

Village of Cayuga Heights
Zoning Board of Appeals Meeting
MINUTES
June 6, 2016

Present: Members Chair J. Young, K. Sigel, A. Watkins, R. Parker
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 7:15 pm.
- Chair J. Young appointed Alternate M. Eisner as a voting member.

2. Approval of Minutes

APPROVING MINUTES OF DECEMBER 7, 2015

RESOLVE that the written, reviewed and revised minutes of the December 7, 2015 meeting are hereby approved.

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

Opposed- None

3. Public Comment

- No members of the public wished to comment.

4. Variance Applications

A. 113-115 Cayuga Heights Road Variance Application

- Chair J. Young read the public notice.
- Code Enforcement Officer B. Cross gave a background summary on the case.
- The applicant explained their reasons for requesting the variance.
- Chair J. Young opened the public hearing. No members of the public wished to comment.
- 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;"

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

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS RESOLUTION
ADOPTED ON (JUNE 6, 2016) FOR APPEAL NO.2016-1**

Motion made by: J. Young

Motion seconded by: R. Parker

WHEREAS:

- A. This matter involves consideration of the following proposed action: granting of an area variance to allow an 8' high fence to be constructed within 7' of front property line (on Kline Road) and 17' of front property line (on Cayuga Heights Road), 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 113-115 Cayuga Heights Road (see attached map) tax map # 15.-4-1 and 15.-4-3; and
- B. On June 6, 2016 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 June 6, 2016 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 processed without further review under SEQR; and
- D. On June 6, 2016 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) The portion of the fence subject to the variance will be deer fencing and therefore largely open 2) There is substantial vegetative screening along Cayuga Heights Road by the existing hedge and some vegetative screening along the shorter side on Kline Road.

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 _____ but: the proposed location works best as it is adjacent to the existing landscaping.

Whether the requested area variance is substantial.

Finding:

YES NO _____, but: the proposed location works best as it is adjacent to the existing landscaping.

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 _____ (A. Watkins and M. Eisner) NO X (J. Young, R. Parker, and K. Sigel) because: the impact on deer migration should be minimal due to the small setback reduction (8 feet) along most of the proposed fence (Cayuga Heights Road portion).

Whether the alleged difficulty was self-created.

Finding:

YES X NO _____, because: the applicant could put the fence at the required 25' setback.

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 the relief sought 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 an 8' high fence to be constructed within 7' of the front property line (on Kline Road) and within 17' of the front property line (on Cayuga Heights Road), which is less than the 25' minimum required by the Village of Cayuga Heights Zoning Section 6: Yard Requirements.

Conditions of Variance:

- 1) The fence must be built substantially as indicated in the plans submitted to the Board with the portion above 4' being 90% open deer fencing.
- 2) The portion of fence along Kline Road from 0-8' will be 90% open deer fencing with no other fencing.
- 3) The fence along Kline Road must be on the house side of the short stone wall in that location.

The vote on the foregoing motion was as follows:

AYES: J. Young
M. Eisner
R. Parker
K. Sigel

NAYS: A. Watkins

The motion was declared to be carried.

- Chair J. Young informed the applicant there is a 30 day timeframe in which someone could file for an appeal of the Board's decision.

B. 1001 Highland Road 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 the Village of Cayuga Heights Planning Board is conducting a Site Plan review for possible subdividing of this property. The Planning Board has determined this is a minor subdivision under applicable Village law, and a continuation of the Planning Board's public hearing will be held at its June 27, 2016 meeting. The Planning Board had declared itself lead agency and has completed a SEQR review and determined that the proposed subdivision would have no significant adverse environmental impacts.
- Code Enforcement Officer B. Cross informed the Board he received a letter from William Fenwick. This letter was passed along to the Board.

