

Mr. Howarth MADE the MOTION to accept the amended meeting minutes for June 17, 2020, and Ms. Thompson SECONDED the MOTION. The minutes were accepted, 3-0, with one abstention.

**Public Hearing** – Appeal by James Gatch, for an area variance from §212-29 D. (lot width at front lot line requirement of the AR Zone). The applicant is seeking to subdivide a 2-acre lot with 227.5 feet of road frontage, where 400 feet is required. The property is approximately 30.8 acres in size and is located on Mekeel and Jacksonville Roads, Tax Map # 24.-2-8.32

Eight years ago, Mr. Gatch purchased his property with the intent to build a house there. In 2014, 1.91 acres of his property on the MeKeel Road side was subdivided off to accommodate a house for his daughter and son-in-law. That subdivision required a variance since the lot had 219 feet of road frontage, where 400 feet is the minimum. Mr. Gatch is requesting a similar variance with this current project, which is located directly adjacent to the subdivided lot from 2014. Since that time, however, the Town rezoned the area in and around the Hamlet of Jacksonville, wherein the Hamlet Neighborhood needs only 50 feet of road frontage. Mr. Gatch noted part of MeKeel Road is zoned as Hamlet Neighborhood but his portion is not; lots in the area around him need only a minimum of 50 feet of frontage, while he needs a minimum of 400 feet. Mr. Gatch has a couple of options in subdividing the 2-acre lot on MeKeel Road: he could seek the frontage variance as requested, or bypass the variance and develop a flag lot off Jacksonville Road, where no frontage variance would be needed. Mr. Gatch said the land off the Jacksonville Road side is too wet for developing a house there. If he can't build in the proposed location, there isn't another good spot, he said.

Notice of the hearing was advertised in the newspaper of record, on the Town's website, disseminated via Town list servs, and Gatch's neighbors were notified, according to Mr. Zepko. The Town did not receive any written comments, but one neighbor did visit Town Hall to review property maps, he said.

No public comments were offered. The public hearing was closed.

In reviewing Mr. Gatch's previous variance request from 2014, Mr. Butler said the only change is that the proposed lot is 8 feet wider. Mr. Howarth thought this proposal differs from the previous request in 2014. Referencing the minutes from the 2014 meeting, he said the Board had been led to believe the McKeel/Jacksonville Road area, which includes Gatch's property, was to be rezoned as part of the Hamlet and thus subject to less stringent zoning parameters. But it wasn't; the Town Board decided parts of that area, including Mr. Gatch's property, should be conserved in the Ag District.

Mr. Gatch said he's dumbfounded as to why 11 acres of farmland adjacent to his property has been rezoned to Hamlet and his hasn't. A road-frontage minimum of 400 feet seems counterproductive to agriculture because it eats up more land, he said.

Mr. Butler thought Mr. Gatch's proposed location for the house made sense. Ms. Thompson liked the flag lot alternative because the variance, as proposed, was significant, and she's concerned about precedence if the Board were to okay the variance. Mr. Morreale said his issue is with carving off a separate piece of property that would be nonconforming based on frontage.

On the topic of a flag lot off Jacksonville Road, Mr. Gatch said he'd like to retain all 408 feet of road frontage, in the event his wife ever needed to sell off property. Since his property on the Jacksonville Road side is zoned as Hamlet Neighborhood, he could create 8 lots there, each with 50 feet of frontage, he said, and chopping up that frontage now with a flag lot would devalue the property. It's not an option, he said.

At this time, the Board reviewed and deliberated on the five criteria. Some board members saw the flag lot alternative with access to/from Jacksonville Road. Ultimately, Mr. Gatch said he would be okay with a flag lot off Jacksonville Road, though Mr. Zepko did note that a flag lot was not a great way to lay the land out. Mr. Zepko asked Mr. Gatch if he wanted the Board to proceed with a vote on the variance request as originally proposed. He said yes.

Mr. Butler MADE the MOTION to take action on the resolution, and Ms. Thompson SECONDED the MOTION.

After changes were offered and accepted, the resolution read as follows:

**Whereas**, the appeal by James Gatch, for an area variance from §212-29 D. (lot width at the front lot line in the AR Zone). The property is located at the intersection of Jacksonville and Mekeel Roads, Tax Map # 24.-2-8.32 and is ~30.8 acres in size; and

**Whereas**, the relief requested is to permit the subdivision of an approximately 2 acre lot with 227.5 feet of road frontage, where 400 feet is required; and

**Whereas**, the action is a Type II action under SEQR 617.5(c) (16) “granting of individual setback and lotline variance...” and requires no further review; and

**Whereas**, the action does not require 239 review, per the agreement made with Tompkins County 24 November 2003.

**Whereas**, 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 permit the subdivision an approximately 2-acre lot with 227.5 feet of road frontage, where 400 feet is required; and

**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.**

This property is in the Agricultural Zone, and while adjacent to the Hamlet Zone, it is adjacent to a large agricultural area immediately to the south. The neighborhood could be negatively impacted by the addition of a residence.

**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.**

Sufficient room appears to exist on the property to subdivide conforming lots on Jacksonville Road. The applicant could create a flag lot with the base of the pole intersection with Jacksonville Road.

**3. Whether the requested area variances are substantial.**

The variance is substantial. The applicant is seeking a variance to decrease the minimum width at the front lot line from 400 feet to 227.5 feet.

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

The project is small in scope. It is unlikely that the project will result in significant adverse environmental impacts.

**5. Whether the alleged difficulty was self-created.**

The difficulty is self-created.

**NOW THEREFORE BE IT RESOLVED AS FOLLOWS,**

Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes that;

Decreasing the minimum lot width at the front lot line from 400 feet to 227.7 feet could have a negative impact on the character but not the environmental conditions of the neighborhood. The variance is substantial, and the difficulty is self-created. However, the benefits to the applicant outweigh the potential 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 does grant the area variance requested by the applicant to decrease the minimum lot width at the front lot line from 400 feet to 227.7 feet.

**Motion\_Butler**

**Second\_Thompson**

	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>
<b>Morreale</b>		1	
<b>Howarth</b>		1	
<b>Tyler</b>			
<b>Hillman</b>			
<b>Thompson</b>		1	
<b>(alt) Butler</b>	1		

**Result:** Variance denied

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

Meeting adjourned at 9:15 p.m.

Respectfully submitted by Louis A. DiPietro II on December 14, 2020.