

Minutes  
For the  
Village of Cayuga Heights  
Zoning Board of Appeals Meeting  
Held on September 14, 2010

The meeting was convened at 7:03 PM

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

Absent: Robert Powers

Code Enforcement Officer: Brent Cross,

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

Guest: See attached list

The public hearing on the variance request for 811 Triphammer Road was opened by Chairman Young who explained the procedure for the hearing and requested Code Officer to review the basis of his denying the building permit.

Code Officer Cross premised his explanation by informing the Board that the property had received a variance alleviating the required set back for the pool house so it is not included with his determination for tonight's hearing. He explained that the one foot over the allowable height had not been noticeable when he inspected the property for the pool house. However, due to the recent public discussion on fences, the property owner realized that he was over the allowable height and the property owner met with the Code Officer regarding the zoning laws. Upon inspection, the code officer determined that the fence was higher than four feet and that the fence did not meet the required setbacks. Code Officer Cross also noted that four foot fences or less did not require a building permit until this past year, so no permit was previously sought for the construction of the current fence and if it had been four feet high it could be constructed on the property lines as it is now.

Mr. Brodhead explained that his grandchildren live in Cayuga Heights and have enjoyed his pool all summer. He also stated that he was not aware of the height limit prior to the recent publicity on the Village's fence law. He went with his conscience for the construction of safe fence for the pool which looks nice and which was according to the law.

Elizabeth Mount , who is an area neighbor and who walks in the area of Mr. Brodhead's property stated that she had no problem with the fence. It is visibly discreet and is masked by the foliage and planting.

Mr. Brodhead read into the record Alice Reid's letter who is the immediate neighbor to the property and who has no problem with the fence. Mr. Brodhead also stated that he had reviewed his fence plan with Mrs. Reid prior to its construction.

Sally Grubb commented that it was very sensible construction and that she thought that the 5 foot fence provided better safety for the pool and that she recommends approving the variance.

Jerome VanBuren reviewed his understanding of the requirements for granting a variance. One of the requirements as he understood them was that following the law would create a hardship. He stated that it would be hard to prove a hardship for this fence that it was for the convenience of the property owner. He also expressed concern that there were other fences in the Village that exceeded the height allowance and does not meet the setback and that he hoped by granting this variance it would not set a precedent for future variance requests. Attorney Gutenberg explained that the laws had changed in 2000 so that the applicant did not have to prove a hardship for an area variance. She also explained that each application had to stand on its own, by granting or denying a variance, no precedents are set.

Elizabeth Mount commented that the Village ordinances were written in the 1950's and that she felt they had not kept up with the changes that have occurred in the Village.

Holly Tavelli stated that she is a neighbor and that she recommends the granting of this variance request because it is attractive, serves a safety purpose for the pool.

Member Sigel stated that he observed some areas where the fence appeared to be higher than 5 feet. Code Officer Cross explained his consistent way of measuring the height of the fence and that if Mr. Brodhead would allow him to check the areas he would do so. If it exceeded 5 feet per his way of measuring he would work with the applicant to adjust the fence accordingly.

Member McClelland stated that his opinion was that the Village Legislature had a vision at the time they wrote and adopted the zoning ordinances. He consistently tries to keep the vision for the Village even if the ordinances may appear to be outdated.

The public portion of the hearing was closed at 7:40 PM.

The Board conducted their discussions and answered the five questions required by New York State Zoning Laws.

There being no other business to be brought before this Board, this meeting was duly adjourned at 8:19 PM.

Respectfully submitted,

Mary Jane Neff, Secretary



