

Minutes for the
Village of Cayuga Heights
Zoning Board of Appeals Meeting
November 29, 2010

The meeting was convened at 7:04 PM.

Present: Chairman John Young, Members Peter McClelland, Anita Watkins, and Kirk Sigel. Alternates: Mark Eisner, Alison Shull.

Member Kirk Sigel was present but abstained from participating in parts of the meeting that he was directly involved in.

Bob Powers retired from the Zoning Board of Appeals due to health reasons.

Others present: Brent Cross, Code Enforcement Officer, and Kristin Gutenberger, Attorney. Clerk Mary Mills and Account Clerk/Typist Michelle Poppensiek were also present.

Guests: L. Loria, R. Loria, R. Bors, E. Karns, K. Sigel, P. Petrina, E. Petrina, J. LaVeck, S. Grubb

Chairman Young explained the process of the Public meeting, and that the Board is bound by requirements: first, the Board gets the facts from the public, and then the Board discusses the case, and reviews it in light of all the facts.

The first public hearing was opened at 7:08 PM. Kirk Sigel noted for the record that his name had been misspelled and his address was incorrectly listed, and corrected these for the record. His name is spelled Kirk Sigel, not Siegel, and his address is 223 Highgate Road, not 221 Berkshire Road.

Zoning Officer Cross explained the first appeal request. Kirk Sigel is appealing the decision made in an earlier appeal at 906 Triphammer Road, in which a shed with an extra large overhang exceeded the lot coverage size allowed in the Village. The applicant, Mr. Petrina, withdrew his application for an area variance at the September meeting, and modified his shed, which is now unregulated.

Kirk Sigel reads the zoning laws differently than Brent Cross, and has requested an interpretation of what the Zoning laws mean, in regards to the definition of a shed. Kirk has submitted a comment in writing. It is his opinion that decisions were made based on building permit standards, instead of on Zoning permit standards, which are more applicable here.

Jack Young asked if the difference was in the word "building" in the Ordinance. The NYS Building code clearly includes a shed as a structure that covers any use.

Jack asked for impressions and opinions from the public.

Rosemary Loria, of 111 The Northway has been to previous meetings, and she and neighbors have submitted an outline of analysis with pictures of the Petrina's shed at 906 Triphammer Road. She said this shed isn't small, it's 12 ½ feet high, with a 3' overhang. They were told to move within 15' of the lot line, to be within the setback requirements, and that the overhang had to be reduced to comply with lot coverage, in place so that lots are not overbuilt.

Leonard Loria, also of 111 The Northway, asked, if this shed isn't a building, what is it? Mr. Petrina poured the concrete slab; it is stick built and covered with stucco.

Mr. Cross indicates that the antiquated language from the 1950's makes it hard to interpret the laws. He and Kirk Sigel interpret the language differently.

Mr. Cross explained sheds are not required to have frost protected foundations, as buildings are. He also indicated that buildings less than 140 sq. ft. are not subject to building permit requirements. Because the Village has no definition of a building, he must turn to other sources for the definition, such as the Uniform Code, which is a State mandate as of 1984. This identifies small non-commercial facilities (not buildings) that are not occupied, as not needing a building permit.

Mr. Cross further explained that in 2003, NYS chose to adopt the International Set of Codes, and said that a local law is needed to enforce ruling, and set up requirements on how to enforce the Building Code. In 2006, the Village of Cayuga Heights amended Local Law # 2 of 2004 with Local Law # 2 of 2006, which set forth requirements of the Code Officer and the Zoning Board of Appeals.

Mark Eisner asked what consideration was given to the new language, and Mr. Cross explained that they passed what the State said they had to have in the Law. Anita Watkins asked, if a structure doesn't require a building permit, does that mean it's not a building?

Brent said that fences do not require a building permit but they do require a zoning permit. Jack Young asked about carports, and decks, for example. Brent explained that there has been no other case where there is a structure that is required to have a zoning permit, not a building permit.

Brent asked the group what the authors would want them to think of their rules and laws? Sheds were not common 60 years ago when the laws were written. Does the Board want to make everyone get a permit?

Kirk raised a good question of interpretation and Brent is glad that he did. Kirk is confident that the Village is working on the issue, and that the Trustees will be discussing it at the Dec. 13th Board of Trustees Meeting.

