

Minutes for the
Village of Cayuga Heights
Zoning Board of Appeals Meeting
September 8, 2015

Present: Members Acting Chair K. Sigel, A. Watkins, R. Parker, A. Shull, Alternates M. Eisner and S. Manning
Code Enforcement Officer B. Cross, VCH Deputy Clerk A. Podufalski
Attorney R. Marcus

1. Meeting called to order

- Meeting called to order by Acting Chair K. Sigel at 7:11 pm.

2. Variance Applications

A. 105 Berkshire Road

- Code Enforcement Officer B. Cross gave a background summary on the case. The applicant wishes to subdivide her property. In order for the new proposed lot to have the minimum required dimensions, it would reduce the road frontage of the current lot where her home is located to 38.33' which is not compliant with the 75' that is required by zoning regulations. The matter to be considered by the Board is whether to grant a variance reducing the lot frontage where the house is located from 75' to 38.33'. The actual subdivision request would be considered by the Planning Board.
- The applicant submitted a written statement along with her application.

Applicant: Katherine M. Durrant
105 Berkshire Rd.
Ithaca, NY 14850
Parcel ID 2-8-2.1; 1.2-acre lot with 1864 sq. ft. house.

June 27, 2015

To the Cayuga Heights NY Zoning Board of Appeals,

I have been the owner of the property situated at 105 Berkshire Rd. since April 2012. The property is 324 x 145 x 313.5 x 163 (ft.); 1.14 acres or 49,658.4 ft. sq.; the house and garage footprint are 1,864 ft. sq. covering 3.8% of the lot.

Please consider my request to the zoning board of appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations. Specifically, I am requesting a variance to Village of Cayuga Heights Articles Section 7. b., which dictates that each lot shall have a minimum frontage of seventy-five feet on a public street.

The reason for this request is to subdivide the parcel into two parcels to create a building lot for sale, which will reduce the road frontage for my home so as to include only the driveway, as detailed in the attached map. Please see the attached maps for all relevant dimensions of the proposed subdivision.

In 2012, I sold my 130-acre historic farm and moved my family to Cayuga Heights because I wanted to have neighbors and more of a sense of community, which, indeed, I have found within the Village. Initially, I had no intention of subdividing my large lot, but unfortunately and unexpectedly, my husband left the family and moved to Michigan last year, significantly altering our financial situation. My four children, especially my youngest daughter, who is currently in high school, and my oldest, who wishes to return to Ithaca for graduate school at Cornell, have quickly grown attached to our house and community.

Our house sits at the end of a long driveway, set far back from the road. Our usable lawn space is all on the far side and behind the house, not visible from the road. We do not use the wooded land by the road at all. I think it would make a lovely spot for a house, without damaging the beloved *park-like* atmosphere of the village. At present, my house feels isolated and I would welcome some new neighbors.

My lot is 1.2 acres and I know of many houses in the village that sit on less than half that, in many cases substantially less. For example, I believe the chair of the zoning board of appeals lives on a lot that is only approximately 1/3 of an acre. In my neighborhood, there are several houses on lots of less than 0.5 acre. Regarding the minimum road frontage, on North Sunset there are three houses sharing a driveway/un-maintained road, and others in the village sit on flag lots. Landlocked homes sit on Strawberry lane and Kleinwoods. These homes do not appear to detract from the atmosphere of the Village. The house that would be most affected by adding a new house on the front part of our lot would be mine, as the new house would be clearly seen from our driveway; but, I don't think that would be a problem. Our privacy is already much more impacted by the proximity of 211 Berkshire Rd., which sits very close to our house with a driveway that passes right outside my kitchen window. Looking from Berkshire Rd., the neighborhood would not seem crowded as my house is set back so far that it is barely visible to passers by. Because I propose sharing the driveway via an easement, no new curb cut would be necessary.

Address of the five criteria for granting a zoning variance request:

1. Does the request create an undesirable change in the character of the neighborhood or to the nearby properties?

No. It appears that the requested variance would not be significantly different from other lots in the neighborhood (especially on North Sunset) that share right-of-ways and have little or no road frontage.

