



**Board of Zoning Appeals
Zoom Hybrid Meeting
Meeting Minutes
December 20, 2023
Approved: February 21, 2024**

Board Members Present: Chair Stephen Morreale, Tom Butler, Andrew Hillman, Cheryl Thompson, David Tyler

Board Members Absent: Robert Howarth

Quorum Present

Applicants Present: Shawn Ritchie, Chris Gaulke, Charles Guttman

Town Board Members Present: Rich Goldman, Michael Boggs

Town Staff Present: Niels Tygesen, Mollie Duell

Present on Zoom: Linda Liddle

Proceedings

Chair Morreale called the meeting to order at 7:05 PM at Town Hall.

Motion: Tyler made a motion to appoint Butler as a voting member for the duration of the meeting; Hillman seconded.

Vote: Hillman, aye; Thompson, aye; Tyler, aye; Chair Morreale, aye.

Motion Carried.

Approval of Agenda

Butler announced that he will not renew his term upon expiration at the end of 2023 and thanked fellow BZA members for their work.

Chair Morreale stated that the Burress subdivision would only be discussed briefly.

Approval of Past Meeting Minutes

The BZA postponed approval of the February 15 and September 6 meeting minutes.

Privilege of the Floor

No members of the public approached the Board regarding any items not on the agenda.

Old Business Items

VAR2306-01: Gaulke Area Variances, Public Hearing Continued

The applicant, Shawn Ritchie, on behalf of the owner, Chris Gaulke, proposes to construct a new 100' tram system from the upper portion of the subject lot down the steep slope to the lower portion of the lot near the shoreline. Two area variances are requested from the Board of Zoning Appeals (BZA) as part of overall site plan review with the Planning Board: reduction of the 40' minimum required front yard setback under the Code of the Town of Ulysses [\(CTU\) 212-47.E](#) and [CTU 212-167.A](#), and reduction of the 75' minimum required buffer setback from the lake under [CTU 212-124.B](#). The Board previously discussed the proposal during its meeting on July 19, 2023, August 16, 2023, and on September 6, 2023.

Concerns about the health of large trees being impacted by the tram installation were reduced following clarification about the tram structure.

Ritchie spoke about the construction of the tram, describing the dimensions of the tracks, clearance between trees, and side setback. 2-inch-wide aluminum pipes support the tram every 12 feet down track, with a total of around 28 pipes for approximately 100 feet of track length.

Tyler asked if there is any concrete used in construction; Ritchie responded no, adding that there is not a large load on the system due to the distribution of weight.

Chair Morreale asked if there have been additional responses to public notice; Tygesen responded no.

Chair Morreale continued the public hearing. No members of the public offered comments regarding the variance requests.

Hillman spoke about the large oak tree on site that was discussed at previous BZA meetings. A primary concern about the proposal has been potential root damage from the tram, because the large root system supports the stability of the steep slope.

Ritchie agreed that maintaining tree health is critical and explained that it is often apparent if a root has made contact, which may result in adjustments to installation locations.

Chair Morreale asked if it is apparent where the roots are; Hillman stated the buttress roots are easily visible but beyond this it is difficult to tell. Hillman noted that maintaining the roots uphill from the tree is more significant due to the tension they hold.

Tyler asked Butler and Hillman, who both visited the site, if anything new has been observed; Butler responded they have not visited the site since the previous meeting.

Thompson asked for clarification on what the bottom of the tram will look like when finished. Ritchie explained there is a step, which is a maximum of 4x4 feet, and the station door is installed here.

Chair Morreale spoke about the concern that Gaulke may decide to construct a separate staircase someday and asked for clarification about plans in the future.

Gaulke stated that there would only be a small emergency access stairway attached to the tram, and there is no intention to create an additional separate staircase.

Chair Morreale asked what is generally needed for constructing stairs in the Lakeshore Zone.

Tygesen explained that no additional review is required unless the proposed development site is in a steep slope overlay or in a unique natural area, or if a variance is required. The Planning Board must review all proposed construction within the steep slope overlay or unique natural area even if no variance is required.