Mrs. Loria asked if Mr. Cross had been using the terms Zoning and Building (permits) interchangeably. He said that no, he had been making a point of not doing so, and that the project would have 2 different permit numbers, and most projects have both permits.

Mr. Cross explained that a building permit was issued for the original plan to build a house at 906 Triphammer Road. The house that was built covered 11.8% of the lot, where 12% coverage is allowed. There was no shed in the original building plans. A year later, Mr. Petrino approached Mr. Cross to ask if he needed a permit for his shed, which he would build himself. Because the structure was moveable, only covered 140 sq. ft., and did not have a frost protected foundation, it was allowed.

Mark Eisner wondered if the Local Law had any information on when a Zoning vs. a Building permit was required, and Mr. Cross answered that yes, in Section 20 of Article 9 it was addressed. In the Petrino case, Mr. Cross could not overlook or ignore that they had built a 5' overhang on their shed. The law states that any overhang greater than 3 ft, must be added to the lot coverage, which made it too large, and therefore non-compliant. Mr. Petrino chose not to ask for a variance, but to modify the structure himself, taking it back to a 3 ft. overhang and therefore still within the lot coverage requirement. Mr. Cross explained that a Zoning permit had been denied because of the above issues, and that he had explained to Mr. Petrino that he would have to modify or move the shed.

Alison Shull asked Brent if electricity or plumbing is regulated outside of a building. Brent answered that yes, these items are regulated, for example in the case of a swimming pool or yard lighting etc. Alison then asked if running electrical lines are eligible to the set back requirements.

The Lorias made two more points: Mrs. Loria said that the shed is within 2 feet of their property line, and that stone the Petrino's have used as support have washed into their yard. Mr. Loria asked what is the definition and intent of a setback.

Chairman Young said that the Board of Trustees is not able to make interpretations of the law, it's not their job, and they are not allowed to. He explained that the law is very ambiguous and that the climate now is much more contentious than when the laws were put in place. It is very hard to determine these things now, as the ordinance was not set up for attack.

Clerk Mills read the letter (added as part of minutes) from Molly Shoemaker, who was unable to attend the meeting with the following questions:

1. Can a shed which is declared to NOT be a building have any utilities laid to it now or in the future whether they are connected now or not (e.g. water, electricity)?
2. If the shed at 906 is declared to NOT be a building, will all sheds like it in the Village be rezoned as NOT buildings allowing residents to cover with structures more of their property?
3. If the shed at 906 is declared to NOT be a building, will this allow the residents/contractors at 906 to build a DECK or any new structures on their property without further zoning requests or permits?

4. Will you please give us an accounting of ALL money/fees which have changed hands between the Village and any of its officers and employees and the owners/contractors over any issues with regard to the uses and extent of the lot coverage at 906 Triphammer?

Kristin Gutenberger stated that if this structure (the shed at 906 Triphammer Road) is considered a building, then all sheds will have to be moved to be in compliance with the law (the setback law).

Anita Watkins asked if that would mean a change in the law. Kristin answered that if a law is passed, that some sheds would be exempt, but not all of them.

Peter McClelland asked if the issue of grandfathering a shed is going to be addressed at the 12/13/2010 Board of Trustee meeting.

Kristin said that it depends on the interpretation they come up with tonight, what is decided here tonight will make a difference.

Kirk – if we decide that sheds should be regulated tonight, none can be grandfathered in. People would have to get a permit for it to be legal. Brent mostly spoke about Building permits, but Article IX is about Zoning; is a shed a building for the purpose of Article IX? The other issue is intent; did the original authors mean to exempt things? Brent felt that the original authors of the Articles did not even think about these kinds of issues.

Chairman Young said that this goes back to set backs and why are they regulated? He asked if there were any other questions to be addressed.

The first Public Hearing was closed at 9:14 PM and it was agreed that the discussion would be continued after the second public hearing.

Motion by John Young

Second by Alison Shull

All in favor: Chairman John Young, Members Peter McClelland, Anita Watkins, Mark Eisner, Alison Shull. Opposed: None Excused: Kirk Sigel

Board will hold comments until after the 2nd public hearing

Kristin Gutenberger informed the Board that they have 62 days to make a decision about the issue discussed at the first public meeting, if they tabled the discussion tonight.