2. Could the variance request be achieved by other means?

Possibly, but alternative options for subdividing the parcel would require more than one variance.

3. Is the request substantial?

Yes, the requested variance, either eliminating or minimizing road frontage requirements, is substantial.

4. Will this request have an adverse physical or environmental effect?

No.

5. Was the request self-created?

Yes, Durrant is choosing to divide the property, though, out of unexpected financial necessity.

- R. Parker asked to what extent the Board considers the fact that the variance would lead to a subdivision and what happens with the new lot. Code Enforcement Officer B. Cross explained the Board's actions are limited to the reduction in road frontage although the issue may be discussed during the Board's considerations of the 5 findings questions. He also stated the applicant would be obligated to come before the Planning Board to seek approval for the subdivision in the event the variance is granted and therefore a similar process would take place. Attorney R. Marcus added that the Planning Board is not bound by the decisions of the Zoning Board if the variance is granted and would render their own decision regarding the subdivision request.
- A. Watkins asked if there is a minimum lot size. Code Enforcement Officer B. Cross explained there are no area requirements, but there are dimensional requirements. A lot must be a minimum average width of 125' and average depth of 150'. He explained that a lot such as what is being proposed is commonly known as a "flag lot" where the shape has a longer portion and wider portion. This does present a challenge in configuring the average dimensions of these types of lots and several variations were considered in this case. The applicant hired TG Miller to draw up a formal document with his calculations. Additionally, the 12% lot coverage and set back requirements had to be considered.

- M. Eisner asked what would be the maximum allowable foot print of a house placed on the proposed lot. Due to the 12% lot coverage requirement it was estimated the maximum foot print for a house on that lot would be around 2,200 square feet.
- Code Enforcement Officer B. Cross stated that the proposed lot (Parcel A) is a compliant lot in all aspects for this application.
- A. Watkins questioned the proposed driveway and if that was an issue the Board would need to consider. Code Enforcement Officer B. Cross explained that current zoning law states there must be 75' of road frontage. It does not state the reason for this requirement.
- Acting Chair K. Sigel opened the public hearing.
- The applicant was given the opportunity to present further details regarding the variance request. She stated she would propose an easement for the driveway so it would be shared.
- Public comment
 - Code Enforcement Officer B. Cross read a letter submitted by K. Torgeson, the owner of 106 Berkshire Rd. The homeowner states her opposition towards the variance.

106 Berkshire Rd
Ithaca, NY 14850
September 4, 2015

Dear Zoning Board of Appeals members,

As a homeowner of 106 Berkshire Road since 1978, I firmly oppose the proposed variance to allow the lot at 105 Berkshire Road to be subdivided according to the August 27, 2015 letter from the Village of Cayuga Heights Zoning Officer Brent A. Cross. Due to my advanced age, I am unable to attend the Zoning Board meeting on September 8, 2015, but I kindly request that you take my opposition into account in making your decision.

I am opposing this variance on the grounds that it both poses a threat to road safety in the neighborhood and that it will alter the neighborhood in such a way as to negatively impact on the character and value of neighboring properties.

The lower part of Berkshire Road on which my home and the new proposed new driveway and lot are located has become one of the busiest roads in Cayuga Heights. It is a main thoroughfare for drivers coming off of Route 13 and Cayuga Heights Road seeking to access Community Corners or the homes above and below Cayuga Heights Road. In addition, the foot and bicycle traffic has increased in recent years as joggers, bikers and walkers use Berkshire Road as part of a "loop" from the Cornell University Campus or other parts of the city or Lansing. Due to the configuration of the turn of Berkshire Rd above our homes, there is a blind spot just where cars, bikes, and pedestrians converge – often driving or riding too quickly on a narrow road with no shoulders – that makes this portion of Berkshire Road particularly dangerous. Adding another driveway and another home to this portion of the road will only increase an already precarious and dangerous roadway in the Village.

