



Village of Cayuga Heights

MARCHAM HALL
836 HANSHAW ROAD
ITHACA, N.Y. 14850

Telephone
607-257-1238

Office Hours
9 A.M. - 4 P.M.

NOTICE OF DENIED APPLICATION

DATE: JANUARY 18, 2022
 TO: 408 UPLAND RD, LLC
 FROM: Brent Cross, Zoning Officer
 PROJECT: NEW OFFICE BUILDING
 ADDRESS: 408 E. UPLAND RD TAX PARCEL NO.: 10-3-6

The application for a Zoning Permit for the above referenced project has been denied. According to the documents provided, the proposed project will not comply with the following section(s) of the Village of Cayuga Heights Zoning Ordinance:

1. DISTRICT (LOCATION) _____ COMMERCIAL
2. ALLOWABLE USE IN RESIDENTIAL DISTRICT _____ NA
3. ALLOWABLE USE IN MULTIPLE HOUSING DISTRICT _____ NA
4. ALLOWABLE USE IN COMMERCIAL DISTRICT _____ PROFESSIONAL OFFICES (OK)
5. HEIGHT OF BUILDINGS _____ 15'-3 1/4" (OK)
6. YARD REQUIREMENTS _____ FRONT 31.87' < 35' (OK)
SIDE 10.00' < 35' (NG)
REAR 13.66' < 35' (NG)
7. BUILDING COVERAGE (INC 3' OVERHANG) _____ 25.4% > 25% (NG)
8. PORCHES, DECKS AND CARPORTS _____ NA
9. FENCES AND WALLS _____ (EXISTING)
10. BUILDING FLOOR AREA _____ 5500SF > 5000SF => SPR (PENDING)
11. OTHER _____ NA

If you wish to appeal this decision, or want to seek a variance to allow the proposed project as submitted in the application, you may request such appeal/variance be considered by the Zoning Board of Appeals (ZBA).

REQUEST FOR APPEAL/VARIANCE

I, Lauren Butts (owner or agent), hereby request the ZBA to consider the application as denied above.
 Signed by: Lauren E Butts date: 2/25/22 fee: \$150 receipt no. _____
 fee: \$100 receipt no. _____

Village of Cayuga Heights
Zoning Board of Appeals
Application Form

ZBA Application Fee: \$100.

Check All That Apply:

Area Variance

Use Variance

Interpretation Request

For Office Use Only

Date Received _____

Cash or Check _____

Zoning District _____

Applicable Section(s) of Village Code:

Property address: 408 E Upland Rd Tax parcel: 10-3-6

Zoning Officer's determination: Not compliant

Requested variance or interpretation: Requested variance for front, rear, and side yard set back (south side yard), and lot coverage

Reason(s) that the requested variance or interpretation should be granted:

▫ See attached page for the criteria that the ZBA must use. ▫ Use additional sheets if necessary.

For the requested setback variances, see the attached pages from the SPR submission. Due to the building overhang being included in the area calculations for the lot coverage, the lot coverage just slightly exceeds the allowable 25% lot coverage, with 25.4% coverage.

Please see the SPR submission for additional project material including the narrative, building plans, and renderings.

Please attach any additional information that will help the ZBA to evaluate your appeal, such as a narrative, survey map, photos, building plans, etc.

By filing this application, you grant permission for Village of Cayuga Heights ZBA Members and Village Staff to enter your property for inspections related to your appeal.

Owner/Applicant: Lauren Butts

Signature: *Lauren E Butts* Date: 2/25/22

Phone number(s): 607-210-8339

Email address: leb@twm.la

ZBA Actions Permitted by NYS Village Law

Area Variance: An area variance is needed if you want to deviate from some dimensional requirement of the Zoning Ordinance, such as height, yard setback, or lot coverage.

The area variance criteria the ZBA must use are found in Village Law 7-712-B(3)(b):

In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

(1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

(2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

(3) whether the requested area variance is substantial;

(4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

(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 variance.

Use Variance: A use variance is needed if you want to use a structure or property for something not allowed by the Zoning Ordinance, such as a restaurant in the Residence District.

The use variance criteria the ZBA must use are found in Village Law 7-712-B(2)(b):

No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

(1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

(3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(4) that the alleged hardship has not been self-created.

Interpretation Request: An interpretation request is appropriate if you do not agree with the Zoning Officer's interpretation of the Zoning Ordinance. Such requests must be made within sixty (60) days of the Zoning Officer's determination that is being appealed.