At this time, Mark Eisner stepped down from his role as an alternate sitting in for Kirk Sigel, who was a participant in the first public hearing. Kirk Sigel took back his spot on the Board for the second public hearing.

At 9:20 PM the second Public Hearing was opened, to discuss the appeal made by the owners at 104 Klinewoods Road, after their application for a permit for a fence was denied.

Zoning Officer Cross explained that he denied the original permit application NOT because of the height of the fence (8ft.), but because the distance of the fence from the property line is only 1 foot. So his denial was based on set back requirements, not height requirements. 8 foot fences are allowed in the Village, as long as they are set back to the distance required in the law.

Jack Young explained that this case would not be setting precedent, as the first case would. Each property is different and each appeal is different, and the Board is bound to look at each case with tests and checklists to determine the outcome of the appeal. This is an individual case, and is a case that would customarily be handled by a Zoning Board of Appeals.

Bea Szekely, the appellant, lives at 104 Klinewoods Road, and explained some of the history behind her house and the reason for her request and subsequent appeal. She based her appeal on the fact that in the 1930's, the property where she lives had been subdivided into 3 parcels, which are now: 104 Klinewoods Road, 200 Comstock Road, and 204 Comstock Road. (See attached history and description of property and fence)

Jack Young asked that Kristin Gutenberger remind the group of the question at hand, which is "Does the benefit to the applicant outweigh the detriment to the health, safety and welfare of the neighborhood?" He then opened the floor to public comments concerning this appeal.

Resident Sally Grubb commented that while she fully supported the Szekely's appeal to keep their fence, she expected the Zoning Board to deny the appeal based on past decisions and the necessity of keeping future judgments fair.

Attorney Kristin Gutenberger advised that this case would not be setting precedent, and was not required to follow any earlier precedent, but that each case was looked at on an individual basis. Chairman Young added that if there were two cases in one night, both appealing a fencing denial, they could rightfully say yes to one and no to the other. Kristin added that the Board would make clear the differences between cases and the reasons for the individual outcomes, and that the mere fact that one appeal is denied and another approved, is not arbitrary and capricious, as they are not following precedent.

Peter McClelland asked if anyone else wanted to speak, and Petru Petrina said that he would like to offer his support for the appeal, adding that the issue should be decided on a case by case basis.

Graham Gillespie spoke without representing the Village Planning Board, of which he is a member. He stated that going back to the planning of the Village, the idea was to preserve the open vistas at the front of yards, which this appeal supports. He also feels that the opinions of the neighbors are those of support for the appeal.

Bea asked if any individuals had responded to the letter that Brent Cross sends out to the neighbors within 200' of the appellant property. He replied that none had come to him.

Peter McClelland pointed out that there are a number of shrubs that deer will not normally eat. Bea replied that for health reasons, trimming these bushes is impossible. These two discussed the availability of alternatives – including which shrubs spread, which can be pruned, and which are safe from being eaten by the deer. Mr. Szekely pointed out that it costs a great deal of money to invest in plantings to avoid items that the deer won't eat, and that the eating habits of the deer have been changing markedly recently.

This comment was supported and reiterated by Mr. Loria, who noted that the deer are now eating young shoots.

Board Member Anita Watkins noted that the fence is very open, and that the Szekely's bought the house in '79. She wondered why privacy had become an issue in 2003.

Bea responded that she is interested in privacy, but that it was also used to provide a delineation and definition to the landscape in her yard.

Sally Grubb said that the fence does provide privacy; while she is walking her dog she can see where one property ends and the next begins, and that it gives good definition. She said that it was an effective and good looking barrier.

Anita Watkins asked whether the fence was there for privacy or delineation. Bea responded that it was for both and added that the neighbor's house is less than 20 feet away, which would never be allowed now, due to the subdivisions.

Anita asked them to comment on how the fence has affected the behavior of the deer? Bea explained that they go around the fence, and they can no longer go straight through the row of yards. The deer live in her backyard; they just go around the fence when they move through the area. She has 5 or 6 deer in her yard on many winter mornings. Anita asked if this was a different pattern of activity for the deer and Bea said it was not.

Jack Young clarified that it is a privacy fence, not a deer fence, and that the Board has granted four out of five previous privacy fence appeals. They turned one down when the applicant didn't supply privacy issues. He wants it clear that they aren't bound by precedent.

