

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
MEETING MINUTES
Wednesday, April 18, 2018**

Approved: May 16, 2018

Present: Board Chair Bob Howarth, and members Steve Morreale, Cheryl Thompson and David Tyler; Town Planner Darby Kiley.

Andy Hillman was absent.

Public in Attendance: Edward Abelson, Jose Guisado, Ron and Helen Riley, and Bryan Grout

Call to Order: 7:00 p.m.

Continuation of Public Hearing: Appeal by Amy and Edward Abelson for area variances under Section 212-29C Lot Area and Yard Requirements for the A1-Agricultural District of the Town of Ulysses Zoning Law. This is for the purpose of a two-lot subdivision, where a vacant lot (Parcel B) would have 356.00 +/- feet of road frontage, which is less than the 400 feet required. This lot would be 5.053 acres with a lot depth of 645 +/- ft. The other lot, on which the Lakshmi Institute is located (Parcel A), would include 18.015 acres with a lot width of 489.77 +/- ft and lot depth of 645 +/- ft. The property is located at 1966 Trumansburg Rd, Town of Ulysses, Tax Parcel Number 20.-3-9.21.

Having considered the Board's suggestions from its previous meeting, Mr. Abelson said the map has been redrawn to extend frontage as far as possible up to the Lakshmi drive. Explaining one change on the map, Ms. Kiley said the subdivision line separating the two parcels moved further south off the ditch.

Mr. Morreale MADE the MOTION to approve the variance, and Mr. Tyler SECONDED the MOTION as follows:

By considering the five statutory factors, the BZA reviewed the record and weighed the benefits to the Applicants against the detriment to the health, safety and welfare of the neighborhood if the lot width variance is granted. Benefit sought by applicant is to subdivide the property where the proposed lot width is approximately 356.00 feet and 400 feet is the required minimum lot width:

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 variance.

There is no evidence that the land subdivision will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot depth and area for the proposed lot and remaining land exceed the minimum requirements for the A1-Agricultural District.

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

If the proposed property line was shifted approximately 44 feet to meet the minimum, the boundary line would cut off the existing driveway to the yoga studio and bisect the area that was formerly a mini-golf course. In addition other options were assessed, and this was the most feasible option.

3. Whether the requested area variance is substantial.

The area variance of approximately 356 feet versus 400 feet is substantial, however, the lot area is more than double the minimum lot size and the lot depth exceeds the minimum by over 400 feet.

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.

The difficulty is self-created, however, the proposed new lot follows a natural break in the property between the existing infrastructure and the field.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, **there will not be an undesirable change in the character of the neighborhood, nor will there be an adverse effect on the environmental conditions, the variance is substantial though the other lot dimensions greatly exceed the minimums, the proposed subdivision line follows a natural break in the property, and the difficulty is self-created; however, the benefits to the applicants outweigh the 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 grants the area variance requested by the applicant for a minimum lot width of approximately 356.00 feet where 400 feet is required.

The vote was as follows:

Mr. Howarth	AYE
Mr. Morreale	AYE
Ms. Thompson	AYE
Mr. Tyler	AYE

Result: variance granted

Public Hearing: Appeal by Jerry Randall Myrick for area variances under Section 212-54 F Lot Area and Yard Requirements of the Town of Ulysses Zoning Law. This is for the purpose of constructing a second floor addition on the south side of the existing house, which would be located approximately 13 feet from the side property line and 15 feet is the required setback in the LS-Lakeshore District. The second floor addition would line up with the existing house footprint, which is 13 feet from the side property line. The property is located at 1575 Taughannock Blvd, Town of Ulysses, Tax Parcel Number 18.-1-3.

Mr. Guisado is the architect on the project. He mentioned the future construction of a garage at the site, which was not part of the Board's packet and was not under consideration. Ms. Kiley asked how much Mr. Guisado planned to cut into the existing hillside for the garage, to which Mr. Guisado said about 6 to 8 feet. A neighbor pointed out that the garage's planned location near the hillside bank may interfere with water runoff. She asked if plans took water runoff into consideration. It will be, he said, but he is not at that point in the plans yet. Mr. Howarth explained that if the garage does not meeting zoning requirements, the applicant would need to return to request an additional variance. Mr. Guisado believes the two-car garage may exceed the maximum area coverage limit. He also mentioned possible future upgrades to the existing dock.

