



**Board of Zoning Appeals
Zoom Hybrid Meeting
Meeting Minutes
August 7, 2024
Approved: October 23, 2024**

Board Members Present: Chair Stephen Morreale, Cheryl Thompson, Andrew Hillman, Karen Meador, Robert Howarth

Absent Board Members: David Tyler

Quorum Present

Applicants Present: Michael Hamilton, Steve Terwilliger

Town Staff Present: Niels Tygesen, Mollie Duell

Proceedings

Chair Morreale called the meeting to order at 7:01 PM at Town Hall.

Approval of Past Minutes

Motion: Hillman motioned to approve the July 17, 2024 meeting minutes as written; Meador seconded.

Vote: Hillman, aye; Thompson, aye; Howarth, abstain; Chair Morreale, aye.

Motion Carried.

Old Business Items

**VAR2404-01: Hamilton Area Variance Public Hearing
4179 Waterburg Rd, Parcel Number 23.-2-10.3**

The applicant, Michael Hamilton, proposes to subdivide the existing 18.67 acre lot into two lots, 'Parcel A', approximately 16.28 acre lot, and 'Parcel B', approximately 2.39 acre lot with an existing house, barn, and well. One area variance is requested from the Board of Zoning Appeals (BZA) as part of overall subdivision review with the Planning Board: to reduce the required minimum lot width at the front lot line from 400' per the Code of the Town of Ulysses ([CTU](#)) 212-29.D to 254' for proposed Parcel B.

Michael Hamilton confirmed that there have been no changes since the July 17 meeting.

No members of the public offered any comments regarding the proposed subdivision.

Hillman explained that historically the 400' minimum frontage has been reviewed very closely, but he is comfortable with the proposal since the shared driveway will be used for both subdivided parcels, and there will be no impact to the trees along the road frontage. Chair Morreale added that he only feels comfortable if there will also be a deed restriction. Howarth agreed that the 400' rule is critical.

Chair Morreale clarified that the deed restriction will prevent more than 1 dwelling unit per parcel. Tygesen suggested making a condition of approval that the deed restriction is recorded prior to final plat review. The deed restriction will stay with the land when ownership changes. Chair Morreale stated that a final plat still needs to be drawn for the Planning Board review. If there is a request to modify a deed restriction it will return to the BZA for review. Tygesen noted that theoretically, if zoning changes in the future, the deed restriction would not change. Meador spoke about theoretical future zoning changes and suggested a deed restriction should not restrict development that would be allowed otherwise by zoning.

Chair Morreale stated that he was ambivalent on the permanency of the restriction. Chair Morreale and Hillman indicated that they were comfortable with the BZAs of the future reviewing requests for relief from deed restrictions.

Discussion ensued over recording deed restrictions and final plats at the County Clerk's office.

Motion: Howarth motioned to appoint Meador as voting member for the duration of the meeting; Thompson seconded.

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

Motion Carried.

Motion: Thompson motioned to approve Resolution No. 2024-001; Howarth seconded.

Resolution No. 2024-001, A Resolution for an Area Variance for the Hamilton Two Lot Subdivision Located at 4179 Waterburg Road, Town of Ulysses, Tax Parcel 23.-2-10.3

Whereas, a request for an area variance was submitted to the Board of Zoning Appeals (BZA) by Michael Hamilton, applicant and owner, for property located at 4179 Waterburg Road, Tax Parcel 23.-2-10.3; and

Whereas, the area variance request is related to a minor subdivision application to subdivide the subject lot into two parcels: 'Parcel A' approximately 16.28 acres in area and 'Parcel B' approximately 2.39 acres in area as shown on the sketch plat attached; and

Whereas, the area variance request is relief from the Code of the Town of Ulysses [212-29.D](#), to reduce the minimum required lot width at the front lot line for 'Parcel B' from 400 feet to 254 feet; and