Jack Young then had one more question – At the Szekely house, there is a little triangle between the 3 listed houses, with no building, fencing, or plantings. What was the purpose of that area; was it for them? Bea answered that no one knows why it's there.

Brent added that the Village of Cayuga Heights is not restricted by a deed covenant; that is only between homeowners. In his opinion, the fence also benefits the other two properties listed above.

Jack Young called for a motion to end the public comment period at 10:05 pm

He asked Kristin if a SEQR was required for this appeal, and she replied that no SEQRA is necessary, because this is a Type 2 Action. Jack Young instructed the Board to answer the 5 questions in the statute when deciding on the outcome of an appeal.

Peter made a point for clarification, which was the importance and rationale of a visibly open Village. The Zoning laws reflect the wishes of Villagers, and what is there has a special weight. The Board needs to decide, is this exceptional, and in what way? Is it exceptional for geometry, because it's not exceptional for deer or privacy. So is the geometry exceptional or not?

Kristin interjected that the criteria don't involve anything being exceptional.

Peter responded that every Zoning Law has great weight, because they are interpreted by the Village, and to override the law, something must be exceptional. The applicants make it turn on Geometry – the irregular lot is exceptional.

Kirk pointed out that it would be unfair to set up the threshold as exceptional – and that the overall test is the balancing test, and that the 5 questions are what the state requires. He said that if Peter feels that openness is very important to the Village character that's fine, but not to make it part of the criteria for judgment in these cases. Kristin reiterated that it is the overall balancing test that matters and is required.

Clerk Mills asked each Board member in turn to respond to the five questions mandated by NYS when considering adoption of a new Resolution granting an appeal. 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 NOVEMBER 29, 2010 FOR APPEAL
NO. 2010-5**

Motion by: Kirk Sigel
Second by: Jack Young

WHEREAS:

- A. This matter involves consideration of the following proposed action: granting of an area variance to permit the retention of existing non-compliant lattice fencing, located at 104 Klinewoods Road, in its current location of up to approximately 1 foot from the property line; and
- B. On November 29, 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 November 29, 2010, in accordance with Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act ("SEQR), 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 November 29, 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 fence is currently in place, has existed for many years in this location without complaints, it has approximately 50% visibility (openness), is unobtrusive, is not located in the front yard, does not enclose any area (it is only on two sides of the property), is visually attractive, and no changes to deer patterns appear likely.

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: The applicant stated that privacy is a primary concern and due to the small lot size (proximity to neighboring houses) and elevation of the surrounding properties, the fence location is proper. Additionally, there is no particular benefit to using large trees or shrubs to attain privacy considering the high deer population in the area and the damage they cause to vegetation. The desired screening makes other options difficult to pursue.

Whether the requested area variance is substantial.

Finding:

YES X NO _____, because: A 1 foot side and rear yard setback, when 15 feet are required, is substantial. However, it is mitigated by the fact that the fence is approximately 50% open, only a small percentage of the perimeter is fenced, and it is not located in the front yard.

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: No impact on drainage or erosion are anticipated.

Whether the alleged difficulty was self-created.

Finding:

STATE OF NEW YORK)
COUNTY OF TOMPKINS) SS:
VILLAGE OF CAYUGA HEIGHTS)

I, Mary Mills, Village Clerk of the Village of Cayuga Heights, do hereby certify that the attached Resolution is an exact copy of the same adopted by the Village of Cayuga Heights Zoning Board of Appeals at a regular meeting on November 29, 2010 .

Date: December 6, 2010

Mary Mills, Village Clerk
Village of Cayuga Heights



Village of Cayuga Heights

MARCHAM HALL
836 HANSHAW ROAD
ITHACA, N.Y. 14850

Telephone
607-257-1238
Fax
607-257-4910
Office Hours
9 A.M. - 4 P.M.

ZONING OFFICER'S REPORT

DATE: November 16, 2010

TO: ZONING BOARD OF APPEALS

FROM: Brent A. Cross, Zoning Officer

RE: 906 Triphammer Road

REPORT: We recently had a request by the property owner for a variance to allow a 5' overhang (exceeding 12% lot coverage) on a shed. Since the applicant withdrew his request at the meeting, no formal action was taken by the ZBA. The owner has since removed the 5' overhang. However, I have interpreted that the type of shed in question is not a "building" and, therefore, not subject to regulation by the Village.

