

**Village of Lansing
Board of Zoning Appeals
June 21, 2005**

The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:32 P.M. by Acting Chairperson Mary Sirois. Present at the meeting were Board members Don Eckrich, David Newman and Mike Ward; Alternate Member John Wisor (who was appointed Acting Member for this meeting); Code Enforcement Officer Ben Curtis; Village Attorney David Dubow; and members of the public.

Appeal No. 2005 –3, Klessig Deck, 35 Wedgewood Drive:

The first item on the agenda was Appeal No. 2005-3, Daniel Klessig and Judith Hope-Klessig to permit a deck on the house at 35 Wedgewood Drive to be 30 feet from the rear property line where Section 202.45(d)6a of the Village of Lansing Zoning Law requires it to be 40 feet from the property line. The property is located in the Shannon Park Planned Development Area, Tax Parcel No. 47.1-6-52.

Sirois stated that she would be removing herself from the discussion and vote so there would be no perception of conflict of interest as she has connections with the applicant through Boyce Thompson Institute.

Judith Hope-Klessig presented pictures for review by the Board. Hope-Klessig stated she and her husband recently sold their home at 35 Wedgewood Drive. She was subsequently notified that there were problems associated with the setback requirements for the house as revealed on the survey. Hope-Klessig purchased the property with the understanding that everything was in compliance with all codes and regulations. There is a deck which wraps around the house and which was there when they purchased the property. The survey dated 6-18-87 by George Schlecht shows the deck which indicates it was there at that time. Daniel Klesseg stated they were represented by legal counsel when the residence was purchased as well as when it was re-financed and there was no indication at either time that there were any noncompliance issues. Hope-Klessig questioned land surveyor Mike Reagan regarding the 2000 survey done on the property they purchased and why the rear yard setback measurement was not on the survey. Reagan stated that it is a measurement which is not normally included on a survey because zoning laws vary from municipality to municipality. When a shed or building is close to a property line it will often be included.

Sirois opened the Public Hearing.

Neighbor Sabatino Maglione, 30 Beckett Way, stated he and his wife are the affected neighbors and they are here to support the variance. The deck has always been there and they have no objection to it.

Wisor stated he felt the deck is compatible with the size of the house. Maglione stated he thought the deck was built in conjunction with the building of the original residence.

Sirois closed the Public Hearing as there was no one else who wished to speak.

Curtis stated for the record that he has received proof of mailing. Dubow noted for the record that this action is exempt from SEQRA as it is an area variance for a residential property and is exempt under SEQRA regulations.

Next, the Board reviewed each finding with respect to the specific criteria for an area variance and considered conditions. Newman moved the following resolution, seconded by Eckrich:

**VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR APPEAL
NO. 2005-3 ADOPTED ON JUNE 21, 2005**

WHEREAS:

- A. This matter involves consideration of the following proposed action: Appeal No. 2005-3, Daniel Klessig and Judith Hope-Klessig to permit a deck on the house at 35 Wedgewood Drive to be 30 feet from the rear property line where Section 202.045(d)6a of the Village Zoning Law requires that it be 40 feet from the property line. The property is located in the Shannon Park Planned Development Area, Tax Parcel No. 47.1-6-52; and
- B. On June 21, 2005, 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 June 21, 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, the Village of Lansing Board of Zoning Appeals, determined that the proposed variance is a Type II action, and thus may be processed without further regard to SEQR; and
- D. On June 21, 2005, 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 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, the adjacent and affected property owner spoke in support of the variance.

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, none of the alternatives are feasible or practical.

Whether the requested area variance is substantial.

Finding: No, only a corner of the deck intrudes roughly 10' into the required rear yard setback.

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 deck has been there 18 years since the house was built and the neighborhood began to be developed.

Whether the alleged difficulty was self-created.

Finding: No, the applicants did everything reasonable to confirm the house complied with all zoning requirements before they purchased it. If anything they were the victims in this case.

2. It is hereby determined by the Village of Lansing Board of Zoning Appeals that the following variance is granted and approved (with conditions, if any, as indicated), 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 deck may not be altered in any way that increases the rear yard setback deficiency

The vote on the foregoing motion was as follows:

AYES: David Newman, Don Eckrich, Mike Ward, and John Wisor

NAYS: none

RECUSED: Mary Sirois

The motion was declared to be carried.

