

Minutes
For the
Village of Cayuga Heights
Zoning Board of Appeals Public Hearing and Meeting
Held on February 5, 2007

Board Present: Robin Cisne, Robert Powers, Joe Petrillose, Kenneth Robinson, and Sara How

Zoning Officer: Brent Cross

Zoning Board Secretary: Mary Jane Neff

Village Attorney: Dave Tyler

Guest: Mark Mecenas, Paul Tavelli, Scott Howard, Sally & Leonard Elkin, Ann Antil, Judy Virgilio, Caroline Rusten, Randy Marcus, Katrina Medeiros, Ann and Curt Ashman, Peter J. Ciferri, Tim Ciaschi,

Due notice required by law for the variance application was noted as in the file, being an area variance sought from section 7, subdivision (a) – “size of lots” of the Village Zoning Ordinance.

ZBA Chairperson Cisne opened the public hearing at 7:06 PM

Chairperson Cisne stated that the Board will hear comments from the guests. The public hearing will then be closed. The ZBA Board will convene and discuss the proposed area variance request and she requested that the public not comment during the board’s discussion. She further stated that the Board may or may not make a decision on this request this evening. She stated that the Board has 60 days from this evening in which to obtain additional information, if needed, and to make a decision.

Mr. Cross explained that the Upland Road Estate Subdivision had been brought before the Planning Board at a public hearing held on January 16, 2007. The planning board is in the process of reviewing the environmental impact of the subdivision project. Since lot # 6 does not provide an average depth of 150 feet as required by section 7.a. of the Village Ordinances, the Planning Board cannot take a formal action on the proposed subdivision until the ZBA makes a determination on the area variance of lot #6

Chairperson Cisne requested the applicant to explain the request.

Mark Mecenas, the developer, stated that although the lot does not have the required depth of 150 feet that it does exceed the required square footage when using the 125 foot width times the 150 foot depth. Having the additional square footage will allow adequate space for the construction of a dwelling and would not cause an adverse effect on the area.

Paul Tavelli, developer’s attorney, presented a small map of the proposed subdivision and a written response to the 5 considerations that the Board will be considering when

making their decision. He also stated that the square footage of the lot exceeds the required square footage and would therefore not be a substantial change. He explained that due to the topography of the area there is no other reasonable way for the proposed lot # 6 to conform to Village Ordinances. The Village currently has many lots that do not conform to this ordinance and therefore would not greatly impact the neighborhood. The difficulty with lot #6 is due to the topography of the area and not self-created.

Randy Marcus, attorney for the neighboring residents, stated that the neighbors had hired an engineer to review the subdivision plans and their engineer recommended that lot # 6 be eliminated from the project. In the neighbor's engineer's opinion the elimination of lot #6 would allow the relocation of the main entry drive 25 – 50 feet to the north and provide additional building land for lots # 2, 3, and 4. The additional land may encourage the dwellings to be constructed at the base of the slope thus preserving the mature trees and the wooded buffer that currently exists between the new homes and the neighbors on the south side of the development.

Katrina Medeiros stated that her concern was that any construction on lot #6 could interfere with the pond and swale of the proposed subdivision and cause additional flooding to the neighbors on the south side of the development.

Mark Mecenias stated that, since all of the lots will be on a side hill, NYS requires the developer to hire an engineer to check the run off after each storm. If there are any problem noted, the developer must address them. This requirement is in effect until the last lot is built on.

Curt Ashman expressed concern the future property owners in the subdivision may want to alter the existing swale which could caused additional flooding in the neighborhood.

Tim Ciaschi stated that before he put the property up for sale that he had offered the land to the neighboring property owners. None of them were interested in purchasing the land, nor were they interested in dividing it among themselves. He supports the development for the following reasons:

1. It will have a positive effect on the Village's tax base.
2. The developer lives in the Cayuga Heights area and is a known developer in the Ithaca area.
3. Because the developer lives in the area he will over see the project and make sure that is right.

Leonard Elkin commented that the area is sandy soil which creates a drainage problem for the developer as well as the neighbors in that area.

Judy Virgilio stated that she is concerned with the cutting of older large trees in the subdivision for the road. She would like the road moved northward, so that the older larger trees in the area could be preserved.

There being no other comments Chairperson Cisne closed the public hearing at 7:32 PM.

The ZBA meeting was called to order at 7:32 PM by Chairperson Cisne.

Mr. Cross reviewed the map of the subdivision with the Board members. He pointed out the difficulty created by the topography of the area and answered other questions from the board members.

Mr. Robinson made a motion to deny the variance and Mr. Powers seconded the motion. A discussion followed among the board members. Village Attorney, Dave Tyler, recommended that the Board state their reasons for the denial based on the Board's 5 considerations even if one of the considerations did not apply or was favorable. At this time this motion was withdrawn by Mr. Robinson and Mr. Powers. The Board then discussed the reasons for their denial

On a motion by Robinson, seconded by Powers the following was passed with 5 ayes, none in opposition nor any abstentions.

RESOLVED, that an area variance for lot # 6 of the proposed Upland Road Estate Subdivision is hereby denied for the following reasons:

1. Due to the irregularity of Lot # 6 which causes it to not meet the average minimum depth of 150 feet it will produce an undesirable change in the area because of its irregularity.
2. The benefit to the developer could still be met if lot # 6 was eliminated or if the land was divided differently so that all of the lots were rectangular in shape and met the requirement of Village Ordinance.
3. The Village engineer's best approximation of the average depth of lot # 6 is approximately 100 feet, making the variance sought substantial.
4. The disparity between what the ordinance requires and 100 foot average depth being substantial, is great enough to cause a significant impact on the physical condition in the neighborhood.
5. The difficulty was self-created.

On a motion duly made and seconded this meeting was adjourned at 8:20 PM

Respectfully submitted,

Mary Jane Neff, Secretary