

**Village of Lansing
Board of Zoning Appeals
August 1, 2012**

1 The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:35 P.M. by
2 Chairperson Mary Sirois. Present at the meeting were Board members Dolores Adler, Patrick
3 Gillespie, and; Alternate Member Roy Hogben; Code Enforcement Officer Marty Moseley;
4 Village Attorney David Dubow; Applicant: Boris Simkin representing Westview Partners.

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6 Sirois appointed Hogben as an acting member for the Board of Zoning Appeals meeting.

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8 **Public Hearing to Consider:**

9 Sirois opened the public hearing to consider Appeal No. 2012-02, Westview Partners
10 LLC., to request a variance for 1654 East Shore Drive to allow for a 42,603 square foot
11 lot to be designated a buildable lot for a single family residence. A variance is required
12 because the minimum lot area required under section 145-39E(b)[1] is 60,000 square feet.
13 The property is located in the Low Density Residential District, Tax Parcel No. 43.1-1-
14 26.13

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16 Dubow explained the unique past history of the requested subdivision, with the Planning Board,
17 and the unique reasoning for the requested area variance as describe above. The past history can
18 be viewed in the Planning Board minutes of April 9th, 2012 and the July 9th, 2012. Dubow noted
19 that Moseley indicated, after researching the topic, that there was no prohibition to would allow a
20 subdivided lot to be on both sides of a street to achieve the required minimum square footage as
21 required by the Village Code. Dubow noted that both the applicant and the Planning Board
22 decided to adjourn the public hearing at which time the Planning Board suggested for Simkin to
23 request an area variance due to the unique situation of the potential subdivision. Dubow added
24 that lot A-1 could potentially be granted a variance, by the BZA, which would allow the lot of
25 42,603 square feet to be designated as a buildable lot. Dubow noted that any structures built on
26 the parcel of land, that requires a variance, would still need to comply with all other applicable
27 State and Village Codes. Dubow added that is a variance was granted it would allow for more
28 traditional lots (one on each side of Sun Path Road) instead of the creating unique shaped lots.
29 Dubow noted that if approved or denied this topic would return back the Planning Board for the
30 requested approval for subdivision and regardless of the shape of the lot, in this instance, a
31 subdivision would occur.

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33 Moseley indicated that he had received the proof of mailings for the public hearing.

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35 Adler asked if a variance, of this nature, ever been approved in the past by the Village.

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37 Dubow indicated that he was not aware of an area variance, of this nature, ever being approved
38 by the Village in the past ten years.

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40 Simkin noted that when he originally bought the property, it was his understanding that sewer
41 would be run past the property, which would have reduced the amount of minimum square

42 footage needed for a building lot per Village Code. Simkin indicated that he does own land in the
43 Town of Lansing and cannot legally add it to a Village lot in order to make the Village lot
44 buildable. Simkin added that even if he could add land from the town to the Village lot, it would
45 then make the lot in the town non buildable.

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47 Hogben noted that it was his understanding that the neighbor to the north did not like the idea of
48 the unique configuration of the proposed subdivision. Hogben asked if there was any particular
49 reason why they did not like the idea.

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51 Sirois assumption on the neighbor's discontent is because it was not a traditional lot
52 configuration.

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54 Moseley indicated that Sirois was fairly close in her in her assumption.

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56 Dubow noted that the neighbors did not demonstrate any sub native reason why they felt the
57 subdivision should not be divided in the unique way, but rather the neighbors thought it was an
58 odd way to subdivide one lot into two lots.

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60 With on one wishing to speak, Sirois asked for a motion to close the public hearing. Moved by

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62 Sirois indicated that all of the building setbacks would need to be complied with.

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64 Simkin indicated that he could build approximately a 3,000 square foot house while meeting the
65 building setbacks as set by the Village.

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67 Sirois indicated that she felt the BZA would not be setting any undo president if this were to be
68 approved.

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70 Gillespie agreed with Sirois as long as the applicant built the homes within the required Village
71 setbacks.

