

**Village of Lansing
Board of Zoning Appeals
August 21, 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, Acting Village Attorney William Troy, and members of the public.

Appeal 2001-3, Robert R. Colbert Jr., to construct a driveway from a proposed 18,000 sf office building at 2353 N. Triphammer Road in the Commercial Low Traffic District, Tax Parcel No. 47.1-3-4.1, over an existing easement across the property of Christ Chapel, 160 Graham Road, Tax Parcel No. 41.1-3-4.2, with the curb cuts on Graham Road. A variance is required because the driveway constitutes a commercial use and the Christ Chapel property is in the Medium Density Residential District where such commercial use is not permitted. Additionally, a variance is required because the driveway would cross a buffer strip required on the 2353 N. Triphammer Road property to separate commercial uses from residential districts and such development within a required buffer strip is not permitted.

Curtis stated that the Proof of Mailing was given to him by the applicant.

Eckrich asked for clarification of the materials on the tables when he arrived for tonight's meeting. Sirois stated that after consulting with Attorney Troy she has determined that the BZA will not be able to vote on the use variance tonight as a notice or memo is required from the Planning Board indicating conformance with the objectives of the General Plan. Sirois is asking Curtis to request this from the Planning Board. Troy spoke regarding Section 502.03 A2 of the Zoning Law regarding provisions for requirements for land use variances where it clearly states that the Planning Board must review the variance with regard to the General Plan and then provide recommendation in written form to the BZA. Troy further stated that no decision can be made by the BZA until the Planning Board review has been completed and written report issued. Troy has spoken with the Colbert's attorney today and they are in agreement as to how this must proceed. Troy is recommending that the Public Hearing be held and then continued at a later date when the recommendation is received. Colbert is requesting the Public Hearing to be held in entirety at a later date when the written report is available.

Sirois asked if there was anyone present who wanted to speak at this time. Ned Hickey stated he, as an affected resident, has provided a letter to the BZA and did not choose to add additional info at this time.

Gene Caraccilo, 161 Graham Rd., spoke next. He has read Hickey's letter and supports his comments and would like to go on record as he is opposed to the proposal and feels commercial use

should be on N. Triphammer Rd. rather than on residential Graham Rd.

Wanda Dominger, 165 Graham Rd., stated she is in agreement with Caraccilo and feels Graham Rd. is currently a busy street and will become unbearable for residents if this is allowed.

Lorna Burns, 175 Graham Rd., stated it is difficult to get out of her driveway because of the business across the street from her and this will make it even worse. She stated at noontime she has sometimes had to wait 15 minutes to get out of her driveway.

Dennis stated he had difficulty understanding some of the legal material (technical terms) given to the Board by the Colberts and would like some explanation from the Attorney. Johnson requested that this be done outside tonight's meeting.

Chuck Johns, 165 Graham Rd., stated he did not receive notification except from his neighbor. Burns also stated she learned of it only through Hickey. Hickey stated the mailman told him he had a notice for everyone on the street and Hickey had to sign for his. Curtis checked the location of the residences to determine whether notification was required. He determined that one was required and had been sent and the other was not required and had not been sent. Apparently the post office was holding the required notice because they were unable to get a signature. The applicant had met the requirement, however, by mailing it within the required time.

Sirois stated these comments would be documented and made a part of the final hearing record. The hearing was adjourned and will continue when the applicant or his attorney is ready to give their presentation of the proposal and when the Planning Board response is available. Sirois stated legal notice would be placed at the A & P, in the Ithaca Journal and at the Village Office.

Dennis stated that residents seem to feel that this site will provide additional traffic on Graham Rd. Eckrich felt having the traffic exit onto N. Triphammer Rd. and then funneling it onto Graham Rd. through the traffic light might not make a difference and might cause more delays and congestion. Dennis would like to seek information from a specialist on traffic flow. Curtis will ask the Colberts for information on traffic as it will be raised at the hearing. Curtis stated TG Millers might also be able to provide information.

Appeal 2001-4, Peter Sarkus to construct a garage twenty feet from a front property line of the property known as 2 St. Joseph Lane, Tax parcel No. 47.1-2-10, in the Medium Density Residential District. A variance is required because the garage constitutes a principal building and the required front yard setback for a principal building in the Medium Density Residential District is forty feet.

Ralph Varn, 2 St. Joseph Lane resident, is requesting permission to erect a 3-car garage on the northeast portion of the property facing Votapka Rd. which dead ends at the end of the property and is currently being used as his driveway. The house faces onto St. Joseph Lane, since the house also fronts on Votapka Rd., the requirement for a front yard setback of 40 ft. applies to both of these sides

and he would like to place the garage 20 ft. from the property line on Votapka Rd. side. The other yard setbacks will comply with the Zoning Law.

Sirois stated this was discussed at the Board of Trustees meeting and they declined to officially abandon that section of the road, suggesting instead that the applicant apply for a variance.

The Board discussed the location of the fence on an adjacent property. Johnson asked why the garage could not be moved back. Varn responded that the garage is 32 ft. long and 20 ft. deep and moving it back any further would necessitate the removal of a blue spruce tree and the building would take up a significant percentage of his back yard. Dennis stated utilizing the required setbacks would preclude placing such a structure on 45% of the lot and he feels that is high.