Eckrich moved to recommend the applicant fee of \$25 be refunded. Seconded by Newman. Ayes by Eckrich, Newman, Ward and Wisor. Abstain by Sirois. Motion carried.

Appeal No. 2005-4, Crystal's Spa and Salon Parking Lot, 2416 N. Triphammer Rd.:

The next item on the agenda was Appeal No. 2005-4, Crystal's Spa and Salon to construct a parking lot for 23 vehicles at 2416 N. Triphammer Road in the Commercial Low Traffic District, Tax Map No. 43.1-1-46. A variance is required because Section 203.04 of the Village of Lansing Zoning Law requires that the total number of parking spaces provided for this business not exceed 11 parking spaces.

Curtis stated for the record he has received proof of mailing.

Curtis stated additional information has been provided regarding the exterior lighting, landscaping, driveway and parking, and size of lot.

Sirois stated the applicant previously withdrew her application and has submitted this new Appeal 2005-4.

Sirois opened the Public Hearing and asked Mullenix to make her presentation.

Crystal Mullinex stated she is requesting 23 parking spaces directly behind the spa. Large mature trees will not be removed. Lilacs will be relocated from the front of the property to fill in beside the garage. The lighting comes off the side of the house and there will be 2 small lights in the rear for parking of employees. Materials have been submitted to the Lighting Commission and she has not heard back so she assumes all is fine. The Lighting Commission did request an additional pole for additional lighting which she plans to install in the rear. The driveway in from the road will be paved. Plantings will be done by Michaleen's. Large boulders will also be used for landscaping purposes. Mullinex has a letter or recommendation from Planning Board Chairman, Ned Hickey on behalf of the Planning Board indicating the need for the 23 parking spaces. Mullinex also has a letter from Brent

Cross regarding the sheet drainage and wet area. Mullinex also has a plan indicating the curb cuts as part of the N. Triphammer Road reconstruction approved by Dave Putnam of TG Miller Engineers. Mullinex reviewed the criteria for an area variance and feels she has met all the criteria and the variance will make this a better project than currently exists.

Eckrich asked about the curb cut and turn lane on N. Triphammer Road. The Board reviewed the plans approved by Putnam.

Eckrich moved to close the Public Hearing. Seconded by Ward. Ayes by Eckrich, Newman, Sirois, Ward and Wisor. Motion carried.

Dubow stated the short form of the SEQRA has been provided by the applicant. The Board completed Part II as follows: A - No; B - No, Planning Board did a review so this is an independent action.; C1 - No, Mullinex presentation covered many of these issues. Dubow stated part of the approval process requires approval of the Village Engineer for drainage and stormwater management so this is covered as a condition of the approval process. Ward and Eckrich stated there might be a small increase in traffic but this has been addressed by the turning lane and there will be a minimal effect; C2 - No, this will be an improvement aesthetically.; C3 - None; C4 - No, this project fits within the CLT District; C5 - None; C6- None; C7 - None; D - No; and E - No.

Newman moved the following resolution, seconded by Wisor:

**VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR SEQR
REVIEW OF APPEAL NO. 2005-4 ADOPTED ON JUNE 21, 2005**

WHEREAS:

- A. This matter involves consideration of the following proposed action: Appeal No. 2005-4, Crystal's Spa and Salon to construct a parking lot for 23 vehicles at 2416 North Triphammer Road in the Commercial Low Traffic District, Tax Parcel No. 43.1-1-46. A variance is required because Section 203.04 of the Village of Lansing Zoning Law requires that the total number of parking spaces provided for this business not exceed 11 parking spaces; and
- B. This proposed action is an Unlisted Action for which the Village of Lansing Board of Zoning Appeals is an involved agency for the purposes of environmental review; and
- C. On June 21, 2005, the Village of Lansing Board of Zoning Appeals, in performing the lead agency function for its independent and uncoordinated environmental review in accordance with Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act ("SEQR"), (i) thoroughly reviewed the Short