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74 After further discussion Gillespie moved the following resolution, seconded by Adler:

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76 **VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED**
77 **ON AUGUST 1, 2012 FOR APPEAL NO. 2012-2**

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80 Motion made by: Patrick Gillespie

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82 Motion seconded by: Dolores Adler

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84 **WHEREAS:**

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- 86 A. This matter involves consideration of the following proposed action: Appeal No.
87 2012-02, Westview Partners LLC., to request a variance for 1654 East Shore Drive to
88 allow for a 42,603 square foot lot to be designated a buildable lot for a single family
89 residence. A variance is required because the minimum lot area required under
90 section 145-39E(b)[1] is 60,000 square feet. The property is located in the Low
91 Density Residential District, Tax Parcel No. 43.1-1-26.13; and
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- 93 B. On August 1, 2012, the Village of Lansing Board of Zoning Appeals held a public
94 hearing regarding such action, and thereafter thoroughly reviewed and analyzed (i)
95 the materials and information presented by and on behalf of the applicant(s) in
96 support of this appeal, (ii) all other information and materials rightfully before the
97 Board, and (iii) all issues raised during the public hearing and/or otherwise raised in
98 the course of the Board's deliberations; and
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- 100 C. On August 1, 2012, in accordance with Article 8 of the New York State
101 Environmental Conservation Law - the State Environmental Quality Review Act
102 ("SEQR), and 6 NYCRR Section 617.5, the Village of Lansing Board of Zoning
103 Appeals determined that the proposed action is a Type II action, and thus may be
104 processed without further regard to SEQR; and
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- 106 D. On August 1, 2012, in accordance with Section 712-b of the Village Law of the State
107 of New York and Village of Lansing Code Section 145-74 A(1), the Village of
108 Lansing Board of Zoning Appeals, in the course of its deliberations, took into
109 consideration the benefit to the applicant if the area variance is granted as weighed
110 against the detriment to the health, safety and welfare of the neighborhood or
111 community by such grant;
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113 NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:
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115 The Village of Lansing Board of Zoning Appeals hereby makes the following
116 findings with respect to the specific criteria for such area variance as set forth in
117 Section 712-b of the Village Law of the State of New York and Village of Lansing
118 Code Section 145-74 A(1):
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120 *Whether an undesirable change will be produced in the character of the*
121 *neighborhood or detriment to nearby properties will be created by granting the*
122 *area variance.*
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124 Finding: No, because the residential use is the only applicable use within this
125 district and all applicable building setbacks will be required to be abided by.
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129 *Whether the benefit sought by the applicant can be achieved by some method*
130 *feasible for the applicant to pursue other than an area variance.*

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132 Finding: Yes, possibly, the benefit could be achieved by obtaining subdivision
133 approval from the Planning Board providing for a parcel being divided by a
134 roadway, but the scenario that has been proposed and this variance is the more
135 desirable option.

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139 *Whether the requested area variance is substantial.*

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141 Finding: Yes, but the required compliance with the applicable building
142 setbacks will insure that the size of any permitted residential structure will be
143 in accordance with Village Zoning Law provisions and should therefore not
144 negatively affect any adjacent property owners.

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

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151 Finding: No, due to the parcels still continuing with a single family residential
152 use it would be a continuation of the existing residential neighborhood.

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156 *Whether the alleged difficulty was self-created.*

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158 Finding: Yes, but a mitigating factor is that the applicant was previously
159 informed that sewer would very likely be installed near the property in question
160 which would have reduced the minimum lot size and made the smaller lot in
161 compliance, thus not requiring a variance.

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165 2. It is hereby determined by the Village of Lansing Board of Zoning Appeals that the
166 following variance is **GRANTED AND APPROVED** (with conditions, if any, as
167 indicated), it being further determined that such variance is the minimum necessary
168 and adequate to grant relief and at the same time preserve and protect the character of
169 the neighborhood and the health, safety and welfare of the community:

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171 **Description of Variance:**

172 The variance would allow for a 42,603 square foot lot to be designated a buildable
173 lot for a single family residence instead of requiring the traditional 60,000 square
174 foot minimum lot size.

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The vote on the foregoing motion was as follows:

AYES: Mary Sirois, Patrick Gillespie, Dolores Adler, and Roy Hogben

NAYS: None

The motion was declared to be carried.

Moseley indicated that a new revised map would need to be supplied to the Planning Board for their approval.

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Approval of the Minutes

none

Adjournment:

There being no other business, Gillespie moved to adjourn the meeting at 8:02 P.M. Seconded by Gillespie. Ayes by Sirois, Gillespie, Hogben, and Adler.