

Minutes  
For the  
Village of Cayuga Heights  
Zoning Board of Appeals Public Hearing and Meeting  
Held on September 8, 2009

The public hearing was convened at 7:05 PM

Present: Chairman John Young; Members Peter McClelland, Bob Powers, Fred Cowett and alternate member Sally Grubb

Absent: Sarah How and alternate member Alison Smith

Code Enforcement Officer: Brent Cross,

Others: Kristin Gutenberger, Attorney and Mary Jane Neff, Secretary

Guest: Xin Li and Micah Cormier

Chairman Young explained the proceedings.

Code Officer Cross explained that the Mrs. Li was requesting an area variance for an 8 foot high fence set back 5 feet from her side property line as shown on the survey map attached to the notice. Because the 5' set back does not meet the current requirement, he denied the building permit application.

Mrs. Li explained that she lives at 107 Lisa Lane which backs up to the property at 840 Hanshaw Rd. During the last two years she and her family have been unable to enjoy their back yard due to a significant increase in noise and people standing in the woods which is created by the nearby commercial property. She further explained that she had talked with Cayuga Landscaping and was told that due to the wet nature of the area at the back of her property, there were very few shrubs that would grow tall enough and fast enough to shield her property from the noise and the closeness of people standing in the woods. Mrs. Li explained that while reading to her children on their back deck in the early evening, the noise is so bad that they have to complete the reading time inside their home. The estimated cost of the proposed fence is \$7,000 and to do anything additional would be cost prohibitive to her family.

Code Officer Cross stated that he had received an e-mail letter of support from 105 Lisa Place.

The public portion of this hearing was closed at 7:35.

The Board discussed Mrs. Li's request. Chairman Young asked Mr. Cross if there had been other complaints from the neighbors. Mr. Cross stated that he had received noise complaints from one other neighbor. Mr. Powers commented, that based on his

knowledge of sound, an 8 foot wooden fence would not create much of a sound barrier. The Board discussed other possible options that the applicant may want to consider. The Board reviewed their options; one is to table a decision for at least 30 days for the applicant to do additional investigation of options and second to continue with their answers to the five determination questions prescribed by NYS Law. The applicant stated that she had done all the investigation that she could do without adding more costs. The consensus of the Board was to continue with the questions and make a determination this evening.

Can the applicant achieve the benefit by a more feasible means? The consensus of the Board was yes, because the applicant could have achieved noise reduction by other remedies such as speaking with the nearby commercial property owner. Will the request create an undesirable change in the character of the neighborhood or adjacent properties? The consensus of the board was no. Is this a substantial request? The consensus of the Board was yes. Will the granting of this request have an adverse physical or environmental effect? The consensus of the Board was no. The last question was, is the request self created? The consensus of the Board was no

The Board determined this action to be a type II SEQRA action; no review required.

On a motion by Powers, seconded by McClelland and with 5 aye votes the following was passed:

**RESOLVED**, that the variance request for the construction of an 8-foot fence 5 feet from the side property line at 107 Lisa Place is hereby denied.

The second public hearing was opened at 8:10 PM

Code Officer Cross explained that there had been an error in the legal advertisement in the paper, but that the information that was sent to the adjacent property owners and the Board was correct. Code Officer Cross explained that the legal advertisement was made on the original application and that upon further investigation of the application he found that this request would actually increase the lot coverage to 16.2 % of the lot. Attorney Gutenberger stated that she had confirmed that as long as the notices to the adjacent property owners and the Board were correct there was no reason not to continue with the hearing.

Mr. Cormier stated that he and his wife had purchased the property and moved in two weeks ago. They had originally thought that they could deal with the small kitchen, but have discovered that cooking with a small baby in the kitchen is not safe, nor convenient for him and his wife. So as not to destroy the beauty of the inside of the house, they would like to extend their kitchen into the back yard to create a safe place for their baby and an eat-in area for him and his wife.

Code Officer Cross explained that the lot coverage had exceeded the Village regulations prior to the Village's adoption of its current zoning laws (built in 1936) and

that in 1990 a variance was granted an area variance for the construction of a porch at less than the 20 foot set back, but that there was no area variance for the increase in lot coverage at that time.

Attorney Gutenberger recommended that this Board consider the area variance for increase lot coverage as from the required 12% lot coverage to allowing 16.2% lot coverage.

The Board asked if it would be a one-story or two-story addition. Mr. Cormier stated that it would be a one story addition and that their plan was to match the windows and siding to the rest of the house. The Board asked if any of the neighbors had expressed opposition. Secretary Neff stated that she had received a phone call from the neighbors across from the Cormier's back yard who opposed the addition, because the lot was very small so any increase would be significant and that the ordinances should be adhered to by all residents. Mr. Cowett showed an aerial view of the back yard on his laptop which showed that the opposing neighbors would not see the addition due to the dense vegetation in the Cormier's back yard.

The public hearing was closed at 8:30 PM.

The Board considered their answers to the five questions recommended by NYS Department of State. Could the applicants' goal be achieved by another alternative? The consensus of the Board was no. Does this request create an undesirable change in the neighborhood or to the near by property owners? The consensus of the Board was no. Is this request substantial? The consensus of the Board was yes. Does this request have an adverse physical or environmental effect? The consensus of the Board was no. Was the difficulty self-created by the owner? The consensus of the Board was yes.

The Board considers this request to be a SEQR type II and no review is required.

On a motion by Powers, seconded by Cowett and with Cowett, Powers, Grubb and Young voting yea and McClelland voting nay, the following was adopted:

**RESOLVED**, that an area variance is hereby granted to 204 Cayuga Heights Road for the increase of lot coverage from the required 12 % to the proposed lot coverage of 16.2%.

There being no other business to be brought before this Board the meeting was closed at 9:08 PM.

Respectfully submitted,  
Mary Jane Neff, Secretary