

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
FINAL MINUTES
Wednesday, March 20, 2019**

Approved: April 17, 2019

Present: Board Chair Bob Howarth, and members Andy Hillman, Steve Morreale, Cheryl Thompson, and David Tyler; Town Board liaisons Rich Goldman and Michael Boggs, and Town Planner John Zepko.

Public in Attendance: Anne Schneiderman, Marvin Pritts, Gary Bush, and Linda Liddle.

Call to Order: 7 p.m.

Public Hearing (continued) - Appeal by the Paleontological Research Institute for an area variance under Section 212-162, Fences and Walls, of the Town of Ulysses Zoning Law, for the purpose of increasing the height of a fence from 6 feet to 8 feet, at the property located at Smith Woods, Trumansburg Road, Town of Ulysses, Tax Map # 13.-3-1.

Given concerns voiced at the previous BZA meeting, Mr. Pritts said PRI has received an estimate that conforms with the BZA's requests for a fence with no pesticide-treated lumber and low visual impact. Two strands of black, 12.5 gauge wire will be used to install an additional 2 feet on the existing 6-foot high fence. On the Cemetery Road side of the fence, additional metal risers will need to be installed atop the existing 6-foot high fence. No additional posts will be installed.

The Town has received no correspondences regarding the fence since the BZA's previous meeting in February.

Resolution

Mr. Morreale MADE the MOTION to approve the variance request, and Mr. Hillman 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 the applicant is to increase the height of the existing fence from six (6) feet to eight (8) feet in height.

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 addition is not likely to produce an undesirable change in the character of the neighborhood. The applicant intends to add 2 strands of wire to the top of the fence to increase the height from 6 to 8 feet.

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 constructed a 6-foot high fence to prevent deer from entering the property. It did not work, precipitating the need to increase the height.

3. Whether the requested area variances are substantial.

The variance is substantial, increasing the height by approximately 33% over what is permitted (6 feet) by the zoning law.

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

The fence already exists. Increasing the height is not likely to 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 applicant is choosing to increase the height of the fencing beyond what is permitted in the zoning law.

6. Considering all of the statutory factors set forth above, the Board of Zoning Appeals concludes as follows;

The construction of an additional two (2) feet in height on an existing fence will not have a negative impact on the character of the neighborhood, nor on the environmental conditions, but rather may improve forest conditions. 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 variances requested by the applicant for the construction of an additional two (2) feet in height of a fence. This would be done by adding two strands of black wire atop the existing fence and adding metal extensions atop the existing metal posts along Cemetery Road.

Mr. Howarth and Ms. Thompson offered amendments that were accepted.

The vote was as follows:

Mr. Howarth	AYE
Mr. Hillman	AYE
Mr. Morreale	AYE
Ms. Thompson	AYE

Mr. Tyler

AYE

Result: Variance granted

Appeal by Gary Bush, of SPEC Consulting, acting as agent for Arthur Landi, for an area variance under Section 212-54, Lot Area and Yard Requirements of the Lakeshore (LS) District. The applicant is seeking relief to reconstruct a stair case and accessory building within the required setbacks from the Mean High Water Mark and the side yard. The property is located at 85 Maplewood Rd, Tax Map # 29.-1-7.

Mr. Bush reported a last-minute change to the plans: the applicant is foregoing building the shed and will instead rebuild the staircase and build an elevated deck. Mr. Zepko felt the elevated deck still qualifies as a building, since the deck landing is supported by columns; the deck landing could qualify as a roof, and thus a building, according to Mr. Zepko's interpretation of Town Zoning. Mr. Zepko provided background on the proposal: last summer, the interim zoning officer determined that, since the existing building was moved off property, and not razed, it would still need a variance in order to be reconstructed. Mr. Zepko agreed. He also suggested the BZA seek advice from Town Counsel as to whether or not a deck landing qualifies as a roof.

Ms. Thompson suggested simply making the proposed deck one foot short in order to fit inside the existing footprint. Then, there would be no need for a variance. Mr. Bush said they would move the southside wall in by a foot. BZA members raised concerns about the deck's cantilevered overhang and whether or not that is considered part of the building footprint.

Mr. Zepko said he would get answers to the roof and cantilever questions.

Meeting Minutes (02/20/2019)

Mr. Morreale MADE the MOTION to accept the February 20, 2019 meeting minutes, and Mr. Hillman SECONDED the MOTION. The motion was unanimously accepted, 5-0.

Discussion of Board Alternates

At this time, the BZA and the two Town Board Liaisons held a discussion regarding board alternates and the ongoing Town zoning update.

How desperately do we need board alternates? Mr. Howarth asked. Currently, there is not clear guidance on which of the two alternates would step in if, say, one member of the Board was not in attendance. The other topic, he continued, is whether or not it's important to the BZA to include alternate members from other parts of the Town. The current BZA includes two members who live in A1, one in the Hamlet of Waterburg, and others in A1 and the Village of Trumansburg. There is no representation from the Conservation Zone, R2 nor the Lakeshore.

Mr. Goldman said it is not urgent that the BZA find an alternate, but everyone agreed to work collectively to identify potential alternates that would improve representation on the Board, based on geographic location in Town, gender, occupation, etc. The alternate would attend

meetings and participate in all discussions but would only offer a vote in the event that a regular member was not in attendance.

As for the Town Zoning update, Mr. Goldman said a petition is circulating among residents to eliminate the 70/30 preservation/development aspect of the zoning update. The Town Board will need four votes, a supermajority, to pass the updated Zoning, and Mr. Goldman said he does not know if the Board will get those four votes. Perhaps parameters associated with the 70/30 proposal could be pulled out of the zoning proposal, and the Town Board could vote on aspects that would likely pass, he said. Have there been increases in subdivision proposals recently? Mr. Goldman asked. Mr. Zepko said there were a large number of approved subdivisions as well as inquiries during December and January.

Mr. Howarth said he would personally like to see the Town Board pull out the 70/30 proposal, pass everything else with immediate implementation, and then pass a moratorium. Mr. Zepko cautioned that the Town would have to have a defined need for a moratorium.

The discussion moved on to other aspects of the updated zoning, namely the elimination of more than one dwelling unit per parcel. Some BZA members also requested consideration be given to impermeable surfaces like pools and driveways and that these uses be included in a parcel's percentage of covered surface. Currently, those uses are not part of the calculation.

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

Meeting adjourned at 8:26 p.m.

Respectfully submitted by Louis A. DiPietro II on April 14, 2019.