

Village of Cayuga Heights
Zoning Board of Appeals Meeting
MINUTES
September 7, 2016

Present: Members Chair J. Young, K. Sigel, D. Rutherford, 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 7:06 pm.
- Chair J. Young welcomed David Rutherford as the new Zoning Board of Appeals member.
- Chair J. Young appointed Alternate M. Eisner as a voting member.

2. Approval of Minutes

APPROVING MINUTES OF JUNE 6, 2016

RESOLVE that the written, reviewed and revised minutes of the June 6, 2016 meeting are hereby approved.

Aye votes – Chair J. Young, K. Sigel, R. Parker

Opposed- None

Abstained- M. Eisner, D. Rutherford

APPROVING MINUTES OF JUNE 22, 2016

RESOLVE that the written, reviewed and revised minutes of the June 22, 2016 meeting are hereby approved.

Aye votes – Chair J. Young, K. Sigel, R. Parker, M. Eisner

Opposed- None

Abstained- D. Rutherford

3. Public Comment

- No members of the public wished to comment.

4. Variance Applications

A. Vacant lot on W. Remington Road (tax parcel 1-4-2.3)Variance Application

- Chair J. Young read the public notice and opened the public hearing.
- Code Enforcement Officer B. Cross gave a background summary on the case. He informed the Board he received a letter from the Tompkins County Planning Department stating that the proposal would have no negative inter-community or county-wide impacts.

Tompkins County
DEPARTMENT OF PLANNING
121 East Court Street
Ithaca, New York 14850

Edward C. Marx, AICP
Commissioner of Planning

Telephone (607) 274-5560

September 1, 2016

Brent Cross, Village Engineer
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: Area Variance for Proposed Redevelopment on W. Remington Road, Village of Cayuga Heights Tax Parcel #1.-4-2.3, Caroline O'Donnell, 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, it 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

- Caroline O'Donnell, agent for the applicant and prospective buyer of the lot, explained their reasons for requesting the variance.
- Code Enforcement Officer B. Cross informed the Board that guardrails currently block access from the road to the site and a portion of the guardrail would need to be removed to allow driveway access or another driveway location would need to be considered.
- Mary Widding of 204 N. Sunset Drive expressed her concerns over the guardrail. She stated several accidents have occurred in that area and the removal of the guardrail could cause safety issues for cars and a potential homeowner. She also shared concerns over tree preservation. She is not opposed to the project, but wanted to share her concerns. Code Enforcement Officer B. Cross concurred with the concerns over car safety and the guardrail, but stated this is not a matter to be considered by the Zoning Board.
- Fred Widding also of 204 N. Sunset Drive stated he has no objections over the proposed height and endorses the project.
- Don Craz of 154 North Sunset Drive shared his concerns that the proposed height may possibly obstruct his view of the lake. If this is the case, he would be opposed to the variance.
- Chair J. Young closed the public hearing at 8:06 pm.
- Attorney R. Marcus 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;"
- The Board discussed and answered the findings questions as follows:

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS RESOLUTION
ADOPTED ON (SEPTEMBER 7, 2016) FOR APPEAL NO.2016-6**

Motion made by: K. Sigel

Motion seconded by: R. Parker

WHEREAS:

- A. This matter involves consideration of the following proposed action: to construct a new residence with a height of 32', which is greater than the 25' allowed by the Village of Cayuga Heights Zoning Section 5: Height of Buildings. The property in question is known as the vacant lot on W. Remington Road (see attached map) tax map # 1-4-2.3; and

- B. On September 7, 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 September 7, 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)(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 September 7, 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 **X** because: a) The closest neighbor is in favor or the variance b) While some neighbors expressed concerns over visibility, the applicant provided plans to the Board illustrating this would not be an issue. c) The vertical elevation of 25' to the East of the property would remain the same.

In favor of finding: J. Young, K. Sigel, D. Rutherford, R. Parker

Opposed: None

Abstained: M. Eisner

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 applicant’s goal is to build above traffic level and only one location on the property permits this.

In favor of finding: J. Young, K. Sigel, D. Rutherford, R. Parker, M. Eisner

Opposed: None

Whether the requested area variance is substantial.

Finding:

YES NO ____ because: 25’ to 32’ is substantial, however, this is mitigated because the extra 7’ is primarily visible from Rt. 13

In favor of finding: J. Young, K. Sigel, D. Rutherford, R. Parker, M. Eisner

Opposed: None

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 variance will have no environmental impacts.

