



TOWN OF ULYSSES

PLANNING BOARD

PLANNING BOARD MEMO

TO: Town Board
FROM: Planning Board
DATE: October 21, 2025
SUBJECT: Recommendations Related to Regulations for Streams and Wetlands

There are multiple sources of data that cover the Town of Ulysses with respect to watercourses; there has been confusion as to which source(s) the PB is required to use and when. Those sources include the USGS, DEC, and Tompkins County GIS. To add to the mix, site visits and applicants' survey plats may also reveal water courses and wetlands not otherwise documented.

The Planning Board is seeking a resolution to the application of streams to land use decisions, as there is conflict with the current Town of Ulysses zoning vs the multiple electronic resources mentioned above.

1. **Background:**

- During the 8 Oct 2024 public hearing on a zoning change for the Parks and Recreation zone, the PB chair made a presentation of the potential impact of including GIS streams not recognized by the current Town of Ulysses zoning. Salo Preserve was used as an example.

After that discussion, the TB directed the PB to submit a group of relevant questions on the streams issue to Town Legal and, using that knowledge, submit recommendations to the TB regarding the handling of stream data.

- PB submitted their questions to Town Legal on 19 Nov. 2024.
- On January 1, 2025, new DEC wetlands determination requirements were implemented statewide; therefore, it took Legal several months to complete the answers to the PB questions.
- Attached is the guidance the PB received from Legal in June 2025.
- On Tuesday, 5 Aug. an attorney-client-client session with the PB was held in order to further understand and clarify the PB's role and responsibility. PB members in attendance were Karl Klankowski, Linda Liddle, Bart Gragg, and Jeff McDonald.

2. **Recommendation:** The Planning Board is making a recommendation to the Town Board to make an administrative change to the current zoning 212-124 (setbacks) or issue a resolution to accomplish the following:

- For land use decisions (setbacks, variances, etc.) which involve streams/water courses, the

Planning Board is constrained to the use of the current Chapter 212-124(B)(2) Zoning, which recognizes the United States Geological Survey (USGS) 7.5 Minute Quadrangle maps;

- 212-124(B)(4)(c) - *Classification of perennial and intermittent streams will be determined by U.S. Geological Survey topographical maps or determination by a New York State Licensed Geologist or Tompkins County Soil & Water Conservation Zone.*
- Exceptions to that may be the following:
 - a. If Tompkins County does a 239 review and determines that a wetland or water course is on the property in question.
 - b. If the applicant or their representative submits documents (survey map, etc.) that show a watercourse or wetland not shown on the USGS or DEC Maps
 - c. If a New York State licensed geologist or Tompkins County Soil & Water Conservation zone determines the existence of a watercourse or wetland per 212-124(B)(4)(c)
- Land use decisions and protections for other streams and waterways that are identified during project review (but that are not listed in one of the recognized sources) should be developed. During the review process, decisions and protections should be based on impacts caused by the proposed project and in keeping with the ecological and drainage system value of the waterway. In these cases, the setbacks, variances, etc. that are identified in zoning for 212 regulated streams may be used as starting points for discussing protections for other streams/waterways, but should not be applied as a strict regulatory requirement. The record should be annotated to show that this stream data is not recognized by the current Town of Ulysses zoning.
- If a DEC stream not recognized by the current zoning is present on the property, a county 239 review will likely result in additional stream setback requirements for that DEC stream. Include the DEC results in land use decisions, and clearly identify the watercourse/wetland in the site analysis or other property records as a DEC-designated stream, which is a level above current Town of Ulysses zoning.
- If the property appears to contain a wetland or stream flood zone, require the property owner to provide a state DEC declaration of regulated wetlands for that property. A positive declaration from the state DEC will require delineation of the wetland by the regional DEC.



Karl Klankowski
Planning Board Chair

Ulysses Board Questions & Responses

1. Of the several sources of stream data, what is the order of precedence?

The zoning code definition of “stream” includes a reference to the United States Geological Survey (USGS) 7.5 Minute Quadrangle maps. Section 212-124(B)(2) then states those maps will be used to classify streams. Separately, however, section 212-124(B)(4)(c) then states classification of streams will be determined by those maps, or a New York State licensed geologist or Tompkins County Soil & Water Conservation zone.

Attempting to read these sections consistently, it seems rational to conclude that the three referenced potential sources of data (USGS maps, a licensed geologist, or TCS&WC zone) would be treated equally.

2. Does the Planning Board have legal authority from another source to include Tompkins County GIS data in Town land use decisions?

If the land use decision being referenced is determination of a stream, then no, because the code directs the three sources of data. Given that one source is a licensed geologist, the planning board could retain a licensed geologist on the specific question, who would then presumably exercise their professional opinion and review other sources data.

If the land use decision being referenced is something else, then it depends on the decision being made, but in general all sources of data could be consulted unless the zoning code expressly sets out the standard that should be used.

