

Village of Cayuga Heights
Zoning Board of Appeals Meeting
Draft Minutes
November 2, 2015

Present: Members Chair J. Young, K. Sigel, A. Watkins, R. Parker and A. Shull
Code Enforcement Officer B. Cross, VCH Deputy Clerk A. Podufalski
Attorney G. Krogh
Members of the Public

1. Meeting called to order

- Meeting called to order by Chair J. Young at 7:05 pm.

2. Public Comment

- Stephen Komor expressed his opposition of the subdivision variance approved for 105 Berkshire Road. He previously emailed materials to the Board which he presented at the meeting. He requested that the Board re-open the case.

To: Brent Cross, Cayuga Heights Zoning Officer
Jack Young, Chair, Zoning Chair of Appeals
Randy Marcus, Village Attorney

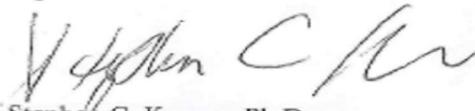
Dear All,

With this letter, I formally state my intention to appeal the zoning variance granted Katherine Durrant of 105 Berkshire Rd. I was present and prepared to speak at the first meeting of the Zoning Board about this matter on September 8, but not permitted to enter the meeting room. I mistakenly thought the second meeting of the Board about this matter was October 6 and was prepared again on that day to make my presentation.

I hereby exercise my right to appeal the decision. The basis of my appeal is: 1) that the original application is misleading, and; 2) that I have a right to be heard on this matter.

I await instructions about how to make the appeal. I expect these to be communicated to me with alacrity. I consider this a legal matter of the greatest importance.

Signed



Stephen C. Komor, Ph.D.

104 Berkshire Rd.
Ithaca, NY 14850.

The Zoning Variance for 105 Berkshire Rd. is Wrong

Submitted to the Cayuga Heights Zoning Board by Stephen C. Komor
104 Berkshire Rd., Ithaca, NY 14850 (607) 257-0661 sck15@cornell.edu

“...all trees in general, and street trees in particular, not only enhance community esthetics and identity, but also provide many environmental and social benefits.”
Fred Cowett, Planning Board Chair, *Village of Cayuga Heights Newsletter*,
Summer 2015.

Introduction

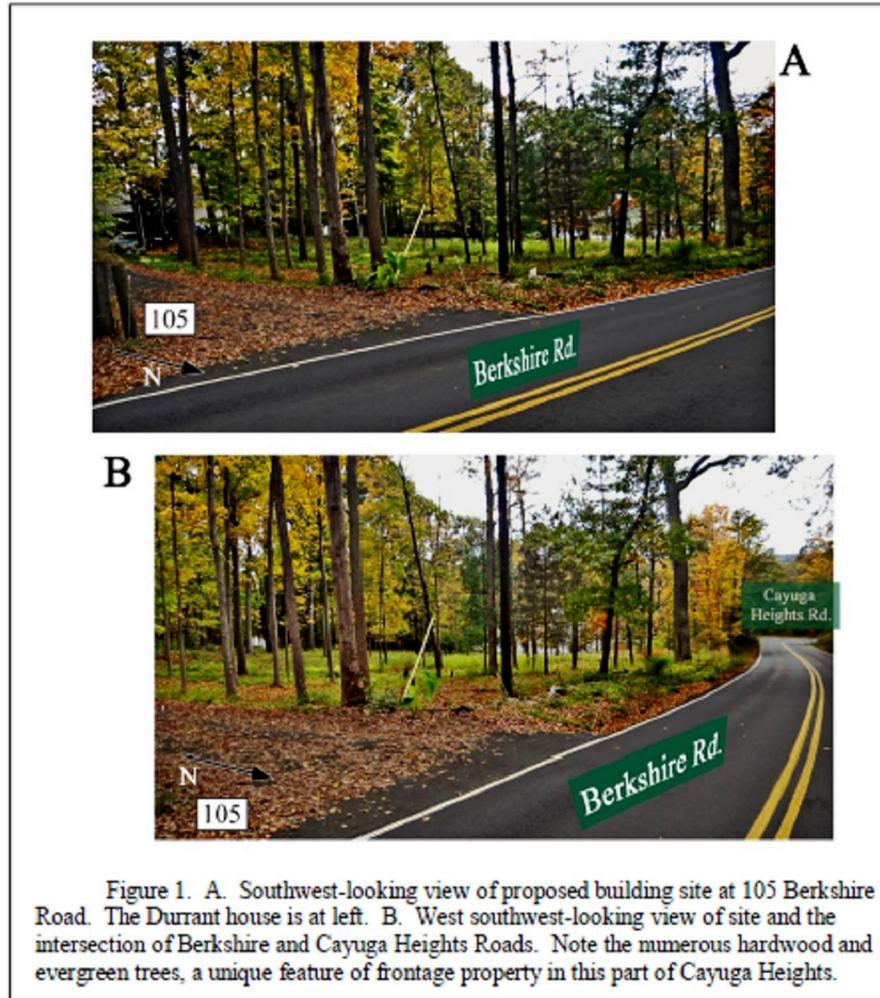
I have lived in Cayuga Heights for 37 years: 16 years at my present address on Berkshire Rd. and another 21 years in houses on Highgate Road. and Klinewoods Road. Cayuga Heights is my home because the zoning regulations keep it bucolic and inviting. The variance granted for subdivision of the property at 105 Berkshire, owned by Katherine Durrant, violates the well-established, peaceful and treasured nature of Cayuga Heights. In this document, I present data that obviated the granted zoning variance and the justification presented by Durrant. My knowledge of the justification for the variance comes from the minutes of the Zoning Board meeting on September 6, 2015.

