

**Village of Lansing
Board of Zoning Appeals
June 3, 2003**

The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:31 P.M. by Acting Chairperson Mary Sirois. Present at the meeting were Board members John Dennis, Don Eckrich, Lorraine Johnson and Mike Ward, Code Enforcement Officer Curtis, Village Attorney David Dubow, and members of the public.

Appeal No. 2003-4, Katerina Papachryssanthou, 826 Cayuga Heights Rd. Residence:

The first item on the agenda was Appeal No. 2003-4, Katerina Papachryssanthou to construct a 2,970 sf single family home at 826 Cayuga Heights Road in the Low Density Residential District, Tax Parcel No. 48.1-2-59. A variance is required from Section 202.04(e) of the Village of Lansing Zoning Law because the house will have either a front yard or side yard deficiency or combination thereof totaling approximately fifteen feet.

Curtis had received proof of mailing.

Sirois opened the Public Hearing. Ken Bell, 555 Sing Sing Road, Horseheads, the builder, acted as the agent for the applicant. Bell has reviewed many plans with the applicant before deciding on this plan. The plans showed a dotted line for the garage which would have to be eliminated because it does not fit within the setbacks. Bell showed pictures of the house across from the proposed house with which he noted it would be very compatible. When he was clearing the lot, there was concern about possible drainage onto down hill lots. He pointed out that there is plenty of slope heading south towards the ravine on Tyler Road and drainage from the site will not go onto anyone else's property. Bell would like to see the garage approved for the project although the applicant would forgo it if necessary. If approved, the residence would be about 31 feet from the front property line along Cayuga Heights Road. (Dennis entered the meeting.) Curtis stated he worded the notice as he did because the house can shift east or west and the deficiency could be on either side or some combination of both. The driveway will open onto Cedar Lane. Curtis stated the road shown on the west side of the property was never built, but is still owned by the Village and there are easements for DeBoers (lot 60) and others (lot 56) for access across the easement to their property. Curtis stated it appears to be a gravel driveway and is maintained by those using it. Curtis stated that the owner of lot 56 called Curtis to ascertain that he would still have access to his property over the gravel driveway and Curtis assured him he would.

Michael Tokman, 3 Cedar Lane (lot 56), stated he has an easement across the Village land and his concerns would be about retaining that access and also about potential drainage onto his lot. Bell explained the situation to him. Bell also noted that he would not be allowed to run drainage onto another person's property.

Nick Lambrou, 601 Warren Place, Ithaca, spoke on behalf of the applicant. Lambrou felt the lot is odd shaped and feels a variance would be needed to make this a viable lot for a home like others in the area.

There being no one else who wished to speak, Ward moved to close the Public Hearing. Seconded by Dennis. All aye.

Dennis expressed his concerns about drainage when soils are moved, impervious surfaces being constructed, and there appearing to be no provision for detaining storm water on the property. Eckrich did not feel drainage was relevant to the variance. Ward stated it is a setback issue but he has heard residents concerns about drainage at both Planning Board and Trustee's meetings and recognizes that it is an important issue.

For the record, Dubow stated his office has represented the applicant on past issues unrelated to this variance application.

The Board received clarification that the garage would add 9 ft. to the building foot print and would be accessed from Cedar Lane. Bell also stated that the yard could be shifted further from Cedar Lane.

Eckrich asked about the driveway exiting on to Cedar Lane. Curtis stated that the curb cut must be at least 40 ft. from Cayuga Heights Road. Curtis also indicated that he had checked with Superintendent of Public Works Dennis Reinhart who stated the road shown on the west side of the property would never be built as it is not needed to access any lots. Ward would recommend that the builder move the house to the south to maintain the 40 ft. setback from the property line along Cedar Lane and the entire east/west deficiency be applied to the rear of the house on the west side where the gravel roadway is located, and that it be stipulated that the driveway must exit onto Cedar Lane. Dubow stated that doing this would remove all of the front yard deficiency and would only leave a rear yard deficiency.

Dennis would also like to see a dry well be installed. Dennis would like to restrict the size of the garage if the drainage issue is not resolved. Dubow indicated that if it was the wish of the Board a condition could be place upon the variance requiring a drainage plan approved by the Village Engineer. Eckrich recommended moving the house to the rear and rotating it slightly so the back of the house would be within the 25 ft. setback line. Curtis noted that where special permits are required, the Planning Board generally requires stormwater runoff be managed so it is not a nuisance to neighboring properties.

Ward suggested that the builder move the footprint of the residence to the rear of the property so as not to encroach either of the two 40 yd. front setbacks. The side yard setback on the west side would be limited to no less than 13 ft. The builder will have another survey done since this is a tight lot. Eckrich stated another possibility is to reduce the garage from a two-car to a one-car garage. Ward stated another possibility would be to reduce the size of the residence.

