

Minutes
For the
Village of Cayuga Heights
Zoning Board of Appeals Meeting
Held on August 23, 2010

The meeting was convened at 7:04 PM

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

Absent: Robert Powers

Code Enforcement Officer: Brent Cross,

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

Guest: See attached list

On a motion by Siegel, seconded by McClellan the following resolution was passed:

**RESOLUTION NO. 8-23-10-1
ADJOURNING TO PRIVATE SESSION**

RESOLVE, that this meeting was adjourned to private session for Attorney-client discussion at 7:04 PM.

The public hearing on the variance request for 906 Triphammer Road was opened at 7:28 PM. Chairman Young explained the procedure for the hearings and requested Code Officer to review the basis of his denying the building permit.

Code Officer Cross explained that the property owner had obtained information from him regarding the construction of an accessory structure on his property for storage. Cross explained that according to NYS building codes an accessory structure 140 sq. ft. or less, uninhabited, and moveable is unregulated and does not need a building permit. He further explained that when he went to check on the structure, he found that the property owner had a 5 ft overhang and the shed had been attached to a concrete pad. The property owner modified the structure so that it is no longer attached to the concrete pad. Code Officer Cross also explained that per Village Ordinances any structure with an overhang greater than 3 feet had to be included in lot coverage calculation which also caused the structure to exceed the 140 sq. ft. allowance. Cross stated that he gave the property owner two options. The first option was to alter the structure by cutting the overhang back to 3 feet or less which would allow the structure to remain unregulated by the building and fire codes. The second option was to apply for a variance to allow the

property owner to exceed the lot coverage allowance of 12%. The property owner elected to file for a variance.

Mr. Petrina stated that he had contacted Code Officer Cross and understood that an accessory structure less than 140 sq. ft., movable, and uninhabited was not regulated and could be placed on the property where he felt was most convenient to him. He further stated that he was not aware of the 3 foot or less overhang ordinance and did not think that his structure violated any local laws. He stated that he thought that the overhang looked nice and he would like to keep it. He stated that this was the reason for applying for a variance. McClelland asked the applicant if there was any other place on the lot that the structure could be placed. The applicant replied that he built the accessory structure where he thought it would be most useful to him.

The neighbors presented their concerns (See attached). In their view the structure that included the overhang and has a concrete pad is 210 sq. ft. which is greater than an unregulated structure of 140 sq. ft. and does not appear to be moveable. The structure is also 12 ½'. The structure was built less than 3' for the property line of 111 Northway Road and they had been told by the previous code officer that an accessory structure should meet the side and rear lot setback requirements. Other accessory structures in the neighborhood are smaller, moveable wooden structures. There is a door at the back of the house which appears that a porch or deck will be constructed in the future. The neighbors asked if the property owner wished to build a porch or deck off this door would they need another variance for additional lot coverage. Code Officer Cross replied that they would for two reasons – 1) as a permanent structure it would count in the lot coverage calculation would put them over the 11.9% that the property owner currently has and 2) since the current building permit was issued for only a set of stairs for egress purpose, a second building permit would also be required.

Sally Grubb asked if a neighbor could bring an appeal to the ZBA for an interpretation of the Zoning Officers approval or denial of a building permit. Attorney Gutenberger stated that a resident can request the ZBA to interpret a Code Enforcement's decision as it relates to Cayuga Height's laws, but that this ZBA did not have jurisdiction over NYS Building and Fire Codes.

The Board discussed this issue. Since it would take the approval of all three members present and since they had two options – 1) to table a decision until the full Board could assemble or 62 days or 2) the applicant can withdraw his application and alter the structure so that it complies with local laws.

After due consideration, it was the decision of the applicant to withdraw his variance request. He stated that he would remove at least 2 ft of the overhang and that he will make it look nice.

The public hearing on the variance request exceed the lot coverage at 1 Strawberry Lane was opened at 9:07 PM.