At the Zoning Board meeting on November 2, I will speak to the board about my interpretations of the data presented her.

Description of the proposed building lot

The lot is a pocket forest that fronts on Berkshire Road just east of the intersection with Cayuga Heights Road (Figure 1). This busy stretch of Berkshire Road is the primary entrance and exit for north-central Cayuga Heights. The proposed building site is 0.42 acres, which is 37% of the 1.2 acre undivided property (Parcel 2.1 on the Village of Cayuga Heights Tax Map). The lot slopes to the west and is steepest immediately downslope of the asphalt driveway where runoff has eroded the topmost soil horizon. Surface runoff transports soil to the western edge of the property where the land flattens, trees are spaced farther apart and ground cover is adapted to moist, organic-rich soils. I estimated the lot's value at \$61,400 by proportioning the 2015 assessment of the entire property according to the areas of the subdivided lots. The market value

will be more because of the scarcity of building sites in the Village and the location's desirability.



The proposed building lot contains more than a score of young silver maple and pine trees separated by myrtle and other ground cover. The treed lot provides a measure of quietude to the heavily trafficked western end of Berkshire Road. The small, lovely

forest is an important and prominent exhibit of the high value that most Village residents place on natural, open spaces.

Effects of Erecting a New House on the Frontage Lot at 105 Berkshire Rd.

The existing domicile on Durrant's property at 105 Berkshire Rd. has 2450 sq. ft. of living space. To envision how a new house will affect lower Berkshire Road, I superimposed a scaled image of an 1800 sq. ft. house on the proposed building lot (Figure 2). The new house largely obscures the forest. Gone is the quiet atmosphere imparted from the trees and open space. Instead, this part of Berkshire Rd. becomes another over-crowded, densely populated suburb akin to Cigarette Alley in the Northeast suburban area (Muriel Street, Salem Drive, etc.).