Mr. Morreale asked how much area would be added to the house. Mr. Guisado said roughly 28 vertical feet from the foundation to the top of the ridge line. The top gable illustrated on the map should say east elevation, not south, Ms. Thompson pointed out. The neighbor said she has no problem with Mr. Myrick's plan; however, the plans do indicate a balcony on the 13-foot setback side. How deep is the balcony? she asked, to which Mr. Guisado said 4 feet. Mr. Kiley said you're allowed to extend a balcony by up to 2 feet, meaning that a 4-foot deep balcony would not meet zoning parameters. Mr. Guisado said he would eliminate the balcony on the side where it encroachments on the setback.

Ms. Thompson MADE the MOTION to grant the variance, and Mr. Morreale SECONDED the MOTION as follows:

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 variance is granted. The benefit sought by applicant is to construct a second story addition on the south side of the existing residence in line with the existing wall, where the side yard setback would be 13 feet and 15 feet is required.

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 this area variance.

The second story addition is not likely to produce an undesirable change in the character of the neighborhood. The addition will be in line with the existing first floor that is already 13 feet from the side property line.

2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance.

Because of the location of the house on the parcel, any second story addition that would line up with the south side would require an area variance.

3. Whether the requested area variances are substantial.

The area variance for the side yard setback on the south side – 13 ft vs 15 ft - is substantial, but is not a further encroachment than already exists. The house is already 13 feet from the property line as the existing house and the addition would follow the same line and not interfere with hydrology.

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 not likely that the variance will have an adverse impact on the physical or environmental conditions of the neighborhood. The proposed addition would be located on the existing building footprint.

5. Whether the alleged difficulty was self-created.

Yes, this difficulty is self-created because the applicant is choosing to construct the addition; however the existing structure is already nonconforming.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, **the addition will not have a negative impact on the character of the neighborhood, nor on the physical or environmental conditions. The proposed side yard setback variance is substantial, but not very substantial and is not a further encroachment than already exists. The difficulty is self-created, however the existing house encroaches on the side yard to the south. Therefore the benefits to the applicant outweigh the 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 grants the area variance requested by the applicant for a side yard setback of 13 feet where 15 feet is required, subject to the condition that no balconies or decks are added on this side of the house.

The vote was as follows:

Mr. Howarth	AYE
Mr. Morreale	AYE
Ms. Thompson	AYE
Mr. Tyler	AYE

Result: variance granted

Public Hearing: Appeal by Rodney Davis for area variances under Section 212-135A Standards for roadside stands and 212-122E Standards for signs of the Town of Ulysses Zoning Law. This is for the purpose of utilizing a 400 square foot tent to sell products not produced on site, where 240 square feet is the maximum area allowed. The purpose is also to install a sign that is 20 square feet, where 12 square feet in the maximum allowed. The property is located at 5272 Dubois Rd, Town of Ulysses, Tax Parcel Number 18.-4-26.2.

Ms. Riley said they have been selling flowers for the last three years and have grown bigger and drawn more customers. They need more space. The Town received a letter from the Brown residence in opposition to the proposal.

Mr. Grout asked for clarification about how the BZA defines substantial. He said he drives by the facility regularly, knows Mr. Brown and is inclined to side with Mr. Brown's position. As a neighbor and taxpayer, he said he is not in favor of the Board granting this variance.

Ms. Riley said she is unclear on what their options are. The proposed sign could be moved when the business is closed, but the tent would stay up through the summer. Currently, they can hang roughly 20 plants out for sale, but they would like to have more room for more plants. With a 20-by-20 ft tent, they could have all of their merchandise in one place, she said. I think what you're asking for is too big for a roadside stand, Ms. Thompson said, but a 200-square foot tent – which the Rileys have now – would leave an additional 40 square feet of allowance and remain within zoning parameters. If selling items produced onsite, it would be considered a farm stand, Ms. Kiley said.

