

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

Present: Members Chair J. Young, K. Sigel, D. Rutherford, R. Parker and 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 7:04 pm.
- Chair J. Young appointed Alternate M. Eisner as an acting member.

2. Approval of Minutes

APPROVING MINUTES OF OCTOBER 19, 2016

RESOLVE that the written, reviewed and revised minutes of the October 19, 2016 meeting are hereby approved.

Aye votes – Chair J. Young, K. Sigel, D. Rutherford, M. Eisner  
Abstained- R. Parker

3. Public Comment

- No members of the public wished to comment.

4. Variance Applications

A) 211 W. Remington

- Chair J. Young summarized standard Board procedures for public hearings. He also described the variance before the Board for consideration.
- Code Enforcement Officer B. Cross gave a background summary on the case. He explained that because the property is a corner lot it therefore has two front yards. This was not discussed when the applicant first spoke with Brent regarding the placement of the shed. He explained there may also be an encroachment onto Village property. If the variance is approved, a formal survey will need to be performed. In order to be compliant, the shed would need to be moved to a setback of 25'.

- The applicant explained his reasons for the variance request. He explained the role the current landscape restrictions played in determining the location of the shed. He stated he has always considered the side of his house facing Sunset Dr. as the front yard and was unaware that his property was considered to have two front yards. He reiterated there had been a misunderstanding on his part when he first spoke with Code Enforcement Officer B. Cross about the placement of the shed as he did not mention at the time the property was a corner lot.
- The Board discussed the possibility of moving the shed. The applicant stated he has not yet considered all available options.
- Public Hearing Comments:
  - Nina Glasgow of 207 Remington Rd. stated she would like the shed to be moved. She does not like looking at it as it is visible from her front yard.
  - David Brown of 207 Remington Rd. also would like the shed moved. The shed is very close to their property line and he also does not like it being visible in his front yard. He stated he did see the applicant placing markers for the shed's location and they had a conversation, but did not object at the time because he thought the location had already been approved.
  - Attorney R. Marcus read the provisions of the current zoning law regarding corner lots.
  - Nina Glasgow of 207 Remington Rd. stated she had not been consulted at all and would have objected immediately to the proposed location.
  - D. Rutherford stated his opinion that the shed should be moved. K. Sigel agreed.
- Chair J. Young closed the public hearing.
- R. Parker stated she would have approved the variance if there were no objections from the neighbors.
- J. Young, K. Sigel, D. Rutherford, and M. Eisner expressed their opinion that the shed should be moved.
- K. Sigel suggested that the applicant could withdraw his application. The applicant could then reapply with a proposal to move the shed further back with an explanation as to why it cannot be moved to a location outside the front yard setback rather than the Board going through all of the findings questions. Attorney R. Marcus explained why this would be a better option rather than the Board possibly denying the request and then the applicant reapplying. The applicant withdrew his application and stated his intent to reapply with a modified plan. M. Eisner requested the applicant provide a copy of a survey map.
- Code Enforcement Officer B. Cross stated that, if the applicant is ultimately granted a variance for the shed, the applicant may need to request permission to wait until Spring to move the shed if weather conditions are not favorable.

B) 1 Parkway Place

- Chair J. Young described the variance before the Board for consideration.
- Code Enforcement Officer B. Cross gave a background summary on the case. He informed the Board a previous request to have a garage 1' from the property line was brought before the Board in 1984 and was denied.
- The contractor for the applicant, Peter Wright, explained the reasons for the request to the Board. The applicant provided the Board with a packet of information which included a letter of support from her neighbor Bill Powers, her answers to the findings questions and drawings for the proposed garage.

106 The Parkway  
Ithaca, NY 14850  
October 26, 2016

Dear Cayuga Heights Zoning Board and Nicole Kerness

My name is Bill Powers and I own the property immediately next to Nicole's property at 1 Parkway Place. My garage is next to the property line she is putting in a permit/variance to build. She showed me the plans and dimensions of the intended garage as compared to the present layout of the driveway.

I have thought about what she is planning and could not think of any reason not to support it.

If you have any questions for me I can be reached at [REDACTED] or via e-mail at [REDACTED].