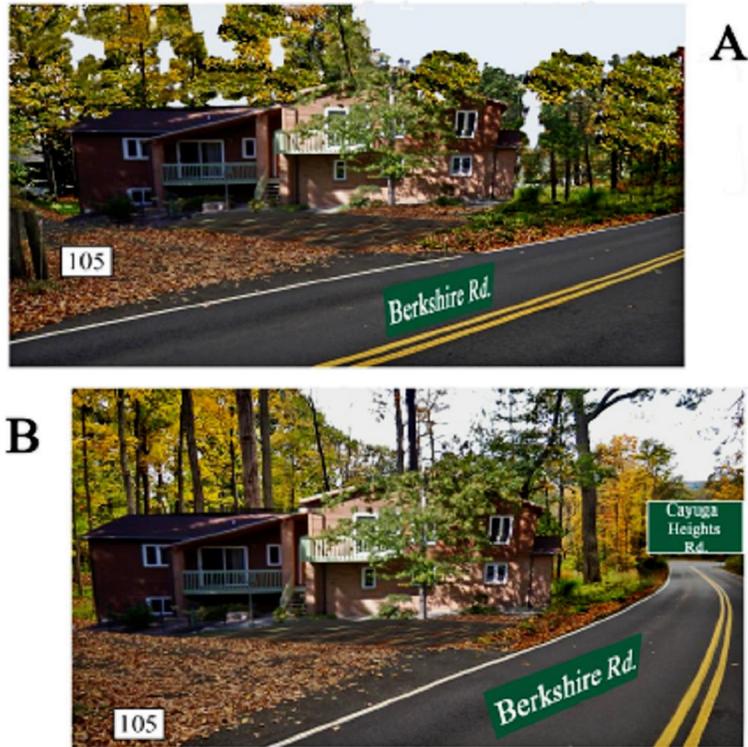


Figure 2. A. Southwest-looking view of proposed building site at 105 Berkshire Road with a scaled 1800 sq. ft. house superimposed on image. B. West southwest-looking view of the site and the scaled house image.

False Comparisons to Existing Structures on North Sunset Road

In her narrative requesting a zoning variance, Durrant cites subdivided properties on North Sunset Road but does not specify the addresses. I identified two possible locations that Durrant may have in mind (Figure 3). One at 208-212 North Sunset Road contains three houses built by Tom McCarthy beginning in 1968. However, these houses all have separate driveways that access North Sunset Road and none required any zoning variance (*personal communication*, Tom McCarthy, 10/2015.)



Figure 3. Locations of subdivided properties on North Sunset Road.

The other houses are at 123-131 North Sunset Road. Here, four houses on subdivided lots share part of a long driveway. The construction years and sizes and of these houses are as follow:

House Number on North Sunset Rd.	Year Constructed	Square Footage
123	1946	1727
125	1966	897
129	1966	1521
131	1966	920

The oldest house from was built in 1946 and the owners subdivided the property in 1965. Three small houses were built in 1966, fifty years ago. The ones at 125 and 129 Sunset Road are about half the size of a house that would be constructed on the valuable lot at 105 Berkshire. In 1965, northern Cayuga Heights was much different than today. Highgate Circle was a dirt and gravel road with no houses. Texas Lane was a dead end street. Triphammer Shopping Center was brand new. Building lots in Cayuga Heights were not difficult to find. It is false and misleading to present as justification for subdivision of 105 Berkshire Rd. the subdivisions approved in 1965.

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3. Approval of Minutes

APPROVING MINUTES OF OCTOBER 5, 2015

RESOLVE that the written, reviewed and revised minutes of the October 5, 2015 meeting are hereby approved.

4. 216 Deerborn Place Variance Application

- Chair J. Young read the public notice.

PUBLIC NOTICE

NOTICE is hereby given that on November 2, 2015 the Village of Cayuga Heights Zoning Board of Appeals will conduct a Public Hearing at the Village Hall, 836 Hanshaw Road, Ithaca, NY to seek comments on the following project(s):

