



Present: ZBA Chair: J. Young, Members: M. Eisner, S. Manning, R. Parker, and L. Staley, Code Enforcement Officer B. Cross, Deputy Clerk J. Walker

Absent: Attorney R. Marcus

1. **Call to order**

ZBA Chair, J. Young calls the meeting to order at 7:05 p.m.

ZBA Chair, J. Young appoints Alternate M. Eisner as a full voting member

2. Approval of Meeting Minutes: September 5, 2017

BE IT RESOLVED THAT: the Village of Cayuga Heights Zoning Board of Appeals approves the September 5, 2017 minutes as presented.

Motion: J. Young

Ayes: Chair J. Young, Members: M. Eisner, S. Manning, R. Parker and L. Staley

Abstentions: None

Motion carried

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

4. **Variance Application: Request by Mari Mitchell (owner) of 11 Spruce Lane (tax parcel 5-1-1.212), to allow existing 12' high wall to remain within 10' from the front property line and 8' of the side property line, which is less than the 25' (front) and 15'(side) setbacks required by Village of Cayuga Heights Zoning Ordinance Section 6: Yard Requirements.**

Code Enforcement Officer B. Cross: The structure was constructed without a permit. B. Cross asked the applicant to become compliant or come before the ZBA Board for a Variance. This particular request (Fences and Walls) fall under the setbacks of the Zoning Ordinance. B. Cross had also stated he has not received any comments about the wall.

Mari Mitchell (applicant) stated they built the wall for her kids to hit balls up against. The Building materials are adequate and the structure satisfies Code Enforcement Officer B. Cross as properly engineered.

ZBA Chair J. Young opened the Public Hearing at 7:20 p.m.

No members of the public wished to speak

ZBA Chair J. Young closed the Public Hearing at 7:20 p.m.

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. In accordance with Section 712-b of the Village Law of the State of New York and Village of Cayuga Heights Zoning Law Article 20, 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;

The Zoning Board of Appeals, considered each of the five required questions:

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: No significant undesirable changes are expected if the wall is well maintained and used as proposed. In addition, the next-door neighbor has no objections to the wall as it exists.

YES NO X

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: In the absence of a variance the side yard setback could be achievable without requiring additional paving, but the front yard setback could not. Additional paving would impact the site and create possible negative environmental impacts.

YES NO X

Whether the requested area variance is substantial.

Finding: The variance requested is significant, but this is mitigated by the limited length and width of the wall.

YES X NO

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

Finding: No significant adverse effects are expected as the wall won't block wildlife movement, obstruct traffic or create new impermeable surfaces.

YES NO X

Whether the alleged difficulty was self-created.

Findings: The resident has already built the wall, so the difficulty is clearly self-created.

YES X NO

R. Parker, would like to see language about "well maintained" and "used as proposed" and consider the structure be removed if the property was sold.

S. Manning asked the applicant about plans to maintain the wall. Chair J. Young suggests a possible restriction of use.

M. Eisner would like to see recreational use instead of restricted uses.

BE IT RESOLVED THAT: the Village of Cayuga Heights Zoning Board of Appeals grants the Variance request of Mari Mitchell (owner) of 11 Spruce Lane subject to the following conditions: 1) the structure be well maintained and structurally sound, 2) that it is used solely for the recreational uses described in the variance application, and 3) that the wall shall be removed prior to any sale of the property to a third party.

Motion: R. Parker

Second: M. Eisner

Ayes: Chair J. Young, *Members:* M. Eisner, S. Manning, R. Parker and L. Staley

Abstentions: None

Motion carried

ZBA Chair J. Young notified applicant of the 30-day period during which a legal challenge of the Board's decision could be brought. B. Cross also informed the applicant to pick up the permit at Marcham Hall.

5. New Business: NYSEG has proposed placing a natural gas compressor pump station in the Village.
6. Meeting adjourns at 8:06 p.m.

DRAFT