

Village of Lansing
Board of Zoning Appeals
April 17, 2001

The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:34 P.M. by Acting Chairperson Mary Sirois. Present at the meeting were Board members Don Eckrich, Lorraine Johnson and Mike Ward, Alternate Member John Dennis, Code Enforcement Officer Curtis, Village Attorney Randy Marcus, and members of the public.

Appeal 2001-1, Bill Rocco, to construct a 1040 sf addition on his two-family residence at 129 Brook Way, in the Medium Density Residential District, Tax Parcel No. 45.1-1-30. A variance is required because the proposed addition will be 8 feet from the side yard boundary line instead of 20 feet as required by Section 202.05(e)5(a) of the Village of Lansing Zoning Law.

Curtis stated that the Proof of Mailing was not provided by Rocco in the form normally required. When notified by Curtis that proof of mailing would be needed, the applicant re-mailed a generic letter and site plans and then provided a receipt for the postage. Eckrich does not recollect receiving two notices and never received the legal notice. Curtis does not doubt that the mailing did occur. Curtis referenced the letter received from James Orcutt, 130 Brook Way, dated 4-12-01 stating he has no objection to the granting of the proposed variance, apparently in response to notice received.

Marcus stated he has provided legal services to the applicant on other issues in the past and if the Board or Rocco feels there is a conflict of interest, they may ask him to step aside. Neither the Board nor Rocco had a problem with Marcus remaining.

Rocco spoke first. He stated he is here to request a variance for an addition to his home to accommodate his wife's mother. He passed out pictures for the Board's review. He stated the closest part of construction to the closest neighboring house (Marie Ayers) would be approximately 85 feet. The next pictures showed the landscaping of the lot with trees and hedges. He stated from Ayer's deck and house, the addition would not be detectable due to the trees and windbreak. Rocco stated the driveway would be going only two feet into the trees from the existing driveway. Rocco stated the only neighbors who would be able to see the addition would be the Cater-Cykers at 121 Brook Way, as they are the backyard neighbors and currently see the entire house. Rocco felt the plan presented has the least impact on the character of the house as seen from the front as well as on the neighborhood in general. Rocco stated the house would also be resided. Rocco felt the variance is also not substantial taking into account the barriers and the windbreaks will remain and the property line on that side of the house is 250+ ft. long and he is requesting to be closer to only 27 feet of that length. No trees or landscaping will be removed although some in the rear of the house will be moved. In order to retain Ayers privacy no trees will be removed along the side property line in question.

Rocco stated that moving the garage further to the back would place the structure beyond the

windbreak and would thus put it within full view of the Ayer's residence. It would also cause inconvenience in entering the Rocco residence.

Johnson requested clarification on the amount of buildable space for the MDR. Curtis looked up the amount of lot coverage permitted for a two-family residence in MDR and stated it is 15%. Assuming the lot is a little more than 2/3 of an acre, 15% could be built upon. This equates to approx. 4,455 sf. of buildable space. The current total sf is 2100 and the addition of approx. 1680 sf will equate to approx. 3,800 sf.

Eckrich asked for clarification on the distance from the Ayer's residence to the Rocco residence. Rocco responded that it is approx. 75 ft. from the Ayer's residence to the property line and then an additional 10 ft. to the proposed construction for a total of 85 ft. He stated Ayer's residence is on the curve and sits kitty-corner and her back faces into his backyard. The 16 – 18 ft. tall windbreak trees or spruces are located on the Rocco property and there are an additional three pines on Ayer's property.

Sirois questioned if Rocco had contemplated moving the garage further back on the property. Rocco responded that they had and it was deemed to be more intrusive because of the lack of windbreak in that area. The location of the garage further back would come close to the fenced in yard and gate of the Cater-Cykers and would also be visible from the Ayer's residence.

It was noted that the 8 ft. setback from the property line would be to the eaves not the wall.

Dennis asked about the breezeway. Rocco stated it was for a private entrance. Dennis asked if removal of the porch and breezeway would allow the garage to be moved further away from the property line. Rocco stated the breezeway was put in so the driveway did not need to be made wider on the left side and so trees and electrical not need to be changed.