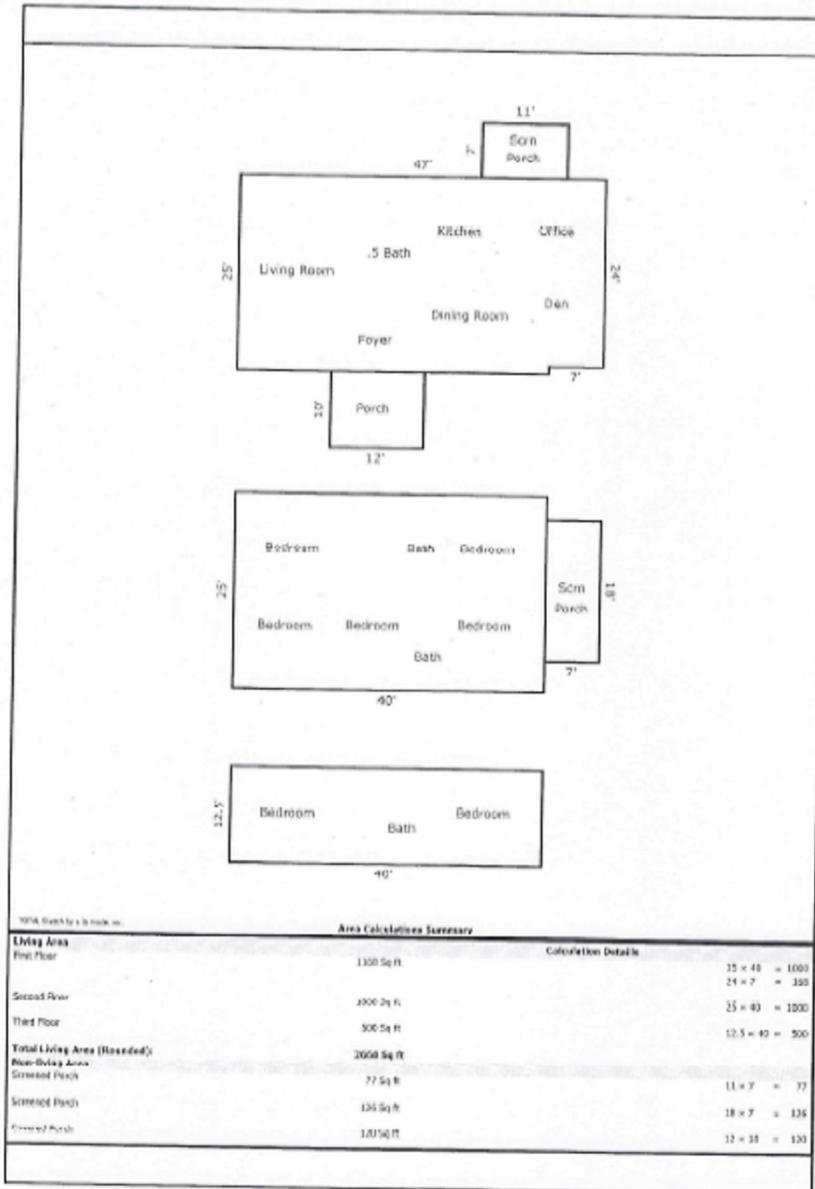
7:00 pm: Request by G.P. Zurenda, Jr. (agent) of 216 Dearborn Place, to allow 10 unrelated persons to occupy a single family dwelling, which is more than the maximum of 4 unrelated persons allowed according to Village of Cayuga Heights Local Law #6 of 2010: Occupancy Requirements.

- Code Enforcement Officer B. Cross gave a background summary on the case. The property is currently under contract for sale. The buyer, G.P Zurenda, intends to use the home as a sobriety affinity house for up to 10 unrelated people which is more than the maximum of 4 unrelated persons allowed under Village law to occupy a single family dwelling. The house is within the Village; however, the front lawn lies within the City of Ithaca. The applicant is seeking a variance to allow up to 10 unrelated people to occupy the residence.
- The Board discussed with Attorney G. Krogh the definition of “family.”
- Code Enforcement Officer B. Cross stated he has extensively researched the issue through NYCOM and the Department of State. He has also discussed the issue with Village Attorney R. Marcus. An affinity house is not a protected class. He also explained the definition of a single family home.
- A. Watkins asked if any of the other homes in the neighborhood have had a change in occupancy use. Code Enforcement Officer B. Cross gave an overview of the other homes in the neighborhood and their current occupancies. Some of the buildings are owned by Cornell. The Village has no records it has been contacted by Cornell University to inform there have been any changes in use.
- The Board discussed with Attorney G. Krogh the different housing code classifications.
- G.P Zurenda, acting as agent for the property owner Nancy Sokol, explained in further detail the variance request. He provided a page from Tompkins County Property Viewer, a building sketch, and a picture of the house. He stated the house would be used as an affinity house dedicated to sober living for students. He also discussed anticipated renovations for the inside of the house, but stated the house and many of its original features would remain.



