



**Board of Zoning Appeals
Zoom Hybrid Meeting
Meeting Minutes
July 19, 2023
Approved: August 16, 2023**

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

Board Members Present Online: Robert Howarth

Board Members Absent: David Tyler

Quorum Present

Others Present: Kristin Savard, Carrie Pollack, Wendy Marsh, Nancy Zahler, Pete Angie, Katelin Olson, Mary Bouchard, Linda Liddle

Town Staff Present: Niels Tygesen, Mollie Duell

Proceedings

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

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

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

Motion Carried.

Approval of Past Meeting Minutes

The Board reviewed meeting minutes from January 18, February 15, March 15, April 19, and June 21.

The Board reviewed and corrected minor errors in the January 18 meeting minutes.

Motion: Thompson made a motion to approve the January 18 meeting minutes as amended; Butler seconded.

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

Motion Carried.

Howarth discussed the issue of not having a secretary at the time of the February meeting, stating that it was not appropriate for the Town Planner to record the meeting minutes and this should be on the record as discussed in February. He noted that he had distributed materials at the meeting that should be included in the minutes. He reviewed the discussion about information on the website at the time of the meeting, noting that further details about this conversation should be provided within the minutes.

He stated that he would not approve the minutes as written and would provide a draft of recommended improvements.

Approval of the February 15 meeting minutes was tabled.

Howarth added clarifying details to the March 15 minutes regarding discussions that took place about potential improvements to both mail and on-site notifications of applications, as well as details about voting processes that took place.

Motion: Howarth made a motion to approve the March 15 meeting minutes as amended; Butler seconded.

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

Motion Carried.

The Board reviewed and corrected minor typographical errors in the April 19 meeting minutes.

Motion: Hillman made a motion to approve the April 19 meeting minutes as amended; Butler seconded.

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

Motion Carried.

The Board discussed a statement made by Savard at the June 21 meeting; Savard was present at tonight's meeting and offered clarifications.

Howarth added details to the discussion surrounding the potential of certain variances to qualify as a rehearing.

Motion: Thompson made a motion to approve the June 21 meeting minutes as amended; Hillman seconded.

Vote: Thomson, aye; Hillman, aye; Howarth, aye; Butler, abstain; and Chair Morreale, aye.

Motion Carried.

Privilege of the Floor

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

Old Business Items

VAR2303-002: New Women's Residential Addiction Recovery Center Area Variances

The applicant and property owner, Ithaca Alpha House Center, Inc., proposes to construct a new two-story detached building, approximately 13,385 gross square feet, for use as a 25 bed facility associated with the existing Cayuga Addiction Recovery Services building on the subject site. Two area variances are requested from the Board of Zoning Appeals as part of a special permit and site plan review with the Planning Board: the Code of the Town of Ulysses (CTU) 212-29.A permits only one principal building on a lot in the A/R zone, and UTC 212-29.L limits the permitted maximum floor area of a new nonagricultural building to 5,000 square feet. The proposal will comply with all conditions of the variance granted in 2019.

Wendy Marsh introduced the project and notified the BZA that the applicants are no longer seeking leniency for the 500-year storm design requirement.

Morreale asked Howarth for thoughts about a rehearing remaining a possibility.

Howarth noted that the reason for considering a rehearing surrounded the issue of the applicant seeking a reduction of the 500-year flood plan requirement. Because the applicants are now presenting a plan, Howarth stated that the concern of a rehearing potentially taking place because of the plan is relieved.

Howarth discussed the size of the proposed building in relation to the size of the parcel; part of the property is located across the town line in Hector. Howarth reviewed the BZA's previous discussions in considering the application: It was believed that the size of the proposed structures would not be acceptable if the parcel was only the size of the land located within Ulysses. However, the BZA also considers the importance of protecting the land that is in Hector. Howarth expressed that the language in the deed restriction does not currently reflect the intentions of the BZA.

Butler questioned if the plan had been developed years prior, as it was already a requirement of the variance that was originally approved more than 3 years ago.

Marsh stated that the plan had been in development previously; the design was not submitted in June but has been revised and submitted.