915 Highland Road
Ithaca, NY 14850
June 1, 2016

Brent A. Cross and Members of the Zoning Board
Village of Cayuga Heights
Marcham Hall
836 Hanshaw Road
Ithaca, NY 14850

Dear Mr. Cross and members of the Zoning Board,

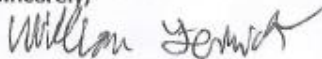
Last week, we received a letter from the Zoning Board regarding a variance for a subdivision of the property at 1001 Highland Road. The subdivision in question lacks the minimum average width and depth requirements, and I am EXTREMELY opposed to the granting of this variance, as it would adversely affect the unique character of the village of Cayuga Heights.

We have enjoyed living in Cayuga Heights for 20 years. With the houses being farther apart due to the larger properties, we have had relative quiet and a sense of privacy that were lacking where we lived previously -- an area in which the houses were packed together almost on top of one another. Granting this variance would allow a similar situation to develop on East Remington Road; a group of houses would be much closer together than they are in most (if not all) other areas of the village, changing the character of East Remington. We have also put a significant amount of money into improving our property and feel that granting this variance would substantially lower the value.

We have previously voiced our concerns about this variance at the Planning Board meeting on May 23rd, and the board indicated that we should attend the June 6th public hearing. I will be out of town on business on the 6th, but my wife Lisa is planning to attend the hearing and to speak on our behalf.

Please consider this letter when making your decision on the requested variance. Thank you.

Sincerely,



William C. Fenwick
wfenwick@twcny.rr.com

- Attorney R. Marcus reminded the Board that New York law provides that a zoning board's decision does not set precedent and therefore the Board's decision on any case cannot be based on the Board's decision on past cases and each variance request must be decided on the facts related to that variance request.
- Code Enforcement Officer B. Cross stated the original application proposed an "L" shaped lot. However, after discussions with the Planning Board the applicant modified the shape of the proposed new lot.
- The applicant explained their reasons for requesting the variance.
- Chair J. Young opened the public hearing.

- Lisa Fenwick- 915 Highland Road → stated her opposition to the variance request as she is against houses being “on top of each other”.
 - Nancy Hicks-125 E. Remington → stated her opposition to the variance request as it does “not keep with the neighborhood” and there are rules and regulations for footage for a reason.
 - Tom Poelling-Highgate Road → stated his opposition to the variance request. He would like to keep the character of the neighborhood of large houses, lots, and tree areas.
 - Mike Hostetler-124 E. Remington Road → stated his opposition to the variance request. He feels a house on the new proposed lot would be too close to his own property. He also voiced concerns over a substantial destruction of trees should the subdivision be approved.
 - David Donner-107 E. Remington Road → stated his opposition to the variance request. He stated the variance would have a detrimental impact on the neighborhood.
 - Nishi Rassnick-121 E. Remington → stated her opposition to the variance request and believes allowing another house would increase traffic and further damage the road.
 - The applicant stated that he disagrees that a subdivision would have a negative impact on the neighborhood and cause substantial change.
 - Elaine Quoroni → Stated the Board should seriously consider the impact the variance would have on the neighbors.
- Chair J. Young closed the public hearing.
 - The Board is not required to review the variance request under SEQR because the Planning Board has already determined the proposed subdivision will not have a significant adverse environmental impact.
 - The Board discussed a comment made regarding a reduction in the average width of the lot. It was determined that the proposed average width of 98.2 feet is approximately 21.5 percent less than the required average width (125 feet).
 - The Board members discussed their general reactions to the variance request and considered the various comments made by members of the public who spoke during the public hearing. Member K. Sigel stated that he planned to suggest as a condition that the new lot can only be used by at most 2 unrelated occupants or a single family with no unrelated occupants. Member K. Sigel felt that this is significantly less than the 4 unrelated occupants or two families that otherwise would be allowed on the newly created lot.
 - The Board answered the findings questions as follows:

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS RESOLUTION
ADOPTED ON (JUNE 6, 2016) FOR APPEAL NO.2016-2**