Motion: Hillman made a motion to approve Resolution 2023-009; Butler seconded.

Resolution 2023-009, A Resolution for two Area Variances for the Gaulke Tram Located at 5 Maplewood Road, Town of Ulysses, Tax Parcel 29.-1-41

Whereas, a request for two area variances was submitted to the Board of Zoning Appeals (BZA) by by Shawn Ritchie, FLX Tram, applicant and representative of Chris Gaulke, owner, for property located at 5 Maplewood Road (tax map # 29.-1-41), and which is approximately .79 acres in size; and

Whereas, the subject lot is zoned LS: Lakeshore zone and the proposed new construction is located within the HzE (Hudson and Dunkirk soils, 20% to 45% slopes); and

Whereas, the request includes two separate area variances which are related to a site plan application with the Planning Board to construct a new 100-foot tram system within required setbacks; and

Whereas, the first area variance request is relief from [212-47.E](#) and [212.167.A](#) to construct the tram within the 40 foot minimum required front yard setback; and

Whereas, the second area variance request is relief from [212-124.B](#) to permit the tram within the 75 foot minimum required buffer setback from the lake; and

Whereas, all requested variances are a Type II action under the Code, Rules, and Regulations of the State of New York Title 6, Part 617 (SEQR), Section 5.c.16 “granting of individual setback and lot line variance...” and requires no further review; and

Whereas, the action required 239 review, and Tompkins County determined in their comment letter dated August 4, 2023, that the proposal will have a significant county-wide or inter-community impact, and recommended modifications for the Board to consider; and

Whereas, the BZA did conduct meetings on July 19, 2023, August 16, 2023, and September 6, 2023 to discuss the proposed variance requests; and

Whereas, notice of the public hearing was published in the Ithaca Journal on August 9, 2023 and on August 25, 2023, was posted on the Town’s Public Legal Notice Board, was posted on the Town’s webpage, and mailed to property owners within a 500-foot radius of the subject property; and

Whereas, the BZA did conduct a public hearing on December 20, 2023 where it reviewed a site plan entitled "Survey Map No. 5 Maplewood Road Town of Ulysses, Tompkins County, New York", prepared by T.G. Miller dated July 5, 2023 and other application materials; and

Whereas, by considering the criteria listed in the [Consolidated Laws of New York Chapter 62, Article 16, Section 267-B.3.b](#), 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 were granted; 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.
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.
3. Whether the requested area variances are substantial.
4. Whether the proposed variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. Whether the alleged difficulty was self-created.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,

Considering all of the statutory factors set forth above, the Board of Zoning Appeals finds the following:

1. The benefit to the applicant in the granting of the area variance to decrease the front yard setback from 40 feet to 3 feet and 6 inches will outweigh the detriment to the health, safety and welfare of the neighborhood.
2. The granting of the area variance to decrease the front yard setback from 40 feet to 3 feet and 6 inches will not create an undesirable change in the character of the neighborhood and will not be a detriment to nearby properties. BZA members have visited the site and concur that the character of the neighborhood will not be changed to the detriment of other properties.
3. The benefit sought by the applicant to decrease the front yard setback from 40 feet to 3 feet and 6 inches cannot be achieved by some method, feasible for the applicant to pursue other than an area variance. Two BZA members visited the site and determined that other options of going down the slope are not as viable as the proposed route.
4. The requested area variance to decrease the front yard setback from 40 feet to 3 feet and 6 inches is substantial.
5. The proposed area variance to decrease the front yard setback from 40 feet to 3 feet and 6 inches will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Consideration of one large chestnut oak, an indicator species in the Unique Natural Area, will be protected to the extent practical. Proposed building methods by the installer are minimally invasive. The two members of the BZA who visited the site are present for the hearing and will be deliberating and voting.
6. The alleged difficulty to decrease the front yard setback from 40 feet to 3 feet and 6 inches is self-created.
7. The benefit to the applicant in the granting of the area to decrease the 75 foot buffer setback from the lake to 3 feet and 6 inches will outweigh the detriment to the health, safety and welfare of the neighborhood. Due to minimal disturbance and minimal footprint, the substantial variance is mitigated.
8. The granting of the area variance to decrease the 75 foot buffer setback from the lake to 3 feet and 6 inches feet will not create an undesirable change in the character of the neighborhood and will not be a detriment to nearby properties.
9. The benefit sought by the applicant to decrease the 75 foot buffer setback from the lake to 3 feet and 6 inches cannot be achieved by some method, feasible for the applicant to pursue other than an area variance. Two BZA members visited the site and came to this conclusion.
10. The requested area variance to decrease the 75 foot buffer setback from the lake to 3 feet and 6 inches is substantial.
11. The proposed area variance to decrease the 75 foot buffer setback from the lake to 3 feet and 6 inches will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district for the reasons stated above. This will be mitigated by the conditions agreed to by the applicant.
12. The alleged difficulty to decrease the 75 foot buffer setback from the lake to 3 feet and 6 inches is self-created.