Morreale asked if the building plans have been changed.

Marsh responded that the building has not changed, only the stormwater design plans.

Morreale asked each BZA member if they believed a rehearing would be needed. All BZA members agreed that a rehearing would not be required.

Marsh noted that what likely happened was negotiations about the covenant with attorneys never became aware to the BZA. Discussion ensued on what the timeline has been.

Howarth remembered that discussions about the permanent prohibition of development on the Schuyler county portion of the parcel were discussed in detail. Howarth noted that because of the zoning change, the issue of lot coverage within the Ulysses portion of the parcel has become more important.

Marsh noted that lot coverage is reduced from the original proposal.

Pollack explained that they have been trying to recreated the timeline of events in order to understand what needs to be done. Pollack reviewed correspondence from Attorney {Sicone?} and the previous Town Planner John Zepko, discussing the finalization of the deed restriction which was to be done prior to issuing the building permit. Pollack does not recall what exactly was said previously, but knows that the deed restriction was discussed, and it was understood that the project would only be appropriate if the entire parcel, including the area in Hector, was being considered. Both the Town of Hector and the Town of Ulysses would be directed to consider the parcel as one unit.

Morreale noted that no resolution ever returned to the BZA. Morreale expressed uncertainty that the other county accepts the parcel being considered as one unit, but stated that this is acceptable to the BZA.

Pollack explained that the intent is to appease the Town of Ulysses if CARS applies for something on the land in Hector, and the Town of Ulysses will need to provide approval for any land development proposals within the area of the parcel in Hector.

Howarth indicated that this hypothetical endeavor did not comply with what the BZA would like to see happen on this parcel in the future. The intention of the deed restriction is to stop any development from happening on the entirety of the property.

Marsh noted that the BZA's intention to restrict future development was understood, but they would like to establish a procedure for possible future events that may take place outside of the scope of the Town of Ulysses' zoning regulations.

Pollack noted that CARS would like to consider how to avoid possible problems with real estate issues in the future, in the case that there is an opportunity for a potential sale of land. If there were a scenario in which CARS could sell a portion of the parcel such that the remaining Ulysses parcel and Hector parcel would still meet lot requirements, would this be an option?

Morreale acknowledged that this is a valid question to be considered. BZA members expressed that there would be no issues in the future if requirements were still being met. Morreale noted that the objective of restricting development is to preserve open space, and further discussion was postponed until the upcoming hearing.

Howarth reiterated that he does not believe that the presented document reflects the decision made by the BZA in 2019.

Discussion ensued on previous comments from neighbors residing in the vicinity of the CARS property. Thompson acknowledged the challenges that the CARS facility brings to the surrounding residents.

Morreale noted that the Planning Board was concerned about uncertainty regarding a buffer zone.

Discussion ensued on what may be needed from the Planning Board.

New Business Items

VAR2306-02: Jacksonville Park Area Variances

The applicant, Pete Angie, on behalf of the owner, Jacksonville Community Association, Inc., proposes to construct improvements to Jacksonville Community Park, including a new off-street parking area and path, in order to improve accessibility and use of the park. Three area variances are requested from the Board of Zoning Appeals (BZA) as part of overall special permit and site plan review with the Planning Board: reduction of the 100' minimum required stream buffer required under the Code of the Town of Ulysses (CTU) 212-115.A to 25' for the proposed ADA off-street parking area, reduction of the 100' minimum required stream buffer required under CTU 212-115.A to 25' for the proposed overflow off-street parking area, and reduction of the 100' minimum required stream and wetland buffers required under CTU 212-

115.A to 74'-10" for an existing ADA compliant restroom. The Planning Board will be briefed on the proposal during their July 18th meeting for Sketch Plan Review.

The applicants noted that the Planning Board had discussed the proposal during their meeting the previous evening.

Angie, Chair of the Jacksonville Community Association, explained the timeline of the project so far.

Angie noted that after asking the community what was desired within the space of the park, there was significant demand for a restroom within the park. A restroom would enable people to hold events such as graduation parties and picnics, expanding use of the park for more than short visits such as dog walks.