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 subdivision with a lot that would have an average width of 98.2' and average depth of 143.3', which are less than the 125' and 150' minimum required by the Village of Cayuga Heights Zoning Section 7a: Size of Lots. The property in question is known as 1001 Highland Road (see attached map) tax map # 2.-5-12; and
- B. On June 6, 2016 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 April 25, 2016 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, the Village of Cayuga Heights Planning Board made a negative declaration of environmental significance with regard to the proposed action. Therefore, the Village of Cayuga Heights Zoning Board of Appeals may proceed to consider the request without further action under SEQR; and
- D. On June 6, 2016 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 ____ (M. Eisner and R. Parker) NO **X** (J. Young, K. Sigel, A. Watkins) because: 1) The proposed lot would be one of the smaller lots in the neighborhood, but not the smallest lot. 2) The lot would have substantial vegetative screening. The Board does recognize the concerns of neighbors regarding an increase in density on the subject property, but the density that would result from building a house on the proposed subdivided lot would not be greater than the density allowed under Village law on any two lots the size of these.

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 **X** (all agreed) because: the Code Enforcement officer confirmed a subdivided lot could not be achieved without a variance.

Whether the requested area variance is substantial.

Finding:

YES **X** (all agreed) NO ____, because: the reduction in depth is not substantial, but the reduction in width is substantial, however, the lot resulting from the proposed subdivision would still be larger than other lots in the neighborhood.

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 ____ (R. Parker abstained) NO **X** (J. Young, K. Sigel, A. Watkins, M. Eisner) because: assuming a house would be built on the proposed lot, it is not expected to cause any long-term negative impact. Conditions imposed by the Board would mitigate impact on existing vegetation. The Board did acknowledge that during construction or renovation of any house there will always be temporary but minor impacts on an area.

Whether the alleged difficulty was self-created.

Finding:

YES NO _____, because: The applicant is requesting the subdivision.

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 subdivision with a lot that would have an average width of 98.2' and average depth of 143.3', which are less than the 125' and 150' minimum required by the Village of Cayuga Heights Zoning Section 7a: Size of Lots.

Conditions of Variance:

- 1) The average width must be no less than 96'
- 2) The average depth must be no less than 140'
- 3) Subdivision approval must be obtained from the Planning Board for essentially the same subdivision submitted to this Board.
- 4) Parcel B can only be used by at most 2 unrelated occupants or a single family with no unrelated occupants.
- 5) The existing vegetation in the East and North building setback areas will be maintained to the greatest extent possible.

The vote on the foregoing motion was as follows:

AYES: J. Young
 K. Sigel
 A. Watkins

NAYS: R. Parker
 M. Eisner

The motion was declared to be carried.

- Chair J. Young informed the applicant there is a 30 day timeframe in which someone could file for an appeal of the Board's decision.

C. 117 Cayuga Park Road Variance Application

- Chair J. Young read the public notice.
- Code Enforcement Officer B. Cross explained there is a discrepancy between the requested setback by the applicant and what was advertised due to the location of the proposed addition. The proposed addition is not parallel to the property and gets 3' closer to the rear property line at one corner, thus requiring a variance to allow the rear setback to be reduced to 10', not 13'.
- Attorney R. Marcus advised that due to the discrepancy, the Village should re-advertise and continue the public hearing at its next meeting. The Board agreed.
- Code Enforcement Officer B. Cross gave a background summary on the case.
- The applicant explained their reasons for requesting the variance.
- Code Enforcement Officer B. Cross stated he received an email from a resident expressing her concerns.

Sent: Friday, June 03, 2016 2:54 PM
To: Brent Cross
Cc: Schwartz Peter
Subject: Zoning Board Appeal re 117 Cayuga Park Road

Dear Brent,

I left a message on your phone this afternoon but am also writing this email to make sure my concern is heard. I received a letter dated May 25th some time after Memorial Day weekend stating that a meeting re the above appeal will be taking place on June 6th.

I am in NYC and not able to attend the meeting. I would like to officially register my objection to granting a variance to allow the building of a new addition beyond the required 15' minimum. This house is directly behind my property at 636 Highland Road and is already extremely close to the property line. In fact, I wonder if the distance has been physically checked to assure the current distance.

