

**Village of Lansing
Board of Zoning Appeals
November 18, 2003**

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, Patrick Gillespie and Mike Ward, Code Enforcement Officer Curtis, Village Attorney David Dubow, and members of the public.

Appeal No. 2003-5, Kraig and Dolores Adler, 17 Cayuga Hills Road Residence:

The first item on the agenda was Appeal No. 2003-5, Kraig and Dolores Adler to construct a single family residence at 17 Cayuga Hills Road in the Low Density Residential District, Tax Parcel No. 43.1-1-26.23. A variance is required from Section 202.04(e)(4) & (7b) of the Village of Lansing Zoning Law because, due to site constraints, the house is proposed to be constructed 26 feet from the front property line where 40 feet is required and a parking turn-around is proposed 6 feet from the front property line where 20 feet is required.

Kraig Adler, 12 Eagles Head Road, Ithaca, NY made the presentation on behalf of himself and his wife who was also present. Adler described the site and constraints of the lot. Lot 13 is bounded by two streams, one on the north side of the lot and another near the southern boundary. An old railroad bed passes through the lot on the west side of the buildable area. In 1996, the County Health Dept. determined that the old railroad bed would be the appropriate site for the septic field and this causes one constraint for the location of the residence as the residence must be at least twenty feet from the septic system. Since the Planning Board was concerned that the garage, as originally proposed, would be too close to the stream it was recommended the garage be moved to the opposite side of the house. Locating the garage at the southern end of the house also allowed for a driveway that was not prohibitively steep, but still required only one curb cut. The front yard setback is 40 feet in this zoning district, but this plan requires the corner of the garage to encroach 14 feet into this setback. The residence has been angled so that a large maple will not need to be removed, the building will be farther from the stream, the slope for the driveway will be less than 10%, and the area to be environmentally disturbed will be minimized.

Ernie Bayles, the architect, addressed the Board. First, Bayles addressed each of the criteria in Section 502.03 of the Zoning Law applicable to granting an area variance. For whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created, Bayles stated the nature of the land in this subdivision is not conducive to siting houses uniformly relative to the road. Bayles feels the house being placed closer to the road is a natural setting for this particular site for practical reasons. Since there are no immediate neighbors, no one will be adversely affected. Residences being built at a later date will confront similar problems and can be positioned accordingly. Regarding whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance, Bayles

stated other options have been considered but constraints of the septic system within the old railroad bed and maintaining clearances, as well as addressing the issues of concern to the Planning Board, the applicants were unable to come up with another plan more desirable for all concerned. For the third point about whether the requested variance is substantial, Bayles feels the area variance is not substantial because the intrusion of the garage into the setback would be for a distance less than 10% of the frontage. The fourth condition as to whether the proposed variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Bayles stated this plan results in less disruption to the environment. Bayles stated the alleged difficulty was not self-created as the lot has inherent difficulties of steep slopes, sensitive environmental concerns and septic constraints. In summary, the granting of the variance would allow for the house to be sited with a reasonable approach from the road and with minimum impact on the environment.

Eckrich asked about details on the residence. Adler responded that it has a main floor of 2000 sf with a 575 ft. garage. It is also a 2-story residence with the second level below rather than above the main floor. Eckrich also asked why it required a special permit. Dubow responded that it is because of the steep slopes of the area and the proximity of a Unique Natural Area. These lots were approved with a requirement for a Special Permit for any development. Conditions applicable to the whole Beck Subdivision were also attached. What was originally three lots were made into two lots in order to comply with septic system requirements. This is one of those resulting lots. Dubow stated that because the Planning Board recommended to the applicants that they apply for a variance in order to minimize impact on the environment, the Planning Board made recommendations which the BZA has received. Sirois stated there is also a letter from the Tompkins County Planning Board regarding septic systems and possible future sewer lines which may be installed in the railroad bed. Adler stated they were aware of this. Dubow stated that one of the conditions of approval of this variance would be that the deed to this lot provide for an easement for a sewer line if needed. Ward asked about the upslope properties. Curtis stated the one across the street was not developed and that part of the frontage included the detention pond for the subdivision. Curtis stated the Planning Board has reviewed the proposed house. Dubow stated approval by the Planning Board was conditioned on approval by the Village Engineer of various environmental protections and additional conditions also need to be met. Eckrich asked about moving the garage back. Bayles stated there must be a 20 ft. clearance to the sand filter. Bayles stated moving the garage back would also result in the driveway going from a 9% to 15% slope and the walls of the garage would need to be considerably higher. Adler stated the second floor is being placed in the lower level so moving the garage back would fill in the space required for the bottom level.