Building Sketch

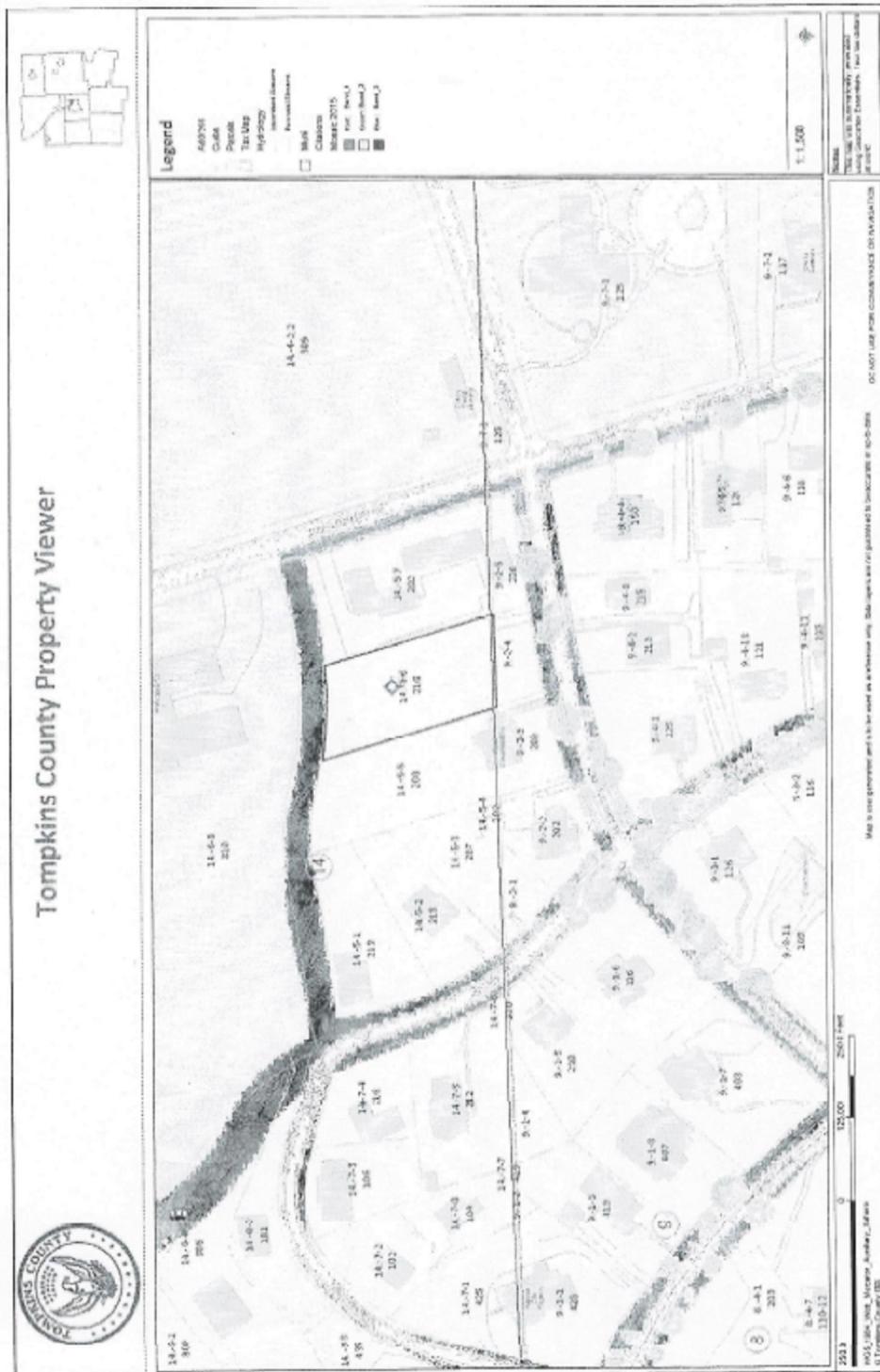
Client	Elmira Savings Bank		
Property Address	216 Dearborn Pl		
City	Elmira	County	Tompkins
State	NY	Zip Code	14850
Lessee/Client	Elmira Savings Bank		



AREA CALCULATIONS SUMMARY

Living Area	Area	Calculation Details
First Floor	1320 Sq ft	35 x 48 = 1680 24 x 7 = 168
Second Floor	1000 Sq ft	35 x 40 = 1400
Third Floor	500 Sq ft	12.5 x 40 = 500
Total Living Area (Rounded):	2820 Sq ft	
Non-Living Areas:		
Screened Porch	77 Sq ft	11 x 7 = 77
Screened Porch	126 Sq ft	18 x 7 = 126
Screened Porch	181 Sq ft	12 x 18 = 216

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- Chair J. Young opened the public hearing.
 - David Bendaniels of 111 Kelvin Place spoke against the proposed variance. He feels it would be a detriment to the existing neighborhood.

