

Village of Cayuga Heights Zoning Board of Appeals
Meeting
Monday, June 5, 2017
Village Hall – 7:00 pm
Draft Minutes

Present: Chair J. Young, M. Eisner, R. Parker, D. Rutherford, S. Manning
VCH Code Enforcement Officer B. Cross, VCH Deputy Clerk J. Walker
Attorney R. Marcus
Absent: M. Pinnisi

Item 1-- Meeting called to order

- Chair J. Young opened the meeting at 7:02
- Chair J. Young informed the Board the first order of business is to appoint M. Eisner, alternate member, to serve as a voting member for tonight. -Chair Young did so.

Item 2 --Approval of May 1st 2017 Minutes

RESOLVED, that the reviewed minutes of the May 1st 2017 meeting are hereby approved.

Motion to approve: S. Manning, **Second:** D. Rutherford

Aye Votes: J. Young, D. Rutherford, R. Parker, and M. Eisner

Abstentions: S. Manning- absent from May 1st 2017 meeting

Item 3 -- Public Comment- No members of the public wished to comment.

Item 4 – Variance Application

A. 212 Hanshaw Rd:

-Attorney R. Marcus due to his close relationship with the Cornell family and D. Fernandez will recuse himself from making any comments on the substance of this case.

B. Cross states location for this proposed shed falls within the front yard setback, thus the reason for the variance request. This property has 2 front yards. Through previous observations B. Cross states the pool has a 4-ft. fence and pump house which were both reviewed and granted variances by the Zoning Board previously.

Chair J. Young Opened Public Hearing:

D. Fernandez present to speak on behalf of the Cornell Family:

- a. Visibility of the proposed shed is very limited with requested location – large mature yew shrubs help to hide the shed.
- b. At the edge of the pool there is a steep hill that would make that location for the shed impractical for lawn equipment storage.
- c. A different location would be detrimental to the mature green space within the property. A stipulation of the previous variance states that dense vegetation be maintained.
- d. The requested location reduces the amount of current fencing.
- e. Centering the shed along the pool maximizes screening and would also allow the removal of an existing 5' x 8' non-compliant shed.
- f. D. Fernandez circulated photos of topics discussed.

D. Rutherford asked B. Cross did we hear from anyone else about this variance request. B. Cross – No communication

Chair J. Young Closed the Public Hearing.

In accordance with Article 8 of the New York State Environmental Conservation Law – the State Environmental Quality Review Act (SEQR), and specifically 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

In accordance with Section 712-b of the Village Law of the State of New York and Village of Cayuga Heights Article IX, section #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 weighted against the detriment to the health, safety and welfare of the neighborhood or community by such grant;

THE ZONING BOARD then considered each of the five required questions, and made the findings stated following each below.

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.

Findings:

The yew shrubs will preserve the character and should be kept to screen the shed. There were no objections by the neighboring property owners.

YES _____ /NO X

Whether the benefit sought by the applicant can be achieved by some other method, feasible to the applicant to pursue.

Findings:

The best use of the shed is at the requested location. Slope of the land will not allow a different location.

YES _____ /NO X

Whether the requested area variance is substantial.

Findings:

Removing the existing smaller shed and removing some of the existing fencing mitigates the substantiality of the shed in the proposed location.

YES _____ /NO X

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

Findings:

The Shed is not a permanent structure.

YES _____ /NO X

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 variance.

Findings:

The shed meets the needs they have.

YES, X _____ /NO _____

Motion to approve: R. Parker **Second:** D. Rutherford

RESOLVED, that Village of Cayuga Heights Zoning Board of Appeals hereby grants the requested area variance, subject to the conditions that the yew shrubs, or vegetation providing substantially similar screening, remain to continue screening from road view- and that the shed be installed in accordance with the plans and to the specifications presented in the application.

Ayes: J. Young, S. Manning, D. Rutherford, R. Parker, and M. Eisner

Opposed: None

B. 620 Cayuga Heights Rd:

-B. Cross explained that the initial zoning application was to obtain a minor subdivision from the Planning Board. The Planning Board has scheduled a public hearing for later this month. A variance would be required as a result of the deficiencies resulting in the required lot depth for each of the two proposed lots. Action for tonight is to consider granting a variance for deficient lot depth for each of the two lots that would be created as a result of the subdivision.

-If the variances are granted, the Planning Board will then review the proposed subdivision.

-R. Marcus stated that Zoning Board's role is to determine whether the proposed depth of the lots supports grant of a variance.

-B. Cross provided some history, 10 years ago a garage was sought, and was compliant and permit was issued. Later the garage was turned into living space, as permitted. Water and sewer issues were discussed at the Planning Board.

Applicant: B. Warren:

- a. Originally this property was 2 lots and was combined into one. He would like to make it two lots again. The main house was built in 1973 and a garage added about 10 years ago.
- b. He is looking to sell the lower lot and keep renting the main house.

Chair J. Young opened the Public Hearing

Neil Saccamano 616 Cayuga Heights Rd. addressed the Board:

- a. Opposed to these 2 variances, the laws are on the books for a reason, and help maintain the character of the Village. We moved here because of the size of the yard and lack of houses nearby. We are concerned with what will happen with our back yard if this property is divided. Aesthetically, it will be displeasing. We have spent several years building and making the back yard a huge garden. We did that because there was no house on the neighboring lot. Mr. Cross knows we were unhappily surprised about a “shed” that went up on this neighboring property in the past. Then Mr. Warren bought this property and turned into a short-term rental. We have been unhappy about that as well.
- b. Please stick to the law, if these variances are granted, my wife and I will have to invest in a “screening” system. I anticipate this lot will become the site of a much larger building.