Mr. Morreale asked about an off-road parking area, and the applicants said customers pull into their driveway, which can fit up to eight vehicles at a time. The stand gets a couple customers at a time, and up to five or six at a time on the weekends, Ms. Riley said.

Mr. Howarth feels the request is substantial and does not support it. Mr. Morreale agreed that the request for both was substantial. Alternative approaches would be welcomed, he said.

Ms. Thompson MADE the MOTION to deny the variance, and Mr. Morreale SECONDED the MOTION as follows:

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 applicant is to expand the area where goods can be sold and to use a larger sign than what is allowed by zoning.

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 larger tent area and large sign are substantially larger than current use and what the zoning allows.

2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance.

The business could be conducted in a 240 square foot area and the sign could be effective and comply with zoning.

3. Whether the requested area variances are substantial.

The area variances for both the roadside stand and sign are 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 not likely 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.

The difficulty is self-created because the tenants are choosing to install a tent and sign that are larger than the zoning allows.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows, **the roadside stand and sign will have a negative impact on the character of the neighborhood, and they will be a detriment. There are other smaller options feasible to the applicant. The proposed roadside stand and sign variances are substantial; however it will not pose a significant impact to the environment or physical conditions. The difficulty is self-created. Therefore the benefits to the applicants do not outweigh the 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 variances requested by the applicant for a roadside stand area of 400 square feet where 240 square feet is the maximum area allowed, nor for a sign of 20 square feet where 12 is allowed.

The vote was as follows:

Mr. Howarth	AYE
Mr. Morreale	AYE
Ms. Thompson	AYE
Mr. Tyler	AYE

Result: variances denied

Public Hearing: Appeal Robert Brown, Sr. for area variances under Section 212-29 C Lot Area and Yard Requirements of the Town of Ulysses Zoning Law. This is for the purpose of subdividing a parcel with the width of approximately 175.6 feet at the right of way, where 400

feet is required. The lot includes an existing single family residence. The remaining land is a development district (DD-9 Flo-Tech), for which the district boundaries were recently revised by the Town Board. The property is located at 7323 and 7325 Halseyville Rd, Town of Ulysses, Tax Parcel Number 12.-4-15.23.

The applicant was not present, and thus the public hearing was postponed.

Mr. Kiley provided some background on the project.

Meeting Minutes Review (3/21/18)

Mr. Tyler MADE the MOTION to accept the amended March 21, 2018 meeting minutes, and Mr. Morreale SECONDED the MOTION. The motion carried unanimously, 4-0.

Discussion on the draft zoning

Mr. Morreale provided a summary of ZUSC happenings and spurred discussion of sign sizes. He feels current regulations for sign sizes work fairly well, and he stated as much at the previous ZUSC meeting. Ms. Kiley, though, did feel the current language is nebulous, and has since clarified measurements.

He also said a major question has come up within ZUSC: what exactly does ZUSC have to complete in order to receive grant compensation from NYSERDA? The next part is a final version that needs to be voted on by the Town Board, Ms. Kiley said. She feels it would be a waste of time to propose a draft that ultimately gets voted down by the Town Board. The final deliverable is Town Board meeting documentation and, if adopted, final zoning amendments, she said.

Mr. Morreale reiterated his desire for data to show how many property owners would be impacted if zoning rewrites were enacted. We have to have data to inform who is being impacted, he said.

CAFOs and manure management are two big issues that need to be addressed, he said. A discussion ensued on these topics and their public health impacts.

Ms. Thompson pointed out a mistake made on the proposed zoning map that designates a part of Stick and Stone Farm within the Office and Technology-Mixed Use Zone.

Mr. Morreale MADE the MOTION to adjourn the meeting, and Ms. Thompson SECONDED the MOTION. The motion was unanimously carried.

Meeting adjourned at 8:56 p.m.

Respectfully submitted by Louis A. DiPietro II on May 9, 2018.