Eve Hogben, 35 Janivar Dr., asked to see a drawing and for clarification on the size and height of the garage. Varn responded that it would be one-story garage with a 12-12 pitch roof and would be 18 ft. high and would be 2 ft. shorter than the house with newly added peak. Curtis provided plans for review by the Hogbens.

Sirois closed the Public Hearing.

Dennis asked the Hogbens if they felt there would be any significant change in their viewscape from their residence if the garage were placed either closer or farther from the road. Roy Hogben, 35 Janivar Dr., stated he would like to see the trees, but feels much of the garage will be screened by the fence discussed earlier.

Johnson stated she felt that Votapka Road could be opened at some time in the future and in that event lowering the setback from 40 ft. to 20 ft. would be substantial. Eckrich asked about maintenance of the road. Varn responded that in the case of heavy snowfall it is sometimes plowed by the town and the snow pushed beyond his truck but if the snow is light, he maintains it. Ward felt a 3-car garage is excessive for the size of the lot. Eckrich noted that the size is irrelevant if it conforms to the setback requirements. Ward noted that with the garage being 20 ft. from the roadway, when a 18 ft. truck is in the proposed driveway, he would be concerned about the plows hitting it.

Johnson moved to close the discussion. Seconded by Dennis. All aye.

In making their determination, the Board based their decision on 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: No change. The BZA determined that there would not be a significant change in the neighborhood because many of the residences in the area have attached or detached 2 car

garages.

- 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, because the garage could be moved farther back to the west so it would be 40 ft. from the property line.

- c) *Whether the requested area variance is substantial.*

Finding: Yes, because it is reducing the setback by 20 ft. or 50% of the setback area.

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

Finding: Yes, because although at present it only adds roof, following the assumption that someday the road may go through, it will have an adverse impact on parking in front. Also, it was noted that the Board of Trustees declined to change the status of Votapka Rd.

- e) *Whether the alleged difficulty was self-created; however, the Board of Zoning Appeals' determination, following such consideration under this subsection (e), that a difficulty was self-created shall not necessarily preclude the Board's granting of the variance.*

Finding: Yes, because there is room to move the garage back on the lot.

The action is an exempt action under SEQRA.

Johnson moved to deny the variance as requested based on these findings. Seconded by Eckrich. Ayes by Eckrich, Johnson, Sirois and Ward. Abstain by Dennis.

Appeal 2001-5, Mary Lou Doyle to construct an enclosed patio on her home at 34 Janivar Drive, Tax Parcel No. 45.1-1-109.1, in the Medium Density Residential District. A variance is required because the enclosed patio will be thirty-two feet from the rear property line and the required rear yard setback for a principal building in the Medium Density Residential District is forty feet.

Curtis stated he has received proof of mailing.

Mary Lou Doyle, 34 Janivar Dr., presented her case. She moved into Janivar Dr. in 1996 and has noticed that neighbors have the enclosed porch and she desires to also have one. Currently there is a patio footprint which she would like to enclose so it could be used more months in the year. Doyle also noted she is allergic to bees so this would allow her to remain outdoors with her friends without having to worry. Doyle has contacted three of her seven neighbors and they signed a support

statement. The patio footprint is 12 ft. x 14 ft. and she is requesting to build upon it with a slight roof overhang. Curtis explained that the other half of the duplex is on the corner and would have a 40 ft. front setback on two sides, but only a 20 ft. rear setback. The Doyle's half of the duplex would have 40 ft. front as well as 40 ft. rear setback because it is not on the corner. Doyle stated that there is a residence behind her belonging to the Richardsons who have been notified and she has not heard back from them with any concerns.

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

Sirois noted that this enclosure would go directly towards the neighbor's flat side wall and will be 32 ft. from the property line.

Johnson made a motion to close this portion of the discussion and begin the finding of facts. Seconded by Dennis. All aye.

In making their determination, the Board based their decision on 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: No, because it is similar to others in the neighborhood and an unappealing concrete pad will be made more desirable for the neighborhood with an enclosed structure.

- 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: No, there really is not any other feasible location for the structure that would comply with the Zoning Law.

- c) *Whether the requested area variance is substantial.*

Finding: No, it is not substantial because it is a reduction of only 8 ft. and 52 ft. will remain between the structures.

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

Finding: No, it will be beneficial.

- e) *Whether the alleged difficulty was self-created; however, the Board of Zoning Appeals' determination, following such consideration under this subsection (e), that a difficulty was self-created shall not necessarily preclude the Board's granting of the variance.*

Finding: No, because the concrete pad already exists and there really is not any other feasible location for the structure that would comply with the Zoning Law. Also, the allergy problem is not something for which the applicant is responsible.

The action is an exempt action under SEQRA.

Ward moved to accept the variance with no conditions other than it meets the building code and the 32 ft. setback from the rear property line. Seconded by Johnson. All aye.

Approval of Minutes – May 22, 2001

Next, the Board reviewed the minutes of May 22, 2001. Eckrich moved the minutes be approved with revisions. Seconded by Ward. All aye.

Adjournment

Sirois moved to adjourn the meeting at 9:01 P.M. Seconded by Ward. All aye.