The interpretive role of the ZBA is found in Village Law 7-712-B(1):

The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

ZONING CODE

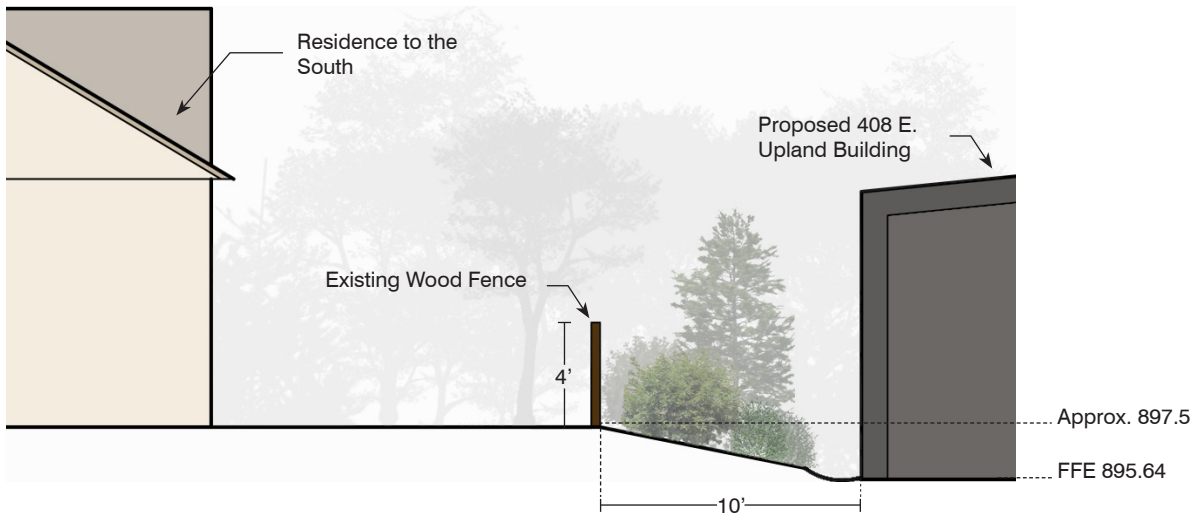
Setbacks

The site is zoned commercial. In this zone, requirements for building setbacks states that “ buildings in the Commercial Zone shall be set back from property lines a minimum of 35 feet, said dimension to be measured at right angles to the property lines.” (§ 305-38. Building setbacks). Where the commercial zone abuts another zoning district, setback distance will be contingent on building height. In the front yard, setback distances may equal the maximum height of the building and side and rear yard setbacks may equal one and a half times the maximum height, but for any setback no less than 35 feet is required. The maximum height of the roof is 15 feet, which under existing zoning setbacks would require the building to be setback 35 feet on all sides of the building. (See existing building footprint and commercial zone setbacks diagram)

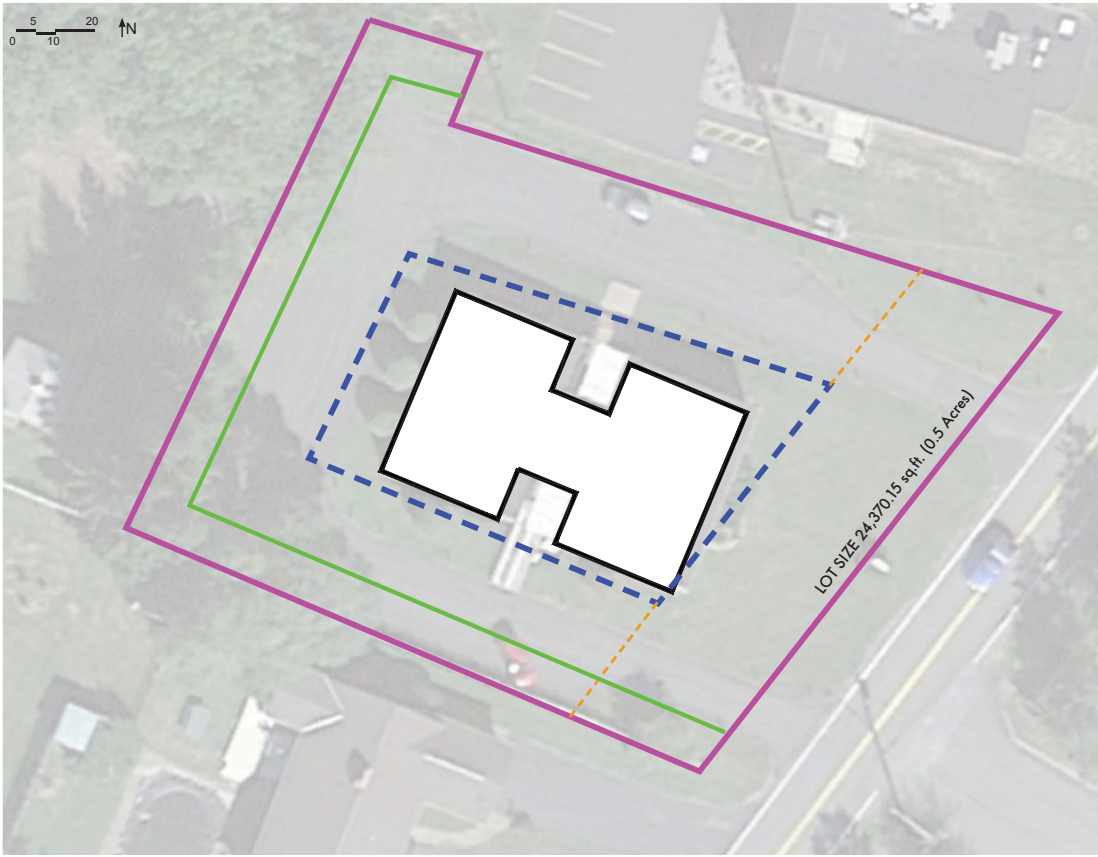
This project will seek variances for side (south), front, and rear yard setbacks.