Sincerely

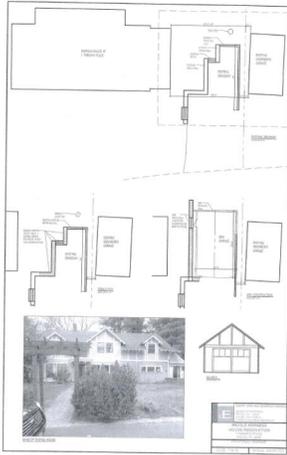


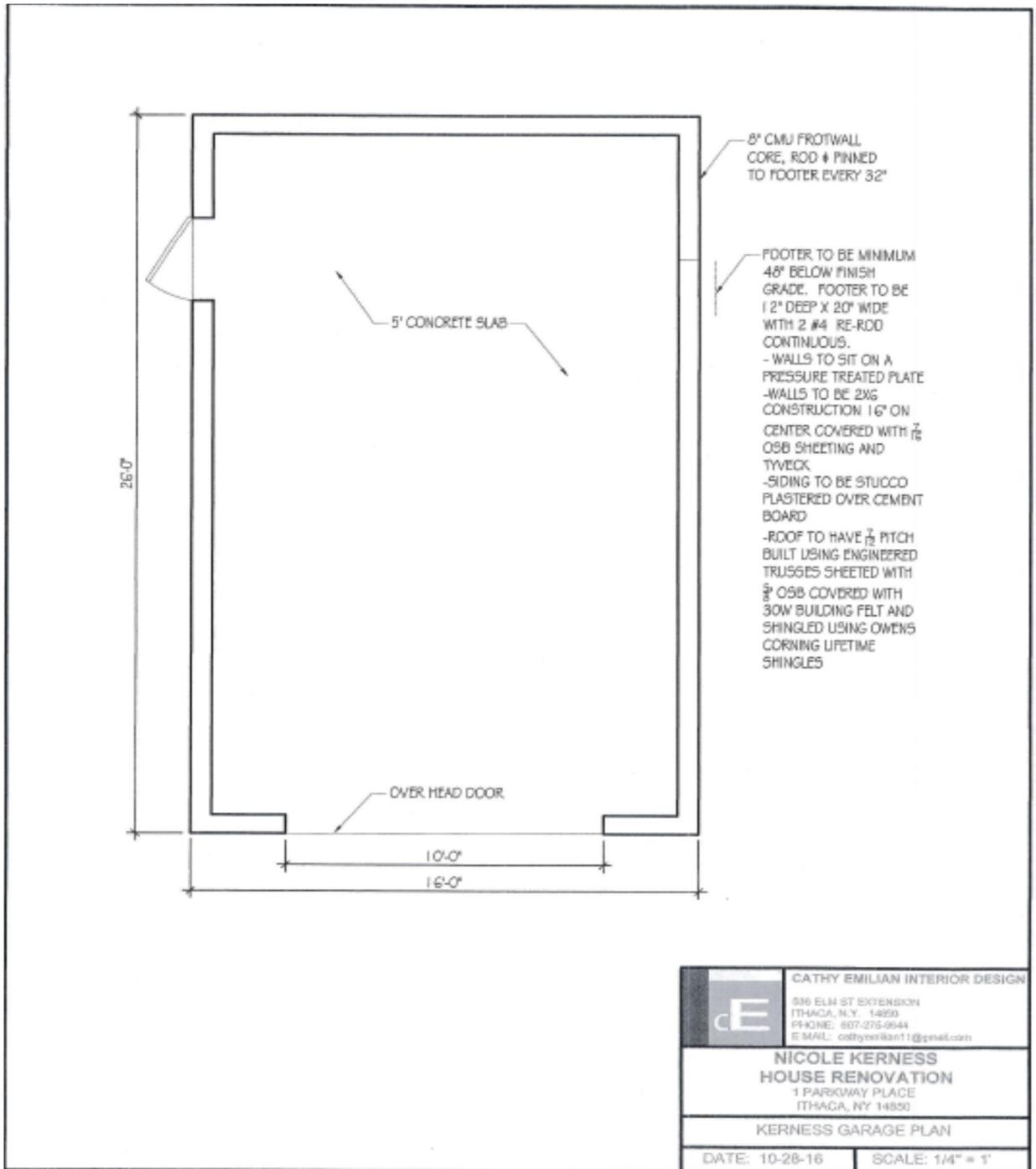
Bill Powers

## Points and proof for the Zoning board

Benefit of variance to the applicant balanced against the detriment to the health, safety and welfare of the neighborhood or community

