

Minutes  
For the  
Village of Cayuga Heights  
Zoning Board of Appeals Public Hearing and Meeting  
Held on August 4, 2008

Meeting was called to order at 7:08 PM

Present: Acting Chairman Bob Powers; Members Fred Cowett, Peter McClelland, Sarah How and Alternate Member Sally Grubb

Absent: Chairman John Young Alternate Members: Alison Smith

Others: Brent Cross, Code Enforcement Officer, and Mary Jane Neff, Secretary

Guest: Tari S. Black, Art Salotti, Michael J. Salotti, Sarah Hatcher, Chris Anagnost, Richard Baer and Carol Baer

Due to the change in the published meeting location, extra time was granted by the Board to allow the applicants time to get to the village hall from the fire station

The Acting Chairman Powers called the public hearing to order at 7:08 PM.

He opened the meeting with an explanation of the procedures for this meeting. During the public hearing portion of the meeting the applicant and other attendees would be allowed to present their applications. The other attendees would also be allowed to speak in favor or opposition to the proposed area variance request. The Board would then close the public hearing and discuss the requests. The board members may ask the applicants questions if they need additional information. A decision may be rendered at that time; however, the board can request additional information and take up to 62 days to make a decision.

Chairman Powers asked Tari Black to present her plan and reason for requesting an area variance. Ms. Black stated that she wanted to construct a two car garage on her property. She has hired an architect who has prepared a preliminary plan for the placement of the garage on her property. One corner of the garage would be 2 feet 10 inches from her property line. The design of the proposed structure matches the design of the house and will be cosmetically the same as the house.

Mr. Richard Baer, a neighbor, asked if there was adequate room to back out of the garage without having to back into the street. Mr. Art. Salotti, Ms. Black's father, stated that there was space to back up into the existing driveway so that no one would have to back out of this driveway on to Kline Road.

There being no other comments or concern this public hearing was closed at 7:32 PM.

On the request of Brent Cross, Chairman Powers appointed Sally Grubb, Alternate Member, as a voting member due to the absent of the ZBA Chairman. The ZBA members discussed the applicant's area variance request.

The Board members considered if the benefit could be achieved by other means feasible to the applicants. Member Cowett asked if there was land enough to move the proposed garage back further from the property lot line. He asked if the proposed garage could be moved back so that its closed corner to the property line could be the same as the closes corner of the existing house. Ms. Black stated that she thought it could be moved back and that she would have the architect move it back to the 10' 3" distant from the property line which is the distant of the closest corner of the house to the property line.

The Board considered if the request would cause an undesirable change to the neighborhood character or the neighboring properties. It was the consensus of the members that it would not cause an undesirable change to the neighborhood character or neighboring properties.

The Board considered if the request was substantial and determined that the 2 feet 10 inches would be substantial, But that if the closest corner to the property line was the same as the house they would not consider the request substantial.

The Board considered if the request would have an adverse physical or environment effect. The consensus of the members was that it would not have an adverse physical or environment effect.

The Board considered whether the request was self-created. The consensus of the members was that it was partially self created because of the desire to have a two car garage, but that some of the difficulty was created by the lack of set back requirements when the house was constructed.

The main concern of the ZBA chairman and members were safety issues. There are no shoulders on Kline Road and it is a main route used by the community's youth to access the school. Backing on to Kline Road would be hazardous to walkers, bicyclists and motorists that exceed the speed limit due to the decline and curviness of the road.

On a motion by Peter McClelland, seconded by Sally Grubb the following was unanimously passed:

**RESOLVED, that an area variance is hereby granted to 110 Cayuga Heights Road, tax parcel #15.-2-1 subject to the condition that the closest corner of the proposed garage be no less than 10 feet, 3 inches from the property line.**

The second public hearing for this evening was opened at 8:03 PM.

Chairman Powers request Mr. Bart Auble to explain the request to construct a 6 feet high fence on the rear lot line. Mr. Auble explained that he and his wife had three reasons. The first reason is safety for his two children who like to cross the neighbor's property to get to their grandmother's house. The second reason is privacy; there is a break in the tree line between their property and their neighbor's property. They can see everything that the neighbors are doing and the neighbors can see everything that they are doing. This also includes the loud noises created by children at play. The third reason is that they would like to have an area where they can landscape and bring the break in the tree line together that will also look nice. Mr. Auble stated that he and his wife had visited all of the neighbors and that they had signed a petition stating that they have no objection to the proposed variance.

Chairman Powers read an e-mail received by Sarah How objecting to granting any fence variances for construction of fences higher than 4-feet. (Printed e-mail is attached).

This public hearing was closed at 8:15 PM.

The Board discussed the proposed area variance and considered the five criteria.

Chairman Powers asked the Board to consider alternatives to the construction of a 6-foot fence. Members felt that plantings of trees and shrubs would be more feasible since the fence would not be fully enclosing the back yard.

The Board considered if granting the variance would cause an undesirable change in the characteristic of neighborhood and neighboring properties. The consensus of the Board was that granting a variance for a 6-foot fence was not keeping with the desire to an open community.

The Board considered if the request was substantial. The consensus was that a 6-foot privacy fence was substantial when a 4-foot fence was required.

The Bard considered if the granting of the variance would have an adverse effect on the environment. It was again the Board's consensus that a fence of that height could have an adverse environmental effect because it may prohibit the view from other areas of the Village.

The Board considered if the variance request was self-created. The consensus of the Board was that most area variances are somewhat self-created. The applicants had purchased the property knowing that there was a break in the tree line and somewhat adjacent to a close relative.

On a motion by Peter McClelland, seconded by Fred Cowett the following resolution was passed with the following vote: Cowett, McClelland and Grubb – ayes, Powers – nay, and How – abstaining.

**RESOLVED, that the area variance for a 6-foot high fence on the rear property line at 304 Comstock Road, tax parcel # 6.-3-14 is hereby denied.**

The Board discussed their review of the definitions that Fred Cowett had sent them via e-mail. It appears that fence definitions vary by municipality and fence zoning law also vary by municipality also. It was the consensus of the ZBA members that they can make recommendations to the Board of Trustees, but that it is the Board of Trustees to legislate the laws of the Village. The consensus of the ZBA members was to continue to work on a recommendation for possible changes in the fence ordinance as well as defining a fence.

.There being no other business to come before the Board, this meeting was closed at 9:03 PM.

Respectfully submitted,

Mary Jane Neff