

Village of Lansing
Board of Zoning Appeals
March 16, 2004

The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:53 P.M. by Acting Chairperson Donald Eckrich. Present at the meeting were Board members Patrick Gillespie, Lorraine Johnson and Mike Ward, Code Enforcement Officer Curtis, Village Attorney David Dubow, and members of the public.

Appeal No. 2004-1, Hussni Mohammed Addition, 20 Oakcrest Road:

The first item on the agenda was Appeal No. 2004-1, Hussni O. Mohammed to construct an addition on the single family residence at 20 Oakcrest Road in the Low Density Residential District, Tax Parcel No. 43.1-1-36. A variance is required from Sections 202.04(e)(5) of the Village of Lansing Zoning Law because the house is proposed to be constructed 8 feet from the side property line where 25 feet is required.

Curtis stated he has received proof of mailing.

Mohammed, 20 Oakcrest Road, made his presentation. Mohammed has lived in this area since 1989. He has a growing family and additional space is needed. Since the children like the area, they would like to remain and enlarge the house. They have also discussed enlarging their house with their neighbors and an architect and contractor and it appears to be feasible so they can remain on Oakcrest Road. The addition is proposed for the front and east side because the septic tank is located on the west side and the layout of the house makes it very difficult to add to the rear. Mohammed stated this design would not impact the area in a negative way.

Johnson moved to open the Public Hearing. Seconded by Ward. All aye.

As there was no one present who wished to speak, Ward moved to close the Public Hearing. Seconded by Johnson. All aye.

Johnson wanted to know the remainder of the floor plan and why the addition could not be built on another corner. Johnson is aware of the septic field. Mohammed stated that the addition can not go on the west side because of the septic system and the floor layout is a problem in terms of walking through one room to get to another if you build in the rear. Putting in a hall way would not be practical given the amount of space involved. The owner of the adjoining property to the east which will be only 8 ft. from the addition is Murray Estates. Curtis reviewed the adjoining properties with Board members.

Eckrich stated the Board must consider whether the means can be achieved in another manner. Eckrich feels 8 feet from the boundary line would constitute a substantial change. Mohammed stated

the architect felt the proposed size and configuration were the minimum needed to make the space functional and for the house to look right proportionally.

Eckrich stated he has reviewed the site and wanted details on the location of the driveway. Mohammed stated it would remain as it is presently.

Ward stated he passes this residence daily and this is a modular home and it is probably difficult to add on to. Ward also noted the garage to the west also encroaches onto this property boundary.

Johnson moved to close the Board's discussion. Seconded by Ward. All aye.

Eckrich noted the Board has received correspondence from Norma Jayne, 27 Oakcrest Road as well as Laurel Hodkin, 23 Oakcrest Road and both are supportive of the variance.

Dubow reviewed the criteria for granting a variance and reminded the Board that they would be answering the five questions for an area variance. 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.*
- 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.*
- c) *Whether the requested area variance is substantial.*
- d) *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*
- e) *Whether the alleged difficulty was self-created.*

Based on their discussion, Johnson moved to deny the variance. For lack of a second, the motion failed.

Dubow stated for the record that in accordance with SEQRA, this is a Type II action and does not require a formal SEQRA review.

Ward then moved the following resolution to approve the variance as requested, seconded by Gillespie.

VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR AREA
VARIANCE APPROVAL ADOPTED ON March 16, 2004

WHEREAS:

- A. This matter involves consideration of the following proposed action: **Appeal No. 2004-1**, Hussni O. Mohammed to construct an addition on the single family residence at 20 Oakcrest Road in the Low Density Residential District, Tax Parcel No. 43.1-1-36. A variance is required from Sections 202.04(e)(5) of the Village of Lansing Zoning Law because the house is proposed to be constructed 8 feet from the side property line where 25 feet is required; and
- B. On March 16, 2004, 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 March 16, 2004, 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 FOLLOW:

- 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 variance 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: There could be a detrimental impact to the lot immediately east of the property even though that property is currently vacant. There will be no detrimental impact to the neighborhood as a whole and two nearby neighbors across from the property wrote letters supporting the project. No one spoke against it.

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, given the location of the septic system and the layout of the existing house, both of which make it impractical, if not impossible, to locate the proposed addition on the west side or in the rear of the house.

Whether the requested area variance is substantial.

Finding: Yes, reducing the side yard set back by 17 feet from the required 25 feet to 8 feet is substantial.

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

Finding: No, not as this area has been developed to date. The general appearance of the property will actually be improved. Separation between buildings, however, could be reduced below what would otherwise be the case when the adjoining property is developed. Ground water must be managed as part of the construction of the addition.

Whether the alleged difficulty was self-created.

Finding: Yes, the applicants should have been aware of the limitations for enlarging the house at the time that they bought the property.

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.

The vote on the foregoing motion was as follows:

AYES: Mike Ward, Pat Gillespie and Don Eckrich

NAYS: **Lorraine Johnson**

The motion was declared to be carried.

Inter-governmental Agreement:

Dubow stated the proposed agreement for local municipalities relates to Planning Boards and Zoning Boards. The county has agreed that some matters normally required to be referred to the County Planning Department for 239 review are so minor that this requirement should be waived by mutual consent. Included in the proposed agreement are items such as variances for lot frontage, width or depth, variances for residential uses; lot area variances for additions to residential uses on existing non-conforming lots; special permits or site plan reviews for permitted accessory uses and home occupations on residential lots; residential subdivision of fewer than 5 lots all of which comply with local zoning standards and Tompkins County Sanitary Code requirements, and do not involve new local roads or streets directly accessing a State or county road; yard setback variances not abutting County or State property, a State County road right of way, or a municipal boundary; site plan review or special permits for change of commercial use in an existing building not involving any change in building footprint and with no change in vehicular access on a State or county highway; and sign variances exceeding local standards by 20% or less. The Village Board of Trustees has authorized the Board of Zoning Appeals to sign the agreement. Dubow feels it is to the advantage of the Board of Zoning Appeals to sign this. Johnson moved approval of the agreement and to have the acting chairman sign the agreement on behalf of the Board of Zoning Appeals. Seconded by Gillespie. All aye. Agreement signed by Eckrich.

Approval of Minutes – November 18, 2003:

Next, Gillespie moved approval of the minutes of November 18, 2003. Seconded by Ward. Aye by Eckrich, Gillespie and Ward. Abstain by Johnson. Motion carried.

Adjournment

Ward moved to adjourn the meeting at 9:05PM. Seconded by Johnson. All aye.