

Village of Cayuga Heights
Zoning Board of Appeals Meeting
MINUTES
October 19, 2016

Present: Members Chair J. Young, K. Sigel, D. Rutherford, Alternates M. Eisner and K. Durrant
Code Enforcement Officer B. Cross, VCH Deputy Clerk A. Podufalski
Attorney R. Marcus
Planning Board Chair F. Cowett
T. Covell, HOLT Architects
P. Levesque, HOLT Architects
T. Votaw, Cayuga Medical Associates
T. Ciaschi, Corners Community Shopping Center
T. Faulkner, Fisher Associates
Members of the public

1. Meeting called to order

- Meeting called to order by Chair J. Young at 7:05 pm.
- Chair J. Young appointed Alternates M. Eisner and K. Durrant as acting members.

2. Approval of Minutes

APPROVING MINUTES OF SEPTEMBER 7, 2016

RESOLVE that the written, reviewed and revised minutes of the September 7, 2016 meeting are hereby approved.

Aye votes – Chair J. Young, K. Sigel, D. Rutherford, M. Eisner and K. Durrant
Opposed- None

3. Public Comment

- No members of the public wished to comment.

4. Variance Applications

Community Corners Medical Office Building- 903 Hanshaw Road

- 1) Lot coverage variance
- 2) One building on a lot variance

- Chair J. Young summarized standard Board procedures for public hearings. He also explained the variances before the Board for consideration.
- Code Enforcement Officer B. Cross gave a background summary on the case. He discussed that the Village of Cayuga Heights Planning Board has had several meetings regarding the proposed project and, at the outset of the project, had declared itself lead agency under State Environmental Quality Review (SEQR). The Planning Board determined that the proposed Medical Office Building project will not result in any significant adverse environmental impacts under SEQR. The Planning Board has also reviewed two traffic studies; one performed on behalf of the applicant by SRF Associates and one on behalf of the Planning Board by Fisher Associates.
- M. Eisner asked for clarification as to the Planning Board's status in respect to the traffic studies and why their analysis would be any different than the Zoning Board's. Code Enforcement Officer B. Cross replied that both Boards would be guided by the traffic studies.
- Attorney R. Marcus explained that while only one board may perform SEQR, the Zoning Board could still consider traffic and parking issues as the Zoning Board may impose different standards for determining potential impacts.
- Planning Board Chair, F. Cowett, clarified the traffic considerations of their SEQR process.
- Attorney R. Marcus explained the purpose of SEQR and stated that the Planning Board's findings in regards to SEQR do not limit the decision of the Zoning Board.
- Code Enforcement Officer B. Cross stated the Planning Board after reviewing the traffic study prepared by SRF Associates for the applicant, hired T. Faulkner of Fisher Associates to conduct a traffic study on behalf of the Planning Board. He also discussed the steps the Planning Board had gone through up to this point, and he noted that the Planning Board has not yet made their final site plan determination. The Planning Board's next meeting is scheduled for October 24th.
- Attorney R. Marcus explained that the Zoning Board is quasi-judicial and therefore their role is limited to evaluating the relevant facts and applying the law. He also explained the differences between the processes in how the Planning Board and Zoning Board make their determinations.
- P. Levesque and T. Covell of HOLT Architects presented the basics of the project to the Board. They also provided their own answers to the variance findings questions to be considered by the Board.
- Chair J. Young asked Planning Board Chair F. Cowett if the Village Comprehensive Plan recommends an increase in density. Chair F. Cowett responded that the Comprehensive Plan recommends that the Village work with business owners in the commercial district to increase retail strengths and vitality, while at the same time not changing the character of the neighborhood.

- The Board asked applicant, T. Ciaschi, how this project would improve the Corners Community Shopping Center. He stated that the Shopping Center is dying and that this project would serve as an “anchor” to provide much needed traffic to the other Shopping Center businesses.
- T. Faulkner of Fisher Associates discussed findings from his traffic study.
- Public Hearing Comments:
 - Elaine Quoroni asked T. Faulkner his opinion on the project’s proposal to cut off some of the traffic access points. T. Faulkner stated that it is good practice to allow for internal movement within the Shopping Center without having to first exit onto a main road.
 - Chair J. Young asked T. Faulkner his opinion on cutting off access to Pleasant Grove Road. T. Faulkner stated he would recommend that access point be closed or be made a right turn in and out only access. He also stated the Carriage House access should remain open.
 - P. Levesque reminded the Board that in regards to the Carriage House access point, two individual owners are involved. The Board discussed the benefits of maintaining the access point.
 - Code Enforcement Officer B. Cross stated he has received no written communications from members of the public, but has had several in person conversations. A letter was sent to the Village office from Dr. Rubinstein and was forwarded to the Board.