Whereas, the requested variance is a Type II action under the New York Codes, Rules, and Regulations Title 6, Part 617 (SEQR), Section 5.c.16 "granting of individual setback and lot line variances and adjustments" and requires no further review; and

Whereas, pursuant to Consolidated Laws of New York (CLNY) Chapter 24, Article 12-B, Sections 239 L, M, and N the proposal was submitted to Tompkins County for review; and

Whereas, The Department of Planning & Sustainability of Tompkins County submitted their response letter to the Town dated June 12, 2024 that states they determined the proposed

action will have a significant county-wide or inter-community impact, and recommended modification for the Board to consider; and

Whereas, the BZA did conduct public meetings on May 15, 2024 and July 17, 2024 and discussed the proposed variance request; and

Whereas, notice of the public hearing was published in the Ithaca Journal on July 25, 2024, 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 August 7, 2024 where it reviewed a sketch plat entitled "Sketch Plat 4179 Waterburg Road Parcel 23.-2-10.3", prepared by the applicant and other application materials; and

Whereas, by considering the criteria listed in [CLNY 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 variance was 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 variance.
2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than the area variance.
3. Whether the requested area variance is substantial.
4. Whether the proposed variance 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 minimum required lot width at the front lot line for 'Parcel B' from 400 feet to 254 feet will outweigh the detriment to the health, safety and welfare of the neighborhood, with the deed restriction in place.
2. The granting of the area variance to decrease the minimum required lot width at the front lot line will not create an undesirable change in the character of the neighborhood and will not be a detriment to nearby properties due to a deed restriction on further development that will be required as a condition of approval.
3. The benefit sought by the applicant to decrease the minimum required lot width at the front lot line can be achieved by some other method, feasible for the applicant to pursue other than an area variance; however, with the deed restriction this is the most desirable outcome for the owners which will preserve the agricultural lands and environmental character of the site.

4. The requested area variance to decrease the minimum required lot width at the front lot line is substantial.
5. The proposed area variance to decrease the minimum required lot width at the front lot line will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district with the deed restriction in place.
6. The alleged difficulty to decrease the minimum required lot width at the front lot line 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 minimum required lot width at the front lot line for 'Parcel B' from 400 feet to 254 feet for the proposed minor subdivision located at 4179 Waterburg Road, subject to the following conditions:

Conditions of Approval:

1. A deed restriction to prevent no more than one dwelling unit per parcel shall be presented to the Planning Board as part of final plat review, and certified copies of the recorded instrument shall be filed with the Town and County prior to final plat review.
2. Any future request to remove the deed restriction shall require approval by the BZA.
3. The Final Plat Map submitted to the Planning Board for final site plan review shall delineate the building envelope for 'Parcel A' (which contains a stream and a wetland), and the building envelope shall exclude the wetland and lands within a 50-foot buffer of the intermittent stream.

Ayes: Hillman, Howarth, Thompson, Meador, Chair Morreale

Nays: None

Absent: Tyler

Abstain: None

Variance Granted.

Town Board Liaison Report

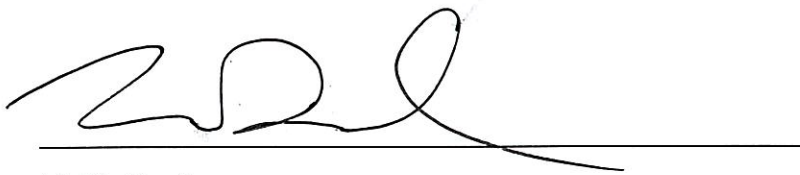
No Town Board members attended the meeting.

Motion: Chair Morreale motioned to adjourn the meeting; Hillman seconded.

Vote: Hillman, aye; Thompson, aye; Howarth, aye; Meador, aye; Chair Morreale, aye.

Motion Carried.

ADJOURNED 7:30 PM

A handwritten signature in black ink, appearing to read 'Mollie Duell', is written over a horizontal line.

Mollie Duell

Board of Zoning Appeals Secretary