In an effort to summarize the Board's wishes, Dubow stated there could be parameters set for minimum setbacks from each side of the building. The Board agreed to have no less than 32 feet front yard setback on Cayuga Heights Road, 40 feet front yard setback on Cedar Lane, and 20 feet setback in the rear of the house on the west side. The driveway must also exit onto Cedar Lane with the garage facing Cedar Lane. Curtis will also require approval by the Village Engineer for the stormwater management plan so it is not a nuisance to down hill properties.

The Board considered the following criteria for an area variance:

- 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 area variance.*

Finding: No, the proposed house is similar to other houses in the neighborhood.

- 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, not for this residence with the two-car garage on this lot.

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

Finding: No, not with the deficiency split between the front and rear yard setbacks.

- 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, the BZA has addressed the only environmental issue raised by requiring the Engineer's approval of a storm water management plan.

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

Finding: Yes, the lot was purchased and the builder knew the limitations of the lot for setbacks.

Ward moved to grant a front yard and a side yard area variance for 2003-4, Katerina Papachryssanthou to construct a 2,970 sf single family home at 826 Cayuga Heights Road, with the following conditions: 1) the east front yard setback shall not exceed 32 feet; 2) the west side yard setback shall not exceed 20 feet; 3) the garage shall face Cedar Lane and the curb cut shall be on Cedar Lane and; 4) a stormwater management plan which ensures that stormwater is not a nuisance for down-slope property owners shall be implemented and approved by the Village Engineer. Phillip and Barbara Iorio, 1 Cedar Lane, stated they have had stormwater concerns and they have been addressed by the Village in the past and corrective measures taken. Iorio's concern is that the driveway and residence be back from the street. Ward stated it is setback 40 ft. and the Board has not changed that setback. Dennis would like to see Brent Cross, the Village Engineer, review the site and speak or write to neighbors regarding drainage issues. Dubow was concerned that would require the Village to assume special duties in this case well beyond those applicable to other similar projects, and therefore recommended against it. Seconded by Johnson. All aye.

Appeal No. 2003-3, Squeaky Clean Car Wash, 2,800 sf addition:

The next item on the agenda was Appeal No. 2003-3 to construct a 2,800 sf addition to the existing car wash at 2326 N. Triphammer Road in the Commercial High Traffic District, Tax Parcel No. 47.1-1-17.5. A variance is required from Section 202.08(e) of the Village of Lansing Zoning Law, because the addition will increase an existing front yard deficiency on the south side, and result in side yard deficiencies for both the building and parking on the west side and for parking on the north side.

Ernie Bayles, the Project Architect, acting as Agent for the owner, Gary Sloan, spoke first giving a quick synopsis of the project. Bayles reviewed the site plan for the Board members. The site is currently an existing automatic car wash facility. The addition will provide manual car wash bays with 4 stations exiting onto Catherwood Road. Cars would enter for vacuuming and then would queue for either the automatic or manual car washes. The front yard setback requirement for the property line along Catherwood Road is 75 feet. The present building is approx. 25 feet from the property line and the proposed addition would be in line with the existing building for a deficiency of 51 feet 8 inches. Bayles stated there is currently an unsightly drainage swale at the rear of the building; they are proposing a retaining wall for this side with the drainage being put underground into a pipe. The building would be within 9 feet of the property line where 25 feet is required. The third and fourth variances would be for parking setbacks. Bayles stated employee parking must be provided and the only location is on the northwest corner and the area to be paved for this parking would be 1 foot from the west and north property line where 15 feet is required on each side.

Johnson asked for clarification on the number and size of curb cuts permitted for commercial properties. Curtis responded that it used to be one curb cut not exceeding 24 feet, but that the Zoning Law has changed due to the fact that 24 feet and one curb cut was not always compatible with emergency vehicle access and safe traffic design. The Zoning Law amendment made the size number and configuration of curb cuts a matter of Planning Board review and approval as part of the Special Permit process. Curtis stated this project is concurrently being reviewed by the Planning Board and approvals have not yet been granted. Sloan told the Board that the proposed new curb cut would be an exit only for the four self-wash bays. The minimum time for a vehicle is 4 minutes although customers will customarily stay longer and exit every six minutes. Johnson asked about the numbers for the existing car washes. Sloan stated that there have been as many as 130-150 cars per hour in the winter on peak days. Sloan stated problems occur when the production cannot be accommodated and vehicles back up waiting to merge into traffic. Sloan has spent considerable money on equipment to get vehicles through faster. Sloan is anticipating \$2000 per day revenue on the car washes for a projected income of \$96,000 per year (*sic*). Sloan feels, although the location will not be visible from a main thoroughfare since it is in the rear of a building, that people will soon learn of its location. Bayles stated that the new car washes would increase the traffic exiting the lot by 10%. Sloan stated the curb cut is designed for a circle of flow so as not to interfere with the existing traffic exit.

Curtis confirmed that he has received proof of mailing.

Johnson asked about traffic concerns on Catherwood Road and N. Triphammer Road. Sloan stated he would like to use directional signs from his property to have vehicles exit to the right as the intersection of Catherwood Road and N. Triphammer Road is very dangerous when heading north onto N. Triphammer Road.