Curtis confirmed he has received proof of mailing.

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

Ward stated he has walked the site and his only concern is for the viewscapes by properties above this lot. Sirois stated it is remarkable that the residence and garage can fit within the lot with its limitations and feels it has been well worked out.

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: No, the character of this neighborhood is indeterminate as the houses are few and scattered, but the proposed house is compatible with others in the general area.

- 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: Not really, effort has been expended to minimize the variance required and the resulting proposed construction and positioning of the house minimizes the effect on the environment and the existing trees and seems optimal for the lot.

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

Finding: No, not given the constraints of the site, particularly the grade, natural drainage ways and septic system requirements.

- 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, to the contrary, this variance permits more environmentally sensitive development of the site. In addition, the conditions imposed by the Village Planning Board in granting a special permit provide for additional protective measures.

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

Finding: Not really, though a smaller house not in keeping with the needs of the applicant or other houses in the general area could have been constructed, or the house positioned in a way less sensitive to the environment.

Eckrich moved the following:

WHEREAS:

- A. This matter involves consideration of the following proposed action: Appeal No. 2003-5, Kraig and Dolores Adler to construct a single family residence at 17 Cayuga Hills Road in the Low Density Residential District, Tax parcel No. 43.1-

1-26.23; a variance is required from Sections 202.04(e)(4) and (7b) of the Village of Lansing Zoning law because, due to site restraints, the house is proposed to be constructed 26 feet from the front property line where 40 feet is required, and a parking turnaround is proposed 6 feet from the front property line where 20 feet is required; and

- B. On November 18, 2003, the Village of Lansing Board of Zoning 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 November 18, 2003, in accordance with Section 712-b of the Village Law of the State of New York and Section 502.03 of the Village of Lansing Zoning Law, the Village of Lansing Board of Zoning Appeals, in the course of its deliberations, took into consideration the benefit to the applicant if the 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 Lansing Board of Zoning Appeals, 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, hereby determines that the approval of the proposed area variance is a Type II action, constituting the “granting of individual setback and lot line variances”, and thus may be processed without further regard to SEQR; and
- 2. The Village of Lansing Board of Zoning Appeals hereby makes the following findings with respect to the specific criteria for such area variances as set forth in Section 712-b of the Village Law of the State of New York and Section 502.03 of the Village of Lansing Zoning Law:

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 character of this neighborhood is indeterminate as the houses are few and scattered, but the proposed house is compatible with others in the general area.

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: Not really, effort has been expended to minimize the variance required and the resulting proposed construction and positioning of the house minimizes the effect on the environment and the existing trees and seems optimal for the lot.

Whether the requested area variance is substantial.

Finding: No, not given the constraints of the site, particularly the grade, natural drainage ways and septic system requirements.

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

Finding: No, to the contrary, this variance permits more environmentally sensitive development of the site. In addition, the conditions imposed by the Village Planning Board in granting a special permit provide for additional protective measures.

Whether the alleged difficulty was self-created.

Finding: Not really, though a smaller house not in keeping with the needs of the applicant or other houses in the general area could have been constructed, or the house positioned in a way less sensitive to the environment.

3. It is hereby determined by the Village of Lansing Board of Zoning Appeals that the following variance is granted and approved, 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:

A variance is granted to permit the construction of a single family residence at 17 Cayuga Hills Road in the Low Density Residential District, Tax Parcel No. 43.1-1-26.23, no less than 26 feet from the front property line where Section 202.04(e)(4) of the Village of Lansing Zoning Law requires 40 feet; and the construction of a parking turn-around on the same parcel no less than 6 feet from the front property line where Section 202.04(e)(7b) requires 20 feet.

Seconded by Ward. Ayes by Eckrich, Gillespie, Sirois and Ward. Motion carried.

Approval of Minutes – June 3, 2003:

Next, Eckrich approved the minutes of June 3, 2003 as revised. Seconded by Ward. Aye by Eckrich, Sirois and Ward. Motion carried.

Quorum Check

Curtis checked to see if there would be a quorum present for a meeting on December 16th. Eckrich was unsure but will get back to Curtis. Gillespie, Sirois and Ward would be available. Curtis stated there may be an appeal for an addition at 20 Oakcrest Road.

Adjournment

Gillespie moved to adjourn the meeting at 8:30 P.M. Seconded by Ward. All aye.