Environmental Assessment Form (the “Short EAF”), Part I, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, (ii) thoroughly analyzed the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c), and (iii) completed the Short EAF, Part II;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOW:

1. The Village of Lansing Planning Board, based upon (i) its thorough review of the Short EAF, Part I, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, (ii) its thorough review of the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c), and (iii) its completion of the Short EAF, Part II, including the findings noted thereon (which findings are incorporated herein as if set forth at length), hereby makes a negative determination of environmental significance (“**NEGATIVE DECLARATION**”) in accordance with SEQR for the above referenced proposed action, and determines that neither a Full Environmental Assessment Form, nor an Environmental Impact Statement will be required; and:
2. The Responsible Officer of the Village of Lansing Planning Board is hereby authorized and directed to complete and sign as required the Short EAF, Part III, confirming the foregoing **NEGATIVE DECLARATION**, which fully completed and signed Short EAF shall be attached to and made a part of this Resolution.

The vote on the foregoing motion was as follows:

AYES: Mary Sirois, David Newman, Don Eckrich, Mike Ward and John Wisor

NAYS: none

Next, Ward asked for clarification on the number of parking spaces. Dubow stated the application has been modified and should reflect 23 parking spaces for approval.

Newman moved the following resolution, seconded by Eckrich:

**VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR APPEAL NO.
2005-4 ADOPTED ON JUNE 21, 2005**

WHEREAS:

- B. This matter involves consideration of the following proposed action: Appeal No. 2005-4, Crystal's Spa and Salon to construct a parking lot for 23 vehicles at 2416 North Triphammer Road in the Commercial Low Traffic District, Tax Parcel No. 43.1-1-46. A variance is required because Section 203.04 of the Village of Lansing Zoning Law requires that the total number of parking spaces provided for this business not exceed 11 parking spaces; and

- E. On June 21, 2005, 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

- F. On June 21, 2005, the Village of Lansing Board of Zoning Appeals determined that the proposed action is an Unlisted Action for which the Board is an involved agency, and in performing the lead agency function for its independent and uncoordinated environmental review in accordance with Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act ("SEQR"), the Board (i) thoroughly reviewed the Short Environmental Assessment Form (the "Short EAF"), Part 1, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, (ii) thoroughly analyzed the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c), (iii) completed the Short EAF, Part 2; and (iv) made a negative determination of environmental significance ("Negative Declaration") in accordance with SEQR for the above referenced proposed action and determined that an Environmental Impact Statement would not be required; and

- G. On June 21, 2005, 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 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, this project will enhance the appearance of the neighborhood; is in keeping with the intent of the Commercial Low Traffic District; and has been approved by the Planning Board.

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, none of the alternatives are feasible.

Whether the requested area variance is substantial.

Finding: No, not given the size of the parcel.

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 more likely to have a positive impact and the additional parking is located behind the building and screened from view.

Whether the alleged difficulty was self-created.

Finding: Yes, the applicant should have been aware of the limitations of the property when she purchased it.

3. It is hereby determined by the Village of Lansing Board of Zoning Appeals that the following variance is granted and approved (with conditions, if any, as indicated), 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. **In granting this variance, the Board accepts and endorses the conditions attached by the Planning Board (i) in their original approval of the Special Permit for this project granted on December 13, 2004 and (ii) in the amendment to the original Special Permit approval granted on June 13, 2005, which amendment provided for approval of a revised site plan with 12 additional parking spaces (for a total of 23) conditioned upon this Board**

granting a variance for such additional parking spaces.

The vote on the foregoing motion was as follows:

AYES: Mary Sirois, Don Eckrich, David Newman, Mike Ward and John Wisor

NAYS: none

The motion was declared to be carried.

Approval of Minutes – May 17, 2005:

Eckrich moved to approve the minutes of May 17, 2005 as revised. Seconded by Ward. Ayes by Eckrich, Newman, Sirois, and Ward. Abstain by Wisor. Motion carried.

Adjournment:

Eckrich moved to adjourn the meeting at 9:15 PM. Seconded by Newman. Ayes by Eckrich, Newman, Sirois, Ward and Wisor. Motion carried.