3. Does the Planning Board have any legal authority to add streams and associated setbacks to town private property records that are not identified as streams under the current 212 zoning?

See #1. If the sources of data from which the Planning Board can pull identifies a stream, then it would be a stream under the current zoning. The Planning Board does not have authority to modify the sources of information authorized under the code, and so has no authority to “add” streams to private property records that are not identified as streams through those sources of data.

4. What is our legal liability if we request permission from the property owner and include in the approval, setbacks from streams not documented in our zoning reference maps?
 - a. What if a stream is on the property survey but not on the reference map?
 - b. What if the stream is observable on the site visit but not on the reference map?

See #1. If a broader definition is desired, then the Planning Board should request the Town Board to amend the code.

To the extent there is an area identified as a stream on a survey but not the maps, by a licensed geologist, or by TCS&WC zone, then wetlands protections potentially apply.

5. When preparing the SEQR review, what stream data should the Planning Board use?
 - a. DEC Environmental Resource Mapper (recommended in the workbooks for both unlisted and Type 1 SEQR)
 - b. USGS (per 212 zoning)
 - c. The Tompkins County GIS Mapper (approx. 60 more intermittent streams shown)

See #1. Note that these areas are likely considered wetlands.

6. Review and references to laws regarding:
 - a. Storm runoff from adjacent property
 - b. Farm land runoff ditches
 - c. Farm ponds and rural fire ponds
 - d. Waterways management responsibilities and obligations Towns have

Unclear on next steps regarding this question. After review of other responses please advise on how to proceed.

7. What impact might the new DEC wetland identification process have on Site Plan review?

During Site Plan review, the Planning Board should identify whether (1) the subject property is a non-mapped area greater than 12.4 acres (lowering to 7.4 acres in 2028), (2) is an area smaller than 12.4 acres (lowering to 7.4 acres in 2028) that meets 1 of 11 criteria for “wetlands of unusual importance,” or (3) is exempt from the regulations.

A wetland is of unusual importance if it meets one of the following:

- (a) is located within an area that has or is expected to experience significant flooding;
- (b) is located within or adjacent to an urban area (as defined by the U.S. Census Bureau);
- (c) contains a rare plant species;
- (d) contains “habitat for an essential behavior” of an animal species that is endangered, threatened, of special concern, or of greatest conservation need;
- (e) is classified by NYSDEC as a Class I wetland;

- (f) was previously classified and mapped by NYSDEC as a wetland of “unusual local importance”;
- (g) is a vernal pool “known to be productive for amphibian breeding”;
- (h) is designated as a floodway by FEMA;
- (i) was previously mapped by NYSDEC as a wetland before January 1, 2025;
- (j) has “wetland functions or values that are of local or regional significance”; or
- (k) is of significant importance to protecting state water quality.

There is a fairly long list of exempt activities under the regulations, which are included with this response.

If the review determines that neither of those items is triggered, or the property/action is exempt, then the Planning Board proceeds normally.

If there's some question about applicability, then the matter can be referred to the DEC for a determination. Pending that determination, the Planning Board would table the project. Upon receipt of the determination, the Planning Board could proceed as normal, with the applicant modifying their project to accommodate any identified wetlands or otherwise seeking a variance from the appropriate jurisdictional authorities.

8. What is the recommended fix for the following stream buffer issues:
 - a. Buffer widths to streams should not be predicated on either zone or the use of the land, this is antiquated and not BMP.
 - b. The Town has numerous streams that change from 25' to 50' back to 25' and sometimes up to 100' just due to where it lies in relation to the zoning patterns.

In the establishment of wetland buffers (including stream buffers), NYS Office of Planning and Development has recognized that:

“[T]he size of the buffer and the activities allowed within it should be informed by the best available scientific information, as well as community challenges, goals, and capacity for enforcement.... The size of the buffer that is established may be influenced by the physical characteristics and function of the buffer area. For example, minimum buffers to prevent erosion on steep slopes should be greater than on level slopes (e.g., 150 feet versus 100 feet). Buffers should be larger in areas where pollutant filtration is an issue. For example, a minimum of 100 feet is recommended for effective nitrogen removal.... In some communities, standard buffer distances have been replaced with variable buffer widths, which are determined on a case-by-case basis.”

(Wetland and watercourse protection measures,
https://dos.ny.gov/system/files/documents/2020/06/2_wetland-and-watercourse-protection_measures_all.pdf)

Therefore, it is a common practice to change buffer widths based on the use of the land.

9. Provide recommendation - Similarly, the Town is at risk by having prescriptive disparity that one use be required to have a substantially greater buffer width than another use.

- a. For example: 212-25F single/2-family residences have a 25' setback

vs.

212-36B/C single/2-family residences have a 50' setback

See #8