

**Village of Lansing
Board of Zoning Appeals
October 19, 2004**

The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:43 P.M. by Acting Chairman, Mike Ward. Present at the meeting were Board Members, Don Eckrich and Patrick Gillespie, Code Enforcement Officer Curtis, Acting Village Attorney Randy Marcus, and members of the public.

Appeal No. 2004-4, John Roy, Roy Builders, Two Family Residence, Dart Drive:

The first item on the agenda was Appeal No. 2004-4, John Roy, Roy Builders, Inc. to construct one two-family residence on each of 17 and 19 Dart Drive in the medium Density Residential District, Tax Parcel Nos. 46.1-3-2 and 46.1-3-3. A variance is required because both lots have 100 feet of frontage where Section 202.05(3)a of the Village of Lansing Zoning Law requires 125 feet for a two-unit residential building.

Curtis stated he has received proof of mailing.

Applicant John Roy stated the project was designed before he realized there was a requirement for 125 foot frontage. The building is 48 feet wide and has more setback on each side than is required. There will only be one curb cut with one 24 foot common driveway. Roy feels that a duplex is the best use for the property since it backs up to Route 13.

Realtor Mary Yaple (Audrey Edelman & Associates), 34 Aspen Way, spoke next and stated she sold the lots to Roy. The lots were listed for 8 months for a low price and no one expressed an interest in the lots due to the proximity to Route 13. Yaple stated there are other residences in the immediate area which have apartments in them. It would be cost-effective to make these duplexes. Yaple feels it is the best use for the land and would also provide affordable housing in the Northeast. Yaple stated the residences would be stick built and would be an enhancement to the neighborhood.

Ward opened the Public Hearing.

Karen Grace-Martin, who owns the house next door, spoke next requesting to see plans for the proposed duplexes. Yaple reviewed the plans briefly with Grace-Martin. There will be one building on each lot which will have two side by side residences in each of about 2000 sf. There will be a 26 ft. setback on each side and the rear will have 40 feet as well. Roy stated there would be one owner for each of the two properties.

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

Ward stated he felt the proposal fit with the neighboring residences but not with the entire neighborhood. Eckrich asked about the shared driveway and parking space requirements. Curtis stated the curb cut would be limited to 20 feet and it could then branch out. Marcus noted that Zoning Law Section 203.04 requires 2 spaces per dwelling unit. Eckrich noted that Zoning Law Section 202.05 (9) also indicates two parking spaces per unit. Curtis stated one would be inside the garage and the other is often a turn-around area.

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.*

Discussion: Ward stated four multi-family dwelling units will change the character of the lower end of Dart Drive. Eckrich noted there would be increased density. Gillespie did not see it as a detriment as the neighboring homes are older and much smaller and Roy does nice work and it will improve the neighborhood.

Finding: The Board felt it was less desirable than the permitted use although it may be an improvement over the current undeveloped lot.

- 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.*

Discussion: Marcus stated there is the possibility of requesting a change in the lot line to allow for 125 feet to build a two-family dwelling unit and then the second lot would be 75 feet which is deficient and a variance could be requested to allow for a single-family dwelling unit.

Finding: There is no way to build a two-family dwelling on each of these lots without a variance but a single family home could be built on each lot which would conform to the zoning requirements.

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

Finding: Yes, the variance is for 25 feet on each lot or a 20 % deficiency.

- 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 is currently a brush lot in a neighborhood of one and two family houses, and the duplexes will not constitute a substantial change and might be an improvement.

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

Finding: Yes, because the proposal does not conform to the Zoning requirements and Roy should have been aware of that when he bought the lots and had the plans drawn up.

Eckrich and Ward both expressed concerns of having two-family residences in a single family neighborhood but apparently there are currently several two-family residences in the neighborhood. Ward noted this project is on the lower end of Dart Drive which made him more comfortable with the density issue. Eckrich also noted that new two-story stick built in the area could be an enhancement to the character of the neighborhood. Curtis stated the density is acceptable it is just the frontage which is deficient. Ward noted there was no opposition from the neighbors and the neighbor who was present did not have a concern with the project.

Roy stated there are two-family residences on Janivar Drive which do not devalue the single family residences in that neighborhood. Yaple stated there are several houses on Dart Drive which are not duplexes and look like single family residences but are actually two-family residences. Marcus noted that the houses on Janivar Drive are actually single family attached zero lot line units, not duplexes. Roy confirmed that he was proposing to build duplexes that would be sold as two separate buildings on two separate lots each with two units, one or both of which could be rented. Yaple again reiterated there are many residences with apartments on Dart Drive and that this would not impact traffic in the area.

Eckrich stated past Chairman, John Hartnett, would constantly remind the Board that when it came to granting a variance, the burden of proof rests with the applicant to demonstrate the variance is necessary and warranted by the circumstances. Eckrich feels there are pluses and minuses to this project, but does not feel the change is desirable when balanced against a permitted use such as a single family home which could be built without a variance. Eckrich also noted there are three findings weighing against granting the variance and two findings which are draws. Ward was in agreement with this.

Ward stated he looked at the neighborhood and is uncertain a two-family side by side duplex is appropriate for this neighborhood. Curtis stated there are a number of two-family residences in this older neighborhood, but they are not always easy to identify as many residences have been remodeled over the years and apartments added.

Eckrich moved to deny the area variance for Appeal 2004-4 based on the findings previously discussed. Seconded by Ward. Marcus noted this is an exempt action under SEQRA and a County 239 review is not required. Ayes by Eckrich and Ward. Nays by Gillespie. Marcus explained that because there were not three votes in favor of either granting or denying the variance, the two to one vote constituted "no action". Curtis noted the applicant may return and reapply for another hearing before the full Board, and that additional information may be submitted, but is not required.

Roy thanked everyone for their time.

Approval of Minutes – May 18, 2004:

Minutes were reviewed and corrected. Eckrich moved to approve the minutes of May 18, 2004 as revised. Seconded by Gillespie. All voted aye. Motion carried.

Appeal No. 2004-4, John Roy, Roy Builders, Two Family Residence, Dart Drive:

Eckrich stated for Appeal No. 2004-4 he did not understand how the residence backing up to Route 13 would be ok for a two-family but not a single-family residence. Eckrich stated the owner would still have the Route 13 traffic. Curtis stated it need not be owner occupied unless there was a condition that it be owner occupied. Marcus also noted that Curtis would then need to police the owner-occupied condition which would be difficult. Ward stated it could be rented to students who would only remain a year or so and would not be investing in the property.

Adjournment

Gillespie moved to adjourn the meeting at 8:55 P.M. Seconded by Eckrich. All voted aye. Motion carried.