- Miriam Brody of 125 Kelvin Place spoke against the proposed variance. She is disturbed that the house was not put up for sale on the open market. She would like to see it have the opportunity to be sold to a single family.
- Isaac Kramnick of 125 Kelvin Place spoke against the proposed variance. A written statement was submitted for the record.

MY NAME IS I.K. HAVE LIVED FOR 43 YEARS AT
 115 K. PLACE — across the street from Nancy
 Sokol at 216 Dearborn — ^{has} ^(Cornell Hts. been)

FOR ^(these) 43 years our neighborhood — a mixed use
 community of single family homes and student
 housing ^(and) has served as an imp't buffer between
 the university south of us and Cayuga Hts. to our North.

^(is always)
 The neighborhood is fragile — we have fought for
 decades to maintain the presence of single family
 homes — to keep it mixed use — NOT ALL STUDENT

216 Dearborn ^(is) a particularly important house in
 this neighborhood.

When you leave Triphammer Rd. and enter Dearborn, a
 gateway to Cornell Hts, you pass first on your right
 the large Brookline apt complex — then you see
 # 216 on your right, for 20+ years a single family house,
 which proudly announces — This is a mixed use
 community — NOT ^{just} Cornell area housing — ^{labor or drunk}

With 10 students living in 216 Dearborn that
 announcement is gone — BECAUSE OUR MIXED
 USE neighborhood is ONE STEP CLOSER TO BEING
 GONE. — AND SIMPLY CORNELL STUDENT HOUSING —

~~Hope for~~ — I HOPE YOU REJECT ~~with~~
 THIS REQUEST FOR A VARIANCE ~~from~~

- Code Enforcement Officer B. Cross stated he has not received any written comments from the public regarding the variance request. He has, however, been contacted by other interested buyers.
- Catherine Penner of 121 Kelvin Place spoke against the proposed variance. She and her neighbors have fought to protect their neighborhood from becoming “College Town.” She would like to see the property remain a single family home.

- Clair Bendaniels of 111 Kelvin Place spoke against the proposed variance. She feels it would cause a negative change in the neighborhood.
- Julie Simmons-Lynch of 116 Kelvin Place spoke against the proposed variance. She would like to see the small community remain.
- Stephanie Sokol Ducamp spoke in favor of the variance. She identified herself as the daughter of the property owner. She informed the Board that they have not been contacted by any single family buyers. The only other interested parties have been developers who wish to tear down the house and build additional rental units. This sale would allow the house to remain. She also stated that the immediate surrounds (parking lot, athletic field lights, and 22 person living group) have significantly decreased the desirability of the house for single family use.
- Chair J. Young explained that there are differences between City and Village Zoning Laws. The Cornell Heights district falls under the City of Ithaca Zoning Laws. This Board can only consider Village of Cayuga Heights Zoning Laws.
- Code Enforcement Officer B. Cross read a letter he received from the Tompkins County Department of Planning stating the variance would not have a negative inter-community or county-wide impact.

Tompkins County
DEPARTMENT OF PLANNING

121 East Court Street
Ithaca, New York 14850

Edward C. Marx, AICP
Commissioner of Planning

Telephone (607) 274-5560
Fax (607) 274-5578

October 30, 2015

Brent Cross, Zoning Officer
Village of Cayuga Heights
Marcham Hall
836 Hanshaw Road
Ithaca, NY 14850

Re: Review Pursuant to §239 -l, -m and -n of the New York State General Municipal Law
Action: Variance for proposed affinity house at 216 Dearborn Place, Village of Cayuga Heights
Tax Parcel #14.-5-6, G.P. Zurende, Jr., Owner/Appellant.

Dear Mr. Cross:

This letter acknowledges your referral of the proposal identified above for review and comment by the Tompkins County Planning Department pursuant to §239 -l, -m and -n of the New York State General Municipal Law. The Department has reviewed the proposal, as submitted, and has determined that it has no negative inter-community, or county-wide impacts.

