



Village of Cayuga Heights
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ZONING BOARD OF APPEALS
January 9, 2023 7:00pm
Marcham Hall

AGENDA

[ZOOM LINK](#) PW: VCH836

1. Call to Order
2. Review and Approval of August 1, 2022, meeting minutes
3. Public Comment
4. Resolution providing for videoconference participation
5. New Business
6. Adjournment

August 1, 2022

Present: ZBA Chair: L. Staley, Members: R. Parker, S. Barnett, M. Tate, D. Szpiro, Clerk J. Walker & Deputy Clerk A. Jacot

Zoom: Code Enforcement Officer B. Cross

Absent: Attorney R. Marcus, Member M. Friend

1. Call to order:

- ZBA Chair, L. Staley calls the meeting to order at 7:01 p.m.

2. Approval of Meeting Minutes: April 4, 2022

RESOLUTION:

BE IT RESOLVED THAT: the Village of Cayuga Heights Zoning Board of Appeals approves the April 4th, 2022 minutes as presented.

Motion: R. Parker

Second: S. Barnett

Ayes: Chair L. Staley; Members: R. Parker, S. Barnett, M. Tate

Nays and Abstentions: M. Friend, D. Szpiro

Motion carried

3. Public Comment: No members of the public wish to speak.

4. Variance Application: An application to build a new garage, and living space addition, to the existing house at 108 Warwick Place has been denied. The site plan/map that was submitted with the application indicates that the corner of the proposed garage will be at 12.3' which is less than the 15' required for a side yard setback in the Village of Cayuga Heights Zoning Code Section 305- 19, as well as the combined area of the existing house and the new addition(s) will result in a lot coverage of 15%, which exceeds 12% allowed by Section 305-20. The owner(s) wish to seek a variance to allow the project to be built as proposed.

- Code Enforcement Officer B. Cross further states that it should be noted that the dimensions of the original lot are not compliant with the current zoning regulations, but the original house was constructed on the lot in 1961, which is prior to the addition of minimum lot dimensions in the 1962 version of the Zoning Ordinance.

- ZBA Chair L. Staley opened the Public Hearing at 7:20 p.m.
- Code Enforcement Officer B. Cross Explained to the Zoning board and residents that there will be 2 specific variances to contemplate. One to increase the existing lot coverage to approximately 15%. The other is to a small corner of the garage will be at 12.3 feet from the property line which is less than the required 15 foot setback.
- Village resident and applicant R. Leonardo, with his family, T. Leonardo, D. Leonardo, M. Leonardo & J. Jensen were present. Village Resident and neighbor, B. Watkins was present. Architect C. Brenner was in attendance via Zoom.
- R. Leonardo and family state that the goal of this project is to add additional living space on a single level to be ADA compliant.
- Applicant R. Leonardo & T. Leonardo state that the current deck and sunroom will be removed. The existing garage will be transformed into living space and a new, forward facing, oversized, one car garage will be added.
- Architect, C. Brenner, presents a proposed site map as well as virtual exterior house and yard plans.
- Village Resident and lot/home owner of 110 Warwick Place, directly adjacent to 108 Warwick Place, B. Watkins, shared her concerns.
- B. Watkins states that she believes her residence at 110 Warwick Place and 108 Warwick Place are too close to begin with and believes that with the additional garage if they are any closer it could be a fire hazard.
- Code Enforcement Officer B. Cross explains the current fire codes, explaining that the applicant will continue to be well within compliance.
- B. Watkins also referenced the asphalt to the North and West of the current structure. Asking if it will be extended even closer to her property at 110 Warwick Place.
- The Architect as well as the Leonardo family explained that this particular section of asphalt will be removed as it will no longer be needed.
- ZBA Chair L. Staley closes the Public Hearing at 7:25 p.m.

• **The Zoning Board of Appeals then 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: The lot is undersized; therefore, any changes will likely go over the current allowable zoning. The portion going over the setback allowance is only a small corner, approximately 2'.

The exterior architecture of the home is consistent with the neighborhood and not oversized. The asphalt closest to the neighboring property from the existing turnaround will be removed.

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: The applicant could make the garage smaller, which would reduce the setback, however, ADA standards require more space. Reconfiguring the proposal would likely be costly. Could build up, however, would not be ADA compliant, which is the whole point of the variance. The board decided to vote separately between setback & lot coverage.

YES X NO (setback)

YES NO X (lot coverage)

Whether the requested area variance is substantial.

Finding: The setback would be 12.3' compared to 15'. This is due to one corner of the proposed garage. However, the current asphalt, which has even less setback, will be removed. The current footprint would go up by 25% due to the undersized lot. The board decided to vote separately between setback & lot coverage.

YES NO X (setback)

YES X NO (lot coverage) (1 nay by R. Parker)

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

Finding: It is possible to have extra water runoff due to the change in the driveway, however, the impact is not known. No trees or shrubs are being removed. Some asphalt will be removed, therefore mitigating the driveway change. There will be no impact on wildlife passage.

YES NO X

Whether the alleged difficulty was self-created.

Findings: The house was purchased fairly recently. The application stated an intent to modify the house "when necessary". Health concerns require changes "sooner than...predicted."