Sloan spoke about the two variances needed for the parking. The adjoining corner is currently parking for McDonald's and Mall employees so his new parking would abut existing parking.

Sloan also discussed the 9 ft. setback variance where 25 ft. is required. He feels the building on the adjoining parcel to the west is quite far from the property line. Regarding the 75 ft. front yard setback requirement, this side of the building is treated as a front yard setback only because it is a corner lot. Sloan is not proposing to come any closer to the road than the currently grandfathered building. The side of the building will be brick and at some point in time the front vinyl will also be

replaced with the same brick. Sloan stated there is also a 500 sf. office proposed for the second floor of the addition. The current office is on the lower level where it is very noisy and this space will be transformed into an equipment room. Sloan stated the back of the property is an open swale and drainage is tough in that area. With the new proposal, drainage will be encapsulated and put into a culvert with the existing one at McDonalds.

Eckrich asked about the maximum height of the retaining wall. Sloan stated it would be 8 feet in height. Bayles said that at the worst spot of the wall would be 10 feet high and then there would be a wall or curbing so cars would not go off bringing it to a total height of 12 feet tapering to 3 or 4 feet at the lower end. Bayles stated there would be ivy planted to cover the wall so it would not be an exposed wall. Sirois asked how much additional blacktop would be put down and Bayles responded that it would be 7-8000 sf. and this is indicated on the drainage report which Brent Cross is reviewing. The plan dated 5-21-03 depicts the existing paved area and indicates that paving will now extend to all the property lines.

Ward asked about the buffer requirements. Curtis said none is required as buffers are only required between commercial and residential districts.

Dennis asked about the existing catch basin and the new proposed catch basin. Bayles stated there is currently a catch basin in the swale area and the new paving and catch basin will improve the situation. Bayles stated Squeaky Clean is following the Village laws that the peak flow of 25 year storm not be exceeded. Dennis would like to see perforated piping and 3% percolation. Bayles stated that the public is becoming aware of environmental concerns and stormwater practices are being applied through the new regulations which are applicable to projects over 1 acre.

Dennis was concerned about the water usage for the proposed structure. Sloan stated there would be an increase in the amount of water used and that the 4 nozzles will utilize ½ gallon per minute. Sloan also stated that about 10% of the water is recycled. Sloan also stated that the more cars washed at a professional establishment the better it is for the environment because these facilities are designed to be environmentally friendly.

Dennis and Johnson discussed the possibility of having fewer bays and having them at angles. Sloan stated other possibilities were considered, but there would be insufficient turning radius for exiting vehicles.

Sirois asked about the number of required parking spaces. Sloan stated that the law requires 6 spaces and they are needed on busy days. Curtis reviewed the Zoning Law with regard to parking requirements.

Sloan stated that a neighbor's concerns heard at the Planning Board meeting from Andy Sciarabba, owner of Lansing Village Place, relate to visibility issues for his property. Sloan stated the project might in fact improve his visibility.

Dennis asked about the amount of revenue to be raised by this new project. Sloan stated this project could not stand-alone due to the costs of the land in the Village and the only way it is feasible is because they already own the land.

Sirois moved to close the Public Hearing. Seconded by Ward. All aye.

Ward stated he does not feel comfortable making a decision when the Planning Board has not yet acted upon the concurrently pending Special Permit application. Dubow stated the Planning Board felt the same way about making a decision prior to the granting of the required variances. Dubow stated that this Board is only granting or denying variances for setbacks and the Planning Board must still continue their review for traffic, access, site review, etc. and must complete a SEQRA.

Dubow read to the BZA the criteria for an area variance. It is a balancing decision as to whether the benefit to the applicant is greater than the detriment to the health, welfare and safety of the neighborhood and the community.

The Board considered the following for an area variance:

- 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 area variance.*

Finding: Sirois feels it would be an improvement if the drainage area is enclosed and a grass or lawn area will be placed over the drainage pipe. Dennis is adamantly opposed to having the entire lot paved from side to side with no green space. The Board is in agreement that the proposed variance would result in an overall detriment although there could be some limited improvements.

- 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, an area variance would be required.

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

Finding: Yes, cumulatively it is very substantial.

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

Finding: Probably. Eckrich would like to also see the business grow but feels it contravenes too many things which the Village encourages. The curb cut and 10 ft. wall are of particular concern.

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

Finding: Yes, the buildout greatly exceeds that which the applicant could have expected under the Zoning Law and when he acquired the property, and therefore the difficulty he finds himself in is self-created.

Eckrich moved to deny the variance for Squeaky Clean Car Wash to construct a 2,800 sf addition to the existing car wash at 2326 N. Trihammer Road for the reasons stated in a-e above. Seconded by Johnson. All aye.

Approval of Minutes – May 20, 2003:

Next, Eckrich approved the minutes of May 20, 2003 as revised. Seconded by Johnson. All aye.

Adjournment

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