

**Village of Lansing
Board of Zoning Appeals
May 18, 2004**

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

Appeal No. 2004-2, William & Cheryl Boice, 7 Highgate Circle:

The first item on the agenda was Appeal No. 2004-2, William and Cheryl Boice for a swimming pool which is located 7.5' from the rear property line where Section 202.05(e)(6)(a) of the Village of Lansing Zoning Law requires 40', and a gazebo and a shed which are located on property lines where Sections 202.05(e)(5)(a) & (6)(a) require 10' from a side property line and 20' from a rear property line for accessory buildings, at the single family residence at 7 Highgate Circle in the Medium Density Residential District, Tax Parcel No. 47.1-5-4.

Curtis confirmed he has received proof of mailing.

Sirois opened the Public Hearing.

Attorney Paul Tavelli, 405 N. Tioga St., gave the presentation for Mr. William Boice. Tavelli stated that Attorney R. James Miller would represent the other co-owner of the residence. The house is pending sale and Mrs. Boice is currently out of state. Tavelli stated the property has three problem areas. The problem areas of the shed and gazebo have been there for ten or fifteen years. The aboveground pool has also been there for a long time. The pool is located 7.5 feet from the rear property line which abuts Route 13 and the pool would be difficult to move. The neighbors on the shed side (9 Highgate Circle) have signed a document stating that they have no problem with the shed. The neighbor across the street also signed the document indicating no problem with the various deficiencies. The neighbor on the gazebo side (Kit Lambert) is aware the gazebo encroaches on her property and feels the problem must be resolved in accordance with the law. Signed documents from the one next door neighbor and the neighbor across the street were presented to the Board. Tavelli stated both the gazebo and shed are larger than 120 sf. and the owners were not aware that sheds or gazebos required set backs from lot lines or that a permit was needed for an aboveground pool. Tavelli noted it would be possible to move the gazebo but it would be hard to move the shed and pool. Tavelli stated the survey had been updated and the closing was ready to commence when these difficulties were noted. The residence currently remains vacant and the potential buyer is backing out. Miller stated that the structures have been in place for many years and it would cause no undesirable change in the character of the neighborhood if the improvements were permitted to stay.

Johnson asked if the shed or gazebo were on foundations. Tavelli stated they appeared to have been

brought in on a flatbed and he saw no indication of foundations.

Eckrich asked about the aboveground pool. Tavelli stated there would not be room for the pool if it were required to comply with the 40 ft. setback line. The gazebo and shed could be relocated on the property to comply with the 10 ft. setback. Sirois stated this is an elaborate pool and would be difficult to move.

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

Sirois stated there is vegetation on the east property line where the shed is located which shades the shed. Sirois felt the gazebo has a garden around it but it could be relocated onto the back lawn.

Kit Lambert, 5 Highgate Circle, felt it would be appropriate to have the gazebo moved elsewhere on the property where it would meet setback requirements.

Curtis stated the pool is deficient in side yard as well as rear yard setback.

Sirois summed up that there are 5 zoning violations: deficient side yard setback for the shed, deficient side yard setback for the deck, deficient rear yard setback for the pool, and deficient rear and side yard setback for the gazebo. Johnson feels the pool can remain as is, but she would like to see the shed and gazebo moved. Eckrich stated a variance could be granted for the life of the pool and he would also like to see the shed and gazebo moved to meet the Zoning Law requirements. Sirois felt the shed could be placed on the west side of the pool. Curtis stated there would be a requirement for a building permit for relocation of the shed, pool and gazebo.

The Board discussed the deck and the pool and the useful life of both. A condition for the variance could state the pool and deck may remain for the life of the pool or deck.

Echrich moved the following resolution, seconded by Ward:

VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR AREA
VARIANCE APPROVAL IN PART and DENIAL IN PART ADOPTED ON MAY 18, 2004

WHEREAS:

- A. This matter involves consideration of the following proposed action: **Appeal No. 2004-2**, William and Cheryl Boice for a swimming pool which is located 7.5' from the rear property line where Section 202.05(e)(6)(a) of the Village of Lansing Zoning Law requires 40', and a gazebo and a shed which are located on property lines where Sections 202.05(e)(5)(a) &(6)(a) require 10' from a side property line and 20' from a rear property line for accessory buildings, at the single family residence at 7 Highgate Circle in the Medium Density Residential District, Tax Parcel No. 47.1-5-4; and

- B. On May 18, 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 May 18, 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: The gazebo and shed are detriments because they are right on or over the respective property lines. The pool and deck are not a detriment because they are further from neighboring properties and border to Rt. 13 in the rear.