The building has been sited along the south of the property in order to move disruptive vehicular traffic away from the adjacent residential home. This building placement has also eliminated a curb cut from East Upland Road to create a single driveway entrance to the site. A 10' buffer space has been created between the existing (to remain) wood fence along the property line and the back of the proposed building. This space will be planted as a vegetative buffer for added privacy. Additionally, due to the site grading and proposed building elevation, most of the fence is at a slightly higher elevation than the building FFE. Therefore, in certain locations along the site boundary the four-foot-tall fence is providing the screening benefit of a five or six foot tall fence (see section of south yard buffer).

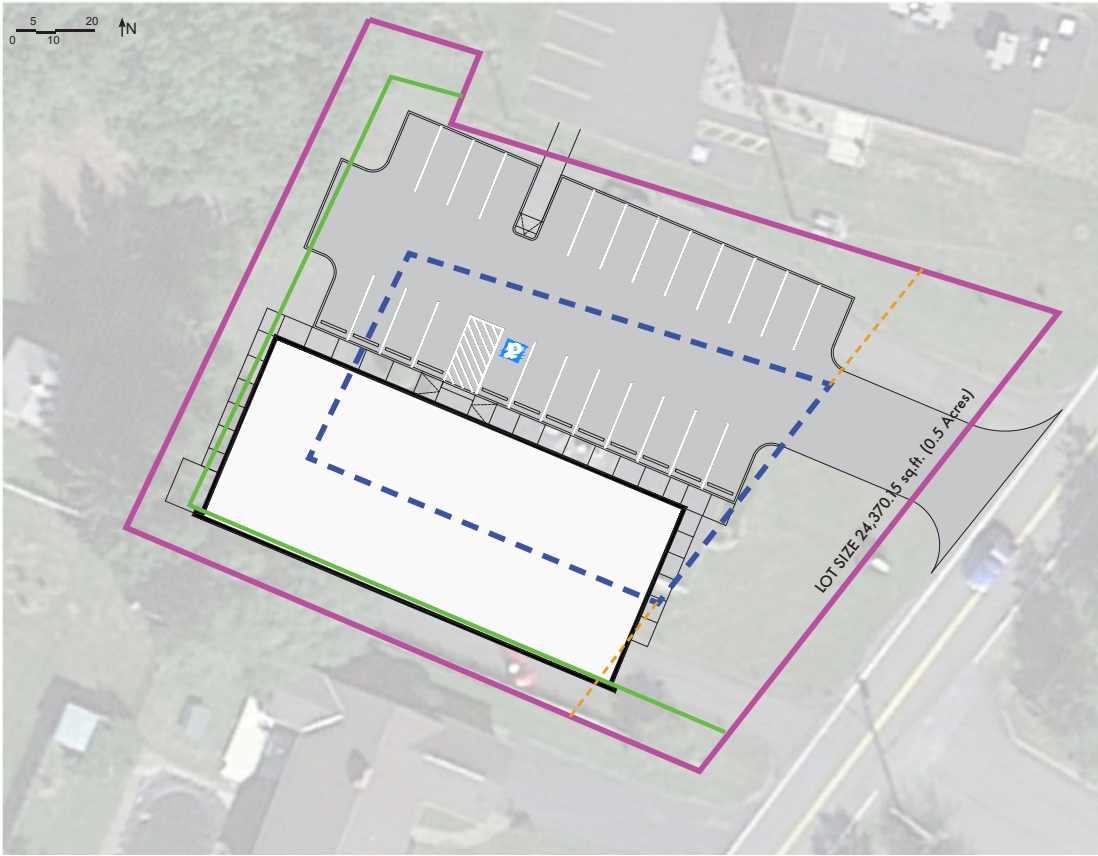
Based on the dimensions required to create a building of a desirable size that also allows space on the site to provide enough parking, the siting of the building falls within both the front and rear yard setbacks. The rear of the 408 site abuts the rear of an adjacent residential property that is already separated by significant mature vegetation. The building is sited no less than approximately 13' at any point from the rear property boundary, and will have a planted buffer to supplement the existing vegetative buffer on the adjacent property. In the front yard, a small portion of the east face of the building encroaches into the setback by approximately five feet. The remaining east face of the building is set further back than the required 35 feet. Please see the proposed building footprint and commercial zone setbacks diagram for reference.



Section of South Yard Buffer



Existing building footprint and commercial zone setbacks



Proposed building footprint and site with commercial zone setbacks