Code Officer Cross explained that the applicants requested permission to construct a 170 sq. ft. addition and that the addition would result in a lot coverage of approximately 13% which exceeds the 12% allowed by the Village Zoning Ordinance. He noted that the previous owners of this parcel had obtained a variance for the existing 14.8 foot rear yard setback as well as a variance to exceed the lot coverage up to 15%. His calculation indicated that the lot coverage was 12.4% which is less than the 15% previously granted. Since there was some confusion with the lot coverage% calculation he denied the building permit and recommended that they apply for a variance for the correct amount of lot coverage.

The applicants explained that they currently have an area between the garage and house which they currently use as a mud room. The front entrance to their house does not have a sidewalk from their driveway to their front door and that they have to leave the garage door up for the family members egress. The current wall of the space between the garage and house is starting to cave in and needs to be replaced; also there is no foundation in this area. Since they need to rebuild the wall, they would like to incorporate a second entrance to their house from the driveway for their use. The applicants stated that they want to keep in line with the historic features of the house and that they felt the variance would allow them to accomplish that also.

Code Officer Cross entered into the record a letter from the residents at 416 Cayuga Heights Road who do not have a concern with proposed construction which required the variance request. (Letter is attached). There being no other public comment on this request the public hearing was closed at 9:14 PM

The Board declared that this was a Type II action and is exempt for SEQRA requirements.

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS
RESOLUTION ADOPTED ON AUGUST 23, 2010 FOR APPEAL NO. 2010-3**

Motion made by: Peter McClelland

Motion seconded by: Kirk Sigel

WHEREAS:

- A. This matter involves consideration of the following proposed action: granting of an area variance to permit an increase in the lot coverage from 12% to 13% at 1 Strawberry Lane (tax parcel#8.-2-11) ; and
- B. On August 23, 2010, the Village of Cayuga Heights Zoning Board of Appeals held a public hearing regarding such action, and thereafter thoroughly 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 August 23, 2010, in accordance with Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act (ASEQR), and 6 NYCRR Section 617.5, the Village of Cayuga Heights Zoning Board of Appeals determined that the proposed action is a Type II action, and thus may be processed without further regard to SEQR; and

D. On August 23, 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 X , because: the increase is modest and the new addition will fit within the current envelope of the existing building.

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 X , because: given the fact that the property is already over the allowable lot coverage, any increase would require a variance.

Whether the requested area variance is substantial.

Finding:

YES _____ NO X , because: the increase is only approximately 5%.

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 X , because: the increase is only approximately 5%.

Whether the alleged difficulty was self-created.

Finding:

YES X NO _____, because: the applicant could repair the wall that is currently deteriorating, but has decided to construct a new addition all together.

1. It is hereby determined by the Village of Cayuga Heights Zoning Board of Appeals that the following variance is **GRANTED AND APPROVED** (with conditions, if any, as indicated), 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 permitting the applicant to increase the lot coverage from 12% up to 13%.

Conditions of Variance: The applicant must build the addition as described on the plans submitted by the applicant to the Village of Cayuga Heights Zoning Board of Appeals.

The vote on the foregoing motion was as follows:

AYES: John Young
 Kirk Sigel
 Peter McClelland

NAYS: None

 There being no other business to be brought before this Board, this meeting was
duly adjourned at 9:21 PM.

Respectfully submitted,

Mary Jane Neff, Secretary

August 23, 2010

To: Village of Cayuga Heights Zoning Board of Appeals Members
From: Concerned Residents of Northway and Triphammer Roads
Re: Opposition to Variance Request at 906 Triphammer Road

The owners of the property at 906 Triphammer Road have requested a variance in percentage of lot coverage for an accessory structure constructed last year on the same lot as their house (under construction for the last three years). We would like to point out to the Zoning Board of Appeals Members that:

- 1) This is not a temporary, movable structure; it has been built on a concrete pad and is finished on the outside with stucco and stone. (Image 1) The owners ran power to the structure via an underground trench from house. (Image 7)
- 2) The structure is large. The pad is 14' X 15' and the entire structure, including a 5' overhang is the same size (210 sf). The enclosed portion of the building is (14' X 10' or 140 sf). The structure is 12 and ½ feet high. (Image 1)
- 3) The structure has been built within a few feet of the adjacent lot lines. The west wall of the structure is about 2' from the 111 Northway Road lot line. The south wall of the structure is about 3' from the 904 Triphammer Road lot line. (Images 2 and 3)
- 4) This is an imposing structure that is unlike any other accessory structure in the neighborhood. Existing accessory structures in the neighborhood are smaller, movable wooden structures. (Image 6)

We do not believe the fact that the structure is already built should influence the decision of the appeals board; the structure was built approximately one year ago. The zoning restrictions on the percentage coverage of the lot by structures are clearly stated. The Village engineer, Mr. Brent Cross has assured several neighbors that he has been in contact with the Petrina's regarding zoning regulations during the construction of the house; many of us were concerned that the house itself was larger than allowed by the zoning regulations. Mr. Petrina is trained as an engineer and works at Cornell, so he is well qualified to build the house and also to interpret zoning regulations.

It is our understanding that the footprint of the house in its current state of construction is 11.9% of the area of the lot itself. The appeals committee should note there is an exterior door leading out of the back of the house that may require a porch/deck and stairs to exit the house (Image 4). Presumably, this additional construction will also require a variance as porches and decks two feet above the underlying ground are included in the footprint of the structure.



Image 1. Structure is built on a cement pad and has a stucco and stone finish



Image 2. West wall of the structure is about two feet from the adjacent lot line

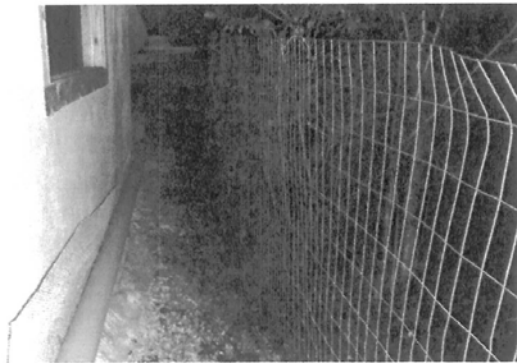


Image 3. South wall of the structure is about three feet from the adjacent lot line

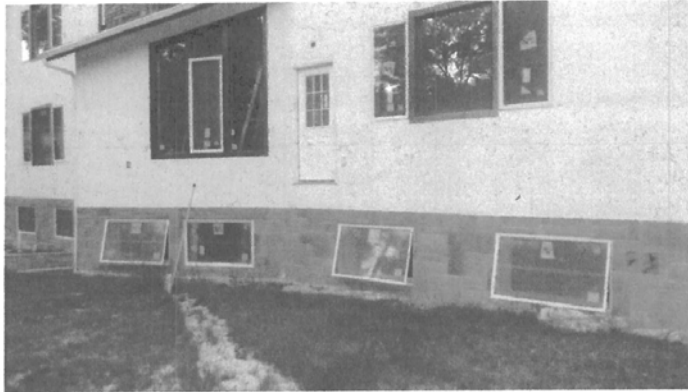


Image 4. Exterior door on the rear of the house



Image 5. Structure is built on concrete slab and not moveable



Image 6. Structure compared to another accessory structure in area that is moveable



Image 7. Trench from house to accessory structure for power

Jeffra Ruesink
Dylan Kuckes
416 Cayuga Heights Road
Ithaca, NY 14850

August 20, 2010

Brent Cross
Zoning Officer
Village of Cayuga Heights
836 Hanshaw Road
Ithaca, NY 14850

RE: Zoning Variance Request at 1 Strawberry Lane

Dear Mr. Cross:

We received your notice of the zoning variance requested at 1 Strawberry Lane because our property is within 200'. We are unable to attend the hearing on this matter, but we wish to make it clear and state for the record that we are not opposed to the proposed construction of the 170 sf addition or the increase in lot coverage to 13%.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffra Ruesink', with a long horizontal flourish extending to the right.

Jeffra Ruesink

cc: Corinne Frantz, Bruce VanDover