A two-story addition so close to my property is particularly obtrusive; not only is the foot print too close, but the bulk of the second story is an added visual obstruction.

I am going to ask my son if he can attend the meeting. However, I would like to enlist your help in telling me how to properly go about my objection so that it is effective in time for the meeting.

Thank you very much.

Best personal regards,

Joan Halperin

- A resident who indicated that he was representing Ms. Halperin also voiced his concerns to the Board.
- The Board adjourned the public hearing on the 117 Cayuga Park Road appeal to be continued the Board's next meeting.
- Due to the length of the previous cases the Board discussed adjourning the meeting at this point. The applicant at 105 Devon Road implored the Board to hear her case as she was at risk of losing her contractor if the request was delayed. The Board agreed to hear the case, but announced that the full hearing for 212 Hanshaw Road would be postponed until its next meeting.

D. 105 Devon Road Variance Application

- Chair J. Young read the public notice.
- Code Enforcement Officer B. Cross gave a background summary on the case.
- The applicant explained their reasons for requesting the variance.
- Chair J. Young opened the public hearing.
 - Ezra Cornell- 212 Hanshaw Road → stated he had no objections.
- Chair J. Young closed the public hearing.
- Attorney R. Marcus informed the Board the variance request is a Type II action. However, the variance does not fit precisely into a single SEQR exemption category. The exemption could be considered to be covered by Section 617.5(c)(10) "construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density;" or by Section 617.5(c)(13) "granting of an area variance(s) for a single-family, two-family or three-family residence;"
- The Board discussed and answered the findings questions as follows:

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS RESOLUTION
ADOPTED ON (JUNE 6, 2016) FOR APPEAL NO.2016-3**

Motion made by: M. Eisner

Motion seconded by: R. Parker

WHEREAS:

- A. This matter involves consideration of the following proposed action: granting of an area variance to allow construction of a one story addition that would result in a lot coverage of approximately 13.0%, which is greater than the 12% allowed by the Village of Cayuga Heights Zoning Section 7: Building Coverage. The property in question is known as 105 Devon Road (see attached map) tax map # 12.-1-1; and
- B. On June 6, 2016 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 June 6, 2016 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)(10) and 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 review under SEQR; and

D. On June 6, 2016 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: there is only a small concave area of the house being filled in.

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: due to the consequence of the small lot size and because the addition needs to be on the first floor.

Whether the requested area variance is substantial.

Finding:

YES _____ NO because: the lot coverage is only increasing from the existing 12 ½ % to 13 % and the actual square footage of the addition is small.

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 surface area where the addition will be located is already impervious.

Whether the alleged difficulty was self-created.

Finding:

YES NO _____, because: the applicant wants the addition.

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 construction of a one story addition that would result in a lot coverage of approximately 13.0%, which is greater than the 12% allowed by the Village of Cayuga Heights Zoning Section 7: Building Coverage.

Conditions of Variance:

The addition must be built substantially as indicated in the plans submitted to the Board.

The vote on the foregoing motion was as follows:

AYES: J. Young
 R. Parker
 M. Eisner
 A. Watkins
 K. Sigel

NAYS:

The motion was declared to be carried.

- Chair J. Young informed the applicant there is a 30 day timeframe in which someone could file for an appeal of the Board's decision.

E. 212 Hanshaw Road Variance Application-

- Chair J. Young read the public notice.
- The Board adjourned the appeal until their next meeting scheduled for Wednesday, June 22, 2016 at 7 pm. The Board will hear additional public comments on 117 Cayuga Park Road and hold the public hearing for 212 Hanshaw Road.

5. New business

- Code Enforcement Officer B. Cross informed the Board he attended a developer consultation with the applicant for a new medical office proposal at the Corners Community Center. This project proposal will eventually need to come before the Board to seek variances.

6. Adjourn

- Meeting adjourned at 10:53 pm.