

Minutes
For the
Village of Cayuga Heights
Zoning Board of Appeals Public Hearing and Meeting
Held on January 7, 2008

Board Present: Robin Cisne, Ken Robinson, Sarah How, Robert Powers, and Peter McClelland; Alternate, Sally Grubbs

Zoning Officer: Brent Cross

Other: Village Attorney, Dave Tyler

Zoning Board Secretary: Mary Jane Neff

Guest: See attached list

The Board met with counsel in a closed meeting at 7:00 PM

The public hearing was opened at 8:00 P.M.

Chairperson Cisne explained that this was a different kind of request of the Zoning Board of Appeals because Ms. Keifer's request was for the board's interpretation of the Zoning Officer's granting permission for the construction of the fence at 100 West Upland Road of which a portion of the fence exceeded the 4' allowed by Village Ordinances.

Chairperson stated that on recommendation of counsel, the Board would first consider if this Board should hear Ms. Keifer's appeal. She read the property owner's attorney letter which had referenced similar appeals that had been dismissed because the applicant was not directly (within the 200 foot radius of the property) affected by the construction of the fence.

Chairperson Cisne requested Ms. Keifer to explain her position in bring this appeal to the Zoning Board of Appeals. Ms Keifer cited references from the NYS ZBA handbook on pages 17, 18, & 19 of the July 1, 1994 issue.

Board member Peter McClelland responded with his understanding of the issue as follows: 1. The Village Zoning Officer has been consistent with his enforcement of the zoning ordinances and that his measuring of this fence was consistent with other fences in the Village of Cayuga Heights. He also recommended that the Board table hearing this appeal until the next regular meeting of the ZBA to allow the Board time to investigate Mr. Galbraith's request to dismiss this appeal on the grounds that the Keifer's property is not within sight of the fence at 100 West Upland Road and to review Ms. Keifer's position as it was presented this evening. The other board members were not in favor of tabling a decision on Ms. Keifer's standing to bring an appeal to the ZBA.

On a motion by R. Cisne, seconded by S. How the following was passed with 3-ayes, 1-nay and 1 abstention:

RESOLVED, that this Board recognizes Ms. Keifer's standing to bring this appeal to the Zoning Board of Appeals.

Chairperson request Ms. Keifer to present her appeal.

Ms. Keifer expressed the following concerns and comments:

1. That Village staff had been instructed that they were not to help Village residents who wanted to bring an appeal to the ZBA.
2. Concerned that the height and set back was not according to her interpretation of Village Ordinances
3. She questioned who determined natural grade.
4. She questioned where property line begins to determine the setback requirements
5. She expressed concern about the drainage which causes the sidewalk to flood and become dangerous in the winter months and after a significant rainfall.

Brent Cross, Village Zoning Officer, made the following comments:

1. This was the first time that an appeal of this kind had been made and that the staff did not know how to help a resident on this appeal
2. He has on numerous occasions provided information to the Board members on his process for determining the height of a fence and the set back. His determination on this fence was consistent with all of his prior determinations.
3. The drainage in that area has been a problem to the Village for many years and that the Village is attempting to resolve the drainage problem.

Mr. Cross stated that he had prepared a presentation for the Board, but that the Village's laptop computer was being used by Village staff for another project and was not available for use tonight, but that he would be willing to make the presentation at a future meeting.

The public hearing was closed at 8:40 PM

The Board discussed their options and decided to take additional time to investigate the matter further. However, they did not want to wait until the February 4th meeting to make a decision. Mr. Cross also commented that Mr. & Mrs. Wetherbee also objected to the fence and that they were within the 200 feet radius of the fence being discussed. He stated that with the permission of the Board that he would like to schedule a public hearing for the Wetherbees at the next meeting since it also would be regarding the fence at 100 West Upland Road. The Board so agreed.

On a motion by R. Cisne, seconded K. Robinson and with a vote of 4-ayes and 1-abstention the following was passed:

RESOLVED, that the appeal of Dooley Keifer regarding the fence at 100 West Upland Road be tabled until the next meeting of the ZBA.

The Board scheduled their next meeting for January 28, 2008 at 7:30 PM to hear the appeal of Mr. & Mrs. Wetherbee and to make a decision on the Dooley Keifer's appeal.

This meeting was duly adjourned at 9:26 PM

Respectfully submitted,

Mary Jane Neff, ZBA Secretary