

Minutes  
For the  
Village of Cayuga Heights  
Zoning Board of Appeals Meeting  
Held on June 7, 2010

The meeting was convened at 7:05 PM

Present: Chairman John Young; Members Peter McClelland, Robert Powers and Kurt Sigel

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

Code Enforcement Officer: Brent Cross,

Others: Attorney Kristin Gutenberger and Mary Jane Neff, Secretary to the Zoning Board of Appeals

Guest: Anita Watkins, Tim Ciaschi

Code Officer Cross explained the appeal request. When the original building permit was approved the overhangs were not included in the total square footage calculation by the prior code officer. When the overhangs are included in the lot coverage calculation the lot coverage is 15%. The ordinances are silent on lot coverage when a parcel is zoned part commercial and part residential. Upon the prior planning board granting permission for the new commercial structure that houses the Chemung Canal Bank, the sidewalk was included in the approval. Most of the sidewalk is in the Village's right-of-way, but for pedestrian safety reasons a portion of the sidewalk was constructed outside of the Village's right-of-way. In order for the Village to plow and maintain the sidewalk, a small portion of the parcel should be deeded to the Village. In doing that this will increase the lot coverage to 16.6% which is greater than the 15% allowed. This appeal was requested by the Code Officer as a way to clean up the lot coverage issue at the Community Corners parcel.

The applicant, Tim Ciaschi, stated that he did not have anything to add to the Code Officer's explanation.

Sigel asked if the 50 foot right-of-way was normal and if the sidewalks in the Village are within the Village's right-of-way. Code Officer Cross stated that the other sidewalks in the Village were within the Village's right-of-way.

Anita Watkins asked for clarification on the sale of the residential portion of the parcel since the residential portion is reserved for storm water management. Code Officer Cross stated that that sale was not an issue to this appeal request.

The public hearing was closed at 7:25 PM

The Board members discussed the request and how it relates to the criteria that they use in their determinations.

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS  
RESOLUTION ADOPTED ON JUNE 7<sup>th</sup>, 2010 FOR APPEAL NO. 2010-2**

Motion made by: Kirk Sigel

Motion seconded by: Peter McClelland

**WHEREAS:**

- A. This matter involves consideration of the following proposed action: an increase in lot coverage to 16.6% for tax parcel # 10-4-1.2, commonly known as the Corners Community Center, from the 15% allowed by the Village of Cayuga Heights Zoning Ordinance Section 7: Building Coverage in a commercial district, and
- B. On June 7<sup>th</sup>, 2010, the Village of Cayuga Heights Zoning Board of Appeals held a public hearing regarding such action, and thereafter reviewed and analyzed (i) the materials and information presented by and on behalf of the applicant(s) in support of this appeal, (ii) all other information and materials rightfully before the Board, and (iii) all issues raised during the public hearing and/or otherwise raised in the course of the Board's deliberations; and
- C. On June 7<sup>th</sup>, 2010, the Village of Cayuga Heights Zoning Board of Appeals determined that the proposed action is an Unlisted Action for which the Board is an involved agency, and in performing the lead agency function for its independent and uncoordinated environmental review in accordance with Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act ("SEQR"), the Board (i) reviewed the Short Environmental Assessment Form (the "Short EAF"), Part 1, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, (ii) analyzed the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c), (iii) completed the Short EAF, Part 2; and (iv) made a negative determination of environmental significance ("Negative Declaration") in accordance with SEQR for the above referenced proposed action and determined that an Environmental Impact Statement would not be required; and
- D. On June 7<sup>th</sup>, 2010, in accordance with Section 712-b of the Village Law of the State of New York and Village of Cayuga Heights Article IX§21, the Village of Cayuga Heights Zoning Board of Appeals, in the course of its deliberations, took

into consideration the benefit to the applicant if the area variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Village of Cayuga Heights Zoning Board of Appeals hereby makes the following findings with respect to the specific criteria for such area variance as set forth in Section 712-b of the Village Law of the State of New York and Village of Cayuga Heights Article IX§21:

*Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by granting the area variance.*

Finding:

YES \_\_\_\_\_ NO , because: The condition has existed for many years and was not the result of new construction. The non-compliance issue was raised due to a public safety improvement which the owner wants to convey to the Village.

*Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.*

Finding:

YES \_\_\_\_\_ NO , because: due to the economic implications it would be an unnecessary hardship to require the applicant to remove a portion of a structure after many years of non-compliance to bring the building into compliance. It was noted that a portion of the property is not counted in the % calculation because it is not in the commercial district.

*Whether the requested area variance is substantial.*

Finding:

YES \_\_\_\_\_ NO , because: it is only a 10% increase in lot coverage and because the calculation requires the overhangs to be

included, but for all intent purposes they are open space for the public's use.

*Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

Finding:

YES \_\_\_\_\_ NO , because: the condition has existed for many years and there will be no new construction as a result this variance request.

*Whether the alleged difficulty was self-created.*

Finding:

YES  NO \_\_\_\_\_, because: the applicant is seeking to dedicate the land to the Village and was also in control of the property when the buildings were constructed.

2. It is hereby determined by the Village of Cayuga Heights Zoning Board of Appeals that the following variance is **GRANTED AND APPROVED with two conditions**, it being further determined that such variance is the minimum necessary and adequate to grant relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community:

**Description of Variance:** The granting of an area variance for increased lot coverage for tax parcel # 10-4-1.2, providing relief from the 15% allowed by the Village of Cayuga Heights Zoning Ordinance Section 7: Building Coverage in a Commercial District and permitting the applicant to increase the lot coverage in the commercial district to 16.6%.

**Conditions of Variance:**

1. Dedication of a 242 sq ft parcel of land at the corner of Hanshaw Road and Pleasant Grove Road to the Village of Cayuga Heights by the applicant.
2. The applicant cannot increase or change the location of any of the interior enclosed space.

The vote on the foregoing motion was as follows:

AYES: Kirk Sigel  
Peter McClelland  
Bob Powers  
Jack Young

NAYS: None

**The motion was declared to be carried.**

There being no other business this meeting was adjourned at 8:00 PM

Respectfully submitted,  
Mary Jane Neff, Secretary