October 14, 2016

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

Dear Mr. Cross:

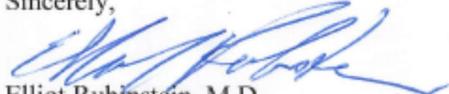
As a property and business owner in Cayuga Heights, I would like to take this opportunity to register some concerns regarding the proposed variances for the proposed medical office building at 903 Hanshaw Road.

While the establishment of new businesses is a positive good for the Cayuga Heights community as a whole, it is important to strike a balance between growth and the maintenance of the characteristics that make our village an attractive place to live and work.

The proposed expansion of parking is potentially problematic. As the owner of a medical practice, I understand the importance of having sufficient parking to serve my patients. However, a 5.6% increase over the existing allowable lot coverage is not enough parking area to accommodate the employees and the patients, particularly given the relative density of buildings and businesses surrounding the proposed project.

The potential increase in traffic through the village is another area of concern. The Corners Community is already the intersection of several busy roads (Hanshaw, Pleasant Grove, East Upland, and North Triphammer). While the traffic study commissioned by the project's architects anticipates only a minor increase in ambient traffic – which I strongly disagree with - the village would be well-served by the careful consideration of the potential impact of increased traffic and the development a contingency traffic control plan, should the current estimates prove to be overly optimistic.

Sincerely,



Elliot Rubinstein, M.D.

- The members of the Board received the Planning Board minutes and were able to review comments made during their public hearings.
- Chair J. Young closed the public hearing at 9:05 pm.
- K. Sigel asked Attorney R. Marcus if the Board has the authority to request that the applicant work out an agreement with the Carriage House Apartments regarding the access point between the properties. Attorney R. Marcus advised against imposing conditions on an applicant which may be beyond their control. Attorney R. Marcus also encouraged the Board to explain how a reduction in access points relates to the variance requests at hand. Chair J. Young explained that traffic is a primary concern for the Board and a reduction in access points would cause a detriment.

- Code Enforcement Officer B. Cross stated that 90% of the traffic could be attributed to the existing footprint. He also stated that the Village Trustees have been made aware of the already failing nature of the surrounding intersections.
- K. Sigel suggested not voting on the variances until the access issues have been resolved. Attorney R. Marcus stated that option is within the Board's authority.
- T. Votaw with Cayuga Medical Associates asked if the applicant were to volunteer to pursue an agreement with Carriage House for access to remain open between the properties if the Board could proceed with voting on the project. Should the applicant fail to obtain such an agreement, they would return to the Board to explore alternate options. Attorney R. Marcus stated that while he does not recommend a condition that includes aspects that are beyond an applicant's control, he would not object if the applicant is volunteering to add such a condition.
- Each member of the Board expressed their current opinion on the variance requests as it was presented versus if such a condition were imposed.
 - J. Young stated he is against the current proposal cutting off access points without the suggested condition.
 - K. Sigel is against the current proposal without any exploration regarding improving access, but may approve if there was a proven effort.
 - M. Eisner agreed with K. Sigel except he is unsure if he would approve if the agreement could not be obtained.
 - D. Rutherford agrees with the current proposal.
 - K. Durrant agrees with M. Eisner and K. Sigel.
- P. Levesque suggested an agreement with Carriage House to allow access to remain open, but to narrow the opening for only single vehicle access. If the applicant cannot obtain an agreement with Carriage House, they will return to the Board and request the condition to be removed.
- The Board discussed and answered the findings questions as follows:

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS RESOLUTION
ADOPTED ON (OCTOBER 19, 2016) FOR APPEAL NO.2016-8**

Motion made by: D. Rutherford

Motion seconded by: M. Eisner

WHEREAS:

- A. This matter involves consideration of the following proposed action: to allow construction of a new 2-story medical office building that will result in lot coverage of approximately 20.6%, which is greater than the 15% allowed by the Village of Cayuga Heights Zoning Ordinance Section 7: Building Coverage. The property in question is known as 903 Hanshaw Road (see attached map) tax map # 10-4-1.2; and

- B. On October 19, 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. Because the action that this variance relates to requires site plan review and approval by the Village of Cayuga Heights Planning Board, the requirements of Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act (SEQR) were satisfied by the Village Planning Board, as lead agency, which made the determination on September 26, 2016 that the proposed Medical Office Building project at Corners Community Shopping Center will not result in any significant adverse environmental impacts under SEQR; and
- D. On October 19, 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: Among the materials reviewed by the ZBA were relevant segments of the traffic study prepared by the applicant's traffic engineer and the review of that study prepared by the traffic engineer engaged by the Village Planning Board. Although some detriment to Village residents and to nearby properties may be created by increased traffic, it appears that the increase in traffic resulting from this project will not be a significant increase above current levels.