In addition, I believe that the proposed subdivision which will add a new driveway and allow for a home to be built on what is the front lawn of another home will negatively impact the character of the neighborhood, thus potentially lowering property values. Many of the homes in Cayuga Heights, and the reason we have lived here for 37 years, are set back from the roads in order to allow for privacy and quiet which is one of the reasons why homes in Cayuga Heights are so valued and sought after. The requested variance to allow a 38.33' frontage for 105 Berkshire Road is less than 50% of the required 75' frontage required by Section 7.b of the Village of Cayuga Heights Zoning Ordinance. The frontage requirement was no doubt put in place precisely in order to prevent homes from being built in front of each other on recessed lots in order to avoid housing density and a loss of the private character of Cayuga Heights' homes. Allowing for this variance would so drastically be in contradiction with the ordinance and its intention to maintain the character of Cayuga Heights' neighborhoods that I hope the Board will uphold the denial of the zoning permit application for 105 Berkshire Road.

Finally, if this variance is allowed, it will allow for a home to be built close to the road in front of several homes, including our own. I feel that this increased housing density and the reduction in privacy and safety by having an additional home and driveway will decrease the value of our home and those of others in the immediate neighborhood. As a longstanding taxpayer and supporter of the Village of Cayuga Heights for nearly forty years, I hope that such a decision will not be made in contradiction with Village ordinance and public opposition.

Thank you for consideration of my opposition to this variance. I would be happy to answer any questions from members of the Zoning Board. My telephone number is [REDACTED]

Sincerely,


Kathryn W. Torgeson

- Code Enforcement Officer B. Cross has spoken with the property owner of 104 Berkshire Rd. The owner did not specifically have an opinion, but did have questions and concerns. Acting Chair K. Sigel stated the public hearing will be continued at the next Zoning Board meeting in October to allow the owner of 104 Berkshire Rd the opportunity to speak along with any other members of the public who may wish to comment.

- One member of the public expressed concern that this case may set a precedent for establishing additional flag lots within the Village. Acting Chair K. Sigel stated there are currently other such lots in the Village. Code Enforcement Officer B. Cross stated there are few flag lots in the Village and believes there are less than 5.
- Code Enforcement Officer B. Cross has received no other comments from the public.
- R. Parker is concerned that while a house could fit on the proposed lot, there could be drainage issues due to the slope of the property. Code Enforcement Officer B. Cross said it is possible the Planning Board could consider that. He also stated that New York State does not impose DEC stormwater regulations on single family lot developments. If this is a concern, the Planning Board could require the applicant to have a condition on a future building permit for any house placed on the property to address that issue. Chair K. Sigel suggested in the event the variance is approved, the Board should recommend to the Planning Board that they consider as a condition of their subdivision approval any impervious surface to be subject to site plan approval. Code Enforcement Officer B. Cross stated minor subdivisions are less regulated. Only large subdivisions are subject to storm water compliance. Attorney R. Marcus explained that state storm water regulations only apply to larger scale developments and there is a 5 acre trigger. Anything smaller than this does not require addressing the state regulations. Chair K. Sigel suggested the Planning Board is better equipped to handle this issue during their subdivision review.
- M. Eisner addressed the letter from the property owner at 106 Berkshire Rd. He believes some of the neighbor's concerns would be addressed by having a shared driveway. He also asked if there is any evidence that there has been an increase in traffic as the neighbor claimed. Code Enforcement Officer B. Cross stated he has a sense there has been an increase, but he has no documentation to support it.
- Acting Chair K. Sigel adjourned the public hearing until the next meeting scheduled for Monday, October 5, 2015.

B. 112 Midway Road

- Acting Chair K. Sigel appointed Alternate S. Manning as a voting member for the hearing.
- Code Enforcement Officer B. Cross gave a background summary on the case. The applicant wishes to install a car port approximately 8' from the western property line which is not in compliance with the required 15' side yard setback.

