

**TOWN OF ULYSSES
BOARD OF ZONING APPEALS
DRAFT MINUTES
Wednesday, January 18, 2023**

Approved: July 19, 2023

Present: Andy Hillman, Cheryl Thompson, David Tyler, and Tom Butler, board alternate; Town Planner Niels Tygesen, and Town Board Liaison Rich Goldman.

Public in Attendance: Tyler Murray and Ted Murray; no members of the public attended virtually.

Call to Order: 7:03 p.m.

Mr. Tyler MADE the MOTION to appoint Mr. Hillman as chair of the BZA for the evening's meeting, and Ms. Thompson SECONDED the MOTION. The motion was unanimously carried.

Mr. Tyler MADE the MOTION to appoint Mr. Butler as a voting member of the board, and Ms. Thompson SECONDED the MOTION. The motion was unanimously carried.

Review of Past Meeting Minutes: February 16, 2022, and September 21, 2022.

Mr. Tyler MADE the MOTION to accept the February 16, 2022 minutes, and Mr. Butler SECONDED the MOTION. The motion was unanimously carried.

Mr. Tyler MADE the MOTION to accept the amended September 21, 2022 minutes, and Mr. Butler SECONDED the MOTION. The motion was unanimously carried.

Approval of Agenda

Mr. Butler MADE the MOTION to approve the agenda, and Ms. Thompson SECONDED the MOTION. The motion was unanimously carried.

Privilege of the Floor

No members of the public addressed the BZA.

Murray Setback Variance

Tyler Murray of 4279 Reynolds Road seeks to build a new detached garage – 24 feet by 26 feet – with an attached 18 foot by 24 foot carport at a location 5 feet from the side property line. Ted Murray, Tyler's father, said they applied for a building permit last fall but were denied because the project would be sited inside the Town's setback requirement. As part of the project, the Murrays intend to demolish an existing shed in that same location. However, as Mr. Tygesen explained, the shed – which was built sometime between 2011 and 2013 – never received a

Board of Zoning Appeals zoning variance for its location within the sideyard setback area and is in violation. Even if a proposed structure is small enough to not trigger the need for a building permit, the property is still beholden to zoning code, he said.

Ted Murray said the home's well and gas storage are located in the same area – roughly 5 feet from the sideyard property line. Tyler Murray added that construction of the garage on the opposite side of the property is not feasible, given the location of the existing septic tank and leach field.

The Town received a written correspondence of support from neighbor Scott Hamula:

Dear Board of Zoning Appeals,

As the owner of the adjacent property, 24.-9.114, I am submitting this letter of support for the Board of Zoning Appeals Application submitted by Tyler Murray which seeks a setback variance to replace an existing shed with a newly constructed garage.

While the application does not appear to specifically state the proposed setback, I am assuming the setback will be as least five (5) feet from the property line since, on page 14 of the application, the line drawn for the back of the new garage overlays the same line as the back of the existing shed and, on page 3 of the application, it states the shed setback is five (5) feet from the property line. I have not verified these measurements.

Respectfully,

Scott R. Hamula

Ms. Thompson MADE the MOTION to open the public hearing, and Mr. Butler SECONDED the MOTION. The motion was unanimously carried.

No public comments were offered, neither in-person nor virtually.

Mr. Butler MADE the MOTION to close the public hearing, and Ms. Thompson SECONDED the MOTION. The motion was unanimously carried.

Mr. Butler felt the existing shed is very much in violation of the setback requirement and would impinge on the future owner of the adjacent lot, which is owned by Mr. Hamula. Ms. Thompson, too, felt 5 feet was very close to the property line and asked if the proposed garage and car port could be moved out another 5 feet or moved toward the road. Ted Murray said such a shift inward on the property would remove 5 feet of depth from the garage and might not accommodate a pick-up truck. As for moving the project closer to the road, Tyler Murray said the property slopes downward toward the road and isn't level.

Reiterating a previous question from Mr. Butler, Mr. Hillman asked about the possibility of moving the garage behind the house. Tyler Murray said he'd have to extend his driveway around Board of Zoning Appeals the house while also avoiding the septic's leach field. Ted Murray added that the property is too wet behind the house and thus impractical to build on.

Resolution

Mr. Butler MADE the MOTION to grant the variance, and Mr. Tyler SECONDED the MOTION as follows:

Whereas, an area variance was submitted to the Board of Zoning Appeals (BZA) by Tyler Murray, owner, requesting relief from Ulysses Town Code 212-29.G (side yard setback of the A/R Zone) and 212.167.A (accessory building setback requirements) for property located at 4279 Reynolds Road (tax map # 24.-4-9.115) and which is approximately 3.69 acres in size; and

Whereas, the relief requested is to permit the construction of a new detached garage, 24 feet by 26 feet with an attached 18 foot by 24 foot carport, 5 feet from the side property line where 24 feet is the minimum required; and

Whereas, the action is a Type II action under 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 does not require 239 review, per the agreement made with Tompkins County 24 November 2003; and

Whereas, notice of the public hearing was published in the Ithaca Journal on January 9, 2023, posted on the Town’s Public Legal Notice Board, and posted on the Town’s webpage; 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 are 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 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. Will not create an undesirable change in the character of the neighborhood and will be a detriment to nearby properties.

2. Can be achieved by some other method, feasible for the applicant to pursue.
3. Is substantial.
4. Will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. Is self-created.

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 to decrease the side yard setback from the east side lot line from 24 feet to 5 feet for the proposed detached garage and carport located at 4279 Reynolds Road.

Conditions of approval:

Motion: Butler

Second: Tyler

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

Result: Motion fails

Town Board Liaison Report

Mr. Goldman said it may be a good idea to have the Town Attorney present at future BZA meetings. Elsewhere, he said the Town has begun work on updates to the Comprehensive Plan and encouraged BZA members to provide feedback and ideas.

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

Meeting adjourned at 8:17 p.m.

Respectfully submitted by Louis A. DiPietro II on January 30, 2023.