Rocco stated he has contacted his neighbors and no one appeared to express concerns. Rocco sent site plans and the rationale behind them to the neighbors and no one responded negatively to him.

Eckrich moved to close the Public Hearing. Seconded by Dennis. All aye.

The Board discussed the proposal. Johnson stated she felt the addition was a good distance from the neighboring residence. She also felt the configuration was integral to the neighborhood. Her concern is where the garage doors are in relation to the current driveway. Ward drove by the site and could not pin point the distance. The current driveway is at the end of the residence and if the breezeway were omitted, it might not be possible to access the left-side garage bay without moving the existing retaining wall and landscaping.

Dennis is concerned about long-term precedence for a project like this where a side yard setback is going from over 20 ft. to 8 ft. Sirois is concerned about granting such a substantial variance when

there is so much rear yard and the garage could be moved back and closer to the residence.

Eckrich supports this project because he is familiar with the neighborhood and adding a garage to the side would be compatible with others in the neighborhood. He also feels there is a good amount of distance between the neighbors as both are set back on the lots and he feels this plan would be an asset to the neighborhood. Ward feels moving the garage back would have a greater impact to the neighborhood. Ward also stated that it might be necessary to shrink the size of the breezeway to allow for the driveway. Dennis felt shrinking it to 9 ft. would be better. Marcus suggested the alignment may have been set with the existing driveway and that is what determined the proposed size of the breezeway. Sirois felt if the garage were moved back 6 – 8 ft. and the breezeway were downsized, the existing driveway could still be utilized and the left hand bay useable.

Sirois took a straw vote for granting a variance. Ayes by Eckrich and Ward. Abstain by Johnson. Support by Dennis with reservations because he feels it may set a poor precedent. Ward and Marcus stated each case is viewed independently and precedents are not set.

In making their determination, the Board considered the following findings:

- a) *Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by granting the variance.*

Finding: There will be no undesirable change or detriment to the neighborhood because what is being requested is not unusual or inconsistent with other homes in the neighborhood in size or appearance. Also, the garage on the side of the house would fit in with others in the neighborhood. Using the current proposal, will also enhance the lot by utilizing the existing landscaping and aesthetic appeal of the lot and surrounding residences.

- b) *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, but this plan can not be achieved by a feasible method which does not create additional or different problems. An alternate plan might be to reconfigure the entire addition and put it further back and then it might still remain too close to the property line and would also require a variance.

- c) *Is the requested variance substantial?*

Finding: Yes.

- d) *Consider whether the proposed variance will have an adverse effect or impact on the*

physical or environmental conditions in the neighborhood or district.

Finding: The request would have an advantageous effect on the character of the neighborhood.

e) *Whether the alleged difficulty was self-created.*

Finding: Yes.

Marcus noted that this is an exempt action under SEQRA and an Environmental Assessment is not necessary.

Dennis expressed concern about the tight area between the garage and the trees along the property line if it were necessary to fight a fire from the rear. Curtis noted the Lansing Fire Department would not drive on an unpaved area. Eckrich also noted that connection to the closest fire hydrant would not be impeded by the trees.

The Board asked Rocco if he could build the addition with a required setback of 9.5' to the furthest projection of the structure. Rocco stated the plans would need to be adjusted but he is optimistic he could work within those guidelines

Johnson moved to grant the variance as requested with the following conditions:

- (1) The setback be no less than 9.5 ft. including the eaves and overhangs.
- (2) The trees screening the Ayers property, or an equivalent buffer, must be maintained.

Seconded by Dennis. Ayes by Dennis, Eckrich, Johnson, Sirois and Ward.

Approval of Minutes – November 20, 2000

Next, the Board reviewed the minutes of November 21, 2000. Eckrich moved the minutes be approved with revisions. Seconded by Dennis. All aye.

Adjournment

Sirois moved to adjourn the meeting at 9:10 P.M. Seconded by Ward. All aye.