For the reasons set forth above, and upon the evidence, law and facts, the BZA hereby does grant the area variance to decrease the front yard setback from the east lot line from 40 feet to 3 feet and 6 inches, and does grant the area variance to decrease the setback from the lake from 75 feet to 3 feet

and 6 inches for the proposed new tram located at 5 Maplewood Road, subject to the following conditions:

Conditions of Approval:

1. Exclusive of the safety egress stairs attached to the tram, the applicant has agreed not to construct a separate stairway. When the property is conveyed to a third party, this restriction will be memorialized in a restrictive covenant.
2. A site plan or survey shall be submitted to the Planning Board for their final site plan review that delineates the proposed tram in relation to the UNA-62 boundaries (the Maplewood Glen and Lake Slopes Unique Natural Area). Should any portion of the tram be located within UNA-62, there shall be minimal disturbance of the land during construction to the maximum extent feasible.

Ayes: Butler, Hillman, Thompson, Tyler, Chair Morreale

Nays: None

Absent: Howarth

Abstain: None

Variances Granted.

New Business Items

VAR2311-02, Bennett Area Variances

The applicant, Charles Guttman, on behalf of the property owners, Marcie Bennett-Gray and Thomas Bennett Jr., proposes to subdivide the existing 1.56 acre lot into two lots. The R zone requires a minimum lot area of 32,000 square feet for lots with public water, 160 feet of lot width at the front lot line, 200 feet of lot depth, a rear yard setback of 35 feet, and a maximum lot coverage of 7.5 percent per the Code of the Town of Ulysses ([CTU 212-40](#)). Five area variances are requested from the Board of Zoning Appeals (BZA) as part of overall subdivision review with the Planning Board: reduction of the minimum lot area under [CTU 212.40.B](#), reduction of the minimum lot width under [CTU 212-40.D](#), reduction of the minimum lot depth under [CTU 212.40.E](#), reduction of the rear yard setback under [CTU 212-40.H](#), and exception from the maximum lot coverage under [CTU 212.40.J](#). The Planning Board will be briefed on the proposal during their December 5th meeting for Sketch Plan Review. The subject lot is in ownership with an adjacent lot located in the Village of Trumansburg. If both parcels were located within the Town, the request would be a simple lot line adjustment to move the position of the diagonal lot line to the proposed vertical lot line. However, given that the property is split between the two jurisdictions, the only two options available are a set of annexations by both the Town and the Village, or a set of area variances and minor subdivision approvals by both municipalities (proposal assessment). Given the complexity and political nature of annexations, the applicant has moved forward with a minor subdivision request and associated area variances.

Tyler mentioned that he worked with a family member of the applicant in an unrelated case and asked if he should be recused from deliberations.

Chair Morreale expressed that is difficult in a small town to not have connections with many residents and stated that he does not see this as a conflict of interest. The BZA unanimously agreed that this is not an issue requiring recusal.

Goldman suggested that a recusal decision should ultimately be made by the individual board member rather than the entire board.

Butler left the meeting at 7:57 PM due to a cold.

Tyler asked if the Village of Trumansburg has acted yet; Guttman stated that the Village has expressed that they are not interested in deliberating the proposal.

