

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
FINAL MINUTES
Wednesday, December 16, 2020**

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

Approved: January 20, 2021

Present: Board Chair Steve Morreale, and members Andy Hillman, Robert Howarth, Cheryl Thompson, and Tom Butler; Town Planner John Zepko, and Town Board Liaison Katelin Olson.

David Tyler was excused, and Mr. Butler was named a voting member in his absence.

Public in Attendance: Linda Liddle, George Breuhaus, and Michael Carpenter.

Call to Order: 7 p.m.

Review of Meeting Minutes: August 19, 2020.

Mr. Howarth MADE the MOTION to accept the August 19, 2020 meeting minutes with minor revisions, and Mr. Butler SECONDED the MOTION. The motion was carried, 4-0, with Mr. Hillman abstaining.

Public Hearing – Appeal by Justine Waldam, 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 190.67 feet of road frontage, where 400 feet is required. The existing property is approximately 14.49 acres in size and is located at 1113 Glenwood Heights Road, Tax Map # 31.-1-10

Mr. Carpenter, a construction manager and the Town of Enfield inspector, presented on behalf of Ms. Waldam, who had originally sought property in Enfield. Ms. Waldam's elderly father, along with his wife, recently moved in, and she needs a larger house to accommodate them and her three kids. A friend of Ms. Waldam's, along with the friend's spouse and children, intend to also live in one of the houses on the Glenwood Heights Road property. Mr. Carpenter said the proposed subdivision is the best configuration considering the location of the existing well and septic system. The applicant considered a flaglot, but that would mean entry over top of the existing septic. A flaglot is also possible on the property's far east side, but as Mr. Carpenter noted, they would need to remove trees and construct a bridge in order to traverse the creek, which splits the property. The applicant wants to build a two-story, 3,000 square foot house and garage that are energy efficient. Mr. Carpenter said he specializes in building net-zero energy houses.

Notice of the public hearing was placed in the Ithaca Journal, and neighbors were notified, according to Mr. Zepko. There were no formal comments submitted to the Town for this project,

but Mr. Zepko did have a conversation with a neighbor who saw no problem with the project, so long as it was residential in nature.

Mr. Breuhaus, a neighbor residing at 1055 Glenwood Heights Road, said water is his primary concern. Paradoxically, the closer residents are to the lake, the less water there is, he said. Water quality had been excellent at Mr. Breuhaus's residence for years, but over the last five to seven years, his water has increasingly become more sulfuric. Each year, his water has sulfur in it from August through the winter. He suggested that the addition of new houses and the draw on water from the nearby Reynold's buffalo farm are stressing the aquifer. Drawing water from the property pond, which Mr. Breuhaus was told is fed by a spring, would be ideal.

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

Mr. Hillman noted the applicant could proceed with the project without a variance by way of a flaglot; the pole could run on the property's eastern side of, up over the creek and to the "flag." However, Mr. Carpenter said he would need approvals from the DEC for such a flaglot, and a bridge of that size would be significant. Having discussed this option with Mr. Carpenter, Mr. Zepko said building a bridge to cross a stream of that size would be very expensive, and approval of the bridge might be tenuous. Along with approvals from the DEC, the applicant would also need permits from NYSEG. He thought Mr. Carpenter should first seek a variance before considering a flaglot.

Mr. Howarth said the request is significant, representing a sizable change from a minimum of 400 feet of road frontage. He opposes the proposal as presented, even more so given there's an alternative flaglot option. Mr. Hillman agreed that the 400-foot minimum frontage requirement is very important.

Mr. Carpenter added that installing a bridge would compromise the creek's natural beauty. Functionally and environmentally, the proposed location is best.

The DEC wouldn't be too concerned with the creek, Mr. Breuhaus said; it's a Class C stream, the least restrictive category of streams. Mr. Zepko confirmed this, but added there is pending legislation to extend protections to all streams.

After a few brief questions among members, the BZA moved onto the resolution.

Mr. Hillman MADE the MOTION to act on the resolution, and Mr. Howarth SECONDED the MOTION as follows:

Whereas, the appeal by Justine Waldam, represented by Michael Carpenter, for an area variance from §212-29 D. (lot width at the front lot line in the AR Zone). The property is located at 1113 Glenwood Heights Rd, Tax Map # 32.-1-10 and is ~14.49 acres in size; and

Whereas, the relief requested is to permit the subdivision of an approximately 2-acre lot with 190.67 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 of an approximately 2-acre lot with 190.67 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 the 400-foot road frontage minimum is important to maintaining the character of the neighborhood.

- 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 applicant can complete the subdivision in conformance with Town of Ulysses zoning through a conforming flag lot.

- 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 190.67 feet.

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

While the project is small in scope, it is unknown if the project will have adverse environmental impacts to the neighborhood given water quality and quantity issues as experienced by some nearby neighbors.

- 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 190.67 feet would have a negative impact on the character and possibly the environmental conditions of the neighborhood. The variance is substantial, and the difficulty is self-created. The benefits to the applicant do not 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 not grant the area variance requested by the applicant to decrease the minimum lot width at the front lot line from 400 feet to 190.67 feet.

Motion: HILLMAN

Second: HOWARTH

	Aye	Nay	Abstain
Morreale	1		
Howarth	1		
Tyler			
Hillman	1		
Thompson	1		
(alt) Butler	1		

Result: Variance denied

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

Meeting adjourned at 8:36 p.m.

Respectfully submitted by Louis A. DiPietro II on January 11, 2021.