Chair J. Young closed the Public Hearing

Board Discussion:

- J. Young we can take things into consideration and place conditions on these variances
- B. Cross has received public comment from N. Saccamano and he is present, and an email from Zoning Board member M. Pinnisi who wanted to state his opinion.
- B. Cross Later pointed out he received feedback from J. Weinstein 333 N. Sunset Drive, (closest neighbor) was not opposed to the variance application submitted by B. Warren.
- S. Manning, questioned whether a condition limiting use of the subdivided lot to a single - family would be possible.
- R. Marcus, yes, a condition such as that would be possible, two lots would potentially allow one more structure on each lot.
- Board discussion about possible terms of conditions, such as limiting the use of each lot, limiting the number of structures on each lot, or limiting the size of existing structures on each lot.
- D. Rutherford asked for clarification on allowable space to build.
- D. Rutherford, would rather deny this variance than place conditions on this variance which would prevent any person who might purchase this property from adding on to the existing buildings.
- R. Parker lot size is very important in the Village; I don't see why we need to make smaller lots.
- B. Cross states they are not smaller lots, the area of both proposed lots is greater than the minimum area required under the Zoning Ordinance, only the depth of the proposed lots would be deficient.

- B. Cross, R. Marcus, granting a variance is changing the zoning rules on that property and a limit on occupancy in a case like this a condition that a Zoning Board can impose.
- N. Saccamano would prefer that any structure not get closer to his property line.

In accordance with Article 8 of the New York State Environmental Conservation Law – the State Environmental Quality Review Act (SEQR), and specifically 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

In accordance with Section 712-b of the Village Law of the State of New York and Village of Cayuga Heights Article IX, Section #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 weighted against the detriment to the health, safety and welfare of the neighborhood or community by such grant;

THE ZONING BOARD then considered each of the five required questions, and made the findings stated following each below.

1st Parcel considered (Sunset Lot)

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.

Findings: The proposed lot is not deficient in area, only in depth (it would be conforming if turned 90 degrees). Restrictions on the number of dwelling units permitted on this property will help preserve the character of the neighborhood.

YES / **NO** X

Whether the benefit sought by the applicant can be achieved by some other method, feasible to the applicant to pursue.

Findings: The owner is planning to sell the one property.

YES X / **NO**

Whether the requested area variance is substantial.

Findings: 20 ft. is substantial, the fact that each newly subdivided lot could be developed with a second structure also makes the result substantial. Limiting the use of the newly subdivided lot would mitigate that result.

YES X /NO

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

Findings: There is sewer and water already present at both building's.

YES /NO X

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 variance.

Findings: The applicant seeking the variance wants to sell one property and rent the other.

YES X /NO

Motion to approve: S. Manning **Second:** D. Rutherford

RESOLVED, that Village of Cayuga Heights Zoning Board of Appeals hereby grants the requested area variance, subject to the conditions that the lot be improved with no more than one primary dwelling unit and that one dwelling unit cannot be occupied by more than 2 unrelated persons or a single family, and that the subdivision occurs in accordance with the plans and to the specifications presented in the application.

Ayes: J. Young, S. Manning, and D. Rutherford

Opposed: R, Parker, M. Eisner

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

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 weighted against the detriment to the health, safety and welfare of the neighborhood or community by such grant;

THE ZONING BOARD then considered each of the five required questions, and made the findings stated following each below.

2nd Parcel considered (Cayuga Heights Rd)

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.

Findings: The proposed lot is not deficient in area, only in depth (it would be conforming if turned 90 degrees). Restrictions on the number of dwelling units permitted on this property will help preserve the character of the neighborhood.

YES _____ /NO X

Whether the benefit sought by the applicant can be achieved by some other method, feasible to the applicant to pursue.

Findings: The owner is planning to sell the one property.

YES X /NO _____

Whether the requested area variance is substantial.

Findings: 20 ft. is substantial, the fact that each newly subdivided lot could be developed with a second structure also makes the result substantial. Limiting the use of the newly subdivided lot would mitigate that result.

YES X /NO _____

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

Findings: There is sewer and water already present at both building's.

YES _____ /NO X

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 variance.

Findings: The applicant seeking the variance wants to sell one property and rent the other.

YES X /NO

Motion to approve: S. Manning **Second:** D. Rutherford

RESOLVED, that Village of Cayuga Heights Zoning Board of Appeals hereby grants the requested area variance, subject to the conditions that the lot be improved with no more than one primary dwelling unit and that one dwelling unit cannot be occupied by more than 2 unrelated persons or a single family, and that the subdivision in accordance with the plans and to the specifications presented in the application.

Motion to approve: S. Manning **Second:** M. Eisner

Ayes: J. Young, S. Manning, M. Eisner and D. Rutherford

Opposed: R. Parker

ITEM 5-- New Business- None

July Meeting changed to July 10th 2017

Motion to approve: S. Manning **Second:** R. Parker

Ayes: J. Young, S. Manning, D. Rutherford, R. Parker, and M. Eisner

Opposed: None

ITEM 6-- Adjourn 9:00 p.m.