Tygesen explained that this is an opportunity for the BZA to determine if they would like the Planning Board to move forward with acting as lead agency for the environmental review.

Guttman noted that the Planning Board asked to receive a topographical survey map which is currently being completed by the surveyor.

Guttman mentioned that he and Tyler worked together prior to Tyler's retirement.

Motion: Thompson made a motion to declare the Planning Board lead agency for SEQR; Hillman seconded.

Vote: Hillman, aye; Thompson, aye; Tyler, aye; Chair Morreale, aye.

Motion Carried.

Tygesen explained that it is possible that the Village of Trumansburg or Tompkins County could act as lead agency, but this is unlikely. No final decision may be made for the variance request until the Planning Board reaches a determination on SEQR.

Chair Morreale and Guttman agreed that it seems that the Village will defer to the decisions made by the Town of Ulysses; Chair Morreale asked for written verification to confirm this.

Guttman reviewed the discussion with the Planning Board about why a lot line adjustment would be far more complicated legally, since this would result in a municipal line needing to be changed.

Guttman presented a map showing the current dimensions of the parcel proposed to be subdivided and explained that the Bennett's neighbors intend to purchase proposed parcel B to protect it.

Chair Morreale asked if there will be 4 parcels after the division; Guttman responded yes.

Guttman acknowledged that the small parcel is deficient of all lot area requirements, but this will not be positive or detrimental to the neighborhood, since everything will essentially remain as it is.

Tyler noted the only headache will be for the assessment department, adding that the parcel with the garage will be in the town and the parcel with the house will be in the village.

Chair Morreale asked what prevents the small parcel from being developed.

Guttman stated that he thinks the variance should allow the garage to exist as it is with nothing else, adding that the applicants are requesting nothing beyond this, and a reasonable condition of the variance would be stating that no additional structures may be added to the parcel.

Tyler suggested adding a copy of the map to the final decision.

Hillman asked if a variance was required for the original construction of the garage and if someone could potentially live in the garage.

Guttman responded that the circumstances of the original construction are unknown, but it may predate the current zoning ordinance, and it would be reasonable to say that the garage can only be used for storage.

Discussion ensued over lot coverage.

Guttman agreed to provide a written proposal.

The BZA agreed there are currently no environmental concerns.

VAR2311-01: Burruss Area Variances

The applicant, John-Michael Burruss, proposes to subdivide the existing 12.15 acre lot into two lots. The CZ zone requires a minimum lot area of 5 acres and 400 feet of lot width at the front lot line per the Code of the Town of Ulysses [\(CTU\) 212-54](#). Flag lots are permitted in the CZ zone per [CTU 212-54.K](#), subject to the requirements of [CTU 212-130](#) and definitions of 'lot, flag' under [CTU 212-22](#). Two area variances are requested from the Board of Zoning Appeals (BZA) as part of overall subdivision review with the Planning Board: reduction of the minimum lot area under [CTU 212-54.B](#), and reduction of the minimum lot width under [CTU 212-54.C](#). The Planning Board will be briefed on the proposal during their December 5th meeting for Sketch Plan Review.

Tygesen explained the Planning Board has also given notice to act as lead agency for the environmental review.

Motion: Thompson made a motion declaring the Planning Board lead agency for SEQR; Hillman seconded.

Vote: Hillman, aye; Thompson, aye; Tyler, aye; Chair Morreale, aye.

Motion Carried.

Chair Morreale stated that an improved map is required before further reviewing the proposal.

Tyler noted that the division line was drawn due to the location of the well.

Linda Liddle asked for clarification about the SEQR process. Does SEQR need to be completed before final variance decisions are made, and is the Planning Board always lead agency?

Tygesen explained that the Planning Board is automatically lead agency unless another agency, such as the BZA, is involved in issuing an approval subject to environmental review. SEQR must be completed prior to the issuance of an agency's decision.

Liddle asked if the variance could determine what the SEQR is; Tygesen responded no.

Liddle agreed more details are needed.

Tygesen noted that the short SEQR form has been completed, and comments can be made to the Planning Board before their next meeting.

Tyler asked if the letter from the county will come before both boards; Tygesen responded yes.

