

**Board of Zoning Appeals
Zoom Hybrid Meeting
Meeting Minutes
March 15, 2023
Approved: July 19, 2023**

Board Members Present: Andrew Hillman, Thomas Butler, Bob Howarth, and Chair Stephen Morreale

Board Members Absent: Cheryl Thompson, David Tyler

Quorum Present

Others Present:

Planning Board Members: Linda Liddle

Town Board Members: Michael Boggs, Rich Goldman

Town Staff: Niels Tygesen, Mollie Duell

Members of the Public: Karl Klankowski, Matt Hatton, Tyler Murray, Ted Murray. Via zoom: Josh Stafford

Proceedings

Chair Morreale called the meeting to order at 7:00 PM at Town Hall.

Approval of Agenda

The Board discussed the procedure for creating meeting agendas. Tygesen asked the Board if they had approved an agenda for the evening. Chair Morreale reminded the Board that they are not legally required to create an agenda following the rules of the Town Board. Howarth stated that historically agendas have not been implemented in BZA meetings.

Goldman expressed the need for an agenda in order for members of the public to be aware of what would be discussed at meetings in advance. Chair Morreale noted that only the Chair is authorized to construct an agenda. Howarth suggested requiring an agenda to be released two weeks in advance of meetings, but to grant the Chair the ability to adjust agendas in the case of emergencies.

Approval of Past Meeting Minutes

Approval of minutes from January and February were postponed, as all members had not yet reviewed both drafts.

Old Business Items

Public Hearing Klankowski Setback Variances, VAR2301-001

Chair Morreale announced that a public hearing would not be opened during the meeting. Discussion ensued on the recurring issue of classifying areas that may be interpreted as

wetlands or streams. Chair Morreale referenced the USGS map from the 1970s that was included as part of the Klankowski application as an issue of relevancy to current Town code. He elaborated on the need for clear source materials in order to ensure that there is no confusion when applying Town codes. Wetlands and intermittent streams must be easily identifiable. The Board continued to discuss the need to clarify codes that are open to interpretation. For example, impermeable surfaces are not clearly defined, and areas such as swimming pools may or may not be classified as such.

Discussion ensued pertaining to accessibility of project sites for Board member inspections, specifically lakefront properties. Goldman suggested that during the application process, it would be best for the applicant to provide a time frame in which access would be allowed. Chair Morreale expressed discomfort with approaching a site without prior owner permission. Tygesen stated that he would draft a waiver for access agreement as part of the application packet.

New Business Items

Public Hearing Murray Setback Variance, VAR2301-002

The applicant, Tyler Murray of 4279 Reynolds Rd, originally proposed a new attached accessory building in January 2023. Ulysses Town Code (UTC) 212-29.G requires a minimum side yard setback of 30 feet for the A/R zone. UTC 212-167.A permits accessory buildings to be located within 20 percent of a required yard setback, this provision reduces the minimum required side setback to 24 feet for the proposed detached accessory building. The applicant has proposed to construct the garage approximately 10 feet from the east side lot line.

Ted Murray explained that there are no other reasonable affordable options for constructing an accessory building to serve as a garage on the property. Other locations on site were considered but have issues regarding wet ground and septic interference. The only other viable location to build an accessory building would be too far from the house to serve as a garage in the manner that Murray requires. The amended proposal rotates the accessory building by 90 degrees and increases the distance from the side property line by an additional five feet from the previous proposal. He also stated the carport was removed from the proposal.

Chair Morreale stated he considered the changes made to the application too minimal to qualify the proposal as anything other than a rehearing. Hillman agreed that the changes were not significant. Butler reminded the Board that the shed that was formerly built in this location was illegally constructed by the previous owner. Howarth noted that he lives quite close to the subject property and wished to recuse himself from considering the application.

Chair Morreale noted that there is no legal conflict of interest; Howarth stated he believed recusal should not necessarily be a requirement in the case of applications from neighbors, but indicated that this was a personal preference.

Butler expressed interest in revisiting the matter due to the presence of Board members that were absent at the previous hearing.

Motion: Butler made a motion to define the application as a rehearing. Andrew Hillman

seconded.

Vote: Thomas Butler aye; Andrew Hillman aye; Chair Morreale aye; Robert Howarth abstain.

Motion Carried.

Motion: Butler made a motion to hold the rehearing.

Vote: Thomas Butler aye; Andrew Hillman nay; Chair Morreale nay; Robert Howarth abstain.

Motion Failed.

Chair Morreale indicated that he would have further interest in discussing the proposal if alternative solutions were presented. Goldman proposed an alternative solution of purchasing a small section of the neighboring lot in order for the project to comply with the required setback. Ted Murray explained that this was not a solution the neighboring lot owner would be interested in. Ted Murray inquired about the procedure for the refunding of application fees paid to the Town. Tygesen stated the only costs thus far included legal notice and a partial refund was not out of the question. Howarth stated that if this process would be possible, it is not under the jurisdiction of the BZA. Tygesen responded that Town administration could determine refunding of application fees.