In favor of finding: J. Young, K. Sigel, D. Rutherford, R. Parker, M. Eisner

Opposed: None

Whether the alleged difficulty was self-created.

Finding:

YES NO _____, because: The applicant wishes to build in that location.

In favor of finding: J. Young, K. Sigel, D. Rutherford, R. Parker, M. Eisner

Opposed: None

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:

To construct a new residence with a height of 32', which is greater than the 25' allowed by the Village of Cayuga Heights Zoning Section 5: Height of Buildings.

Conditions of Variance:

1. Home will be built substantially as indicated on application plans. Specifically the house will be located as indicated in the "Plan View" submitted by the applicant.
2. Evidence satisfactory to the Zoning Officer must be submitted by the applicant that the fence and monument on or near the site do not impact the site boundaries or setbacks.

The vote on the foregoing motion was as follows:

AYES:	D. Rutherford	NAYS
	J. Young	
	R. Parker	
	M. Eisner	
	K. Sigel	

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. 315 Comstock Road Variance Application

- Chair J. Young read the public notice and opened the public hearing.
- Code Enforcement Officer B. Cross gave a background summary on the case. He explained that the existing footprint of the home is 13.2% which is already in excess of the 12% lot coverage that is allowed. However, he also confirmed that the home was built in 1952 which is prior to the 1953 Village ordinance. Therefore the Board would be considering an increase from 13.2% to 14.8% lot coverage.
- The applicant explained their reasons for requesting the variance.
- Chair J. Young closed the public hearing at 8:24pm.

- Attorney R. Marcus 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;"
- The Board answered the findings questions as follows:

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS RESOLUTION
ADOPTED ON (SEPTEMBER 7, 2016) FOR APPEAL NO.2016-7**

Motion made by: K. Sigel

Motion seconded by: M. Eisner

WHEREAS:

- A. This matter involves consideration of the following proposed action: to build a new deck that would result in a lot coverage of 14.8%, which is more than 12% allowed by the Village of Cayuga Heights Zoning Section 7: Building Coverage.
The property in question is known as 315 Comstock Road (see attached map) tax map # 6-4-7; and
- B. On September 7, 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 September 7, 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)(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 September 7, 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: The deck is reasonably sized for the lot and 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 applicant does not want to step down to the deck from the kitchen.

In favor of finding: J. Young, K. Sigel, D. Rutherford, R. Parker, M. Eisner
Opposed: None

Whether the requested area variance is substantial.

Finding:

YES NO _____, because: A 12% increase in lot coverage is substantial, but is mitigated because a deck will not have a significant visual impact.

In favor of finding: J. Young, K. Sigel, D. Rutherford, R. Parker, M. Eisner
Opposed: None

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 **X** because: the deck surface is not impervious to water therefore the variance will have no environmental impacts.

In favor of finding: J. Young, K. Sigel, D. Rutherford, R. Parker, M. Eisner
Opposed: None

Whether the alleged difficulty was self-created.

Finding:

YES **X** NO _____, because: The applicant wishes to build the deck.

In favor of finding: J. Young, K. Sigel, D. Rutherford, R. Parker, M. Eisner
Opposed: None

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:

To build a new deck that would result in a lot coverage of 14.8%, which is more than 12% allowed by the Village of Cayuga Heights Zoning Section 7: Building Coverage.

Conditions of Variance:

Deck will be built substantially as indicated on application plans.

The vote on the foregoing motion was as follows:

AYES:	D. Rutherford	NAYS
	J. Young	
	R. Parker	
	M. Eisner	
	K. Sigel	

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.

5. New business

- Code Enforcement Officer B. Cross discussed the upcoming case regarding the proposed medical office building project at the Corners Community Center. This project proposal will eventually need to come before the Board to seek variances.
- The Board discussed alternate meeting dates for the October meeting as the first Monday of the month falls within the Jewish New Year holiday celebration. Deputy Clerk A. Podufalski will send out an email to the Board to schedule the next meeting.
- Chair J. Young expressed the Board's appreciation to Anita Watkins for her many years of service on the Zoning Board of Appeals. A formal resolution will be entered into the record at the next meeting.

6. Adjourn

- Meeting adjourned at 9:15 pm.