

Village of Cayuga Heights  
Zoning Board of Appeals Meeting  
Minutes  
December 7, 2015

Present: Members Chair J. Young, K. Sigel, A. Watkins, R. Parker and A. Shull  
Alternate M. Eisner  
Code Enforcement Officer B. Cross, VCH Deputy Clerk A. Podufalski  
Attorney R. Marcus  
Members of the public

1. Meeting called to order

- Meeting called to order by Chair J. Young at 7:02 pm.
- Chair J. Young appointed Alternate M. Eisner as a voting member.

2. Approval of Minutes

**Motion:** R. Parker

**Second:** K. Sigel

**APPROVING MINUTES OF NOVEMBER 2, 2015**

**RESOLVE that** the written, reviewed and revised minutes of the November 2, 2015 meeting are hereby approved.

**Aye votes** – Chair J. Young, K. Sigel, A. Shull, A. Watkins, M. Eisner

**Absent** – A. Shull

**Opposed**- None

3. Public Comment

- No members of the public wished to comment.
- A. Shull arrived. Chair J. Young un-appointed Alternate M. Eisner as a voting member.

4. Variance Applications

A. 511 Kline Rd. Variance Application

- Chair J. Young read the public notice.
- Code Enforcement Officer B. Cross gave a background summary on the case.

- Attorney R. Marcus clarified that the matter for consideration by the Board is only for the porch overhang; not the fence or any other feature of this property.
- Code Enforcement Officer B. Cross stated for the record that he was notified by a neighbor that one of the notices was sent to the previous property owner of 323 Highland Rd. He has since contacted the current owner via email, but has received no response. Attorney R. Marcus stated that as long as the notice was sent to the listed owner on record the notice was compliant. Code Enforcement Officer B. Cross confirmed the notice was sent to the owner that was listed on the most recent Village tax roll.
- An email was received from Mark Morris in support of the request. This email was forwarded to the Board prior to the meeting. Code Enforcement Officer B. Cross stated he has received no other comments regarding the request.
- Code Enforcement Officer B. Cross explained what is defined as the Village right of way. The right of way consists not only of the paved surface of the road, but ordinarily includes a width of 50'. He informed the Board that the porch overhang encroaches over this property's front line and into the Village's right of way. The Zoning Board may only consider approval of the overhang up to the property line. The Board of Trustees would need to consider the possibility of granting a license for the portion that extends over this property's front line and into the right of way. He also discussed the original structure and what had been previously grandfathered in.
- The applicant explained their reasons for requesting the variance.
- Chair J. Young opened the public hearing. No members of the public made comments.
- Attorney R. Marcus informed the Board the variance request is a Type II action exempt under Section 617.5(c)(12) "granting of individual setback and lot line variances;"
- The Board began discussion on the findings questions. K. Sigel prepared a statement of additional findings to be added to the usual five questions considered by the Board. The additional findings were read by Chair J. Young.

#### **Additional Findings:**

**This Board finds, based on a survey provided to this Board when the applicant sought a prior variance, that the front property line in the vicinity of the front stoop is approximately 4 to 5 feet from the original face of the house. This corresponds, approximately, with the edge of the original stoop foundation that still exists and is currently being used to support the new stoop roof. This Board also finds that the new stoop roof projects approximately 9 feet from the original face of the house, based on an actual measurement.**

**The variance sought is for the portion of the new stoop roof that exists between the house and the front property line. The portion of the new stoop roof that extends beyond the property line is not, and cannot, be covered by this variance.**

The Board agreed to add these additional findings after the fifth findings question for the resolution.

- Chair J. Young closed the public hearing.
- The Board answered the findings questions as follows:

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS RESOLUTION  
ADOPTED ON (DECEMBER 7, 2015) FOR APPEAL NO.2015-7**

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 a the roof over the front porch/stoop to be constructed up to the front property line, which is less than the 25' minimum required by the Village of Cayuga Heights Zoning Section 6: Yard Requirements. The property in question is known as 511 Kline Rd. (see attached map) tax map # 15.-6-2; and
- B. On December 7, 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 December 7, 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)(12), the Village of Cayuga Heights Zoning Board of Appeals determined that the proposed action is a Type II action, and thus may be considered by the Board without further action under SEQR; and

D. On December 7, 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: A) the proposed change has only a modest impact on the character of the neighborhood. B) there have been no objections from neighbors.

*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 minimal benefits sought by the applicant could have been met with the original footprint of the old porch/stoop roof, however, they wish to keep the newly-built structure.

*Whether the requested area variance is substantial.*

Finding:

YES  NO \_\_\_\_\_, because: a 0' setback is substantial, however, the roof only extends an additional 32" in relation to the length of the property line.

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

Finding:



K. Sigel  
A. Watkins  
R. Parker

The motion was declared to be carried.