YES X NO

RESOLUTION:

THEREFORE BE IT RESOLVED THAT: The Board determines that through the five findings that the benefit to the homeowner by approving the variance, would be greater than the detriment to the neighborhood and, the ZBA Board requires that the garage and addition be built substantially as described in the application and maintained as such.

BE IT FURTHER RESOLVED THAT: The Village of Cayuga Heights Zoning Board of Appeals grants the Area Variance request of R. Leonardo, owner of 108 Warwick Place, Ithaca, N.Y. 14850 with a condition that all is built substantially as given in the application, and all asphalt North & West of the face of the new garage will be permanently removed.

Motion: R. Parker

Second: S. Barnett

Ayes: Chair L. Staley; *Members:* R. Parker, S. Barnett, M. Tate, D. Szpiro

Nays and Abstentions: None

Motion carried

3. New Business:

- Code Enforcement Officer B. Cross informed the Zoning Board of Appeals of a matter that has recently been brought to his attention in regard to a variance that the ZBA granted in 2020. This matter revolves around a fence constructed at 602 Parkway.
- Code Enforcement Officer B. Cross' interpretation is that he does not find there is anything new or unusual and stands by the decision of the ZBA. Although, the resident does have the right to appeal Mr. Cross' interpretation which would then come back to the ZBA. If that is to be the case, he would need to write a letter directly to ZBA Chair L. Staley stating his position. There would then be a public hearing so that he can be given a full and fair chance to present his argument to the ZBA.
- K. Subin, original applicant, joined via zoom.
- K. Subin states that he wanted to make it clear that the fence was completed when the variance was applied for. He was not aware he needed a permit; therefore, the appeals process was done backwards. Due to this mishap, the neighbor was completely aware of the size & dimensions of the fence, as well as that it went to his property line. The neighbor had no complaints at the time the variance was granted.
- K. Subin reiterated his reasoning for this fence was due to the intimidating size of his dog.
- Code Enforcement Officer B. Cross explained that the resident questioning the variance is under the impression, due to being given false information by a realtor, that he owns an additional 5'.
- Code Enforcement Officer B. Cross was asked by S. Barnett if both parties in question were informed he was going to be speaking on this topic at this meeting. His answer was "Yes". Therefore, both parties had the opportunity to join either by zoom or in person at Marcham Hall.

5. ZBA Chair L. Staley adjourns the meeting at 8:21 p.m.

RESOLUTION
OF THE
VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS

AUTHORIZING THE USE OF VIDEOCONFERENCING FOR THE CONDUCT OF
ZONING BOARD OF APPEALS MEETINGS

WHEREAS, as of April 9, 2022, the previous videoconferencing provisions found in Public Officers Law § 103(c) were removed, and public bodies wishing to conduct meetings via videoconference must comply with the new requirements of Public Officers Law § 103-a; and

WHEREAS, Public Officers Law § 103-a(2) authorizes public bodies to conduct meetings using videoconference technology so long as a quorum of the public body is physically present at one or more of the locations where the public can also attend in person; and

WHEREAS, in order for public bodies to conduct meetings via videoconferencing, certain requirements of Public Officers Law § 103-a(2) must be satisfied; and

WHEREAS, among the requirements of Public Officers Law § 103-a(2) is that the public body must adopt a local law or a resolution after a public hearing authorizing the use of videoconferencing for itself and its committees or subcommittees; and

WHEREAS, the Zoning Board of Appeals of the Village of Cayuga Heights desires to authorize the use of videoconferencing for itself; and

WHEREAS, the Zoning Board of Appeals has conducted a public hearing to hear comments on the use of videoconferencing to conduct public meetings;

NOW, THEREFORE, be it resolved by the Zoning Board of Appeals of the Village of Cayuga Heights as follows:

1. The Zoning Board of Appeals of the Village of Cayuga Heights is hereby authorized to conduct meetings via videoconferencing in accordance with the requirements of Public Officers Law § 103-a(2), including, but not limited to:

A. A quorum of members of the Zoning Board of Appeals must be physically present at one of the meeting locations at which the public can attend in person unless the member is unable to be physically present due to extraordinary circumstances, which include disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting.

- B. Except in the case of executive sessions conducted pursuant to Public Officers Law § 105, the Zoning Board of Appeals shall ensure that members of the Zoning Board of Appeals can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon.
- C. The minutes of meetings involving videoconferencing must include which, if any, members participated remotely and must be made available to the public pursuant to Public Officers Law § 106.
- D. The public notice for the meeting must (i) inform the public (a) that videoconferencing will be used, (b) where they can view and/or participate in such meeting, and (c) where required documents and records will be posted or available, and (ii) identify the physical location(s) where members of the Zoning Board of Appeals will be participating in the meeting and where the public can attend the meeting in person.
- E. The Zoning Board of Appeals must record each meeting that uses videoconferencing and such recordings must be posted or linked to on the public body's website within five business days of the meeting. The recordings must remain available for a minimum of five years thereafter, and recordings must be transcribed upon request.
- F. At meetings where public comment or participation is authorized, members of the public must be able to participate in the proceedings via videoconference in real time.
- G. If the Zoning Board of Appeals broadcasts its meetings or conducts its meetings via videoconference, it must use technology that permits members of the public with disabilities to access the video in a manner consistent with the 1990 Americans with Disabilities Act (ADA).