- Acting Chair K. Sigel opened the public hearing.
- The applicant read a prepared statement detailing her reasons for the request. A copy of the statement was not provided for the record. The applicant stated her neighbor's support the project. Furthermore, given the height of her fence and the extensive perimeter landscaping there would be a negligible visual impact on the neighborhood. She went on to say the project would actually be a benefit to the Village as it would increase the property value leading to increased tax revenue. The car port is necessary for safety reasons to protect the property owner from the elements.
- A. Watkins questioned whether the structure would be a carport or garage. The applicant stated due to costs the structure may start out as a car port, but ultimately plans to enclose the structure. Code Enforcement Officer B. Cross explained that the footprint of a structure is determined by its foundation. Zoning laws do not differentiate between a garage and a car port.
- R. Parker asked if there is a proposed height. The applicant stated presently there is not, but she intends the height to be slightly higher than the current garage so that it would overlap and provide coverage over the walkway.
- S. Manning asked if the proposed structure could be built next to the existing garage so a variance would not be necessary. The applicant explained this could not be done for several reasons. The current garage does not meet building code. In order to enlarge the current garage, it would need to be demolished. This would be very costly. Additionally, five trees planted many years ago would need to be removed as well as she would lose a window that provides cross ventilation.
- M. Eisner asked if the proposed garage were made deeper if this would make up for the loss in storage area. The applicant explained this would not be possible due to a current patio and a slope on the property. The applicant is also keeping lot coverage requirements in consideration.
- A. Watkins asked if the entire structure would be enclosed and if there would be doors installed. The applicant plans initially to have the front open unless the elements prove doors would be necessary.
- The applicant stated the structural supports for the new structure would go just outside of the existing concrete pad.
- The applicant was asked if she received letters of support from her neighbors. She stated she received oral support from Mary Bartek and Esther Link, but did not receive anything in writing.
- Acting Chair K. Sigel expressed concern over the lack of detail presented in the application and would prefer having professional architectural plans. The applicant stated such plans are very costly and she would not want to spend that kind of money for a structure she may not get approval to build. She assured the Board the structure would meet all zoning and building codes and

would be inspected by Code Enforcement Officer B. Cross. She said the materials used would resemble the materials on her existing house.

- Code Enforcement Officer B. Cross stated the existing submitted plans are all he requires as they give him the dimensional knowledge he needs. This is a completely independent structure and is not required to meet up with existing roof peaks.
- Attorney R. Marcus informed the Board their only decision is whether to allow a structure to be built closer to the property line than zoning law permits. The Board does have the authority to place conditions on the variance approval regarding the physical appearance to ensure minimal impact if that is a concern.
- Acting Chair K. Sigel asked if the width could be reduced by 2'. The applicant explained this would reduce her needed storage area.
- The Board discussed what the height of the peak would be within the proposed plans. It was determined that the plans indicate a 15' peak.
- The Board discussed conditions that would outline additional plan details so they could visualize what the final structure will look like:

Except as specified by the following conditions, the structure must be built substantially as proposed.

- 1. The height will be no more than 15'.*
- 2. The west and south sides will be enclosed.*
- 3. The exterior and the roof must be consistent with the existing house in material, style, and color.*
- 4. The western overhang will be no more than 24".*
- 5. The west side set back will be no less than 7.5'.*

- Code Enforcement Officer B. Cross will perform a visual inspection upon completion of the structure to ensure compliance with the conditions set forth by the Board.
- Code Enforcement Officer B. Cross informed the Board that professional architectural plans are not required for projects that are less than \$20,000.
- Attorney R. Marcus informed the Board the variance request is a Type II action exempt under Section 617.5(c)(12) of SEQ, granting of individual setback and lot line variances.
- The Board answered the finds questions as follows:

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS RESOLUTION
ADOPTED ON (SEPTEMBER 8, 2015) FOR APPEAL NO.2015-4**

Motion made by: R. Parker

Motion seconded by: A. Watkins

WHEREAS:

- A. This matter involves consideration of the following proposed action: granting of an area variance to construct a new carport with a side yard setback of approximately 8', which is less than the 15' required by the Village of Cayuga Heights Zoning Ordinance Section 6: Yard Requirements. The property in question is known as 112 Midway Road (see attached map) tax map # 10.-1-2; and
- B. On September 8, 2015 the Village of Cayuga Heights Zoning Board of Appeals held a public hearing regarding such action, and thereafter thoroughly reviewed and analyzed (i) the materials and information presented by and on behalf of the applicant(s) in support of this appeal, (ii) all other information and materials rightfully before the Board, and (iii) all issues raised during the public hearing and/or otherwise raised in the course of the Board's deliberations; and
- C. On September 8, 2015 in accordance with Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act (SEQR), and 6 NYCRR Section 617.5 (c), the Village of Cayuga Heights Zoning Board of Appeals determined that the proposed action is a Type II action, and thus may be processed without further regard to SEQR; and
- D. On September 8, 2015 in accordance with Section 712-b of the Village Law of the State of New York and Village of Cayuga Heights Article IX #21, the Village of Cayuga Heights Zoning Board of Appeals, in the course of its deliberations, took into consideration the benefit to the applicant if the area variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

- 1. The Village of Cayuga Heights Zoning Board of Appeals hereby makes the following findings with respect to the specific criteria for such area variance as set forth in Section 712-b of the Village Law of the State of New York and Village of Cayuga Heights Article IX #21:

Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by granting the area variance.

Finding:

YES ____ NO because: 1) There is screening on the west side of the property 2) The structure would be set back from the road 3) The conditions imposed by the Board will keep the appearance of the structure consistent with the house.

Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.

Finding:

YES NO _____, because: There are alternatives that would not require a variance. However, the applicant indicated these options are more expensive and would be destructive of the current landscape.

Whether the requested area variance is substantial.

Finding:

YES NO _____, because: However, this is mitigated by the answers set forth in question 1 and only a small length of side yard is affected.

Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding:

YES ____ NO because: There is currently a concrete pad in place and only a small length of side yard is affected.

Whether the alleged difficulty was self-created.

Finding:

YES NO _____, because: The applicant wishes to build the structure.

1. It is hereby determined by the Village of Cayuga Heights Zoning Board of Appeals that the following variance is **GRANTED AND APPROVED** (with conditions, if any, as indicated), it being further determined that such variance is the minimum necessary

and adequate to grant relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community:

Description of Variance:

Granting of an area variance to construct a new carport with a side yard setback of approximately 8', which is less than the 15' required by the Village of Cayuga Heights Zoning Ordinance Section 6: Yard Requirements.

Conditions of Variance:

Except as specified by the following conditions, the structure must be built substantially as proposed.

- 1. The height will be no more than 15'.*
- 2. The west and south sides will be enclosed.*
- 3. The exterior and the roof must be consistent with the existing house in material, style, and color.*
- 4. The western overhang will be no more than 24".*
- 5. The west side set back will be no less than 7.5'.*

The vote on the foregoing motion was as follows:

AYES:	Acting Chair K. Sigel	NAYS:	<u>None</u>
	A. Watkins		
	A. Shull		
	S. Manning		
	R. Parker		

The motion was declared to be carried.

3. May 4, 2015 Minutes

- The approval of the minutes was tabled until the October 5, 2015 meeting.

4. New Business

- Code Enforcement Officer B. Cross informed the Board he will have a new case to present at the October meeting regarding a stoop overhang at 511 Kline Rd.
- Code Enforcement Officer B. Cross informed the Board the construction project at Kendall is requesting to rebuild the existing sign. He is trying to

determine how to base the size calculation and if a variance is required. Attorney R. Marcus stated that while Village zoning law does not address the issue, in most municipal sign laws the structure is not included in the size calculation.

- The Board discussed a fence that is still not in compliance at 206 Oak Hill Rd. The applicant needs to receive an amended variance or move the fence. Code Enforcement Officer B. Cross will follow up with the homeowner.

5. Adjourned

- Meeting adjourned at 9:20 pm.