Angie stated that upon consult with the Town's previous planner and code enforcement officer, a permit for a wastewater treatment system was sought from the health department.

Angie continued to describe the current layout of the park. So far, a pad and restroom have been constructed. The next goal is to increase accessibility to the restroom and pavilion for those with limited mobility. Angie noted that the parking area is currently next to the pond, which is not the best way to use the space. A picnic area with benches is envisioned for this area, and the parking will not expand in size, instead it will be moved to the other side of the driveway.

Angie stated that a path to connect each area of the park would further improve accessibility. The path would connect to each element of the park and simplify navigation between the pavilion area, pond area, and restrooms.

Angie explained that changing the use of the playing field in an attempt to avoid encroaching on buffer zones would limit the potential uses of the park's open space. Concerts, sports, and other large picnics and events would be more difficult to organize. This open space would serve as the leech field. Moving parking to this area would further increase the length of the driveway, which would increase impermeable surface significantly.

Tygesen explained that some of the public comments received related to both the Planning Board's and BZA's review, noting that each Board will need to determine which portion of the comments relate to the variances and which relate to site plan review.

The letter received by the Town noted concern over the proposed berm obstructing the view of the pond. Angie responded that obstructing the view would not be an issue; Angie wants to take excavated material from the parking area to create a short berm. This berm would not block sight, but it would prevent people from driving close to the pond. The area next to the pond would be seeded with grass.

Zahler asked when it would be appropriate to respond to public comments.

Morreale responded that sometimes a response is warranted, and sometimes the letter is acknowledged, but concerns will eventually be discussed in the hearing.

Angie noted that the parking already exists, and although the buffers are affected, moving parking away from the pond is seen as a benefit. The proposed gravel surface will be permeable.

Zahler described the technical details of the proposed path, which intends to replicate the surface of the Black Diamond Trail.

Morreale asked about existing septic system features.

Angie explained that a tank is already in place, and new features get added as funding becomes available incrementally. The town provides some funding each year. There is already a building with a restroom. Before the zoning changes in 2019, the JCA consulted with the town planner and code enforcement officer at the time. Angie stated that they were told that no building permit was needed at this time. A tank was added; later, money for installing a pad and tank became available. Next, a septic system is planned. Angie stated that the health department considers the intermittent stream to be a ditch, requiring a 20 foot buffer.

Thompson asked where the tank is located; Angie noted the tank is 20 feet away.

Angie noted that the pond is higher than the pavilion, bathroom, and leech field.

Discussion ensued on stream classification and the orientation of the pond.

Zahler noted that Zepko was the town planner when the County was asked for the first \$5,000 to build the structure of the restroom, and they were told by Zepko that SEQR would not be needed. When asking for the second \$5,000, Tygesen, the current planner, explained that SEQR was required.

Hillman noted that the JCA was incorporated in 1960, and asked what the form of incorporation is.

Angie responded that the JCA is a 501(c)(4), but was not sure when this status was initially obtained. Angie explained that in 2017 he became the Chair of the JCA, and he hired an accountant. The JCA was already a nonprofit organization, but certain annual reporting that was required to maintain this status was not completed. Previously, the organization was classified as 501(c)(3).

Hillman acknowledged that it makes sense to move parking away from pond. Hillman noted that the status of intermittent stream should not be minimized; Hillman noticed that the stream was flowing during the week of the Fourth of July, and the summer has been relatively wet since the end of May.

Angie noted that zoning changed after the restroom was moved, and the placement of the pad and tank were decided based on what the health department recommended at this time.

Hillman asked about the existing backstop and how this area could be utilized.

Angie explained that this backstop gets mowed yearly, but the area is quite wet. It was decided that this area would be a sufficient location for a restroom, since it is not ideal for playing kickball.

Discussion ensued about the impact that parking would have on the view shed.

Tygesen noted the park was previously zoned as Hamlet District prior to the current Park and Recreation zone.

Howarth noted that he is not familiar with the park zone in general, since there are not many requests in this zone.