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** because: Because the subject property is already developed to the full extent of the lot coverage permitted by the Village's Zoning Ordinance, and as expanded by an area variance to lot coverage requirements previously granted by the Village's Zoning Board of Appeals, the benefit the applicant wishes to achieve cannot be achieved without a variance. The applicant could build the proposed building without the necessity of obtaining this lot coverage variance, but that would require the applicant to demolish additional existing building(s) . Otherwise, the project would not achieve the applicant's programmatic goals.

Whether the requested area variance is substantial.

Finding:

YES **X** NO _____, because: The requested variance is substantial. The lot coverage is being increased from the current 17.18% to 20.64%, an increase of 20.14%. The proposed lot coverage is a 37.60% increase from the 15% lot coverage that the current Zoning Ordinance permits.

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: For all of the reasons stated in the Short Environmental Assessment Form (SEQR) completed by the Village of Cayuga Heights Planning Board, this Board has determined that the proposed variance, while possibly having a small adverse effect or impact, will not have a significant adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Whether the alleged difficulty was self-created.

Finding:

YES **X** NO _____, because: The alleged difficulty is self-created by the applicant's desire to build the proposed building in the proposed location without tearing down additional existing building(s).

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 allow construction of a new 2 story medical office building that will result in lot coverage of approximately 20.6%, which is greater than 15% allowed by the Village of Cayuga Heights Zoning Section 7: Building Coverage.

Conditions of Variance:

- 1) Site plan approval must be obtained from the Village of Cayuga Heights Planning Board within one year of the granting of this variance.
- 2) The proposed project must be executed substantially as indicated on the plans submitted to this Board.
- 3) The existing interior enclosed space cannot be increased or have its location changed.
- 4) A cross-access agreement must be made between the Corners Community Shopping Center and Carriage House Apartments to allow mutual access between Corners Community Shopping Center and Carriage House Apartments and ultimately to Pleasant Grove Road for emergency and other use in a form that is acceptable to the Village's attorney.

The vote on the foregoing motion was as follows:

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

The motion was declared to be carried.

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS RESOLUTION
ADOPTED ON (OCTOBER 19, 2016) FOR APPEAL NO.2016-9**

Motion made by: K. Sigel

Motion seconded by: D. Rutherford

WHEREAS:

- A. This matter involves consideration of the following proposed action: to allow construction of a new 2-story medical office building that will result in the new building to be constructed at approximately 21' from an existing adjacent building, which is less than 60' required by Village of Cayuga Heights Zoning Ordinance Section 13: More Than One Building On A Lot. The property in question is known as 903 Hanshaw Road (see attached map) tax map # 10-4-1.2; and
- B. On October 19, 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. Because the action that this variance relates to requires site plan review and approval by the Village of Cayuga Heights Planning Board, the requirements of Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act (SEQR) were satisfied by the Village Planning Board, as lead agency, which made the determination on September 26, 2016 that the proposed Medical Office Building project at Corners Community Shopping Center will not result in any significant adverse environmental impacts under SEQR; and

D. On October 19, 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 variance would be improving a current deficiency because the building being torn down is closer to other buildings than the proposed building.

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 _____ however: Moving the new building to a location that would satisfy the requirement for distance between buildings on the same lot would decrease the available parking for the entire shopping center.

Whether the requested area variance is substantial.

Finding:

YES NO _____, because: The requested variance is substantial as the required building separation is being reduced from 60ø to 21ø which is a 65% reduction.

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: For all of the reasons stated in the Short Environmental Assessment Form (SEQR) completed by the Village of Cayuga Heights Planning Board, this Board has determined that the proposed variance, while possibly having a small adverse effect or impact, will not have a significant adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Whether the alleged difficulty was self-created.

Finding:

YES **X** NO _____, because: The alleged difficulty is self-created by the applicant's desire to build the proposed building in the proposed location without tearing down additional existing building(s).

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 allow construction of a new 2 story medical office building that will result in the new building to be constructed at approximately 21' from an existing adjacent building, which is less than 60' required by Village of Cayuga Heights Zoning Section 13: More Than One Building On A Lot.

Conditions of Variance:

- 1) Site plan approval must be obtained from the Village of Cayuga Heights Planning Board within one year of the granting of this variance.
- 2) The proposed project must be executed substantially as indicated on the plans submitted to this Board.
- 3) The existing interior enclosed space cannot be increased or have its location changed.

The vote on the foregoing motion was as follows:

AYES:	J. Young	NAYS:
	D. Rutherford	
	K. Durrant	
	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 upcoming case to be presented at the Board's November 7th meeting.

6. Adjourn

- Meeting adjourned at 10:36 pm.