Old Business Items

Operational Items

Howarth mentioned that the Town Board had expressed there to be a lack of specifically defined procedures within the operations of the BZA; an issue that was discussed and postponed from the previous BZA meeting.

He stated the role of the BZA is to hear appeals of decisions rendered by staff in the Town's department of planning, zoning, building codes and enforcement. He acknowledged that in other towns, the BZA have additional responsibilities beyond what is practiced within the Town of Ulysses. Hearing appeals is the sole business of the BZA. When hearing appeals, the BZA follows state law and regulation. Hearings and meetings may only be called by the Chair of the BZA, pursuant to New York state law. The Vice Chair may not call meetings. The Chair may not call a meeting with less than two weeks of notice to all BZA members, unless they determine the presence of an emergency. Chair Morreale remarked that instances in which emergencies may occur would be approached with flexibility.

Howarth stressed the importance of receiving materials for meetings far enough in advance. He stated that the Board typically receives these documents at least ten days in advance, but acknowledged that there have been some cases in which documents have only been received at the last minute. He reiterated that the BZA wants to receive documents two weeks in advance.

Howarth continued to explain the process of preparing BZA meetings and the responsibilities of each role. He stated that the Town's planning staff is responsible for assisting the Board in preparing meetings, specifically notifying the public of submitted applications and upcoming hearings. This includes publishing legal notice as required by the State of New York, providing

signage for application properties, and notifying neighbors within 500 feet of the applicant's property. Howarth stated that the State of New York requires five days of notice and contacting neighboring properties within 500 feet, but suggested a larger radius, perhaps 1,500 feet, would be an improvement. He suggested introducing a mandate for signage on all applicant properties; after discussion, several BZA members agreed.

Discussion ensued on the current procedure for using signage on an applicant's property. Signage was acknowledged as being an accessible and effective method of notifying the public of applications. The Board continued to discuss procedures regarding signage, considering costs of producing signs as well as debating how mandating sign displays would be enforced.

Tygesen responded that for projects that require posting of sites, he requires an affidavit of posting and inspects properties to check they are posted.

Howarth continued to suggest that although not mandated by the state, these practices are recommended, and he wishes to codify them. Chair Morreale elaborated on the issue of low public participation, believed to be due to lack of public awareness. Although notices are posted at the Town Hall as well as on the Town's website, Howarth mentioned that the average person would not regularly check for these updates, and signs posted on property would be the most direct method of spreading public awareness.

Discussion continued regarding notification by post. Tygesen acknowledged the current postage cost and supplies, and noted that depending on the location of an application, certain areas of Town, such as Jacksonville, are more densely populated and require greater mailings compared to other areas of Town. Hillman acknowledged the low amount of appeals in recent times, and Chair Morreale agreed that costs would be minimal, even in scenarios where population is dense.

The Board agreed more notification in general would be beneficial. Discussion ensued on who would have the authority to require a project site to be posted. Tygesen stated that as per his discussions with the Town's lawyer, the Town Board will ultimately need to take action in introducing such a regulation. Howarth expressed that he would like the Board to adopt a resolution that will require the posting of a site with signage.

Discussion ensued on legal matters. Chair Morreale inquired about the procedure of codifying procedures and stated that meetings with the Town Lawyer have been historically infrequent. Chair Morreale raised the issue of cost.

Howarth elaborated on the requirements for meeting minutes for BZA meetings. Minimally, the requirements include logging who was present at a meeting, what was voted on, who voted, and what those votes were. Only motions that pass must be recorded. The BZA will define any other requirements that they wish to be included in the minutes. Chair Morreale explained that the Board would like a distilled yet thorough summary of discussions.

Liddle stated that prior to this year, the Planning Board had not previously reviewed projects that required an appeal before the project was brought to the BZA. She acknowledged that the Planning Board considers recommendations made by the BZA. Board members further discussed the responsibilities of each Board and whose responsibility it is to make which

decision. Chair Morreale said that BZA members sometimes provide alternative solutions to applicants, but reiterated that the Board does not make any guarantees. There was a brief discussion regarding the issue of overstepping boundaries in special situations, such as a project that crosses county lines.

Town Board Liaison Report

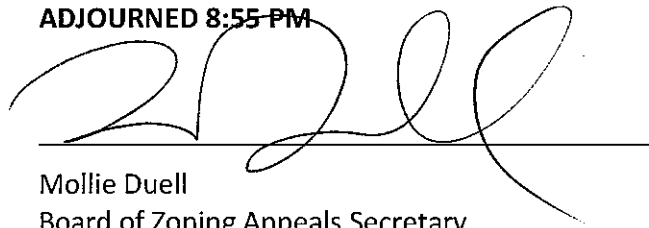
No news.

Motion: Andrew Hillman made a motion to adjourn the meeting; Bob Howarth seconded.

Vote: Andrew Hillman, aye; Bob Howarth, aye; Thomas Butler, aye; and Chair Morreale aye.

Motion Carried.

ADJOURNED 8:55 PM

A handwritten signature in black ink, appearing to read 'M Duell', is written over a horizontal line. The signature is fluid and cursive.

Mollie Duell
Board of Zoning Appeals Secretary