

Minutes for the  
Village of Cayuga Heights  
Zoning Board of Appeals Meeting  
December 5, 2011

**MINUTES**

Present: Members J. Young, K. Sigel, B. Powers, A. Shull and A. Watkins. Alternate M. Eisner  
Code Enforcement Officer B. Cross, Attorney K. Gutenberger, and VCH Deputy Clerk  
A. Podufalski

Others: M. Mindlin, T. Shibata, and R. Flint

1. Meeting called to order

Meeting called to order by Chair J. Young at 7:06 pm.

2. Public Hearings

A. Lot coverage variance for the new HCP Bathroom Addition at Village Hall

Chair J. Young opened the public hearing.

Code Enforcement Officer B. Cross represented the Village as the applicant and explained the details of the project to the Board.

Comments:

M. Mindlin- Expressed concerns that the project does not put the rest of building in compliance with handicap accessibility regulations.

Code Enforcement Officer B. Cross response- This project does not address other areas of the building. However, the project meets compliance through the building code relating to the American's With Disabilities Act. If money is being spent on a building that is not currently in compliance, State law requires that a minimum of 25% of the project's budget be used to gain compliance. If 25% has been exhausted and the building is still not in compliance, then it is considered that a good faith effort has been made and meets the State's requirements. Almost 100% of the project cost is related to handicap accessibility.

Chair J. Young- Stated the Zoning board could not consider the issues M. Mindlin raised as part of its decision-making process.

Attorney K. Gutenberger- Confirmed Chair J. Young's statement. This space is grandfathered in as a pre-existing, non-conforming use of space. When increased meeting attendance is expected, the Village Boards make an effort to accommodate larger crowds by holding meetings either at the elementary school or the Fire Hall. These spaces have handicap accessibility.

M. Eisner- Asked if anything in the plan would aid in creating more handicap accessibility in the future.

Code Enforcement Officer B. Cross response- No.

Code Enforcement Officer B. Cross- Informed the Board E. Rubenstein has no objections to the project.

Public Hearing closed.

Attorney K. Gutenberger informed the Board the project is a Type 2 Action and does not require SEQR review.

Code Enforcement Officer B. Cross- Shared with the Board the Tompkins County Planning Dept. says a 239 review is not required.

The Board discussed the finding questions.

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS  
RESOLUTION ADOPTED ON DECEMBER 5, 2011 FOR APPEAL NO. 2011-5**

Motion made by: Anita Watkins

Motion seconded by: Jack Young

**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 the 15% allowed by the Village of Cayuga Heights Zoning Ordinance Section 7: Building Coverage in a Commercial District to 18.3% at 836 Hanshaw Road, Marcham Hall; and

B. On December 5<sup>th</sup>, 2011, 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 December 5<sup>th</sup>, 2011, 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 December 5<sup>th</sup>, 2011, 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: NO, because it is a small addition that will not be visible from the road and the only neighbor that is directly impacted is in support of the project.

*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: NO, because it is already a permitted non-compliant structure and any addition would require a variance. Adding a 3<sup>rd</sup> floor is not feasible as it would not be compliant with the Village's current Zoning Ordinance.

*Whether the requested area variance is substantial.*

Finding: NO, because it is basically filling in an existing concave area (court yard) and not expanding the overall bounds of the building.

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

Finding: NO, because it will have a minimal impact on storm water management and, in fact, it improves storm water retention by use of a rain garden.

*Whether the alleged difficulty was self-created.*

Finding: NO, because the need for the addition is State mandated.

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 to permit an increase in the lot coverage from the 15% allowed by the Village of Cayuga Heights Zoning Ordinance Section 7: Building Coverage in a Commercial District to 18.3% at 836 Hanshaw Road, Marcham Hall.

The vote on the foregoing motion was as follows:

AYES: Unanimous - Anita Watkins, Alison Shull, Kirk Sigel, Jack Young,  
Bob Powers

NAYS: None

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

B. Side yard setback variance for an existing non-compliance at 211 White Park Road.

Chair J. Young opened the Public Hearing.

Code Enforcement Officer B. Cross explained the variance details to the Board.

Applicant R. Flint was present to answer questions.

Williams of 206 Oak Hill Rd emailed Code Enforcement Officer B. Cross stating she had no objections.

Public Hearing closed.

Attorney K. Gutenberger informed the Board the variance is a type 2 action and is therefore SEQR exempt.

The Board discussed the finding questions.

**VILLAGE OF CAYUGA HEIGHTS ZONING BOARD OF APPEALS  
RESOLUTION ADOPTED ON DECEMBER 5, 2011 FOR APPEAL NO. 2011-6**

Motion made by: Kirk Sigel

Motion seconded by: Anita Watkins

**WHEREAS:**

A. This matter involves consideration of the following proposed action: granting of an area variance to permit an existing carport to remain in its current location with a deficient side yard set-back at 211 White Park Road (tax map # 14.-1-9). The carport is approximately 10.4 feet from the side property line and 15 feet is required (pursuant to a zoning permit issued in 1955); and

B. On December 5<sup>th</sup>, 2011, 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 December 5<sup>th</sup>, 2011, 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 December 5<sup>th</sup>, 2011, 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: NO, because it is currently built and has been in existence in the same location since 1955.

*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: NO, because it would not be feasible to move the structure since it is already built.

*Whether the requested area variance is substantial.*

Finding: NO, because it has existed for many years in its current location.

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

Finding: NO, because it been there for over 56 years.

*Whether the alleged difficulty was self-created.*

Finding: NO, because the applicant only purchased the house 6 months ago and he did not build the carport.

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 to permit an existing carport to remain in its current location with a deficient side yard set-back at 211 White Park Road (tax map # 14.-1-9). The carport is approximately 10.4 feet from the side property line and 15 feet is required (pursuant to a zoning permit issued in 1955).

**Conditions of Variance:**

The carport may remain in its location as shown on the map submitted with the application, which map is attached hereto and incorporated herein by reference.

The vote on the foregoing motion was as follows:

AYES: Unanimous - Anita Watkins, Alison Shull, Kirk Sigel, Jack Young,  
Bob Powers

NAYS: None

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

3. Approve September 6, 2011 minutes

**Motion:** K. Sigel

**Second:** A. Watkins

**APPROVING MINUTES OF SEPTEMBER 6, 2011**

**RESOLVE**, that the written, reviewed and revised minutes of September 6, 2011 meeting are hereby approved.

**Aye votes** – K. Sigel, B. Powers, A. Shull and A. Watkins.

**Opposed-** None

**Abstained:** J. Young

J. Young abstained from voting on the September 6, 2011 minutes as he was not in attendance for that meeting.

3. No new business

4. Adjourn

Chair J. Young adjourned the meeting at 8:00 PM