The BZA agreed that there are no further comments to the Planning Board at this time regarding SEQR.

Proposed Code Amendment to Section 212-16

The BZA agreed that more robust notification will be beneficial for neighbors in raising awareness of applications.

Board members discussed how widely notifications by mail should be distributed.

Tygesen noted that Planning Board and BZA notifications are currently distributed at a 500-foot radius.

Goldman stated that this can be discussed at the next Town Board meeting when a specific measurement is determined.

2024 Schedule

The BZA agreed that the schedule will remain the same for 2024.

Motion: Thompson made a motion to approve Resolution 2023-010; Hillman seconded.

Resolution 2023-010, A Resolution Adopting the Regularly Scheduled Meetings for 2024

THE BOARD OF ZONING APPEALS RESOLVES THE FOLLOWING:

The Board of Zoning Appeals hereby adopts the following as its schedule of Regular Meetings for the Year 2024. Unless otherwise noted, all meetings for the Town of Ulysses Board of Zoning Appeals will be held on the third Wednesday of every month in 2024, commencing at 7:00 PM and ending by 10:00 PM as noted below.

Wednesday, January 17, 2024

Wednesday, February 21, 2024

Wednesday, March 20, 2024

Wednesday, April 17, 2024

Wednesday, May 15, 2024

Wednesday, July 17

Wednesday, August 21, 2024

Wednesday, September 18, 2024

Wednesday, October 16, 2024

Wednesday, November 20, 2024

Wednesday, December 18, 2024

Meetings will be held in Town Hall, 10 Elm Street, Trumansburg, NY.

Ayes: Hillman, Thompson, Tyler, Chair Morreale

Nays: None

Absent: Howarth

Abstain: None

Motion Carried.

2024 Board Membership

Motion: Thompson made a motion to approve Resolution 2023-011; Hillman seconded.

Resolution 2023-011, A Resolution Recommending Stephen Morreale as Chair of the Board of Zoning Appeals for 2024

THE BOARD OF ZONING APPEALS RESOLVES THE FOLLOWING:

The Board of Zoning Appeals hereby recommends to the Town Board that Stephen Morreale be appointed as the Chair of the Board of Zoning Appeals for the Year 2024.

Ayes: Hillman, Thompson, Tyler

Nays: None

Absent: Howarth

Abstain: Chair Morreale

Motion Carried.

Motion: Thompson made a motion to approve Resolution 2023-012; Hillman seconded.

Resolution 2023-012, A Resolution Recommending Andrew Hillman as a Member of the Board of Zoning Appeals to 2028.

THE BOARD OF ZONING APPEALS RESOLVES THE FOLLOWING:

The Board of Zoning Appeals hereby recommends to the Town Board that Andrew Hillman be re-appointed as a member of the Board of Zoning Appeals to December 31, 2028.

Ayes: Thompson, Tyler, Chair Morreale

Nays: None

Absent: Howarth

Abstain: Hillman

Motion Carried.

Board Member Training

Discussion ensued over training for BZA members required by the Town and New York State.

Board members discussed training courses specific to BZA operations that may be pursued.

Hillman suggested some courses that focus on subjects such as diffusing volatile arguments and off topic language as well as field safety practices during site visits.

The BZA discussed training requirements with Goldman and Boggs.

Boggs explained state training requirements will not be policed by the Town, and the training requirements approved by the Town Board were introduced to protect the town.

The BZA asked if they could have training sessions with the Town's lawyer. Discussion about conducting training ensued.

Goldman invited BZA members to attend the Town's yearly training that will be scheduled in the spring.

Tygesen stated that all BZA members have completed Town training, however the state required 4-hour training is still partially incomplete.

Tyler asked if hours carry over yearly; Tygesen responded yes.

Town Board Liaison Report

No additional topics were discussed with Town Board members.

Motion: Hillman made a motion to adjourn the meeting; Thompson seconded.

Vote: Hillman, aye; Thompson, aye; Tyler, aye; Chair Morreale, aye.

Motion Carried.

ADJOURNED 9:10 PM



Mollie Duell

Board of Zoning Appeals Secretary