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: The gazebo and shed could be moved, but it would not be feasible to move the deck and pool.

Whether the requested area variance is substantial.

Finding: Yes, for all of the structures.

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

Finding: The gazebo and shed are right on the property lines affecting those respective properties adversely and the pool and deck also have an adverse impact, but less so because they are farther from property lines and where the rear yard is deficient it borders on Rt. 13.

Whether the alleged difficulty was self-created.

Finding: Yes, they could and should have applied for building permits prior to locating the structures.

3. It is hereby determined by the Village of Lansing Board of Zoning Appeals that the following variances are granted and approved with the conditions below, 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, and that the remaining variances for the shed and gazebo are denied:

This variance permits the existing pool and deck to continue for the remainder of their useful lives with a 14 foot side yard setback and a 7 foot rear yard setback. Neither structure or the structures in combination shall be improved or replaced except in compliance with all zoning regulations applicable to the property.

The vote on the foregoing motion was as follows:

AYES: Mike Ward, Mary Sirois, Pat Gillespie, Don Eckrich and Lorraine Johnson

NAYS: none

Motion carried.

Appeal No. 1004-3, Ramiz Bahtic, 54 Dart Drive carport:

The next item on the agenda was Appeal No. 2004-3, Rahiz Bahtic to extend his carport/garage 9' to the side to accommodate a second car at his single family residence at 54 Dart Drive in the Medium Density Residential District, Tax Parcel No. 46.1-1-25. A variance is required because the extension of the carport/garage will reduce the side yard setback to 15' where Section 202.05(e)(5)(a) of the Village of Lansing Zoning Law requires 20'.

Curtis confirmed he has received the proof of mailing.

Sirois opened the Public Hearing.

Bahtic, 54 Dart Drive, presented his case. Bahtic stated his existing carport is in poor shape and he also needs room to park an additional car under cover as he has obtained a second car.

Bahtic has sent the notices but has not spoken with the neighbors. Sirois noted none of the neighbors were present to speak. Bahtic also stated there are some trees and bushes between his house and the neighbor who would be affected by the reduction in side yard. Bahtic stated the current carport is 14' wide x 23' deep. The concrete would be extended 9' to accommodate the additional vehicle and would be a carport with no garage door.

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

After some discussion, Ward moved the following resolution, seconded by Gillespie:

VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR AREA
VARIANCE APPROVAL ADOPTED ON MAY 18, 2004

WHEREAS:

A. This matter involves consideration of the following proposed action: **Appeal No. 2004-3**, Ramiz Bahtic to extend his carport/garage 9' to the side to accommodate a second car at his single family residence at 54 Dart Drive in the Medium Density Residential District, Tax Parcel No. 46.1-1-25. A variance is required because the extension of the carport/garage will reduce the side yard setback to 15' where Section 202.05(e)(5)(a) requires 20'; and

D. On May 18, 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

E. On May 18, 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: No, it actually may be an improvement. It will be similar to other houses in this neighborhood.

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, other alternatives would not be feasible given the constraints of this lot and the existing building.

Whether the requested area variance is substantial.

Finding: No, six feet is not really substantial in this situation.

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 an improvement for his property and the neighborhood as a whole.

Whether the alleged difficulty was self-created.

Finding: **Yes.**

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

This variance permits the extension and/or replacement of the existing garage/carport to the east and that the sideyard setback on that side shall not be less than 14 feet to the furthest projection of the structure. The six feet of relief granted exceeds the five feet of relief requested solely to accommodate the overhang of the eave and gutter.

It is a condition of this variance that the new structure will be a fully enclosed garage.

The vote on the foregoing motion was as follows:

AYES: Mike Ward, Mary Sirois, Pat Gillespie, Don Eckrich and Lorraine Johnson

NAYS: none

The motion carried.

Approval of Minutes – March 16, 2004:

Next, Johnson moved to approve the minutes of March 16, 2004 as revised. Seconded by Gillespie. Ayes by Eckrich, Gillespie, Johnson, Sirois and Ward. Motion carried.

Adjournment

Ward moved to adjourn the meeting at 8:30 P.M. Seconded by Gillespie. Ayes by Eckrich, Gillespie, Johnson, Sirois and Ward. Motion carried.