- Chair J. Young informed the applicant he has been made aware of complaints residents have made regarding the setup of the property. He suggested the applicant discuss these complaints with Code Enforcement Officer B. Cross.

B. 206 Oak Hill Rd. Variance Application

- Chair J. Young read the public notice.
- Code Enforcement Officer B. Cross gave a background summary on the case. He informed the Board that the fence the applicant built does not conform to the variance the Board originally approved. There are also concerns the fence may encroach on the Village right of way. He also acknowledged there may have been some miscommunication between the installer and the previous Assistant Superintendent of Public Works as to the appropriate placement of the fence.
- The applicant explained their reasons for requesting the variance.
- Chair J. Young opened the public hearing.
  - Maryann Friend stated that from an aesthetic point of view the current fence is more appealing than the original chain link fence. She also believes the fence poses no danger to pedestrians.
  - Kim Szpiro of 503 Triphammer Rd. stated the fence is an improvement from the previous fence and provides privacy for both the applicant and neighbors.
- A. Watkins asked how much closer the fence is compared to what was approved. Code Enforcement Officer B. Cross explained there was no stated measurement, but landscape markers were to be used to determine the placement of the fence. These markers are no longer there. It is estimated that the fence is 5-10' closer to the property line than what was approved.
- K. Sigel stated he feels the fence is out of character for the neighborhood. He also shared his concerns regarding deer traffic with the fence being so close to the sidewalk. Chair J. Young reminded the Board of an email sent by Paul Curtis that explained there would only be an issue with deer traffic in the event multiple houses in a row had such fences.
- Chair J. Young closed the public hearing.

- Attorney R. Marcus informed the Board the variance request is a Type II action exempt under Section 617.5(c)(12) "granting of individual setback and lot line variances;"
- K. Sigel stated his objections to the variance and that he is likely to vote against it. He prefers the fence to be made compliant.
- The Board answered the findings questions as follows:

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS RESOLUTION  
ADOPTED ON (DECEMBER 7, 2015) FOR APPEAL NO.2015-8**

Motion made by: A. Watkins

Motion seconded by: R. Parker

**WHEREAS:**

- A. This matter involves consideration of the following proposed action: granting of an area variance to allow a an existing 6' high fence on top of a 1' high berm to remain on the front property line, which is less than the 25' minimum required by the Village of Cayuga Heights Zoning Section 6: Yard Requirements. The property in question is known as 206 Oak Hill Rd. (see attached map) tax map # 14.-1-10; and
- B. On December 7, 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 December 7, 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)(12), the Village of Cayuga Heights Zoning Board of Appeals determined that the proposed action is a Type II action, and thus may be considered by the Board without further action under SEQR; and
- D. On December 7, 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: it is not an undesirable change and neighbors are in favor of the fence. However, the fence is out of character for 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 benefit could be achieved by adhering to the original variance, but the applicant wishes to avoid the cost of moving the newly-built fence.

*Whether the requested area variance is substantial.*

Finding:

YES  NO \_\_\_\_\_, because: the fence is 0' from the front property line.

*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: the fence was only moved by 5-10' from the location that was the subject of the original variance approval and has no significant impact on animal traffic.

*Whether the alleged difficulty was self-created.*

Finding:

YES  NO \_\_\_\_\_, but is mitigated by ambiguous approval from a Village employee.

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 allow a an existing 6’ high fence on top of a 1’ high berm to remain on the front property line, which is less than the 25’ minimum required by the Village of Cayuga Heights Zoning Section 6: Yard Requirements.

**Conditions of Variance:**

The structure must remain substantially as built.

The vote on the foregoing motion was as follows:

AYES:	Chair J. Young	NAYS:	K. Sigel
	A. Watkins		
	R. Parker		
	A. Shull		

The motion was declared to be carried.

5. 105 Berkshire Rd Discussion

- Chair J. Young recused himself from the discussion and appointed K. Sigel as acting Chair. He then left the meeting. K. Sigel appointed Alternate M. Eisner as a voting member.
- During the November 2, 2015 meeting resident Stephen Komor made a presentation and requested the Board re-hear the variance case for the subdivision approval at 105 Berkshire Rd. Acting Chair Sigel explained that a re-hearing would require unanimous vote of the members of the ZBA now present. R. Parker stated that under no circumstance would she vote to re-hear the case. Acting Chair K. Sigel stated he would not be interested in making a motion to re-hear the case. Attorney R. Marcus discussed with the Board that some of Mr. Komor’s concerns were addressed by the conditions imposed by the Planning Board during their site plan review.
- No motion was made to re-hear the case.

6. New business

- Code Enforcement Officer B. Cross stated he currently has no cases to present at the January meeting.

7. Adjourn

- Meeting adjourned at 9:32 pm.