Kirk Siegel, 221 Berkshire Road, has questioned this interpretation. After explaining how I have arrived at my interpretation, Mr. Siegel disagrees, and would like to have the ZBA review the case and render a formal interpretation of the Village of Cayuga Heights' Zoning Ordinance with regard to whether or not a shed of said type is a "building" and accordingly, subject to regulation by the Village.

Therefore, a Public Hearing has been scheduled on November 29, 2010 @ 7:00 pm at the Village Hall, 836 Hanshaw Road to hear input on this case. The following properties are located within 200' and will receive this notice by mail:

- 10.-1-7 William Patchen & Karen Kaufman, 110 Northway Road
- 10.-1-8 Vincent Lukas, 108 Northway Road
- 10.-1-9 Kenneth & Nishi Rassnick, 106 Northway Road
- 10.-1-10 Sydney & Molly Shoemaker, 104 Northway Road
- 10.-3-11.1 Maryse Seremet, 995 Triphammer Road
- 10.-3-11.5 Catherine Friend, 999 Triphammer Road
- 10.-3-15 Milton & Janice Esman, 903 Triphammer Road
- 10.-3-16 Margaret Washington, 905 Triphammer Road
- 10.-3-17.1 Alexander Mikhailichenko, 909 Triphammer Road
- 10.-6-3 Kevin O'Connor & Joy Miller, 109 Northway Road
- 10.-6-4 Leonard & Rosemary Loria, 111 Northway Road
- 10.-6-5.1 Petru & Ecaterina Petrina, 906 Triphammer Road
- 10.-6-6 Paul & Angela Martin, 904 Triphammer Road
- 10.-6-7 Chabad House of Ithaca, 902 Triphammer Road
- 10.-6-8 Edward & Sonja Kelly, 214 E. Upland Road
- 10.-6-9 Louis & Elizabeth Hand, 210 E. Upland Road

File: zr111610



Village of Cayuga Heights

MARCHAM HALL
836 HANSHAW ROAD
ITHACA, N.Y. 14850

Telephone
607-257-1238
Fax
607-257-4910
Office Hours
9 A.M. - 4 P.M.

ZONING OFFICER'S REPORT

DATE: November 17, 2010
TO: ZONING BOARD OF APPEALS
FROM: Brent A. Cross, Zoning Officer
RE: 104 Klinewoods Road, Tax Parcel 6-8-7

REPORT: A zoning permit application for a fence at the above referenced address has been denied. The 8' high (varies) fence is located along the east side of the property, and is approximately 1' from the property line at the closest point, which is less than the 15' setback as required by Section 6 of the Village of Cayuga Heights Zoning Ordinance.

Therefore, a public hearing has been scheduled for 7:15 pm on November 29, 2010 at the Village Hall located at 836 Hanshaw Road, to consider an area variance for the non-compliance.

The property owner has prepared a written statement in support of the application. It is available to be inspected at the Village Clerk's Office

The following is a list of property owners within 200' of the applicant's property that will receive a copy of this report by mail:

6-7-1: Gerson, 219 Comstock Road
6-7-7: Flash, 204 Klinewoods Road
6-7-8.2: Stover, 205 Comstock Road
6-8-4: Rhodes, 210 Comstock Road
6-8-5: Bergstrom, 204 Comstock Road
6-8-6: Kuruvilla & Huq, 200 Comstock Road
6-8-7: Szekely, 104 Klinewoods Road
6-8-8: Von Berg, 501 Hanshaw Road
6-8-9: Riley & Holm, 507 Hanshaw Road
9-4-1: Wanderstock, 101 Klinewoods Road
9-4-2: Gillespie, 112 Comstock Road
9-4-5: Jin & Min, 425 Hanshaw Road
9-5-1: Estill, 111 Comstock Road

File: ZR111710.doc

November 18, 2010

Village of Cayuga Heights Zoning Board of Appeals:

I am requesting an interpretation of the Village's Zoning Ordinance. The Zoning Officer has determined that sheds that do not require a Building Permit are also not subject to regulation by the Zoning Ordinance. (See Zoning Officer's Report dated August 5, 2010.) Based on this determination, the Zoning Officer is not requiring that the shed at 906 Triphammer Road comply with the Zoning Ordinance. It is my belief that sheds such as the one at 906 Triphammer Road are subject to regulation by the Zoning Ordinance, even though they may not be occupied, may have less than 140 square feet of gross floor area, and may be moveable. That is the determination I am asking you to make.