Zahler stated that Taughannock has the most area of the town's park zone, and Zahler believed that the guidelines for this zone are largely based off of Taughannock Park.

Howarth asked for clarification about the intent of using Taughannock as an example in developing zoning regulations for the park zone, noting that the Town Board must have had a good reason to do so, even though it is assumed that zoning control does not apply to the State Park.

Zahler, who was previously on the Ulysses Town Board, believes that the effort to create the park zone was made to protect the land.

Zahler continued to describe the intent of the zoning code, noting that the main focus, about 80%, is controlling development on agricultural land. During the process of writing the code, attention to smaller changes may have been less in focus. The park zone does not allow a park to use the land unless a special permit is obtained, otherwise only agriculture is allowed in the park zone.

Morreale asked the applicants to verify that drawings are up to date.

VAR2306-01: Gaulke Area Variance

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 50' minimum required front yard setback under the Code of the Town of Ulysses (CTU) 212-47.E and reduction of the 75' minimum required buffer setback from the lake under CTU 212-124.B. The Planning Board will be briefed on the proposal during their July 18th meeting for Sketch Plan Review.

Morreale and Tygesen discussed the classification of setbacks within the Lakeshore zone.

Butler asked if anyone has visited the site and stated that he had made an attempt to visit but no one was home. Stafford noted that the land is very steep and wooded, and the slope is not good to climb down; there are no stairs on the property.

Butler stated that it was unclear how steep the slope was. Butler mentioned the recent variance granted to a property close to the Gaulke residence, where a tram was constructed by the same company. Butler noted that the exception was made for this property because the stairs were steep.

Butler stated that a site visit is important, as the BZA cannot judge how extreme the situation from photographs alone.

Stafford noted that the Klankowski tram was proposed on a 45 degree slope, and the Gaulke property is 43 degrees.

Morreale acknowledged that the slope between the two properties is nearly the same.

Butler asked what the vertical drop is.

Morreale asked what the elevational difference is.

Butler raised concern that tram proposals will be a continuous problem for the BZA unless zoning changes.

Thompson suggested one or two BZA members visit the site and report back. Butler and Hillman discussed visiting the site.

Morreale asked about trees. Stafford stated that as few trees as possible will be removed, but the goal is to never remove trees. An exact count of trees to be removed could not be provided at this time.

Morreale asked for a precise count of trees to be removed, and asked about the location of the tram and what else is currently on the site.

Discussion ensued over identifying what else was seen in photographs.

Morreale asked for the number of posts to be put in. He noted that stairs were not discussed yet and asked if they would be required.

Stafford responded that adding stairs is the homeowner's decision, and it is unsure if this is a requirement.

Discussion ensued on what was needed from the Planning Board and BZA and in which order all necessary steps should be completed.

Tygesen clarified that the Planning Board conducted an informal sketch plan review, and a final site plan review is still needed.

Morreale asked for a comparison of the Gaulke proposal to the proposal for the previously approved Klankowski variances that would show the difference in dimensions, posts, stairs, vertical drop, and number of trees to be cut.

Discussion ensued about the removal of trees.

Thompson asked if there are other options for the tram's location; BZA members agreed to consider this during a site visit.

Howarth noted that adding an agreement to variance applications that authorizes site visits from BZA members will be helpful.

Morreale agreed that authorizing consent in advance will be useful, but this won't allow BZA members to show up to an applicant's property unannounced.

Town Board Liaison Report

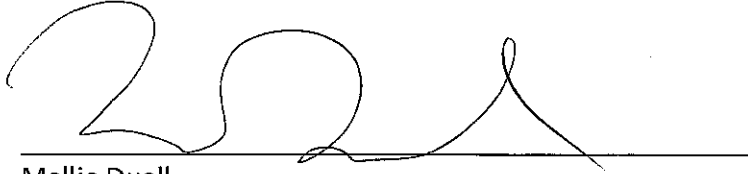
No Town Board members provided a report.

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

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

Motion Carried.

ADJOURNED 9:40 PM

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

Mollie Duell

Board of Zoning Appeals Secretary