

Minutes  
For the  
Village of Cayuga Heights  
Zoning Board of Appeals Public Hearing and Meeting  
Held on July 6, 2009

The public hearings was reconvened at 7:06 PM

Present: Chairman John Young; Members Peter McClelland, Bob Powers, and Fred Cowett

Absent: Sarah How and alternate members Alison Smith and Sally Grubb

Code Enforcement Officer: Brent Cross,

Others: Mary Jane Neff, Secretary

Guest: Dennis Miller, Jeff Pleiss and Maki Inada

Chairman Young asked if the Board members objected to re-opening the hearing for 3 Lowell Place since the owners, Jeff Pleiss and Maki Inada were present for this hearing. There were no objections.

Code Officer Cross explained that the Village regulations allows up to a 4 ft. fence on the property line without a permit. A higher fence can be constructed according to the set back, i.e. 15 ft from the back property line. Both the owners of 3 and 5 Lowell Place have applied for a 6 ft. fence approximately 3 ft from the rear property line which he denied. The owners are seeking an area variance for reducing the set back requirement for a 6-foot fence from 15 feet to 3 feet.

Chairman Young requested Mr. Pleiss and Ms. Inada to present the reasons for their request. Mr. Pleiss explained that he had bought the property approximately 2 years ago and had discussed with the previous owners the interaction between the cemetery patrons and the use of their back yard. At the time of purchase he and Maki didn't think that it would be a problem; however there have been some conflicts when they have planned to use their back yard for entertainment and they have felt very restricted because of funerals at the cemetery. He further explained that he felt compelled to move inside out of respect for the people who were visiting or burying a loved one. A 6-foot fence would shelter both is family's use of their back yard and the cemetery's use of their property.

Board members asked if they had considered some shrub planting instead of a fence. Mr. Pleiss responded that they had not, because the area is very shaded, because grass will not grow there, he did not think that the area would be contusive growing shrubs. Board members asked what his plans for the brush pile that was being used as a barrier between his yard and the cemetery. Mr. Pleiss stated that he planned to remove the brush barrier if his request for a reduce set back which would allow him to install a 6-foot fence. The

Board members asked if he would work with the neighbors at 5 Lowell Place when deciding upon a fence design. Mr. Pleiss stated he had already talked with Mr. Mohanty.

Mr. Young asked that the e-mail correspondence from the cemetery board president be entered into the record. He commented that this correspondence had been forwarded to the Board members. In short, the cemetery board president stated that lots had been sold all the way to the cemetery line which would mean that before they could consider a fence on their property he would need for each of the owners to sign an easement. Therefore, the cemetery does not want to pursue a variance for a fence on there property line.

This public hearing was closed at 7:35 PM

The Board began their discussion and asked the applicants to remain in case other board questions arose during their discussion. The Board considered their 5 criteria for granting or denying an area variance request.

First, does the request create an undesirable change in the neighborhood or nearby properties? Three of the members did not consider the request an undesirable change in the neighborhood or nearby properties. One member considered the request an undesirable change in that it may infringe on the public's view and would disrupt the natural vegetation in the area.

Second, can the request be achieved by other means feasible to the applicants? The consensus was that the applicants could achieve the requests other than a 6 foot fence, but that it may not be cost effective to receive the benefit in a reasonable amount of time.

Third, is the request substantial? The consensus of the board was that mathematically it was a significant change in the current zoning ordinances.

Fourth, does the request have an adverse effect on the physical or environment of the neighborhood? The Board was unsure if the request would have an adverse effect on the physically. The consensus of the Board was that the request would have a negligible effect on the environment.

Fifth, was the request self created? Three of the Board members determined that it was not self-created because as the cemetery lot sales increased so did the frequency of cemetery use increase. One member determined that it as self created because the cemetery was there prior to the applicant purchasing the house.

On a motion by McClelland, seconded by Powers and with 3-ayes, 1 nay, the following resolution was adopted:

RESOLVE, that an area variance is hereby granted to the property at 3 Lowell Place, tax map # 11.-2-4.2 for a rear property set back of no less than three (3) feet, and

ALSO RESOLVE , that the applicants are urged to consult with the Village's Forester, Andre Bensadoun, for the placement of the fence that will minimize the damage to the existing trees' root system, and

BE IT FURTHER RESOLVED, that this action is considered to be a SEQR Type II action which does not require the completion of a SEQR form.

The meeting for 3 Lowell Place was closed at 8:40 PM and the reconvening of the public hearing for an area variance at 5 Lowell Place was opened.

Chairman Young stated that the applicant was unable to be present this evening, but that he had e-mailed a letter to the Board which they reviewed and requested that a copy of the e-mail be entered in the record.

The public hearing was closed at 8:41 PM.

It was the consensus of the Board that since it is an area variance for relief from the Village Ordinances requiring a 15 foot rear yard set back to a 3 foot rear yard set back for 5 Lowell Place and since the finding for the 5-criteria would be the same as for 3 Lowell Place, the Board had nothing more to discuss on this request.

On a motion by McClelland, seconded by Powers and with 3-ayes, 1 nay, the following resolution was adopted:

RESOLVE, that an area variance is hereby granted to the property at 5 Lowell Place, tax map # 11.-2-4.3 for a rear property set back of no less than three (3) feet, and

ALSO RESOLVE , that the applicants are urged to consult with the Village's Forester, Andre Bensadoun, for the placement of the fence that will minimize the damage to the existing trees' root system, and

BE IT FURTHER RESOLVED, that this action is considered to be a SEQR Type II action which does not require the completion of a SEQR form.

There being no other business to be brought before the Zoning Board of Appeals this meeting was adjourned at 8:50 PM.

Respectfully submitted,  
Mary Jane Neff