When interpreting the Zoning Ordinance there are two questions that you should ask yourself: *What do I think the words in the Ordinance mean?* and *What do I think the original authors of the Ordinance intended?*

What do I think the words in the Ordinance mean?

My interpretation is based on a straightforward reading of the Zoning Ordinance. The Zoning Ordinance says that buildings are regulated, a shed is clearly a building, so therefore sheds are regulated. It really is that simple. The Zoning Officer's interpretation is based on a more complicated understanding of a building (depends on size, foundation, and occupancy) that is not found in the Zoning Ordinance, but rather in definitions and classifications found in other documents (Village Article 34 and NYS Building Code) that allow certain buildings to be exempt from the need for a Building Permit (but not a Zoning Permit).

While speaking with Randy Marcus (Village Attorney) about this, he told me that it is a basic tenet of law that you should look for the meaning of a legal document (a contract, law, etc.) "within the four corners" of that document whenever possible. I take this to mean that you should determine the meaning of the Zoning Ordinance from only the words contained in the Zoning Ordinance itself if at all possible. In this case, I think the Zoning Ordinance is very clear. Buildings are regulated, a shed is a building, so therefore sheds are regulated.

What do I think the original authors of the Ordinance intended?

The most obvious and significant restriction placed on something like a shed is the requirement that it meet the various yard setbacks. Here is a list of things *not* allowed in the Village within the required setbacks: "Buildings," "Swimming

Pools," "Porches, Decks, or Carports open at the sides but roofed," "Unroofed Porches or Decks over two feet above the ground," and "Fences over four feet high." Conversely, this is what is allowed within the setbacks: "Unroofed Porches or Decks two feet or less above the ground" and "Fences four feet or less in height."

Now I ask you, "Which group would a shed naturally fall into?" A porch or deck must be unroofed and two feet or less above the ground to exist within the setbacks. A fence must be four feet or less in height to exist within the setbacks. Buildings are never allowed to exist within the setbacks. But a 10 x 14 shed that is 12 feet high is allowed to exist within the setbacks? That doesn't make any sense. I cannot believe that is what the original authors of the Zoning Ordinance intended. The authors of the Zoning Ordinance were careful to explain that all roofed and some unroofed porches and decks were subject to setbacks. Why would they not intend for sheds to also be subject to setbacks and other requirements? After all, it is easy to argue that a shed has a greater visual impact on a neighbor than a deck slightly over two feet above the ground.

I believe that the authors of the Zoning Ordinance knew that sheds were already covered by the word "buildings." In fact, a neighbor who spoke at the ZBA's August meeting indicated that the Village's previous Zoning Officer also knew that: "The structure was built less than 3' [from] 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." (See August ZBA Minutes, page 2.)

Thank you for considering my appeal.

Sincerely,

Kirk M. Sigel
223 Highgate Road
kmsigel@ksx.com
257-6413

From: Molly Shoemaker [mailto:mshoemakr@yahoo.com]
Sent: Monday, November 22, 2010 9:02 PM
To: Brent Cross
Subject: Sheds and buildings

Dear Cayuga Heights Zoning Board,

I am responding to a notice regarding the clarification of the definition of the word "shed" as a building, in connection with the shed on the property at 906 Triphammer Road. Since I cannot attend the meeting on November 29, 2010, I am asking that the following questions be read into the minutes and addressed at the meeting.

1. Can a shed which is declared to NOT be a building have any utilities laid to it now or in the future whether they are connected now or not (e.g. water, electricity)?
2. If the shed at 906 is declared to NOT be a building, will all sheds like it in the Village be rezoned as NOT buildings allowing residents to cover with structures more of their property?
3. If the shed at 906 is declared to NOT be a building, will this allow the residents/contractors at 906 to build a DECK or any new structures on their property without further zoning requests or permits?
4. Will you please give us an accounting of ALL money/fees which have changed hands between the Village and any of its officers and employees and the owners/contractors over any issues with regard to the uses and extent of the lot coverage at 906 Triphammer?

Sincerely yours,
Molly Shoemaker
104 Northway Rd.
Ithaca, NY 14850

11/29/2010