- 1) Whether and undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance.
  - a. My neighbor who is immediately next to the described garage has seen the plans and is supportive of the changes (See letter from Bill Powers).
  - b. My garage would for the most part be out of sight for his house as it's on the opposite side of his garage and if anything gives a little more privacy to his garden.
  - c. It also would be 'cleaner looking' than an open driveway with no real storage for the garbage/recycling containers, etc.
  - d. Both garages would be very similar distances from the property line, Bill's is 1'5" and mine is 2' 1" (at the closest point).
  - e. My garage would be in the same character and style of the house. (See drawings)
- 2) Whether the benefit sought by the applicant can be achieved by some other method, feasible to the applicant to pursue.
  - a. I think I could go for a carport but it will not look as 'aesthetically in keeping' with the current home.
  - b. Another location is not possible due to the property constraints.
- 3) Whether the requested area variance is substantial
  - a. It does not seem to be substantial as other buildings and garages have the same side yard setback.
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - a. The property under review is off of a private road and since there is currently a parking area in this location there should be no adverse effect or impact on the physical or environmental conditions.
- 5) Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area of the variance
  - a. The house is a certain spacing to the property line and the garage would logically be near to the house on the right side but not obstruct its view or take away from it.





- Public Hearing Comments:
  - Bradley Grainger of 421 Highland Rd. stated his objections to the variance and requested that the Board enforce the Zoning Ordinance.
  - Bill Powers of 106 The Parkway stated he has no objections.
- Chair J. Young closed the public hearing.

- Code Enforcement Officer B. Cross informed the Board that due to the close proximity of the neighbor's existing garage to the proposed garage, the current NYS Building Code requires the use of only non-combustible materials.
- The Board discussed the overhang of the proposed garage.
- Code Enforcement Officer B. Cross informed the Board he suspects the house may be identified as craftsman style architecture that is part of the Cornell Heights Historical District. However, as there are no historical district regulations in the Village, this would not have any impact on the Board's decision.
- Code Enforcement Officer B. Cross stated he has received no other comments from the public. The applicant stated she has spoken with some of the other neighbors and none have voiced concerns.
- 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 discussed and answered the findings questions as follows:

VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS RESOLUTION  
ADOPTED ON (NOVEMBER 7, 2016) FOR APPEAL NO.2016-11

Motion made by: D. Rutherford

Motion seconded by: K. Sigel

WHEREAS:

- A. This matter involves consideration of the following proposed action: to construct a new garage at 2' from the side yard property line, which is less than the 15' required by Village of Cayuga Heights Zoning Ordinance Section 6: Yard Requirements. The property in question is known as 1 Parkway Place (see attached map) tax map # 12.-4-9; and
- B. On November 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 November 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)(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 November 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: 1) The neighbor who is immediately next to the described garage has seen the plans and is supportive of the changes 2) The garage for the most part would be out of sight for the neighbor's house as it's on the opposite side of his garage and if anything, gives a little more privacy to his garden. 3) It also would be 'cleaner looking' than an open driveway with no real storage for the garbage/recycling containers, etc. 4) Both garages would be very similar distances from the property line, the neighbor's is 1'5" and from this property would be 2'1" at the closest point 5) The garage would be in the same character and style as the house.

In favor of this finding- R. Parker, J. Young, D. Rutherford, and K. Sigel

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  but: alternative locations would have more of a negative impact.

In favor of this finding- R. Parker, J. Young, D. Rutherford, and K. Sigel  
Abstained- M. Eisner

*Whether the requested area variance is substantial.*

Finding:

YES  NO  but: 1) This is mitigated by the benefit of the location 2) The immediate adjoining neighbor has no objections.

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

*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 already an impervious surface in that location.

*Whether the alleged difficulty was self-created.*

Finding:

YES  NO  but: because: The applicant wants to build the garage in that location.

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 garage at 2' from the side yard property line, which is less than the 15' required by Village of Cayuga Heights Zoning Ordinance Section 6: Yard Requirements.

Conditions of Variance:

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

