



VILLAGE OF CAYUGA HEIGHTS

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ZONING BOARD OF APPEALS MARCH 6, 2023 Zoom Link ID4118425407

AGENDA

1. Call to Order
2. Review and Approval of January 9, 2023, Meeting Minutes
3. Public Comment
4. Variance Request: 203 Cayuga Heights Rd.

An application to build a new 8' high solid wood fence along a portion of the south property line at the above referenced address has been denied. The site plan/map that was submitted with the application indicates that the proposed fence will be located at less than 1' from the property line, which is less than the 15' required for a side yard setback in the Village of Cayuga Heights Zoning Code Section 305-101.A. Fence Setback.

The owner(s) wishes to seek a variance to allow the project to be built as proposed.

5. Updated Written Procedures for Video Conferencing Meetings
6. New Business
7. Adjourn

**Police Dept. & Village Administration
OFFICE HOURS
9 AM – 4:30 PM**

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ZONING BOARD OF APPEALS
January 9, 2023
Zoom Link ID4118425407

Present: ZBA Chair: L. Staley, Members: R. Parker, M. Friend, M. Tate & Deputy Clerk A. Jacot

Zoom: Attorney R. Marcus

Absent: Code Enforcement Officer B. Cross Members: S. Barnett & D. Szpiro

1. Call to order

ZBA Chair, L. Staley calls the meeting to order at 7:00 p.m.

2. Approval of Meeting Minutes: August 1, 2022

ZBA Chair, L. Staley, informed the board of a question that had come from the neighbor adjacent to 108 Warwick Place. The neighbor wanted clarification that the August 1, 2022 minutes are, in fact, stating that the asphalt North and West of the new garage will be permanently removed. ZBA Chair, L. Staley, pointed out, then read, two sections from the August 1, 2022 minutes that specifically pertain to this matter.

Page 3: The architect as well as the Leonardo Family explained that this particular section of the asphalt will be removed as it will no longer be needed.

Page 5: **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, NY 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.

BE IT RESOLVED THAT: The Village of Cayuga Heights Zoning Board of Appeals approves the August 1st, 2022 minutes as presented.

Motion: R. Parker

Second: M. Tate

Ayes: ZBA Chair, L. Staley Members: R. Parker & M. Tate

Nays: None

Abstentions: M. Friend

Motion carried

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

- ZBA Chair, L. Staley, stated that there was one item on the agenda tonight. It is a resolution concerning the use of videoconferencing to conduct ZBA meetings.

4. Resolution Providing for Videoconference Participation:

**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).

ZBA Member, M. Friend, inquires as to how this will look during a ZBA meeting.

ZBA Chair, L. Staley, explains that, in the future, once this resolution is passed, the ZBA still requires an in-person quorum. ZBA members may join via videoconference, under exceptional circumstances, if the required quorum is present.

Village Attorney, R. Marcus, explains that the main purpose of this resolution is to give the public the opportunity to attend the meeting via videoconference. A benefit for the public. Also, that adopting this resolution is due to the NYS Governor's executive order expiring. Village Attorney, R. Marcus, reiterated that as long as there is a quorum at a fixed, public location, other members of the board may be able to attend virtually, however, there would have to be a good reason for not attending in person.

Motion: R. Parker

Second: M. Friend

Ayes: ZBA Chair, L. Staley Members: R. Parker, M. Friend & M. Tate

Nays: None

Abstentions: None

5. New Business: No new business at this time.

6. Adjournment: ZBA Chair, L. Staley, adjourns the meeting at 7:05 pm

The Board of Trustees/Planning Board/Zoning Board of Appeals

Procedures for Member Videoconferencing

Pursuant to Public Officers Law § 103-a

In compliance with Public Officers Law (POL) § 103-a(2)(a), the Board of Trustees/Planning Board/Zoning Board of Appeals (the “Board”), following a public hearing, authorized by resolution on [insert date] the use of videoconferencing as described in POL § 103-a.

The following procedures are hereby established to satisfy the requirement of POL § 103-a(2)(b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member and public attendance.

1. Board members shall be physically present at any meeting of the Board unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term “extraordinary circumstances” includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting.
3. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member must notify the Mayor/Chairperson of the Planning Board/Chairperson of the Zoning Board of Appeals no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given.
4. If there is a quorum of members participating at a physical location(s) open to the public, the Board may properly convene a meeting. A member who is participating from a remote location that is not open to in-person physical attendance by the public shall not count toward a quorum of the Board but may participate and vote if there is a quorum of members at a physical location(s) open to the public.
5. Except in the case of executive sessions conducted pursuant to POL § 105, the Board shall ensure that its members 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. This requirement shall include the use of first and last name placards physically placed in front of the members or, for members participating by videoconferencing from private locations due to extraordinary circumstances, such members must ensure that their full first and last name appears on their videoconferencing screen.
6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL § 103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.

7. The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing will (or may) be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.

8. The Board shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the Board's website (<https://cayuga-heights.ny.us>) within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.

9. If members of the Board are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the Board shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The Board shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.

10. Open meetings of the Board conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall be broadcast pursuant to the requirements of POL § 103(f) and shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, "disability" shall have the meaning defined in Executive Law § 292.

11. The in-person participation requirements of POL § 103-a(2)(c) shall not apply during a state disaster emergency declared by the governor pursuant to Executive Law § 28 if the Board determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Board to hold an in-person meeting.

12. These procedures shall be conspicuously posted on the Board's website (<https://cayuga-heights.ny.us>).