Please inform us of your decision so that we can make it a part of the record.

Sincerely,



Edward C. Marx, AICP
Commissioner of Planning

- Kim Weeden of 202 Fall Creek Drive shared her concerns with increased parking, traffic, and enforcement issues.
- The Board discussed possibly adjourning the meeting to allow an opportunity for the community members and the property owner to discuss the situation. Attorney G. Krogh advised the Board that while they could postpone ruling, it was not advisable.
- Donna Eaton of Kelvin Place shared her concerns over an increase in student housing in the neighborhood.

- Eric Pritz of 106 Brook Lane is also concerned over an increase in student housing.
 - Michael Decatur of 125 Heights Court expressed concerns over parking, tenant leasing, and lighting.
 - Lee Adler of 212 Kelvin Place expressed his concerns with single family homes being turned into multi housing residences. He made a comment that Code Enforcement Officer B. Cross allowed a property in this neighborhood to double the size of the existing house which has resulted in an increase in density. He is concerned with preserving the character of the neighborhood.
 - Ann Ledbetter stated that the house is not within the Cornell Heights Historical District. She also stated that the original family size has always been around 10 people and therefore there would be no change in the overall neighborhood density.
 - Rich Eaton of 215 Kelvin Place agrees with comments presented by both sides.
 - Vally Kovary of 101 Brook Lane asks that the buyer not rent to undergraduates due to potential issues these students may cause.
 - The Board discussed the current uses of the surrounding properties.
 - Eric Pritz of 106 Brook Lane stated he feels the 200 ft. perimeter for the determination of the neighborhood is inaccurate. He would like to keep the property as a single family home.
 - Brie Ducamp, the granddaughter of the property owner, stated if the neighbors are so concerned with current zoning laws they should work to change them.
 - Code Enforcement Officer B. Cross explained that the property and the surrounding neighboring properties are within the multi-housing district and have been zoned as such since 1953. He also stated the Board of Trustees provided ample opportunities for the public to share such concerns as have been presented tonight during the public sessions held on the Village's newly adopted Comprehensive Plan. The Village is currently working on re-writing Village Zoning Laws and invites public input.
 - William Sonnenstuhl of 206 Winston Drive, a professor at Cornell, is in support of the variance. He stated he had a conversation with the Associate Dean for Greek and Campus Life at Cornell University. He said the University would be interested in incorporating the proposed affinity house into the University's cooperative living program.
- Chair J. Young closed the public hearing at 9:50 pm.
 - Attorney G. Krogh informed the Board the variance request is a Type II action exempt under Section 617.5(c)(13) "granting of an area variance(s) for a single-family, two-family or three-family residence;" of SEQR.
 - The Board discussed with Attorney G. Krogh possible conditions they could impose if the variance is approved.

- Code Enforcement Officer B. Cross responded to statements made by Lee Adler about the housing project which occurred at 207 Kelvin Place. Code Enforcement Officer B. Cross stated for the record he did not authorize the project and that it was the Planning Board who approved the project.
- The Board answered the findings questions as follows:

VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS RESOLUTION ADOPTED
ON (NOVEMBER 2, 2015) FOR APPEAL NO.2015-6

Motion made by: K. Sigel

Motion seconded by: A. Watkins

WHEREAS:

- A. This matter involves consideration of the following proposed action: granting of an area variance to allow 10 unrelated persons to occupy a single family dwelling, which is more than the maximum of 4 unrelated persons allowed according to Village of Cayuga Heights Local Law #6 of 2010: Occupancy Requirements. The property in question is known as 216 Deerborn Place (see attached map) tax map # 14.-5-6; and
- B. On November 2, 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 November 2, 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)(13), 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 November 2, 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: The neighborhood consists of institution, apartment, rental, co-ops, fraternity/sorority, and single family uses. The proposed use is consistent with the neighborhood.

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: The goal is to have 10 people share a common living space in a single dwelling unit and to preserve the architectural integrity of the house.

Whether the requested area variance is substantial.

Finding:

YES NO , because: A 2 ½ times the allowed occupancy increase is substantial, but is mitigated because a compliant development could have the same number of unrelated occupants or more.

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 no anticipated new exterior construction or significant changes in impervious surfaces.

Whether the alleged difficulty was self-created.

Finding:

